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K A M R A T A L - P E R I T I

To support members of the profession in achieving excellence in their practice of architecture and engineering in the interest of the community

CIRCULAR 07/2019

26th June 2019

RE: FAQs regarding Legal Notice 136 of 2019

The *Kamra tal-Periti* has received a number of queries from the profession regarding the provision of Legal Notice 136 of 2019 which came into force yesterday.

The following are some points for your guidance:

- (1) If, in your professional opinion, the “*structural interventions will not affect third party property*”, then you are to follow the provisions of Regulation 26 of the Legal Notice. This has to be done before any works may continue on any ongoing site, including works which were previously covered by the exemptions of LN 72 of 2013 (which are now no longer exempt).
- (2) In your assessment, it is important to consider whether the execution of the works may cause a risk to third parties, such as falling loads, overturning of site equipment, mechanical failure of equipment, etc.
- (3) If, in your professional opinion, the new Legal Notice is applicable to the works concerned (demolition, excavation and construction), then any breach of the Legal Notice (including non-compliance with the Method Statement requirements, Condition Report requirements, insurance cover, etc) means that the works themselves are non-compliant and effectively suspended. If works proceed, the developer and the contractor may expose themselves to fines of up to EUR50,000. *Periti* are exposed to fines of up to EUR500 for Method Statements which are non-compliant with the Regulations, unless works are suspended until such time as these can be submitted.
- (4) Road works fall within the definition of “*construction work*” and therefore if they pose a danger to third party property, they should be compliant with the Legal Notice.
- (5) In situations where *periti* are being pressured to issue declarations on the basis of Regulation 26, and where this is, in their professional judgement, not justified, you are advised to following the same procedure outlined in Directives 03/2019 and 04/2019.
- (6) If the Director BRO issues a statement in accordance with Regulation 25, ensure that this is made in writing and that it clearly states the scope of the works which are permitted under the exemption. Keep in mind that the ultimate responsibility in case of an incident remains uncertain in view of Regulation 14(4) which exonerates the Director BRO from liability, except in cases of gross negligence.
- (7) In the case of dangerous structures, the normal planning procedures are to be followed. Once clearance is granted from the Planning Authority, *periti* are to forward such clearance to the BRO to seek further guidance. At this stage it is understood that the requirements of the Legal Notice still need to be observed. Further guidance on this matter is being sought.

- (8) Similarly, in cases where adjacent sites may be at risk if works are stopped until compliance with the regulations is in place, *periti* are to write to the BRO, clearly explaining the situation, and seek guidance accordingly.
- (9) Any requests for exemptions granted by the BRO prior to the coming into force of Legal Notice 136 of 2019 are to be resubmitted in order to confirm their compliance with the new Regulations. It is important to keep in mind that all requirements of the Legal Notice should be in place, including insurances to be taken out by the respective parties.
- (10) All Directives and Circulars are being sent to all *periti* who are on the *Kamra's* database. If you meet colleagues who are not receiving such communications, kindly ask them to send an email to buildingregs@kamratalperiti.org so that the records can be updated.

Perit Simone Vella Lenicker
President