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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 15/2019**

31<sup>st</sup> October 2019

### **RE: New Forms for use prior to commencement of works or utilisation of planning permit**

Following the coming into force of Legal Notice 136 of 2019, the Building Regulation Office had published a set of Forms to administer the requirements imposed by said Legal Notice.

Several meetings and discussions ensued regarding various changes to the Forms, including the *Kamra's* proposal to completely separate the planning process from the construction process by amending the Commencement Notice that is required to be submitted to the Planning Authority to contain only that information which is relevant to the planning process, and the rest of the information relating to the construction process being amalgamated within the BRO Forms.

Following the establishment of the new Building and Construction Agency in August 2019, further discussions took place, and we can finally announce that the Forms are being amended today.

#### **Main changes**

The main changes to the Forms are outlined below.

##### **(1) Works that do not affect third parties**

Whenever works do not affect third parties, and are therefore not subject to the provisions of Legal Notice 136 of 2019, the Form titled **Commencement Notice – for use when works do not affect third parties** is to be submitted. This replaces the current Commencement Notice required by the Planning Authority, and has been amended to require only the details of the Developer, the Licensed Mason (where applicable) and the Site Manager appointed in terms of Legal Notice 295 of 2007 (where applicable).

The *Perit* in Charge is to state reasons to justify situations when either a Licensed Mason or a Site Manager (or both) is/are not required for the works in hand.

This Form is to be used **ONLY** where the works do not affect third parties, and therefore in the following situations:

- Works that do not qualify under Regulation 4 of Legal Notice 136 of 2019, in which case the Form titled **Declaration that Works Do Not fall Under the Scope of Legal Notice 136 of 2019** must also be submitted;
- Works that fall under Regulation 26 of Legal Notice 136 of 2019, in which case the Form titled **Declaration in Terms of Regulation 26** must also be submitted;
- Regularisation permits.

In such cases, the relevant Forms are to be submitted **at least five days prior** to the commencement of works or utilisation of permit.

**(2) Works that affect third parties and fall under the provisions of Legal Notice 136 of 2019**

Whenever works fall under the provisions of Legal Notice 136 of 2019 as defined in Regulation 4 thereof, the Form titled **Commencement Notice / Site Management Responsibility Form** is to be submitted. This is a combined Form for use by both the Planning Authority and the Building and Construction Agency, and requires the submission of details of all the persons required on the site, as per the relevant legislation.

The *Perit* in Charge is to state reasons to justify situations when either a Licensed Mason or a Site Manager (or both) is/are not required for the works in hand.

In such cases, the relevant Forms are to be submitted **at least two weeks prior** to the commencement of works or utilisation of permit.

**(3) Requests for exemptions under Regulation 25 of Legal Notice 136 of 2019**

Regulation 25 empowers the Director of the Building Regulation Office to “*issue appropriate orders according to the requirements and nature of the particular site*”. Forms 25A, 25B and 25C were developed to standardise certain requests for exemptions from the requirements of the Legal Notice.

The following is to be noted:

- Form 25A is being repealed;
- Form 25B is to be used in all cases which fall under the definitions in Regulation 4, and where a request for exemption from the appointment of a Site Technical Officer is being made – this Form cannot be used if the works include excavation or demolition;
- Form 25C is to be used only in the case of emergency works, including works permitted under the Dangerous Structures procedure.

Any other requests for exemptions from any provisions of Legal Notice 136 of 2019 that are not covered by Forms 25B and 25C are to be submitted in the form of a letter, signed by the *Perit* in Charge, accompanied by a declaration signed by the Developer stating:

*I, ..., ID No ..., in my capacity as developer for the works approved under PA..., hereby declare that I have requested Perit ... to submit a request for exemption from the requirements of Legal Notice 136 of 2019. I further declare that I am aware of the responsibilities pertaining to the undersigned in terms of the Legal Notice 136 of 2019, and that I have acknowledged the submission and content of the said request for exemption.*

In such cases, the relevant Forms are to be submitted **at least two weeks prior** to the commencement of works or utilisation of permit.

#### (4) General notes

- i. All the Forms except the one described in Section (1) above (Commencement Notice – for use when works do not affect third parties) are to be submitted through the **Avoidance of Damage** tab on eApps. Failure to follow this requirement will mean that the system will not notify the Building and Construction Agency. The Form titled **Commencement Notice – for use when works do not affect third parties** is to be submitted through the **Commencement Notice** tab on eApps, and will only be notified to the Planning Authority.
- ii. Where the works fall under the provisions of Legal Notice 136 of 2019, the **Site Management Responsibility Summary Form** must always be submitted.
- iii. Whenever there is a change in the person assuming any of the roles detailed in the Forms, the **Change of Responsibility Form** is to be submitted.
- iv. Whenever there is a change in any of the details of a person assuming any of the roles detailed in the Forms (eg. change in address, etc), the **Site Management Responsibility Form – Update** is to be submitted.
- v. It is to be noted that where the Licensed Mason is assuming the role of Mason as required by the Code of Police Laws AND the role of Contractor as defined in the Civil Code and in other relevant legislation, such person is sign the relevant sections assigned in the Forms to the Mason AND to the Contractor accordingly.

#### Transition period

The *Kamra tal-Periti*, the Building and Construction Agency, and the Planning Authority have reached agreement on the following:

- Any Forms submitted prior to the 1<sup>st</sup> November 2019 will be considered as valid, unless they are not compliant with the relevant requirements;
- Until the 30<sup>th</sup> November 2019, the Planning Authority and the Building and Construction Agency shall accept the submission of the old versions of the Forms, in an effort to avoid having to obtain all signatures if these have already been obtained in the past days or weeks – Periti are nevertheless advised that it is recommended to use the new Forms whenever possible during this transition period;
- The old Forms will no longer be accessible on the Planning Authority website as from the 1<sup>st</sup> November 2019;
- Form 25A shall be repealed as from the 1<sup>st</sup> November 2019, and no such requests shall be entertained thereafter.

## **Additional notes**

Various amendments to the text of the Forms have been effected. It is not the scope of this Circular to go into the detail of such amendments, and the rationale behind them. *Periti* are advised to read the new content of the Forms carefully before signing off, and to advise their Clients and other persons required to sign the Forms to do the same.

The *Kamra tal-Periti* remains available to provide clarifications on specific queries by *Periti*, and encourages all its members to submit any feedback on the new Forms accordingly.

It is intended to continue discussions with the Building and Construction Agency regarding the templates for Condition Reports and Method Statements that are currently downloadable from the Planning Authority website. Any suggestions from *Periti* in this regard are most welcome.

**Perit Simone Vella Lenicker**  
**President**

## **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](mailto:buildingregs@kamratalperiti.org) so that the records can be updated.*