



## KAMRA TAL-PERITI

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

**DIRECTIVE 04/2019**

24th June 2019

### **RE: Publication of List of Licensed Masons**

The *Kamra tal-Periti* notes the belated publication of a list of current licensed masons by the Building Regulation Office (BRO) on its [website](#). This is in response to the *Kamra's* repeated requests over several years. The publication of this list on the evening of Friday 21<sup>st</sup> June 2019 is therefore a step forward; however the usefulness of the published list is very limited since the relative ID No's., which would allow identification of the person holding the licence, and the validity period of the licence have not been published at the same time. This is in breach of the Services Directive (Article 22).

Nevertheless, it is now expected that the BRO will not permit works to continue on any site where the appointed mason is not on the list.

The Code of Police Laws stipulates that *"It shall not be lawful to exercise the trade of mason without a licence ..."*. This licence, which must be renewed annually, is required to give assurance to the owner of the site, the *perit* in charge of the project, and society at large that such person is indeed qualified to carry out this trade and has received the appropriate training. The Code of Police Laws also states that *"If any mason, through unskilfulness, imprudence or carelessness, shall, in the construction of any work entrusted to him, and appertaining to his trade, cause any injury to any person or property, it shall be lawful for the Court of Magistrates to interdict such mason from the exercise of his trade for any time to be stated in the sentence, ordering, at the same time, the withdrawal of the licence."* The responsibilities arising out of the Code are very clear, and no lesser legal instrument can be used to infer otherwise.

It is also to be noted that various Court sentences have determined that the *"owner"* *qua* *"employer"* or *"developer"* is obliged to ensure that the persons engaged on a construction project are duly qualified to exercise such role.

### **Directive regarding ongoing works**

In view of the publication of this list, *periti* are advised to:

1. Inform their clients that the list of licensed masons has been published and that, in view of their obligation to ensure that persons engaged on a construction site are duly qualified, they should check that the person listed as a "mason" on the Commencement Notice submitted to the Planning Authority is in fact included on the list – *periti* may, if they so wish, offer to undertake this check themselves on behalf of their clients;
2. If it is found that a person claiming to be a mason is engaged on an ongoing project and is not on the list, then the *perit* is to immediately order the suspension of the Works, verbally and in writing, and to notify the owner / employer / client of the situation in writing – no works are to be carried out under the direction of the *perit* until such time as a duly licensed mason is appointed;

3. If the *perit* notes that works are continuing following the order to suspend the Works, then said *perit* is to immediately notify in writing the Building Regulation Office and the Commissioner of Police, keeping the *Kamra tal-Periti* in copy.

It is to be noted that the *Kamra tal-Periti* has received reports that the list may not be fully updated. It is therefore recommended that, if a mason's name is not on the list, the client is to contact the BRO for further guidance, following which the appropriate action may be taken as outlined above.

*Periti* are reminded of the protection afforded to them through Directive 03/19 regarding their right to refuse to sign a Change of Architect Form when the interest of public safety is being safeguarded by the *Perit*.

The *Kamra tal-Periti* fully endorses the notion that there should be no compromises on public safety.

#### **ADDITIONAL REMARKS:**

##### **A. Future works**

In the case of building works for which a Commencement Notice has not yet been submitted as at the date of this Directive, the *Kamra tal-Periti* will be insisting with the BRO that it should not permit any works to commence on a site where the person indicated as the appointed mason in the Commencement Notice is not duly licensed. The onus to verify whether a mason is licensed, and therefore competent, lies with the owner / employer / developer, and with the regulator, in this case the BRO.

##### **B. The list published by BRO**

The *Kamra tal-Periti* will be writing to the BRO to request that the published list contain, as a minimum, the ID Card Number and address of the licensed mason, as well as the validity period of such licence, to enable owners to verify that the licence number matches the person identified in the list. This will avoid the current practice of persons claiming to be masons and listing the number of someone else.

This requirement is in line with Article 22 of the Services Directive which states that:

1. *Member States shall ensure that providers make the following information available to the recipient:*
  - (a) *The name of the provider, his legal status and form, the geographic address at which he is established and details enabling him to be contacted rapidly and communicated with directly and, as the case may be, by electronic means;*
  - (b) *Where the provider is registered in a trade or other similar public register, the name of that register and the provider's registration number, or equivalent means of identification in that register; ...*

2. *Member States shall ensure that the information referred to in paragraph 1, according to the provider's preference:*

*(a) Is supplied by the provider on his own initiative;*

*(b) Is easily accessible to the recipient at the place where the service is provided or the contract concluded;*

*(c) Can be easily accessed by the recipient electronically by means of an address supplied by the provider;*

*(d) Appears in any information documents supplied to the recipient by the provider which set out a detailed description of the service he provides.*

**C. Licensing and registration of contractors**

It is also pertinent to note that the Civil Code places the onus for structural integrity jointly on the *perit* and the contractor. The Building Regulation Act also places the obligation on the BRO to issue "*licences and registration of masons, fire consultants, other consultants in the building industry, building contractors and tradespersons.*"

Following the approval by the Extraordinary General Meeting, the *Kamra tal-Periti* is demanding that the registration and licensing of building contractors and tradespersons is implemented by the date of coming into force of the amendments to Legal Notice 72 of 2013.

  
Perit Simone Vella Lenicker  
President