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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 13/2019

5th August 2019

RE: Directive 12/19 and Circular 11/19 - Overview of conclusions reached

Over the past days, the *Kamra tal-Periti* has issued various communications to all *periti* and to the press. Below is a summary of the current state of affairs:

1. Legal Notice 136 of 2019 regarding the Avoidance of Damage to Third Party Property Regulations, 2019, came into force on the 25th June 2019. This was later amended through Legal Notice 180 of 2019, which came into force on the 29th July 2019, and which removed the obligation of the *perit* in charge of the project to approve the Site Technical Officer appointed by the contractor, as well as widening the pool of persons authorised to provide such services through the inclusion of those in possession of a Bachelor of Engineering.
2. In the period between the publication of the two Legal Notices, the Council of the *Kamra tal-Periti* worked incessantly to ensure that the interests of the profession are safeguarded, and that public safety is placed at the forefront. In particular, it is to be noted that the *Kamra's* primary contentions with the Legal Notice revolved around the fact that *periti* are the only actors on construction sites who are properly regulated, while all other actors operate in an unregulated manner, to the extent that the industry had reached, in the *Kamra's* own words, a state of crisis.
3. Although the Legal Notice as amended only reflects two of the changes requested by the *Kamra*, significant progress has been made on various other overarching and important matters that impact the industry, as outlined in Circular 11/19, which you are invited to read and study carefully since it provides a number of guidance notes to be adopted in the coming months.
4. The *Kamra* notes with satisfaction that practically all of the motions approved by its Extraordinary General Meetings held on the 21st June 2019 and the 5th July 2019 have been successfully addressed, as outlined in the above mentioned Circular, and there is now a recorded commitment by Government to implement significant reforms to the industry – see here the Letter of Commitment presented by Government to the *Kamra tal-Periti* on Friday 2nd July 2019.
5. The commitments made by Government include the establishment of a new Authority to regulate the building and construction industry, and that this will be accompanied by the promulgation of new building and construction regulations in line with the *Kamra's* proposals published last May. This will be accompanied by the long awaited registration, licensing and classification of contractors and skilled labourers by

Government, and in line with the *Kamra's* proposals, thus ensuring that liabilities are carried by the professional and the contractor in a more equitable manner in line with the Civil Code. The new regulations will clearly delineate the various responsibilities to be carried by each of the participants on a construction site, which will, in the interim period, be addressed through Forms of Contract to be published shortly by the *Kamra tal-Periti*. The new regulations will also address liability periods of the participants on a construction site, bringing them in line with existing European models.

6. Government is also committed to table in Parliament, immediately after the summer recess, various amendments to the Periti Act, which currently regulates the profession. Such amendments have been the subject of discussions with subsequent governments since 2007, and there is now convergence on most of the proposed changes. The *Kamra tal-Periti* looks forward to concluding discussions in line with the direction given by the members of the profession at its various General Meetings, and to the successful conclusion of this matter.
7. In terms of Legal Notice 136 of 2019, as amended, various aspects were agreed, including the establishment of a register, to be published by the Building Regulation Office (BRO), of persons who are competent to provide the services of a Site Technical Officer, the amendment of the various forms that are to be submitted to the BRO to be in line with the latest Legal Notice and the processes agreed to between Government and the *Kamra*, and the eventual integration of the provisions of the Legal Notice in the regulations that will be eventually established under the Act regulating the new Authority.
8. The Council of the *Kamra tal-Periti* is confident that there is the political will to ensure a comprehensive reform of the building and construction industry, as also outlined in the *Kamra's* document *A Modern Building and Construction Regulation Framework for Malta (May 2019)* which has already received the support of all the stakeholders who have been consulted to date. Government has clearly acknowledged the fact that an overhaul of the construction industry is not only necessary but also desirable to ensure that it moves forward in a sustainable manner. Although addressed to the *Kamra tal-Periti*, the Letter of Commitment is an important milestone for all actors in the industry, including the general public. The *Kamra* looks forward to being a primary participant in ensuring that the agreed reforms are implemented in the coming weeks and months.
9. In light of all the above, Directive 06/19 has been repealed and replaced with Directive 12/19.
10. Directive 03/2019 and Directive 04/2019 remain in force.
11. As outlined above, the BRO will be publishing a register of persons authorised to provide the services of Site Technical Officer. It is also noted that the forms to be submitted to the BRO have not as yet been changed to reflect the recent changes to

the Legal Notice and the processes agreed to with the *Kamra tal-Periti*. In view of this, periti are advised:

- (i) Not to submit any forms to the Building Regulation Office until further notice;
- (ii) Not to submit any Site Responsibility Forms to the Building Regulation Office until the register of authorised persons is published.

The *Kamra tal-Periti* will be issuing further details on these two points in the coming days.

Note

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