CHAPTER 236

FERTILE SOIL (PRESERVATION) ACT

To provide for the Preservation of Fertile Soil.

(1st August, 1973)*

ACT XXIX of 1973, as amended by Act XIII of 1983; Legal Notice 411 of 2007; and Act XXVI of 2014.

Short title.

1. The short title of this Act is the Fertile Soil (Preservation) Act.

Interpretation.

2. In this Act, unless the contrary otherwise appears -

"agriculture" means the cultivation of agricultural and horticultural crops;

"building" means any house, room, farmhouse, store, or any other structure, or any part thereof, and includes any road or street, yard, court, playingfield or any other enclosed space not devoted to agriculture;

"Director" means the Director of Agriculture and any officer of the Department of Agriculture, deputed by him;

"fertile soil" means soil which, in the opinion of the Director, is suitable or could be made suitable for purposes of agriculture;

"inspector" means any public officer designated by the Minister responsible for agriculture, whether generally or specially, and whether in the Department of Agriculture or not, to examine any fertile soil, or to perform any such duties as are in connection with this Act;

"owner" means any person on whose behalf or in whose interest any building is being or is going to be erected, and includes, in the case of a person absent from Malta or any person who is a minor or legally incapacitated, the legal representatives of such person;

"person" includes an association or a body of persons.

Preservation of fertile soil.

3. (1) No person may -

(*a*) transport fertile soil to any site for any purpose whatsoever in quantities larger than one half cubic metre on every single occasion, without having previously obtained the written permission of the Director;

(*b*) render unsuitable for agriculture any fertile soil by mixing it with stones or by any other means;

(*c*) cover fertile soil with any layer of concrete, stones, stone slabs, or any other similar material, unless it is considered as necessary for or in connection with agriculture by the Director or by the inspector;

**See* subarticle (2) of article 1 of the Act as originally enacted, which has been omitted under the Statute Law Revision Act, 1980.

(*d*) deposit on fertile soil, or leave on fertile soil after a written notice for its removal has been given by the Director, any object or objects having an area larger than two square metres for a period longer than thirty days; or

(*e*) deposit, or leave deposited, any fertile soil in such manner as the Director will have notified in writing to such person as being unsuitable to be used for agriculture.

(2) Any notice required to be given under subarticle (1)(*d*) and (*e*) shall be complied with within thirty days from the date of notification by registered post.

Erection of buildings.

4. No person may erect, or cause or permit or allow to be erected, any building, or any part of a foundation for any building, before having given a forty-eight hours notice in writing on the prescribed form by registered post to the Director, and before he has removed at his own expense all the fertile soil existing on the site over which the building is going to extend, to any land belonging to him or to any other site indicated by the Director, and, in either case, the soil is deposited in such manner as approved by the said Director, which approval has to be given within ten working days.

Notice.

5. (1) The notice referred to in article 4 shall be deemed to be null and void if -

(*a*) it is not accompanied by a site plan indicating clearly the site in question; or

(*b*) it is not completely filled; or

(*c*) it contains incorrect information; or

(*d*) it is not signed by the owner or by the architect in charge of the works.

(2) When the fertile soil which is to be removed according to the provisions of article 4 has not been removed by the lapse of six months from the date of the notice, a new notice will have to be given.

Power of Director and inspector to enter lands.

6. It shall be lawful for the Director or for any inspector to enter upon any land on which any building is in the course of construction, or on which any building is going to be constructed, in order to ascertain that the provisions of this Act are being or have been complied with.

Obstruction.

7. No person may obstruct, resist or hinder the Director or any inspector in the lawful exercise of his powers or duties under this Act.

Regulations. *Amended by: XXVI. 2014.8.*

8. The Minister responsible for agriculture may make regulations for carrying into effect the provisions of this Act.

Penalties. *Amended by: XIII. 1983.4, 5; L.N. 411 of 2007.*

9. Any person who acts in contravention of, or who makes default in complying with, the provisions of this Act or of any regulations made thereunder, or who assists any other person in so

doing, shall be guilty of an offence, and shall be liable, on conviction, to a fine (*multa*) of not less than forty-six euro and fifty-nine cents (46.59) but not exceeding one thousand and one hundred and sixty-four euro and sixty-nine cents (1,164.69) in the case of a first offence under this article, and, in the case of a second or subsequent offence, to a fine (*multa*) of not less than four hundred and sixty-five euro and eighty-seven cents (465.87) but not exceeding one thousand and one hundred and sixty-four euro and sixty-nine cents (1,164.69).

Offences by body of persons.

10. Where an offence is committed by an association or body of persons, every person who, at the time of the commission of the offence, was a director, manager, secretary or other similar officer of such association or body of persons, or was purporting to act in any such capacity, shall be guilty of that offence unless he proves that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of the offence.