

DRAFT 3rd August 2009
Subject to vetting and endorsement
by Attorney General - To be referred by
the Minister for Resources and Rural Affairs
for discussion and decision by Parliament

Building (Regulation) Act

AN ACT to provide for matters relating to the construction of buildings and other matters connected therewith and to make consequential and other amendments.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same, as follows:-

Short title and commencement.

1. (1) The short title of this Act is the Building (Regulation) Act.
- (2) This Act shall come into force on such a date or dates as the Minister responsible may by notice in the Gazette appoint, and different dates may be so appointed for different provisions and different purposes of the Act.

Definitions

2. In this Part, unless the context otherwise requires -

"authorised person" has the meaning assigned to it by article 16;

"Board" means the Building Regulation Board established under article 3;

"building" includes part of a building and any class or classes of structures which are prescribed by the Minister to be a building for the purposes of this Act;

"building contractors and building tradesman" means any person including a body of persons and any body corporate established by or under any law who is listed under article 5 (4);

"building matter" means any building or other matter whatsoever to which building regulations are in any circumstances applicable;

"building regulations" means regulations made by the Minister under article 6;

"Building Regulation Office" means the Government organisation which is responsible for the administration of building regulations and building control regulations issued in accordance to this Act which may include, but is not limited to, monitoring the application of the building regulations, endorsing certificates of compliance, enforcing building control regulations and providing technical assistance to the Board in the preparation of technical guidance documents.

"certificates of compliance" means documents issued by a warranted *perit* or *ingénieur*, or the Building Regulation Office, to certify that a building or works in question conform with building regulations;

"construction" includes the execution of works in connection with buildings and any act or operation necessary for or related to the construction, extension, alteration, repair or renewal of a building and "constructed" shall be construed accordingly;

"Director" means the Director responsible for the Building Regulation Office or any public officer duly appointed to assume the responsibilities of the Building Regulation Office;

"design" includes the preparation of plans, particulars, drawings, specifications, calculations and other expressions of purpose according to which the construction, extension, alteration, repair or renewal concerned is to be executed, and "designed" shall be construed accordingly;

"enforcement notice" has the meaning assigned to it by article 14;

"fire consultant" means any person, including a body of persons and any body corporate established by or under any law who, after applying to the Building Regulation Board and presenting to the said Board diplomas, certificates and other evidence of formal qualifications indicating the holder's professional knowledge and experience in fire safety engineering, is accepted and registered by the said Board as a recognised fire safety consultant;

"functions" includes powers and duties;

Cap. 321

“Inginier” has the meaning assigned to it in the Engineering Profession Act; (KIV Profession of engineer – warranted under Cap.321)

"Minister" means the Minister who is assigned the responsibility for building regulations in his ministerial portfolio;

"operative date" means the day on which particular building regulations first come into operation;

Cap.390

“perit” has the meaning as assigned to it in the Periti Act;

”prescribed" means prescribed by regulations made by the Minister under this Act;

“technical guidance document” means a document which provides technical guidance on matters relating to any aspect of building regulations.

"warranted", in relation to a *perit* or an engineer, means a person who holds a warrant to practice as a *perit* or as an engineer, as the case may be, under the *Periti* Act, Cap 390, or the Engineering Profession Act, Cap 321, respectively;

"works" includes any act or operation in connection with the construction, extension, alteration, repair, or renewal of a building.

**Building
Regulation Board.**

3. (1) There shall be a board to be known as the Building Regulations Board, which shall consist of a chairperson and at least six members as follows; –

(a) a *perit* with at least eight years experience in building construction, who shall preside, and

(b) two other persons, one a *perit* nominated by the Kamra tal-Periti and another an *Inginier* nominated by the Chamber of Engineers, each with professional qualifications and experience on matters related to building construction, or health and safety, or building services,

(c) other persons, each with professional qualifications and experience on matters related to building construction, or health and safety, or building services

Each is to be appointed by the Minister for a period of three years.

(2) The Chairperson and each of the other members of the Board shall, before entering upon the duties of their office , take an oath in the form set out below:

"I do swear that I will faithfully perform the duties of Chairperson/Member of the Building Regulations Board without favour or partiality according to law. So help me God."

(3) At least four members of the Board together with the Chairperon will form a quorum.

- (4) The Board shall have the functions
- a) to be consulted by the Minister as per articles 4(1), 6(1), 6(6), 11(1), 18, 21(1) on regulations as may be introduced from time to time under this Act;
 - b) in conjunction with Building Industry Consultative Council, to consult with stakeholders on matters relating to building regulations and building control regulations;
 - c) to advise the Minister on all matters relating to building regulations and building control regulations, and any other functions as prescribed by this Act;
 - d) to advise the Minister on the setting of criteria by which the Building Regulation Office shall evaluate the capabilities of building contractors, building tradesmen and masons for the issuing of licences and registration in any of the categories or sub-categories established by sub-article 5 (3);
 - e) To advise the Minister on the setting of criteria for the suspension or revocation of the registration certificate or licence.
 - f) to issue technical guidance documents as may be required from time to time
 - g) to decide upon the dispensing with or relaxation of a requirement of the building regulations, following an

application or on its own accord, in accordance to articles 6 to 10

- h) to consider appeals from any decision taken by the Director in accordance to articles 12 and 13 of the Act
- i) to carry out any activity or function in relation to building regulations or building control regulations which may be assigned to it by the Minister in accordance to the provisions of this act.

(5) The Board shall regulate its own procedures.

(6) There shall be paid to the members of the Board such remuneration as the Minister may, with the concurrence of the Minister responsible for Finance, determine.

(7) The Minister shall designate public officers to be the administrative secretariat of the Board consisting of a Secretary and such other officers or employees as may be necessary for a prompt and efficient determination of the matters within its jurisdiction.

(8) The members of the Board shall on the expiration of their term of office be eligible for reappointment.

(9) (a) The Board shall keep a register of all the decisions taken by the Board in relation to (i) the relaxation or dispensation of building regulations as per article 10 and (ii) appeals as per article 13.

(b) For each decision, the information kept in the register shall include the name of the applicant and details of the proposal including documents, detailed plans if applicable and a reasoned justification for the decision.

(c) The register shall be made available for public inspection at such reasonable times as may be determined by the Board and on the website of the Building Regulation Office or, in the absence of a website of the Building Regulation Office, on the website of another government department or agency.

(10) In the performance of its functions, the Board shall have the power to appoint from time to time sub-committees for the purpose of compiling technical reports.

Provided that the remuneration payable to members of such sub-committees shall be determined by the Minister with the concurrence of the Minister responsible for finance.

Committee of Appeal

(11) If the need arises, and after obtaining the approval of the Minister, the Building Regulation Board may appoint a Committee of Appeal composed of at least three members, of whom at least one shall be appointed from among the members of the Building Regulation Board and who shall preside the Committee sittings.

(12) The other members of the Committee of Appeal shall be a *Perit*, an *Inginier* and any other suitably qualified professional with qualifications and experience on matters related to building construction, or health and safety, or building services. Sub-sections (2), (6), (7) and (8) of this section are also applicable to the Committee of Appeal.
(to check on remuneration, MEPA Board of appeal)

PART I
Registration of Contractors

**Power to make Regulations
on the licencing and the registration of
building contractors and building tradesmen**

4. (1) The Minister shall have the power to, following consultation with the Board, make regulations to regulate, or otherwise provide for any matter relating to the issuing of licences and the registration of building contractors and building tradesmen, and may by such regulations -

(a) provide for the issuing of licences and registration of persons, companies and other entities in order to officially recognize their capacity to perform work or supply material for the building construction industry and to authorise them to perform such work;

(b) provide for the cancellation of the licence or registration certificate and withdrawal of any licence or certificate issued under the provisions of this Act;

(c) establish such sub-categories to the main categories referred to in article 5(3) as he may deem appropriate;

(d) prescribe the form of any notice, order or other document authorised or required by this Act to be made, served or given;

(e) establish criteria for the issuing a licence and registration of applicants under this Part;

(f) establish the forms and procedures to be used in the operation of the Registry for the carrying out of the provisions of this Part;

(g) establish, with the concurrence of the Minister responsible for finance, the fees payable in respect of any of the licences and registration of building contractors and tradesmen under this Part.

(2) Any regulation made under this article may provide that any person who fails to comply with any provision thereof shall be guilty of an offence and may moreover, prescribe the penalty to which the person guilty of any such offence may be liable.

5. (1) The Building Regulations Office will be the entity responsible to issue licences and registration certificates for masons, building contractors and building tradesmen.
- (2) The Director, Building Regulations Office shall evaluate applications for the issuing of licences and registration of masons, building contractors and tradesmen on the basis of the criteria set by the Building Regulation Board and if the applicant/s satisfy the established criteria, issue a licence where applicable, and register them in the designated category or sub-category as the case may be.
- (2) In carrying out the functions under sub article (2) the Director may appoint ad hoc technical experts to examine, evaluate, and report on the technical capabilities of building contractors, building tradesmen and masons..
- (3)
- (4) Registration of building contractors and building tradesmen shall be categorized by trade or activity of the applicant, into one of the following main work categories:
- (a) general building and civil engineering;
 - (b) building (only)
 - (c) civil engineering (only);
 - (d) excavation (only)
 - (e) scaffolding (only)
 - (f) installations;
 - (g) building completion.

PART II

Building Regulations

Power to make building regulations.

6. (1) The Minister may, following consultation with the Board make building regulations in relation to all or any of the following -

- (a) the design and construction of buildings;
- (b) material alterations or extensions of buildings;
- (c) the provision of services, fittings and equipment in, or in connection with, buildings;
- (d) provisions which are to apply where any material change takes place in the purposes for which a building is used.
- (e) fees which may be payable in accordance with this Act.

(2) Building regulations may also be made for all or any of the following purposes:

- (a) for securing the health, safety, convenience and welfare of -
 - (i) persons in buildings, which are being constructed; and
 - (ii) persons in adjacent or surrounding properties, who may be affected by buildings or by matters connected with building;
- (b) for the requirements of persons with disabilities in relation to buildings;
- (c) for the conservation of fuel and energy in relation to buildings;
- (d) for securing in relation to buildings the efficient use of resources;
- (e) for the encouragement of good building practice; and
- (f) for such other matters as appear to be necessary or expedient in relation to buildings.

(3) Without prejudice to any regulations made under subarticle (1) (d), there shall be deemed to be a material change in the purposes for which a building is used if, on or after the operative date -

(a) a building or part of a building, being a building which was not originally constructed for occupation as a dwelling, or which, though so constructed, has been used for other purposes, is again used as a dwelling;

(b) a building, being a building which was originally constructed for occupation as a dwelling by one household only, is occupied by two or more households ; or

(c) where building regulations contain special provisions in relation to buildings used for any particular purpose, a building which was previously used for such purpose is used for a purpose to which the regulations apply.

(4) Building regulations which relate to -

(a) any material change taking place in the purposes for which the building is used; or

(b) material alterations or extensions of buildings; or

(c) the provisions of services, fittings or equipment, in or in connection with, buildings,

may apply to a building, the construction of which was commenced before the operative date, in so far as such building is affected by any material change in the purposes for which such building is used or any material alteration, extension, provision of services, fittings or equipment, as the case may be, which occurs on or after the operative date and in all other cases building regulations shall apply only to buildings the construction of which is commenced on or after the operative date.

(5) Subject to sub-article (7) and to any dispensation or relaxation granted -

(a) by the Board, according to articles 7 or 10 or

(b) after any application to the Court which has been allowed,

every building to which building regulations apply shall be designed and constructed in accordance with the provisions of such regulations.

(6) Building regulations which -

(a) prescribe standards or recommend codes of practice, expressed in terms of performance, types of material, methods of construction or otherwise, in relation to all or any of the matters specified in the Schedule to this act or in relation to any other matter which, in the opinion of the Minister in consultation

with the Board, is relevant to the purposes for which building regulations may be made;

- (b) require specified action to be taken in connection with buildings;
- (c) provide for the regulation of specified actions in and about buildings;
- (d) specify the manner in which construction operations are to be carried out; and
- (e) contain such supplementary and incidental provisions as appear to be necessary or expedient to the Minister on the advice of the Board..

Provided that building regulations may specify different codes of practice for, or make different provisions in relation to, different classes or descriptions of buildings.

(7) Building regulations which exempt, in whole or in part, from all or any of the provisions of such regulations, such classes or descriptions of buildings, services, fittings or equipment as may be specified in the regulations, including classes or descriptions of buildings, services, fittings or equipment in any area specified in the regulations.

(8) Building regulations, or any provisions contained therein, may be made so as to apply generally, or with regard to any area specified in the regulations, and the regulations may contain different provisions for different areas.

Provided that building regulations shall also apply to buildings belonging to or occupied by the Government other than buildings, which are used on a temporary basis, places of detention, and any buildings used by the Malta Police Force or the Armed Forces of Malta for purposes of detention or the defence of the State.

Case dispensation or relaxation of building regulations.

7. Where building regulations so provide, the Board may, following an application for a direction under this article, consider that the adoption of a requirement in such building regulations would be unreasonable, in relation to the particular case to which the application relates, give direction dispensing with or relaxing that requirement, subject to any additional conditions that the Board may deem fit.

Application for case dispensation or relaxation.

8. (1) An application pursuant to article 7 may be in such form and shall contain such particulars as may be prescribed.

(2) The application shall be made to the Board, which shall include a detailed technical report giving the reasons why a case dispensation or relaxation would be justified.

Advertisement of proposal for case relaxation or dispensation of building regulations.

9. (1) Not less than twenty-one days before giving a direction according to article 7 in respect of any particular work, the Board shall publish, in at least three newspapers, a notice -

(a) indicating the site and nature of the work and the requirement to be dispensed with or relaxed; and

(b) stating that representations with regard to the effect that the direction may have on public health or safety may be submitted by such date as may be specified in the notice, which period shall not be less than twenty-one days from the date of the notice.

Provided that the Board may, as a condition of entertaining the application, require the applicant to pay or undertake to pay the cost of publication.

(2) No notice shall be required to be published under sub-article (1) where it appears to the Board that any effect that the direction may have on public health or safety will be limited to the site of the work or to premises adjoining the site of the work, in which case the Board shall give such notice to the owners and occupiers of those premises as it may consider adequate for them to make any necessary representations.

(3) The notice referred to in sub-article (1) and (2) is required even where the work involves only an internal part of the building.

(4) Before giving the direction, the Board shall give due consideration to any representations made.

Relaxation or dispensation of building regulations to specified classes of works or materials.

10. (1) If the Board considers that compliance with any requirement of building regulations would be unreasonable in relation to any specified class of building operations, works or material, the Board may, either on an application made to the Board or of its own accord, give a direction dispensing with or relaxing such requirement generally in relation to the type of building matter, either -

(a) unconditionally; or

(b) subject to compliance with such condition or conditions as may be specified in the direction, being conditions on matters directly connected with the dispensation or relaxation.

(2) A direction under sub-article (1) -

(a) if it so provides, shall cease to have effect at the end of such period as may be specified in the direction; and

(b) may be varied or revoked by a subsequent direction of the Board.

(3) (a) building regulations may require a person making an application under sub-article (1) to pay the Board such fee or fees as may be prescribed, ; and

(b) the Board may, remit the whole or part of a fee payable by virtue of this sub-article.

(4) Further to the provisions of article 3(9), where the Board gives a direction under sub-article (1), the Board shall write to the Minister informing him of such a decision, which decision shall include the reasons which justify it.

(5) If at any time a direction under sub-article (1) dispensing with or relaxing a requirement of building regulations ceases to have effect in accordance with sub-article (2) (a), or is varied or revoked under sub-article (2) (b), this shall not affect the continued operation of the direction or any conditions specified therein, in any case where before such time, where at the commencement of building operations plans of the proposed work were in accordance with building regulations as applicable to it before the dispensation or relaxation ceased to have effect.

(6) The Board shall, in any case, inform the applicant in writing, whether the application for relaxation or dispensation of building regulations has been entertained or not within a period of three months from the date of application. Such a decision shall include the reasons which justify the Board's conclusion.

PART III
Building Control Regulations

Power to make building control regulations.

11. (1) The Minister, following consultation with the Building Regulation Board, may make regulations providing for matters of procedure, administration and control for the purposes of securing the implementation of, and compliance with, the requirements of building regulations, and may by such building control regulations make such incidental, consequential or supplementary provisions as may appear to him, on the advice of the board, to be necessary or expedient.

(2) Without prejudice to the generality of sub-article (1), building control regulations may make provision for all or any of the following matters -

(a) requiring -

(i) the submission to the Director, Building Regulations Office of certificates of compliance by the owner or his representative, duly completed and certified by a *perit* or warranted engineer, being certificates relating to compliance with the building regulations. subject to any relevant dispensation or relaxation already granted by the Building Regulation Board, in accordance with articles 7 or 10, or by the Court of Appeal, prior to the commencement of, during, and after the completion of the construction of any building works or class of work to which such building regulations apply;

(ii) in respect of a building, of a prescribed class or classes, the submission by the owner or his representative of a fire safety certificate by a fire consultant, that a building, if constructed in accordance with the plans, documents and information submitted, or so constructed, would comply (subject to any relevant dispensation or relaxation already granted by the Building Regulation Board, according to articles 7 or 10), or by the Court of Appeal, with the provisions of the building regulations as prescribed;

(iii) the submission of a commencement notice to the Director, Building Regulations Office prior to the commencement of the construction of any buildings, works or classes of work to which building regulations apply;

(b) prescribing -

(i) the form and content of certificates of compliance, fire safety certificates and commencement notices;

(ii) the plans, documents and information to be submitted with certificates of compliance, fire safety certificates and commencement notices;

(iii) the time within which such certificates or notices are to be submitted;

(iv) the report of any *perit*, engineer or specialist consultant professionally responsible for the works which is to be included in or with the certificate;

(c) the designation of the persons or the classes of persons by whom certificates of compliance, fire safety certificates and commencement notices may be given, and the classes of buildings or works in respect of which such certificates are to be given;

(d) the registration of certificates of compliance, fire safety certificates, commencement notices, and of such information as may be prescribed, and the making available of such information to such persons as may be prescribed;

(e) the charging of fees for -

(i) the registration of certificates of compliance, fire safety certificates and commencement notices;

(ii) the provision of copies of certificates or other documents or extracts therefrom; and

(iii) the carrying out of inspections and tests and the testing of samples taken pursuant to article 16 ;

(f) the combining, in one document, of any two or more of the following, namely, any application, notice, certificate or other document provided for in this Act, or in any regulations made thereunder;

(g) the dispensation from all, or any of the provisions regarding the submission of certificates of compliance or certificates of fire safety certificates, of such buildings, or classes thereof as may be specified in the regulations;

(h) any other matter that the Minister, acting on the advice of the Building Regulation Board, considers appropriate.

(3) Building control regulations may make different provisions in relation to different buildings or classes of buildings situated in different areas, or in relation to different provisions of building regulations.

(4) Where a certificate of compliance, fire safety certificate, or a commencement notice is submitted to the Director, Building Regulations Office, the Director shall not be under a duty to any person, entity or institution to;

(a) ensure that the building or works to which the certificate or notice relates will, either during the course of the work or when completed, comply with the requirements of the building regulations or be free from any defect.

(b) Ensure that the certificate complies with the requirements of this Act or of regulations or orders made under this Act, or

(c) Verify that the facts stated in the certificate are true and accurate.

12. (1) A person or institution or any department or agency of Government aggrieved by any decision, ruling or direction by the Director, Building Regulation Office may submit an appeal to the Building Regulations Board

(2) An appeal against any ruling, order or direction issued by the Director, Building Regulation Office has to be made within a period of one month from the issue of such ruling, order or direction, by means of an application filed with the secretary of the Building Regulation Board. Notice of such an application shall be served on the Director, Building Regulation Office, and a representative of the Director shall be entitled to appear, be heard and submit evidence, at the hearing of the application.

(3) The Board may delegate appeals submitted to it to a Committee of Appeals, provided that this has been duly appointed by the Minister in accordance with article 3 (11).

(Immediately upon endorsement in Parliament, a legal notice is to be issued so that the Board shall be listed in the first schedule of the Administrative Justice Act.)

Provisions relating to Appeals

13. For appeals submitted to the Board against any decision taken by the Director, Building Regulation Office, the following provisions shall be applicable:

(1) The Board or the Committee of Appeal as the case may be, shall have the power to hear and determine all appeals made by a person or institution or any department or agency of Government aggrieved by any decision of the Director, Building Regulation Office.

(2) The decisions of the Board or the Committee of Appeal as the case may be, shall be final except with respect to points of law decided by the Board or the Committee of Appeal, from which there shall be an appeal to the Court of Appeal. (Inferior Jurisdiction).

(3) The decisions of the Board or the Committee of Appeal as the case may be, shall be supported by the majority of its members, all decisions of the Board or the Committee of Appeal as the case may be, shall be delivered in public and shall be kept in a register which is available for inspection by the public in accordance to article 3 (9) of this Act.

(4) Advance notice of not less than fourteen days shall be given of the meetings of the Board or the Committee of Appeal, in such manner as the Board or the Committee of Appeal, may deem appropriate. An interested party who has expressed the intention of making representations shall be invited to do so.

(5) The sittings of the Board or the Committee of Appeal, shall be open to the public, subject to the power of the Board to exclude any member of the public if it deems it necessary to do so for the maintenance of order.

(6) The Board or the Committee of Appeal shall endeavour to give its decision within three months of the first sitting in a case.

(7) The Board or the Committee of Appeal, may appoint experts and may require any department or agency of Government to provide it with such information as the Board may deem necessary for the proper execution of its functions.

(8) Appeals to the Court of Appeal (Inferior Jurisdiction) from decisions of the Board or the Committee of Appeal as the case may be, as provided in sub-article (2) shall be made within fifteen days from the day the decision is delivered and such appeals shall be regulated by such rules of court as may be made in accordance with article 29 of the Code of Organization and Civil Procedure Cap 12.

Enforcement Notice

14. (1) Where -

(a) the construction of any building or the carrying out of any works to which building regulations apply is commenced or has been completed or any material change takes place in the purposes for which any building is used; and

(b) the building or works are not designed or have not been, or are not being, constructed or carried out in conformity with building regulations; and

(c) the failure to comply with building regulations is not such as the Building Regulation Board may grant a dispensation or relaxation pursuant to this Act; and/or

(d) the Director, Building Regulation Office is not supplied with the particulars and/or the documentation required within the period established by the building control regulations,

the Director, Building Regulation Office, or any person duly appointed to act on his behalf, may serve an enforcement notice as specified under this article.

(2) An enforcement notice may be served on -

(a) the owner of the building or works concerned; or

(b) any other person who carried out or is carrying out, the works to which the notice applies; or

(c) the occupier or person making use of the building.

Provided that the occupier or person making use of the building shall immediately inform the owner of such enforcement notice.

(3) An enforcement notice, in particular and without prejudice to the other provisions of this article, may -

(a) subject to any relevant dispensation or relaxation already granted by the Building Regulation Board, according to articles 13 or 16 or by the Court, require such steps as may be specified in the notice to be taken within such period as may be so specified for the purposes of ensuring compliance with building regulations, and such notice may require -

(i) the removal, alteration or making safe of any structure, service, fitting or equipment; or

(ii) the cessation of any works or the doing of any other thing as may be specified in the notice in relation to the building or works to which the notice relates;

(b) prohibit the use of a building, or a specified part of a building, for any purpose specified in the notice until the specified measures are taken to the satisfaction of the Director, Building Regulation Office by the

removing, altering or making safe of any structure, service, fitting or equipment or the cessation of any works or by the doing of any other thing in relation to such building or such specified part of a building that may be required by the notice.

(4) Subject to sub-article (5), an enforcement notice shall take effect at the expiration of such period, being a period of not less than fourteen days beginning on the date of the service of such notice, as may be specified therein;

Provided that where the notice orders the cessation of any work, it shall have effect immediately.

(5) A person on whom an enforcement notice has been served pursuant to this article shall comply with the terms of the notice within the period specified therein;

(6) Where a person fails to comply with the requirements of sub-article 5, the Director, Building Regulation Office or his representative may enter into any building or works to which the enforcement notice relates and may enter any land necessary for that purpose, and therein take any action or do anything required by the notice.

(7) Where the Director, Building Regulation Office or his representative pursuant to sub-article 6, enters into any building or works to which the enforcement notice relates and takes any action or does anything in relation thereto, the Director or his representative may, on satisfying the Court that the person on whom the enforcement notice was served is either the owner of the building or a person who carried out the works to which the enforcement notice relates, (or the occupier in view of art. 14 (2) (c) and that such person failed to comply with the requirements of sub-article (5), recover the costs involved in taking the action.

Service of Enforcement notice.

15. (1) Where an enforcement notice is authorised under this Act to be served on a person, it shall be addressed to him and may be served on him in one of the following methods:

- (a) where it is addressed to him by name, by delivering it to him;
- (b) by leaving it at the address at which he ordinarily resides or, in a case where an address for service has been furnished, at that address;

(c) by sending it by registered mail at the address where he ordinarily resides or, in a case where an address for service has been furnished, at that address;

(d) where the address at which he ordinarily resides cannot be ascertained by reasonable enquiry and the enforcement notice is authorised to be given in respect of any particular building or works, by delivering it to a person residing in such building or employed on such works or by affixing it in a conspicuous place on or near such building or works.

(2) Where an enforcement notice is authorised by this Act to be served on or given to the owner of a building or works or a person who carried out or is carrying out the works to which building regulations apply, and the name of such person cannot be ascertained by reasonable enquiry, the notice may be addressed to "the owner", "the occupier", or "the builder" or "the architect", as the circumstances may require, without naming him.

(3) For the purposes of this article, a company registered under the Companies Act, Cap 386, shall be deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body shall be deemed to be ordinarily resident at its principal office or place of business.

(4) Where an enforcement notice is served on or given to a person pursuant to sub-article (1) (d), a copy of the notice shall, within two weeks thereafter, be published in at least three daily newspapers.

(5) A person who at any time during the period of three months after a notice is affixed pursuant to sub-article (1) (d), removes, damages or defaces the notice without lawful authority shall be guilty of an offence.

Powers of inspection by authorised persons.

16. (1) In this article "authorised person" means a person authorised for the purposes of this Act by the Director, Building Regulation Office, or by the Building Regulation Board (in the case of Appeals as per article 13) , as the case may be.

(2) Subject to sub-article (7), any authorised person shall be entitled to enter, at all reasonable times, into any land (subject to his producing, if so required, the authority in writing) and thereon inspect for the purposes of this Act any building, and any plans or documents relating to such building.

(3) Any authorised person may -

- (a) inspect any building -
 - (i) following its completion; or
 - (ii) during its construction, alteration or extension; or
 - (iii) during the installation therein of any fittings, services or equipment to which building regulations apply; or
 - (iv) in respect of which any material change takes place in the purposes for which such building is used;

(b) require to be informed by the owner or occupier of such a building, or by any person responsible for the construction of such a building, or by any of the aforementioned persons, to the extent that such persons have knowledge of the matters in question, as to the purpose for which the building, or any part thereof, has been, is being, or will be, used, the number of persons who are, or will be, employed or accommodated therein or who resort or will resort thereto, the material with which any such building or any part of such building is constructed, and the method of construction employed and as to any other matter which the authorised person considers to be relevant.

(c) require the owner or occupier of the building, or any person responsible for the construction of the building, to provide such plans, documents and information as are necessary to establish whether the requirements of building regulations are being complied with in relation to the building;

(d) be permitted to take such samples of the materials used in the carrying out of any construction work or take such other action in relation to such construction work as may be necessary to establish whether the requirements of building regulations are being complied with in relation to the building.

(4) An authorised person shall be entitled to be assisted by such persons, and bring with him such equipment, as he considers necessary to enable him to exercise the powers under this article.

(5) Any person who-

(a) refuses to allow an authorised person to enter any land or building or

(b) obstructs or impedes an authorised person in the exercise of any of the powers conferred on him by this article; or

(c) wilfully or recklessly gives, either to an authorised person, or to the Building Regulation Office, or to the Building Regulation Board, any information which is false or misleading in a material respect;

shall be guilty of an offence against this sub-article.

(6) Where an authorised person is prevented from exercising his power of entry into any land or building in the exercise of his powers under this article, the Building Regulation Office, or the Building Regulation Board, as the case may be, may request the assistance of the police.

(7) Nothing in this article shall empower an authorised person to enter into or to inspect any plans or documents relating to land or building which is in the occupation of the Armed Forces or the Malta Police Force, if in the opinion of the respective commanding officers such inspection of documentation would breach security.

PART IV

Miscellaneous Provisions

Contract for works or services

17 (i) It shall be unlawful for parties to undertake any works falling under these regulations without making an agreement as to the price to be charged in respect of any material supplied or work done and such agreement shall result either from a public deed or from a private writing.

(ii) The Minister may, following consultation with the Board, issue guidelines on the format and content of the agreements referred to in 17 (i) and such guidelines may list the materials to be supplied or work to be done for which the two parties have to agree a price.

Power to prohibit the use of certain materials, etc.

18. The Minister may, following consultation with the Building Regulation Board, by order prohibit the use of such materials or classes of materials or such form of construction or such type of equipment, fittings or services in relation to such class or classes of buildings or to such class or classes of works as may be specified in the order, if he is satisfied that such use would be a danger to public health or safety or that such use would contravene any provision of the building regulations made under article 6; and may by a subsequent order amend or revoke such an Order.

Authenticity of documents.

19. (1) A document purporting to be a copy of an entry in a register or to be a copy of a document lodged with the Building Regulation Board, or, the Building Regulation Office and which is certified by an officer of any of the Board or Office, as the case may be, to be a correct copy of such entry or document, shall be *prima facie* evidence of the entry or the document of which it purports to be a copy and it shall not be necessary to prove the signature of such officer or that he was in fact such officer.

(2) Evidence of an entry in a register may be given by the production of a copy of such entry, certified in accordance with the provisions of sub-article (1), and it shall not be necessary to produce the register itself.

Technical Guidance Documents

20. Any Technical Guidance Document issued in connection with these regulations can be issued in either the Maltese or English language only, or both.

PART V Offences and Penalties

21. (1) Any person not complying with building regulations as set out in regulations issued by the Minister in accordance to this Act, shall be liable to a fine. The fines applicable shall be set in the relevant regulations or issued in separate regulations by the Minister, who may act in consultation with the Building Regulation Board.

- (2) Any person
- (i) who being an applicant, makes a false declaration for the purposes of any application made under the provisions of this Act, or
 - (ii) who acts in contravention to sub-article 16(5)(c) (*false information*)

shall be guilty of an offence and shall be liable, on conviction, to a fine (*multa*) not exceeding one thousand five hundred euro without prejudice to any other punishment for which the applicant may have become liable under any other law.

22 (1) Unless otherwise provided in regulations issued under this Act, any person who fails to comply with an Enforcement Notice issued under this Act as per article 14(5) shall be liable on conviction to a fine (*multa*) not exceeding one thousand two hundred euro, and in the case of a continuing offence, to a further fine of one hundred euro for each day the offence continues.

(2) Any person guilty of an offence against sub-articles 16(5)(a) and 16(5)(b) shall be liable on conviction to a fine (*multa*) not exceeding two thousand four hundred euro, and to a further fine (*multa*) of two hundred euro for each day the offence continues. (*Obstruction or refuses authorised entry*)

(3) Any person who is convicted of an offence under article 16(5) of this Act may, at the request of the prosecution, be disqualified from signing and submitting certificates of compliance or fire safety certificates with the Director, Building Regulation Office for a period not exceeding two years from the date of conviction if the offence and, accordingly, the Director, Building Regulation Office shall not accept certificates for registration which are signed by a person while so disqualified.

Part VI

Amendment of the Code of Police Laws

This Part amends the Code of Police Laws and it shall be read and construed as one with the said Act, hereinafter in this Part referred to as “the principal Act”.

**Deletion of
Articles 95
and 96 of the
Code of Police
Laws.
Cap. 10.**

22. (1) With effect from such date as the Minister may, by order in the Gazette, or by Legal Notice establish, and without prejudice to the provisions of subsection (2) of this section Articles 95 and 96 of the principal Act shall be deleted.

Provided that any licences issued by virtue of the provisions of the principal Act shall continue in force as if made or issued under this Act in so far as applicable, until such time that licences are due for renewal.

(2) The Minister may by regulations made under this subsection provide for transitory provisions.

Part VII

Repeal of The Building (Price Control) Act

This Part repeals the Building (Price Control) Act, hereinafter in this Part referred to as “the Principal Act”.

**Repeal of The
Building (Price
Control) Act.
Cap. 288.**

23. (1) Without prejudice to the provisions of subsection (2) of this section, the principal Act is hereby being repealed.

(2) Notwithstanding the coming into force of the provisions of the Building (Regulation) Act and the repeal of the principal Act, the provisions of the principal Act and any subsidiary legislation enacted under the principal Act, as in force prior to the coming into force of the Building (Regulation) Act, shall continue to apply in respect of any civil or criminal action, right of action or obligation relating to or arising out of payments due or made in respect of any material or work supplied or done, prior to the coming into force of the Building (Regulation) Act.

SCHEDULE (Article 6 (6))

Matters for which building regulations may prescribe Standards or recommend Codes of Practice.

1. Preparation of sites.
2. Suitability, durability, classification, use and testing of materials and components (including surface finishes) used in buildings.
3. Structural strength and stability of buildings including -
 - (a) precautions against overloading, impact and explosion;
 - (b) measures to safeguard adjacent buildings and services;
 - (c) underpinning.
4. Resistance to moisture and decay.
5. Fire precautions including -
 - (a) resistance of the structure to the outbreak and spread of fire;
 - (b) means of escape in the event of fire and measures to ensure that such means can be effectively and safely used at all times;
 - (c) services, fittings and equipment designed to facilitate fire fighting to mitigate the effects of fire, for the early detection of fire and to provide warning in the event of fire.
6. Prevention of danger and obstruction to persons in and about buildings.
7. Measures affecting the emission of smoke, gases, fumes, grit or dust or other noxious or offensive substances.
8. Measures to prevent infestation.
9. Measures affecting the transmission of heat and solar heat gain.
10. Measures affecting the transmission of sound.
11. Storage, treatment and removal of waste.
12. Accommodation for specific purposes or in connection with buildings, and the dimensions of rooms, components and other spaces within buildings.
13. Ventilation and natural lighting (including the provision of open space therefor).
14. Means of access to and egress from buildings and parts of buildings.
15. Water services and fittings and fixed equipment associated therewith.
16. Drainage (including waste disposal units).
17. Services, installations and ancillary equipment, including –

installations (including appliances, storage tanks, heat exchangers, ducts and fans) utilising solid fuel, oil, gas, electricity or any other fuel or power for the purpose of, or in connection with, providing heat or ventilation or producing hot water;