

L.N. 26 of 2002

## DEVELOPMENT PLANNING ACT

(CAP. 356)

### Development Planning (Clamping and Removal of Objects used for Illegal Development) Regulations, 2002

IN virtue of the powers conferred by subarticle (6) of article 55A and of paragraph (h) of subarticle (1) of article 60 of the Development Planning Act, the Planning Authority, with the concurrence of the Minister for Home Affairs and the Minister of Finance, has made the following regulations:-

1. (1) The title of these regulations is the Development Planning (Clamping and Removal of Objects used for Illegal Development) Regulations, 2002. Title and commencement.

(2) These regulations shall come into force on the 1st February, 2002.

2. (1) In these regulations, unless the context otherwise requires:- Definitions.

“the Act” means the Development Planning Act; Cap. 356.

“the Authority” has the same meaning as is assigned to it in article 2 of the Act;

“object” means any equipment, machinery, tools, belongings, cranes, bulldozers, mechanical shovels, vehicles or other objects whether movable or immovable;

“site” means any land, building or area at sea where the Authority can execute any enforcement action.

3. The Authority or any contractor duly authorized by it for specific purposes of these regulations may remove, store and dispose of any object which is being used by any person for the carrying out of illegal development, or any object which is on the site subject to the execution of an enforcement notice. Removal etc. of objects by the Authority or by its contractors.

4. The Authority or any contractor duly authorized by it for specific purposes of these regulations may: Fixing of clamps to equipment, machinery and vehicles used for illegal development

(a) fix wheel clamps to any object which is used or which the Authority believes that it was or will be used for the carrying out of illegal development on any site; and

(b) fix any device to render it inoperable or to render an object unworkable, or to immobilize any object which is used or which the Authority believes that it was or will be used for the carrying out of illegal development on any site.

Removal of clamps. **5.** The wheel clamps shall neither be removed by the Authority nor shall the object be returned to its owner before a fee levied by the Authority in terms of these regulations has been paid:

Provided that should the owner of the clamped object fail to pay such fee within a reasonable time not exceeding 24 hours, the clamped object shall be removed from site and the fees then due would be those specified in terms of paragraphs (b), (c) and (d) of regulation 9 of these regulations, as the case may be.

Exemption from liability. **6.** The Authority shall be exempted from any liability for damage arising in connection with the fixing or removal of clamps or the removal of any object or the storage or disposal of any object in accordance with these regulations:

Provided that a person who acts with malice or is guilty of gross negligence in the performance of his duties during such fixing or removal of clamps or the removal of any object or its storage or disposal, shall not be exonerated from liability for damages caused.

Notice of removal and storage. **7.** (1) The Authority shall publish a notice of removal in the Gazette and two other local newspapers, describing the objects removed and indicating the exact locality from where they have been removed.

(2) The Authority shall also indicate in the same notice the place where the objects are being stored and call on their owners to retrieve such objects after producing sufficient proof of their entitlement thereto, together with any such guarantee which the Authority may deem sufficient in indemnifying it against any claim in connection with the return of such object to its lawful owner and together with any payments due as provided in these regulations.

Disposal of objects. **8.** (1) The Authority may order the sale of any object if it would still not have been retrieved by its lawful owner within thirty days from the publication of the notice of removal as provided in regulation 7.

(2) Any sale made in terms of subregulation (1) of this regulation shall be made either by public auction or after a call for tenders.

(3) The Authority may, at its discretion, dispose of those objects which have not been sold by public auction or after a call for tenders, after having given at least one month's notice to the Minister responsible for finance.

9. (1) There shall be payable to the Authority the following fees:— Fees to be levied by the Authority.

(a) for the removal of clamps ..... Lm100

Provided that for the removal of clamps affixed to a vehicle, the fee is ..... Lm 40

(b) for the release, towing or removal of an object and storage thereof during the first 24 hours or part thereof ..... Lm 45

(c) for the storage of the object after the first 24 hours per day or part thereof ..... Lm 50

(d) for the auction or any other form of disposal of the object ..... Lm 50

Provided that when additional expenses in excess of each particular fee in paragraph (a), (b), (c) and (d) above have been incurred, the Authority shall also have the right to collect such expenses and subsequently detract them from the proceeds of any sale or disposal of the object or to demand the payment thereof before surrendering any object to its lawful owner or to the purchaser in the event of a sale by auction.

(2) In case where the above fees are not collected by the Authority in whole or in part, such uncollected fees can be recovered from the lawful owner of the objects as a civil debt.

10. Any actions taken by the Authority under these regulations shall be without prejudice to any criminal or civil action or to any enforcement action taken in terms of the Act. Criminal, civil and administrative actions to remain unprejudiced.

11. Any unauthorized person who attempts to remove or removes wheel clamps fixed to any object or attempts to remove or removes any object with clamped wheels, or attempts to contravene or contravenes Offences.

the provisions of regulation 4 of these regulations, shall be guilty of an offence against these regulations and liable, on conviction, to a fine (*multa*) of not less than one hundred liri and not more than one thousand liri:

Provided that in the case of a second or subsequent offence, the offender shall be liable, on conviction, to a fine (*multa*) of not less than five hundred liri and not more than five thousand liri and the Court shall order that the said object shall be confiscated and handed over to the Authority to dispose of in terms of regulation 8 of these regulations.