

**L.N. 116 of 2012**

**ENVIRONMENT AND DEVELOPMENT PLANNING ACT  
(CAP. 504)**

**Development Planning (Procedure for Applications and their  
Determination)  
(Amendment) Regulations, 2012**

IN EXERCISE of the powers conferred by article 61 of the Environment and Development Planning Act, the Minister for Tourism, Culture and the Environment, after having consulted the Malta Environment and Planning Authority, has made the following regulations:-

**1.** (1) The title of these regulations is the Development Planning (Procedure for Applications and their Determination) (Amendment) Regulations, 2012, and they shall be read and construed as one with the Development Planning (Procedure for Applications and their Determination) Regulations, 2010, hereinafter referred to as “the principal regulations”.

Title and  
commencement.

L.N. 514 of 2010.

(2) The provisions of regulation 15 of these regulations shall apply to any screening letter issued on or after 16th April 2012, and the provisions of regulation 16 of these regulations shall apply to any bill issued on or after 16th April 2012 .

**2.** For the definition “screening” in regulation 2 of the principal regulations, there shall be substituted the following:

Amends regulation  
2 of the principal  
regulations.

“ “screening” means the process during which the proposed development is considered by the Authority and the applicant, at the request of an applicant. The screening request shall be made by an applicant to the Authority in accordance with guidelines issued from time to time by the Authority, including a fee as established by the Authority.”.

**3.** In paragraph (g) of sub-regulation (3) of regulation 3 of the principal regulations, for the words “Part A of Schedule 2” wherever they occur, there shall be substituted the words “of Schedule 2”.

Amends regulation  
3 of the principal  
regulations.

Amends regulation  
4 of the principal  
regulations.

**4.** Sub-regulation (1) of regulation 4 of the principal regulations shall be amended as follows:

(a) sub-paragraph (iv) of paragraph (b) thereof shall be deleted, and sub-paragraphs (v), (vi) and (vii) shall be renumbered as sub-paragraphs (iv), (v) and (vi) respectively;

(b) for paragraph (f) thereof, there shall be substituted the following:

“(f) drawings in accordance with the Submission Requirements Checklist, listed with their title, date of issue and the perit’s unique reference number. Legends and dimensions on drawings shall be clear and legible;”;

(c) paragraph (g) thereof shall be deleted; and

(d) paragraphs (h) to (j) shall be renumbered as paragraphs (g) to (i) respectively.

Amends regulation  
5 of the principal  
regulations.

**5.** Regulation 5 of the principal regulations shall be amended as follows:

(a) in sub-paragraphs (i) and (ii) of paragraph (b) of sub-regulation (1) thereof, the words “Part A of” wherever they occur, shall be deleted;

(b) for the proviso to sub-regulation (1) thereof there shall be substituted the following:

“Provided that in the opinion of the Authority such a change does not affect consultations, and in the case of paragraph (b) does also not require the payment of additional fees payable to the Authority.”;

(c) in paragraph (b) of sub-regulation (3) thereof, the words “Part A of” shall be deleted; and

(d) for the proviso to sub-regulation (3) thereof, there shall be substituted the following:

“Provided that such a material change may only be considered as valid if the applicant pays the relative fees payable to the Authority as a result of such a change, if any, within two weeks from the date of issue of a

revised bill by the Authority as a result of such a request by the applicant and such a request is accompanied by any studies, reports or documentation that are deemed necessary by the Authority for the processing of the application. This shall be done without prejudice to the proviso to regulation 4(3).”.

**6.** In sub-regulation (4) of regulation 6 of the principal regulations, for the words “mentioned in Schedule 1” there shall be substituted the words “not mentioned in Schedule 2”.

Amends regulation 6 of the principal regulations.

**7.** In the second proviso to sub-regulation (2) of regulation 7 of the principal regulations, for the words “mentioned in Schedule 2” there shall be substituted the words “not mentioned in Schedule 2”.

Amends regulation 7 of the principal regulations.

**8.** In sub-regulation (3) of regulation 8 of the principal regulations, the words “Part A of” wherever they occur, shall be deleted.

Amends regulation 8 of the principal regulations.

**9.** Regulation 9 of the principal regulations shall be amended as follows:

Amends regulation 9 of the principal regulations.

(a) for paragraphs (a) and (b) of sub-regulation (1) thereof, there shall be substituted the following:

“(a) within twenty-six weeks from the validation date in the case of a development which does not fall under the provisions of Schedule 2 to these regulations;

(b) within twelve weeks from the validation date in the case of a development which falls under the provisions of Schedule 2 to these regulations.”.

(b) paragraph (c) of sub-regulation (1) thereof shall be deleted;

(c) sub-regulation (5) thereof shall be deleted; and

(d) sub-regulations (6), (7), (8) and (9) thereof shall be re-numbered as sub-regulations (5), (6), (7) and (8) respectively.

**10.** Immediately after paragraph (b) of sub-regulation (1) of regulation 10 of the principal regulations, there shall be added the following new paragraph:

Amends regulation 10 of the principal regulations.

“(c) the request for reconsideration is made on the prescribed form and is accompanied by the required fee.”.

Amends regulation  
11 of the principal  
regulations.

**11.** For sub-regulation (1) of regulation 11 of the principal regulations, there shall be substituted the following:

“(1) An Environment and Development Brief may not be made in relation to any development mentioned in Schedule 2 to these regulations unless so required in a local plan or any other plan.”.

Amends regulation  
12 of the principal  
regulations.

**12.** Regulation 12 of the principal regulations shall be amended as follows:

(a) for paragraph (a) of sub-regulation (3) thereof, there shall be substituted the following:

“(a) changes which refer to development which is otherwise permitted through the Development Notification Order, or similar order; or”;

(b) for sub-regulation (6) thereof, there shall be substituted the following:

“(6) Each drawing shall clearly indicate all the proposed changes in conventional colours. The colour coding needs to be indicated on the same drawing. The same number and format of drawings (including positioning of floor plans, elevations, sections on drawings) shall be retained.”; and

(c) for sub-regulation (8) thereof there shall be substituted the following:

“(8) Amendments to the approved drawings and documents could be considered through the minor amendment procedure provided that the changes:

(a) are permitted through the Development Notification Order, or similar order; or

(b) satisfy all of the following:

(i) are minor in accordance with the provisions of sub-regulation (3) hereof;

(ii) can all be shown in conventional colours on the same drawing;

(iii) do not give rise to new material planning considerations;

(iv) do not constitute a material change from the previously approved drawings;

(v) do not affect the way in which the material consideration raised by the development had originally been assessed or addressed;

(vi) do not refer to other parts or areas of a building or site which were previously not affected by development approved through the permission;

(vii) do not conflict with any current legislation or policy;

(viii) do not include any development which is not covered by an approved policy;

(ix) do not conflict with any condition of the permission;

(x) do not conflict with a decision taken by the Authority or Commission, even if this is not a condition of the permission;

(xi) do not extend beyond the site boundaries as defined on the approved site plan and drawings; and

(xii) do not affect the objections raised during the public consultation period.”.

**13.** For regulation 13 of the principal regulations there shall be substituted the following:

Substitutes regulation 13 of the principal regulations.

“Suspension of terms.

13. The terms established in these regulations shall be suspended only during such period when the Authority’s offices are closed as specified in Schedule 4 to these regulations.”.

Amends regulation  
14 of the principal  
regulations.

**14.** Regulation 14 of the principal regulations shall be amended as follows:

(a) for the marginal note thereof, there shall be substituted the following:

“Dealing with illegalities and other developments on site during the processing of an application.”;

(b) for sub-regulation (5) thereof there shall be substituted the following:

“(5) Any illegal development which is not indicated for sanctioning in a development application shall be removed prior to the submission of the development application or, without prejudice to regulation 14(4), prior to the issue of a development permission, provided that where the application is determined by the Authority, the Commission, or the Tribunal subject to the removal of the illegal development prior to the issue of the development permission, such illegal development shall be removed within six months or within a period specified by the Authority, the Commission, or the Tribunal, failing which, the application shall be automatically deemed as dismissed by the Authority, the Commission, or the Tribunal, as the case may be.”;

(c) immediately after sub-regulation (6) thereof, there shall be added the following new sub-regulation:

“(7). Without prejudice to the foregoing, during the processing of an application the Authority, the Commission and the Tribunal shall have the power to order the removal of existing development not covered by a development permit.”.

Substitutes Schedules  
1 and 2 to the  
principal regulations.

**15.** For Schedules 1 and 2 to the principal regulations, there shall be substituted the following:

**“Schedule 1: Types of applications**

(a) Projects which require or may require:

- an Environment Impact Assessment
- an Appropriate Assessment
- a Traffic Impact Statement, or
- any specialist environmental or technical assessment or report;

(b) development which is subject of a Development Brief, Action Plan or Subject Plan, or falling within an area identified in a Local Plan as requiring a brief or a comprehensive scheme;

(c) development with a site area larger than 5,000m<sup>2</sup>;

(d) development which is regulated by a specific policy which allows the increase in the height limitation established in a local plan;

(e) residential development with more than 49 residential units;

(f) new non-residential development (or change of use) with a gross floorspace larger than 1,000m<sup>2</sup>; or

(g) extensions to new non-residential development with a gross floorspace larger than 1,000m<sup>2</sup>.

**Schedule 2: Types of applications**

Development subject to both (A) and (B) below:

A. All the following apply:

(i) development not on scheduled buildings and not within scheduled areas or where the protection status of the building or area is still being proposed;

(ii) development not falling within a special constraint area as established by the Authority, including Civil Aviation Public Safety Zones, water galleries and major utility infrastructure;

(iii) development not involving new development and re-development falling within Residential Priority Areas, including villa and bungalow zones, as established in a local plan or any other plan;

(iv) development covering an area smaller than 1,000m<sup>2</sup>;

(v) development not involving the demolition of building structures which are indicated on the 1968 survey sheets or 1957 aerial photos.

B. Any of the following apply:

a. within the limits of the development zone established in a local plan or other plan:

(i) new residential development or alterations or extensions with less than 29 units;

(ii) new non-residential development (or alterations or change of use) with a gross floorspace smaller than 250m<sup>2</sup>;

(iii) extensions to non-residential



development with a gross floorspace smaller than 250m<sup>2</sup>; or

(iv) new or alterations to shopfronts, billboards, signs, or telecommunications antennae.

b. outside the limits of the development zone established in a local plan or other plan: Amends Schedule 5 to the principal regulations.

(i) development falling within designated settlements as established in a local plan or any other plan; or

(ii) buildings, structures or change of use with a gross floorspace not larger than 150m<sup>2</sup> in area.

Any development not specified in the criteria B listed in this Schedule shall not qualify under this Schedule.”.

**16.** Schedule 5 to the principal regulations shall be amended as follows:

(a) for paragraph (2) thereof, there shall be substituted the following:

“(2) In the case of an application where the fees payable to the Authority are in excess of ten thousand euro (€10,000), the Authority shall validate the application if the full amount of both the Development Permit Fee and Environmental Fee, and 10% of the Infrastructure Services Contribution are being paid with the submission of the application. The remaining balance of 90% of the Infrastructure Services Contribution shall be payable by the applicant upon the determination of the application but prior to the issue of the development permission, and the provisions of regulation 9(5) hereof shall apply.”; and

(b) immediately after paragraph (2) thereof, there shall be added the following:

“(3) In the case of an application where the fees payable to the Authority are in excess of one hundred thousand euro (€100,000), the Authority may, in accordance with guidelines issued from time to time by the Authority, enter into an agreement with the applicant to regulate the method of payment of such fees.”.

