DIRECTIVE 12/2019

3rd August 2019

RE: Legal Notice 136 of 2019 and Legal Notice 180 of 2019

Legal Notice 136 of 2019 regarding 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.

In the period between the publication of both 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.

Although the Legal Notice still does not reflect all the changes requested by the Kamra, significant progress has been made, as outlined in detail in Circular 11/19. The Council is of the opinion that all the progress outlined in said Circular, and particularly Government’s recorded commitment to deliver on all the outstanding points through the Letter of Commitment attached to this Directive, address many of the concerns raised by the profession.

The above is considered sufficient for the Council to issue the following Directives:

1. Periti are to immediately inform their clients of the coming into force of Legal Notice 136 of 2019 if they have not already done so, and to advise their clients also of the coming into force of Legal Notice 180 of 2019, and to advise them to bring themselves and the works in line before any works can continue.

2. If periti become aware that works are ongoing without the provisions of the Legal Notice being in place, they are to immediately notify in writing the Building Regulation Office (bro@gov.mt) and the Commissioner of Police (pulizija@gov.mt), keeping the Kamra tal-Periti in copy (buildingregs@kamratelperiti.org).

3. The Building Regulation Office (BRO) will be publishing a list of competent persons as per Schedule 3 as amended (see LN 180 of 2019) who register their interest to provide the service of STO. The register is intended to provide the general public with a list of periti and others who are authorised to provide this service. Further details will be announced shortly.

4. Periti are advised that the forms required to be submitted to the BRO through the PA eApps portal are in the process of being amended, in consultation with the Kamra, in order to bring them in line with the amendments enacted through Legal Notice 180 of 2019, and with other considerations made by the Kamra. Periti are advised to await further direction before proceeding to upload any forms.
5. Periti engaged under Design and Build Contracts should seek legal advice regarding the potential implications of the Legal Notices on their responsibilities and indemnity. The Kamra will be seeking additional legal advice on the position of such periti in the coming weeks.

6. Periti in full or part time employment with Contractors or Developers are advised to seek legal advice on their position. Their position directly within the Contractor’s setup places additional responsibilities on them in terms of the Legal Notice, and these need to be clarified. The Kamra tal-Periti will be addressing this situation separately, as already discussed with a number of such periti.

7. Periti employed in the Public Service should seek guidance from the Union Periti u Inginiera fis-Servizz Pubbliku. The Kamra tal-Periti has already met with the Union prior to the issuance of Legal Notice 136 of 2019 and will be scheduling another meeting with such Union in the coming weeks.


9. Directive 06/19 is hereby repealed.

The repeal of Directive 06/19 should not be interpreted as an automatic obligation on periti who are in full or part time employment with Contractors or Developers to take on this role. Any undue pressure on such periti to assume this role is to be reported to the Kamra tal-Periti.

This Directive is to be read in conjunction with Circular 11/19. In particular, it is noted that the concurrent undertaking of the role of perit in charge and STO by the same perit or partnership of periti on the same project is considered to give rise to issues of conflict of interest, and thus to a potential breach of the Code of Professional Conduct. Periti are invited to communicate with the Kamra tal-Periti for further guidance in relation to specific situations. Any undue pressure by Contractors or Developers for periti to take on the role of STO is to be reported to the Kamra tal-Periti.

Perit Simone Vella Lenicker
President