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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*

24<sup>th</sup> June 2019

**TO: Hon Minister Ian Borg, MP**  
Minister for Transport, Infrastructure and Capital Project  
Triq Francesco Buonamici  
Belt is-Sebh  
Floriana

Dear Minister,

Reference is made to the amendments to the Legal Notice regarding Avoidance of Damage to Third Party Property.

A copy of the amended regulations has not been forwarded to the *Kamra tal-Periti* as at the time of writing, and therefore the only thing we have to go by is your Ministerial Statement in Parliament today, and the subsequent questions and answers.

On behalf of the Council, I must admit that your Statement and answers left us with a number of questions which we feel require an answer prior to the publication of the Legal Notice. Below is a non-exhaustive set of initial queries, in the absence of a copy of the Legal Notice as it will be published:

1. Kindly confirm that the LN applies to demolition, excavation and construction works, and whether this include all works currently ongoing in Malta;
2. Kindly forward a copy of the Schedules which we understand contain a number of technical details for our review;
3. Kindly confirm that all works have to stop on Tuesday 25<sup>th</sup> June 2019 until all projects are in line with the Legal Notice;
4. Kindly confirm that once the projects are in line with the Legal Notice, a further two weeks must pass before works can re-commence in view of the obligations for the public to be able to review the submitted documentation;
5. Kindly confirm whether method statements and condition reports that have already been submitted for ongoing works are going to be uploaded onto Eapps, and when?
6. The Ministerial Statement seems to infer that the Site Technical Officer (STO) can stop the works - does this mean that the *perit* in charge cannot order the suspension of the works? Is this reasonable?
7. What is meant by "*kull meta qed jittiehdu decizjonijiet*"? Decisions are not only taken on site. How is this going to be monitored and enforced? Who is taking

- these decisions? Why was our suggestion of maintaining a site log not taken on board?
8. If all *periti* are on the warrant list, what additional approval is required? On what basis can approval be granted or withheld?
  9. In light of the obligations arising out of the Civil Code *vis a vis* the perit and the contractor – what responsibility does the contractor's *perit* have? Can you confirm that the contractor remains liable with the perit in charge of the project for 15 years, and that the STO carries none of this responsibility and liability?
  10. The Statement indicates that the perit in charge of the project is to prepare a method statement, the STO is to enforce it, and the contractor is to follow it. Isn't the STO part of the contractor's setup? Aren't they one and the same in terms of the Civil Code?
  11. Has the register of contractors been published? And if not, how is the owner's obligation to employ competent persons going to be safeguarded without such a register and classification?
  12. With regard to projects that were exempt on the date of commencement of such works, do the rules now apply and are therefore not exempt? Even if these are nearly ready?
  13. Can the perit of the project not speak directly to the contractor?
  14. This Legal Notice does not seem to differentiate between small, medium and large projects – are there different provisions depending on scale that we are not aware of?
  15. Does this LN mean that there are no contractors and builders that are able to understand the *perit's* instructions?
  16. What is the position of *periti* employed or commissioned under a design & build scenario?
  17. What is the position of *periti* employed in the public sector, where the contractors are outsourced to the private sector?
  18. Will all contractors be obliged to take a Contractors All Risk Insurance and will this also cover the STO? Has this been discussed with the insurance companies?
  19. In the case of *periti* already employed by contractors but not for a role which is equivalent to that of the STO. What protection will the law give them to not be held responsible for the STO's duties if this is not in their contract of employment?
  20. The penalties for not following the method statement will be increased. Who will incur the penalty? The contractor or the STO?
  21. The geotechnical design report outlined in the draft was not mentioned in your statement. Has this requirement been scrapped?
  22. Do all commencement notices have to be updated and resubmitted?
  23. Do current house insurance policies cover building collapses?
  24. How are the third parties going to be notified that the method statement and condition report have been uploaded onto eapps?
  25. Has the impact that these new requirements will have on properties already sold on plan been studied?
  26. In the case of projects where a site manager who is competent, but is not a perit, is already appointed and has a contract with the developer, will they be out of a job as of Tuesday 25<sup>th</sup> June 2019? Can a law override existing contractual agreements?

27. Is the BRO going to stop all sites that are not compliant with any one of the provisions of the Legal Notice on Tuesday 24<sup>th</sup> June 2019?

In light of the above, we request an urgent meeting with you prior to the publication of the Legal Notice.

Yours sincerely,

**Perit Simone Vella Lenicker**  
**President, Kamra tal-Periti**

cc. Parliamentary Secretary for Planning and the Property Market, Hon Mr Chris Agius