

CHAPTER 356

DEVELOPMENT PLANNING ACT

To make provision for the planning and management of development, for the establishment of an authority with powers to that effect and for matters connected therewith or ancillary thereto.

28th October, 1992

1st December, 1992

ACT I of 1992 as amended by Acts [XXI of 1992](#), [XVI](#) and [XXIII](#) of 1997, [XXIII](#) of 2000, [VI](#) and [XXI](#) of 2001; Legal Notices [22](#) and [47](#) of 2002; Acts [VI](#) of 2002, and [VIII](#) and [XXXII](#) of 2007; [Legal Notice 425 of 2007](#); and Acts [XV](#) of 2009 and [XVII](#) of 2010.

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PART I

PRELIMINARY

Short title.

1. The short title of this Act is Development Planning Act.

Interpretation.

Amended by:

XXIII. 1997.2;

XXI. 2001.2;

VI. 2002.57;

XXXII. 2007.13;

XVII. 2010.5.

2. In this Act, unless the context otherwise requires:

"action plan" has the meaning assigned to it by article 26;

"advertisement" means any word, letter, model, sign, placard, board, notice, device or representation, whether illuminated or not, in the nature of and employed wholly or in part for the purposes of advertisement, announcement or direction, including any boarding or similar structure used or adapted for use for the display of advertisements;

"advertisement regulation order" means an order made under and for the purposes of article 49;

"agency of Government" means a body corporate established by law and a company in which the Government or such body corporate, or a combination thereof has a controlling interest or which is a subsidiary of such a company;

"application" means a development permission application;

"application report" means the final development permission application report;

"the Authority" means the Malta Environment and Planning Authority established under article 3 and includes any body or other person acting on its behalf under powers delegated by the Authority under this Act;

"building" includes any structure or erection and any part of a building, but does not include plant or machinery comprised in a building;

"building levy" means any charge or contribution levied under article 41 or 42;

"building or work" includes waste materials, refuse and other matters deposited on land;

"building operations" includes rebuilding operations, structural alterations of or additions to buildings, and other operations normally undertaken by a person carrying on business as a builder;

"the Chairman of the Board" means the Chairman of the Authority appointed in terms of article 3(4);

"conservation order" means an order made under and for the purposes of article 46;

"the Commission" means the Development Control Commission established under article 13;

"the Committee" means the Planning Consultative Committee established under article 12;

"development" has the meaning assigned to it by article 30(2);

"development brief" has the same meaning assigned to it as in

article 26A;

"development permission" means a permission to carry out development granted by the Authority either on an application in that behalf or in a development order;

"development plans" includes the structure plan, subject plans, local plans, action plans and development briefs;

"development order" means an order made under and for the purposes of article 31;

"the Director of Planning" and "the Director" mean the Director of Planning appointed under article 6 and includes any person acting on his behalf or under his authority;

"enforcement notice" is any notice issued under article 52 and may include any notice which the Authority may issue from time to time in terms of articles 51 to 55;

"engineering operations" includes the formation or laying out of roads and of means of access to roads;

"erection" in relation to buildings, includes extension, alteration and re-erection;

"exempt works" means any works or development which do not require a development permission under Part IV;

"financial year" means the period of twelve months ending on 31st December of any year:

Provided that the financial year which commenced on the 1st October, 2007 shall be for a period of fifteen months and shall terminate on the 31st December, 2008;

"functions" includes responsibilities, powers and duties;

"House" means the House of Representatives;

"land" includes a building;

"local council" means a local council established under the [Local Government Act](#); Cap. 363.

"local plan" has the meaning assigned to it by article 25;

"the Mediator" means a Planning Mediator appointed in terms of article 32A(1);

"minerals" includes all minerals and substances (including oil and natural gas) in or under land of a kind ordinarily worked for removal by underground or surface working;

"Minister" means the Minister responsible for development planning;

"official manual" means the official manual referred to in article 5(2)(c);

"owner" means -

- (a) a person who in his own right or as agent for another is entitled to receive the rent of the land or, where the land is not let, would be so entitled if it were let;

- (b) where the land is subject to usufruct, bare owner or usufructuary;
- (c) an emphyteuta;
- (d) any one of the spouses, where the land to which the development relates forms part of the community of acquests;

"the Planning Appeals Board", "the Appeals Board" and "the Board", mean the Planning Appeals Board established under article 14;

"planning policy" means a policy approved in terms of article 29A or article 29B or article 29C;

"planning position statement" means a statement issued by either the Minister or the Authority in order to provide a detailed technical explanation justifying a position with respect to a specific planning issue;

"prescribed" means prescribed by regulation, rule, order or other instrument made as provided in the provisions of this Act empowering the making of any such instrument;

"public officer" has the meaning assigned to it by article 124 of the [Constitution](#);

"road" means any highway or road, whether public or private, and includes any street, square, court, alley, lane, bridge, footway, passage or quay, whether thoroughfare or not;

"scheduled buildings" and "scheduled trees" have the meaning assigned to them by article 46 and 48, respectively;

"Standing Committee" means the Standing Committee on Development Planning established in terms of article 17B(1);

"structure plan" has the meaning assigned to it by articles 18 and 22;

"subject plan" has the meaning assigned to it by article 24;

"subsidiary plans" shall have the same meaning assigned to it in article 23;

"Temporary Provisions Schemes" means a planning scheme prepared and approved in accordance with the Building Permits (Temporary Provisions) Act;

"tree preservation order" means an order made under and for the purposes of article 48;

"use", in relation to land, does not include the use of land by the carrying out of any building, engineering, mining or other operations thereon;

"Users' Committee" means the Committee established under article 17A of this Act.

PART II

ADMINISTRATION

1. The Malta Environment and Planning Authority

3. (Repealed by Act X of 2010 - see [L.N. 512 of 2010](#)).

Substituted by:
VI. 2002.57.

Establishment of the Malta Environment and Planning Authority.
Amended by:
XXI. 1992.2;
XXI. 2001.3;
VI. 2002.57.

4. (Repealed by Act X of 2010 - see *L.N. 512 of 2010*).

Authority to be body corporate.
Amended by:
XXI. 2001.4.

5. (Repealed by Act X of 2010 - see *L.N. 512 of 2010*).

Functions of the Authority.
Amended by:
XXIII. 1997.3;
XXI. 2001.5;
VI. 2002.57.

6. (Repealed by Act X of 2010 - see [L.N. 512 of 2010](#)).

Officers and employees of the Authority.
Amended by:
XXIII. 1997.4;
XXI. 2001.6.

7. (Repealed by Act X of 2010 - see *L.N. 512 of 2010*).

Financial provisions.
Amended by:
L.N. 425 of 2007.

8. (Repealed by Act X of 2010 - see *L.N. 512 of 2010*).

Accounts and audit.
Amended by:
XVI. 1997.8.

9. (Repealed by Act X of 2010 - see *L.N. 512 of 2010*).

Annual Report.

10. (Repealed by Act X of 2010 - see *L.N. 512 of 2010*).

Contracts of supply or works.
Amended by:
L.N. 425 of 2007.

11. (Repealed by Act X of 2010 - see *L.N. 512 of 2010*).

Exemption from tax.

2. The Planning Consultative Committee

12. (Repealed by Act X of 2010 - see [L.N. 512 of 2010](#)).

Establishment and functions of a Planning and Consultative Committee.
Amended by:
XXIII. 1997.5;
XXI. 2001.7.

3. The Development Control Commission

Establishment and
functions of the
Development
Control
Commission.
Amended by:
XXIII. 1997.6;
XXI. 2001.8;
L.N. 47 of 2002.

13. *(Repealed by Act X of 2010 - see [L.N. 512 of 2010](#)).*

4. The Planning Appeals Board

Establishment of
the Appeals Board.
Amended by:
XXIII. 1997.7.

14. (1) There shall be a board, to be known as the Planning Appeals Board, consisting of a lawyer, who shall preside, a person versed in planning and another person each of whom shall be appointed by the President, acting on the advice of the Minister.

(2) The President, acting on the advice of the Minister, may also appoint panels of members and in such case the composition of the Board for any one or more appeals to be heard by it shall be the responsibility of the secretary to the Board who shall, as far as is practicable, determine such composition on the basis of rotation.

(3) A member of the Board shall be disqualified from hearing an appeal in such circumstances as would disqualify a judge in a civil suit; and in any such case the member shall be substituted by another person either appointed for the purpose by the President acting on the advice of the Minister or chosen from the appropriate panel so appointed.

(4) The members of the Board shall hold office for a period of three years, and shall be eligible for reappointment.

(5) A member of the Board may be removed from office by the President acting on the advice of the Minister, on grounds of gross negligence, conflict of interest, incompetence, or acts or omissions unbecoming a member of the Board.

Functions and
procedure of
Appeals Board.
Amended by:
XXIII. 1997.8;
VI. 2001.22;
XXI. 2001.10;
VI. 2002.57;
VIII. 2007.30.

15. (1) Subject to article 32A(4) and to article 47(4), the Appeals Board shall have jurisdiction to:

- (a) hear and determine all appeals made by a person aggrieved, other than an interested third party, by any decision of the Authority on any matter of development control, including the enforcement of such control;
- (b) exercise such functions as are vested in it in terms of article 27(2)(j) and article 29A(4), of article 29B(4), articles 29C(4) and (5) and article 31(3);
- (c) hear and determine appeals made in terms of article 39A(3), article 40(4), article 46(9), article 48(4), article 55B(3), article 58(1), and article 61(7);
- (d) hear and determine an appeal lodged by an interested third party from a decision of the Authority on any matter of development control, provided that:
 - (i) such an appeal may only be made by an interested third party who had submitted written comments in terms of article 32(5) when the application to carry out the development is published,

- (ii) no appeal shall lie by an interested third party from any development control decision concerning a development which is specifically authorized in a development plan,
- (iii) a local council in whose locality the development is intended to be carried out shall always be deemed for all intents and purposes of law to be an interested third party provided that the said council has complied with the provisions of article 32(5) and it is acting in the interests of the locality,
- (iv) an interested third party shall submit reasoned grounds based on planning considerations to justify his appeal.

(2) The decisions of the Board shall be final. An appeal shall lie to the Court of Appeal constituted in terms of article 41(9) of the [Code of Organization and Civil Procedure](#) from such decisions only on points of law decided by the Board in its decision. An appeal from a partial decision of the Board may only be filed together with an appeal from the final decision of the Board.

Cap. 12.

(3) The decisions of the Board shall be binding if they are supported by the opinion of two of its members, and the dissenting member, if any, may express his opinion separately; and all decisions of the Board shall be delivered in public and shall be published as soon as practicable after the sitting at which they are given.

(4) Where a hearing is held by the Board, advance notice of not less than fourteen days shall be given of the first sitting of the Board to the parties in such manner as the Board may deem appropriate or as may be provided in the Third Schedule:

Provided that in cases of urgency the said time limit of fourteen days may be abridged by order of the Board if the Board is satisfied that the party requesting urgency has given a valid reason in writing therefor.

(5) The sittings of the Board shall be open to the public, subject to the power of the Board to exclude any member of the public if it deems it necessary so to do for the maintenance of order.

(6) The Board may require any department or agency of the Government to provide the Board with such information or advice as the Board may deem necessary for the proper execution of its functions.

(7) The Board shall have an administrative secretariat independent from the Authority, consisting of a secretary and such other officers or employees as may be necessary for a prompt and efficient determination of the matters within the Board's jurisdiction. The secretary shall be appointed by the Minister and the other members of the secretariat shall be chosen and appointed by the secretary.

(8) Without prejudice to the provisions of subarticle (7), the funds required by the Board for the performance of its functions

shall be provided by the Authority.

(9) Subject to the above and to article 37(1), appeals to the Board and the conduct of the business of the Board shall be made in accordance with the rules contained in the Third Schedule to this Act; and in the absence of such rules on any matter, the Board may regulate its own procedure.

Cap. 12.

(10) Appeals to the Court of Appeal from decisions of the Board as provided in subarticle (1) shall be made within fifteen days from the day the decision is delivered in public; and such appeals shall be regulated by rules of court made under article 29 of the [Code of Organization and Civil Procedure](#).

Cap. 319.

(11) Where judicial proceedings are instituted against the Board before a court of civil jurisdiction, other than those in terms of subarticle (10), the Secretary shall represent the Board in such proceedings; and, saving the provisions of article 46 of the [Constitution](#) and article 4 of the [European Convention Act](#), no precautionary act may be issued against the Board by any court.

(12) The Appeals Board, if it decides to grant a development permission, may impose a penalty, the payment of fees and contributions and other conditions, which the Authority may impose when granting a development permission; and the Board shall ensure that it complies with the provisions of article 33(1) and (2) in reviewing decisions of the Authority.

(13) When the Appeals Board modifies a decision taken by the Authority and orders the issue of a development permission, the Authority shall, unless an appeal has been lodged to the Court of Appeal (Inferior Jurisdiction) from the Board's decision, issue the permission within one month from the Board's decision, or, if in the Board's decision a condition has been imposed or a penalty inflicted, within one month from compliance by the appellant with such condition or payment of such penalty inflicted by the Board in its decision.

Call in procedure.
Added by:
XXI. 2001.11.

15A. (1) Where an appeal is lodged by an applicant or by an interested third party from any decision of the Authority referred to in article 36A or from any decision of the Authority or of the Commission concerning an application submitted by a department of government or a body corporate established by law, the Secretary of the Appeals Board shall inform the Minister of such an appeal within fifteen days from its receipt. In such case, the Minister may, within fifteen days from the date when he has received such information, either instruct the Appeals Board to proceed with the determination of the appeal or decide to refer the application to Cabinet for determination. Where the Minister does not decide to refer an application to Cabinet as aforesaid within the said period, it shall be deemed for all purposes and effects of law that he has opted to refer the said appeal to the Appeals Board for its decision.

(2) The Minister may refer to Cabinet applications called in by him in terms of subarticle (1) where such applications are -

(a) applications in respect of development which appears

to him to be of a strategic significance;

- (b) applications in respect of development which appears to him to affect matters of national security or national interests;
- (c) applications in respect of development which appears to him likely to affect the interests of other Governments;
- (d) applications in respect of development which is subject to an environmental impact assessment and which in his opinion is of national interest;
- (e) applications in respect of which the applicant is a department of Government or a body corporate established by law.

(3) Where the Minister decides to refer to Cabinet an application called in by him, he shall request the Appeals Board to draw up its recommendation on that application after having heard the parties and the Appeals Board shall send its recommendation on that particular application to the Minister who shall refer it to Cabinet. Such recommendation shall be available to the public.

(4) The Cabinet Secretary shall, within fifteen days from the date of such decision, communicate Cabinet's decision to the Authority together with the reasons in justification thereof and the Authority shall comply therewith, publish Cabinet's decision in such manner as it may deem fit or as it may be prescribed and shall communicate Cabinet's decision to the parties within fifteen days from the receipt of such decision.

5. Common Provisions

16. (Repealed by Act X of 2010 - see [L.N. 512 of 2010](#)).

Members of the Authority etc., to be deemed public officers for certain purposes.
Cap. 9.

16A. (Repealed by Act X of 2010 - see [L.N. 512 of 2010](#)).

Inspections.
Added by:
XXI. 2001.12.
Amended by:
[L.N. 425 of 2007](#).

17. (Repealed by Act X of 2010 - see [L.N. 512 of 2010](#)).

Publication of names of members of the Authority, etc.

6. Users' Committee

17A. (Repealed by Act X of 2010 - see [L.N. 512 of 2010](#)).

Establishment and functions of the Users' Committee.
Added by:
XXIII. 1997.9.

17B. (Repealed by Act X of 2010 - see [L.N. 512 of 2010](#)).

Standing Committee on Development Planning.
Added by:
XXI. 2001.14.

The Audit Officer.
Added by:
XXI. 2001.14.

17C. *(Repealed by Act XVII of 2010 - see L.N. 248 of 2012).*

Inter-departmental
Planning
Committee.
Added by:
XXI. 2001.14.

17D. *(Repealed by Act X of 2010 - see [L.N. 512 of 2010](#)).*

PART III

DEVELOPMENT PLANNING

1. The Structure Plan

The Structure plan
and its preparations
or review.
Amended by:
XXIII. 1997.10;
XXI. 2001.15.

18. (1) The Authority shall prepare a structure plan and shall not later than one year from the coming into force of this Act submit it to the Government for consideration and approval as provided in the following provisions of this Part of this Act.

(2) The structure plan shall be a written statement illustrated by diagrams as necessary and accompanied by an explanatory memorandum giving a reasoned justification for each of the policies and proposals contained in the plan.

(3) The Authority shall monitor the structure plan and review it as often as may be necessary, provided such review does not take place within a period of less than five years. Every such review shall be made in accordance with the goals and objectives of a revision of the structure plan as may be approved by Cabinet and take effect as provided in the following provisions of this Part of this Act.

(3A) Notwithstanding the provisions of subarticle (3), the structure plan can be reviewed in parts as the need arises by means of a Resolution of the House of Representatives, and shall come into force in accordance with the following provisions of this Part of this Act. Such a partial review of the structure plan shall not adversely affect a development permission validly issued in favour of any person before the date of the coming into force of such a review.

(3B) Cabinet may approve a statement of goals and objectives to be achieved by a partial review of the structure plan, and, or, a proposal together with a planning position statement with regard to that review. After such approval, the Minister shall send to the Authority that statement of goals and objectives, and, or, that proposal and planning position statement. When the Authority receives that statement of goals and objectives and, or, the proposal and planning position statement, it shall conform with the procedure laid down in subarticles (4) to (7), if the matters referred to therein have not already been carried out, in the same manner as if the proposal had been initiated by the Authority; and the provisions of subarticle (3A) and of article 19 shall apply. If the Authority disagrees with the Minister's proposal or with his planning position statement, it shall prepare its planning position statement indicating the changes that it proposes or its reactions thereto. The Minister shall then conform with the provisions of article 22 and, for the purposes of article 22(1), the expression "representations" shall include the Authority's planning position

statement.

(4) For the preparation or review of the structure plan the Authority shall carry out surveys of those matters which affect the character and quality of the environment, its conservation and its development, including, but not limited to:

- (a) the size, composition and distribution of the population;
- (b) the agricultural, industrial, commercial, touristic and other economic activities of the country including the employment patterns arising therefrom;
- (c) leisure and recreation;
- (d) social and community services and facilities;
- (e) communications, traffic and transport;
- (f) public utility services;
- (g) the conservation and preservation of natural and man-made resources;
- (h) such other matters as may be required by the Government or which may be deemed necessary by the Authority.

(5) In preparing or reviewing the structure plan, the Authority shall have regard to:

- (a) the current economic policies affecting development;
- (b) the policies of the Government with respect to the matters set out in subarticle (4);
- (c) the resources likely to be available for the implementation of the plan.

(6) During the preparation or review of the structure plan the Authority shall make known to the public the matters it intends to take into consideration and shall provide adequate opportunities for individuals and organisations to make representations to the Authority.

(7) In the preparation of the structure plan the Authority may take over or adopt any surveys or other work carried out or done in the preparation of a structure plan under the Building Permits (Temporary Provisions) Act, repealed by this Act.

Cap. 322.

(8) A partial review of the structure plan which is necessitated by the adoption of or an amendment to a subsidiary plan need not comply with the provisions of subarticles (4) and (5) if the matters referred to therein and that are relevant to the partial review have already been carried out in the preparation of the subsidiary plan.

19. (1) When the structure plan or a review thereof has been completed, the Authority shall publish the plan together with a statement of the representations it has received and the responses it has made to those representations.

Publication of the structure plan or its reviews.
Amended by:
XXI. 2001.16.

(2) The Authority shall invite representations on the plan to be submitted to it within a specified period of not less than six weeks.

(3) The structure plan, or any review thereof, together with all representations made to the Authority, shall, as soon as practicable, after the expiry of the period specified in subarticle (2), be referred to the Minister.

(4) The Minister may refer back the structure plan or review thereof to the Authority where he does not agree with the structure plan or any review thereof and he shall prepare a planning position statement stating the changes he proposes to it or his reactions to the structure plan or review thereof.

Assessment of plan
or review by Panel.

20. *Deleted by: XXI. 2001.17.*

Where plan or
review is referred
back.

21. Where the structure plan, or any review thereof, has been referred back to the Authority, the same procedure as far as practicable shall be followed with respect to any further draft prepared and published by the Authority, except that reference back to the Authority shall not be made more than once.

Final consideration
and approval of
plan or review.
Amended by:
XXI. 2001.18.

22. (1) At the conclusion of the procedures set out in the foregoing provisions, the structure plan, and any review thereof, shall be considered by the Cabinet together with the Minister's planning position statement and the representations made with respect to the plan or its review.

(2) Subject to article 17B(2) to (4), the Minister shall then cause the structure plan or a review thereof as originally prepared, or as revised, by the Authority, together with the Minister's planning position statement, to be laid before the House together with a motion for a resolution that the structure plan be approved by the House, with such amendments, if any, as may be specified in the resolution.

(3) The structure plan and any review thereof as approved by the House shall have effect as from such date as may be specified for that purpose by the Minister by order in the Gazette; and for the purposes of this Act, other than those provisions relative to the preparation, consideration and submission of the structure plan or its review, the expression structure plan and any reference to a review thereof means the structure plan, and any review thereof, as approved by the House of Representatives:

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Provided that if at the date of commencement of this Act there is a structure plan prepared under the Building Permits (Temporary Provisions) Act, and approved by the House of Representatives, such structure plan, as so approved, shall be the structure plan, and shall be treated as if it were the structure plan prepared by the Authority under this Act, for all the purposes thereof, and as if all the provisions of this Act relative to the preparation, consideration and submission of the structure plan had been complied with.

Substituted by:
XXI. 2001.19.

2. Subject Plans, Local Plans, Action Plans and Development Briefs

Subsidiary plans.
Amended by:
XXI. 2001.20.

23. Where the Authority considers that for the proper and effective management of development it is necessary to prepare

more detailed proposals than can be appropriately embodied in the structure plan, the Authority may prepare such subsidiary plans, that is to say subject plans, local plans, action plans and development briefs, as appears to it to be necessary.

24. (1) A subject plan is a plan which deals with a policy or matter which is contained in the structure plan but which requires for its implementation a more detailed specification than is contained in the structure plan.

Subject plans.
Amended by:
XXI. 2001.21.

(2) A subject plan shall consist of a written statement supported by such maps and diagrams as may be considered necessary.

(3) Except as otherwise stated in the plan, a subject plan shall apply to all relevant areas of the structure plan, whether or not such areas are also covered by a local plan, an action plan or a development brief.

25. (1) A local plan is one which is made by the Authority for any area where the Authority considers that the rate of development or re-development cannot be satisfactorily managed, or where special factors cannot be taken into account solely on the basis of the structure plan.

Local plans.

(2) A local plan shall consist of a map or maps of a suitable scale supported by a written statement and by such diagrams as may be necessary.

26. (*Repealed by Act X of 2010 - see [L.N. 512 of 2010](#)*)

Action plans.
Amended by:
XXI. 2001.22.

26A. (*Repealed by Act X of 2010 - see L.N. 512 of 2010*).

Development brief.
Added by:
XXI. 2001.23.

27. (1) (*Repealed by Act X of 2010 - see L.N. 512 of 2010*).

Procedure for
subsidiary plans.
Substituted by:
XXI. 2001.24.

(2) Where the Authority prepares a subsidiary plan or a review thereof as aforesaid, it shall seek the Minister's approval in terms of the following procedure:

- (a) (*Repealed by Act X of 2010 - see [L.N. 512 of 2010](#)*);
- (b) (*Repealed by Act X of 2010 - see L.N. 512 of 2010*);
- (c) (*Repealed by Act X of 2010 - see L.N. 512 of 2010*);
- (d) (*Repealed by Act X of 2010 - see L.N. 512 of 2010*);
- (e) (*Repealed by Act X of 2010 - see L.N. 512 of 2010*);
- (f) (*Repealed by Act X of 2010 - see L.N. 512 of 2010*);
- (g) (*Repealed by Act X of 2010 - see L.N. 512 of 2010*);
- (h) (*Repealed by Act X of 2010 - see L.N. 512 of 2010*);
- (i) where the subsidiary plan or any part thereof extends the scope of or is in conflict with the structure plan, the Minister shall comply with the provisions of articles 18 to 22 with regard to such subsidiary plan or any part thereof, provided that those parts of the subsidiary plan that do not extend the scope of or are

not in conflict with the structure plan shall come into force on the date of approval by the Minister;

- (j) if doubt arises as to which procedure should be followed in respect of a subsidiary plan or as to whether a subsidiary plan or a planning position statement extend the scope of or are in conflict with the substance of the structure plan, the matter may be referred at any time by the Authority or by the Minister to the Appeals Board, provided that where the Authority is of the opinion that the Minister's final planning position statement extends the scope of or is in conflict with the substance of the structure plan, it may refer the matter to the Appeals Board within one month from the date of receipt of the Minister's final planning position statement. The Appeals Board shall rule within one month from the date of referral to it of the matter as to which procedure shall apply and the decision of the Board shall be final.

Review of
subsidiary plans.
Substituted by:
XXI. 2001.25.

28. (1) Every subsidiary plan shall be reviewed as frequently as may be necessary or as may be made necessary by a review of the structure plan:

Provided that a subsidiary plan may not be reviewed before the lapse of two years from its last review unless such review is necessitated by a review of the structure plan.

(2) Where as a result of such a review the Authority proposes to alter a plan in any significant respect, or where it is proposed that a plan be withdrawn, any such proposal shall be subject to the same procedures, and shall be treated, as a new plan.

(3) Minor modifications not affecting the substance of the plan may be carried out by the Authority either on its own motion when it considers to do so in the interests of proper planning of the area or following a minor modifications application submitted to it by any person. Modifications shall not be considered to be minor when they would alter the general thrust of the plan or affect a Temporary Provisions Scheme boundary or a development boundary indicated in a local plan.

(4) For the purpose of subarticle (3), the following shall be considered to constitute minor modifications:

- (a) changes in the alignment of roads and buildings in a Temporary Provisions Scheme or in a local plan; and
- (b) changes in zoning, other than
 - (i) changes in height limitations; and
 - (ii) changes in zoning of a site which is not designated for the purpose of development.

(5) Where the Authority is considering a minor modification in terms of subarticle (4)(a), the provisions of article 32 shall apply *mutatis mutandis* to such a modification.

(6) Where the Authority is considering a minor modification in

terms of subarticle (4)(b), it shall follow the following procedure:

- (a) where the proposal for such a minor modification originates from the Authority itself, it shall comply with the provisions of article 27(2)(a) to (j);
- (b) where the proposal for such a minor modification originates in a minor modifications application, the Authority shall publish such proposal and invite representations on the said application within a specified period of not less than six weeks. The Authority shall then decide the application after taking into consideration all representations submitted to it. The provisions of article 29C(4) and (5) shall also apply.

(7) No appeal from a decision concerning a minor modifications application shall lie to the Appeals Board.

(8) Minor modifications to a plan shall be carried out as aforesaid and in accordance with such procedures as the Minister after consultation with the Authority may prescribe.

29. *(Repealed by Act X of 2010 - see [L.N. 512 of 2010](#)).*

Subsidiary plans in the absence of structure plan.

3. Planning Policies not contained in a Development Plan and Preparation of a Subsidiary Plan or a Planning Policy

Added by:
XXI. 2001.26.

29A. *(Repealed by Act X of 2010 - see [L.N. 512 of 2010](#)).*

Planning Policy not contained in a Development Plan prepared by the Authority.
Added by:
XXI. 2001.27.

29B. *(Repealed by Act X of 2010 - see [L.N. 512 of 2010](#)).*

Request by Minister to the Authority to prepare a subsidiary plan or a planning policy not contained in a Development Plan.
Added by:
XXI. 2001.27.

29C. *(Repealed by Act X of 2010 - see [L.N. 512 of 2010](#)).*

Minister may request the preparation by any person of a subsidiary plan, planning policy or revision thereof.
Added by:
XXI. 2001.27.

PART IV

DEVELOPMENT CONTROL

1. Requirement of permission to develop land

Developments to
require permission.
Substituted by:
XXIII. 1997.11.
Amended by:
XXI. 2001.28.

30. *(Repealed by Act X of 2010 - see [L.N. 512 of 2010](#)).*

Development
order.
Amended by:
XXIII. 1997.12;
XXI. 2001.29.

31. *(Repealed by Act X of 2010 - see L.N. 512 of 2010).*

Application for
development
permission.
Amended by:
XXIII. 1997.13;
XXI. 2001.30.

32. *(Repealed by Act X of 2010 - see L.N. 512 of 2010).*

Planning Mediator.
Added by:
XXI. 2001.31.

32A. *(Repealed by Act X of 2010 - see L.N. 512 of 2010).*

Development
permissions.
Amended by:
XXIII. 1997.14;
XXI. 2001.32.

33. *(Repealed by Act X of 2010 - see L.N. 512 of 2010).*

Supplementary
provisions re
development
permissions.
Amended by:
XXIII. 1997.15;
XXI. 2001.33.

34. *(Repealed by Act X of 2010 - see [L.N. 512 of 2010](#)).*

Register of
applications.
Substituted by:
XXIII. 1997.16;
XXI. 2001.34.

35. *(Repealed by Act X of 2010 - see [L.N. 512 of 2010](#)).*

Decisions to be
taken without
delay.
Substituted by:
XXIII. 1997.17;
XXI. 2001.35.

36. *(Repealed by Act X of 2010 - see L.N. 512 of 2010).*

Applications the
decisions whereof
cannot be
delegated.
Added by:
XXI. 2001.35.

36A. *(Repealed by Act X of 2010 - see L.N. 512 of 2010).*

Appeals from
decisions of
Authority.
Amended by:
XXIII. 1997.18.
Substituted by:
XXI. 2001.36.

37. *(Repealed by Act X of 2010 - see L.N. 512 of 2010).*

38. *(Repealed by Act X of 2010 - see L.N. 512 of 2010).* Application for development permission by Government and its agencies.
Amended by: XXI. 2001.37.
39. *(Repealed by Act X of 2010 - see L.N. 512 of 2010).* Applications for mining of minerals.
- 2. Revocation or modification of permission to develop land**
- 39A. *(Repealed by Act X of 2010 - see [L.N. 512 of 2010](#)).* Revocation and modification of development permission.
Added by: XXI. 2001.38.
40. *(Repealed by Act X of 2010 - see L.N. 512 of 2010).* Planning obligations.
Added by: XXI. 2001.38.
- 3. Charges and contributions in respect of development**
41. *(Repealed by Act X of 2010 - see [L.N. 512 of 2010](#)).* Charges and contributions.
Amended by: XXI. 2001.39.
42. *(Repealed by Act X of 2010 - see L.N. 512 of 2010).* Contributions towards infrastructure.
Amended by: XXIII. 2000.30; XV. 2009.49.
43. *(Repealed by Act X of 2010 - see L.N. 512 of 2010).* Development to commence after payment of fee and contribution.
44. *(Repealed by Act X of 2010 - see L.N. 512 of 2010).* Publication of charges and contributions.
- 4. Other powers of development control.**
45. *(Repealed by Act X of 2010 - see [L.N. 512 of 2010](#)).* Discontinuance or removal orders.
Amended by: XXI. 2001.40.
46. *(Repealed by Act X of 2010 - see L.N. 512 of 2010).* Scheduled property and conservation orders.
Amended by: XXIII. 1997.20; XXI. 2001.41.
47. *(Repealed by Act X of 2010 - see L.N. 512 of 2010).* Emergency Conservation Order.
Amended by: XXIII. 1997.21; XXI. 2001.42.
48. *(Repealed by Act X of 2010 - see L.N. 512 of 2010).* Protected trees and Tree Preservation Orders.
Amended by: XXI. 2001.43.
49. *(Repealed by Act X of 2010 - see L.N. 512 of 2010).* Advertisements.

PART V

ENFORCEMENT OF CONTROL

Right of entry.
Substituted by:
XXI. 2001.45.

50. (Repealed by Act X of 2010 - see [L.N. 512 of 2010](#)).

Monitoring of
development.

51. (Repealed by Act X of 2010 - see [L.N. 512 of 2010](#)).

Enforcement
procedure.
Amended by:
XXIII. 1997.22.
Substituted by:
XXI. 2001.46.

52. (Repealed by Act X of 2010 - see [L.N. 512 of 2010](#)).

Enforcement
procedure to apply
to scheduled
property, trees, etc.
Substituted by:
XXI. 2001.47.

53. (Repealed by Act X of 2010 - see [L.N. 512 of 2010](#)).

Other enforcement
notices.
Amended by:
XXI. 2001.48.

54. (Repealed by Act X of 2010 - see [L.N. 512 of 2010](#)).

Injury to amenity.
Substituted by:
XXI. 2001.49.

55. (Repealed by Act X of 2010 - see [L.N. 512 of 2010](#)).

Supplementary
provisions as to
enforcement.
Added by:
XXI. 2001.50.
Amended by:
[L.N. 425 of 2007](#).

55A. (Repealed by Act X of 2010 - see [L.N. 512 of 2010](#)).

Procedure applying
to certain types of
illegal
development
carried out prior to
1 January, 1993.
Added by:
XXI. 2001.50.

55B. (Repealed by Act X of 2010 - see [L.N. 512 of 2010](#)).

PART VI

DEVELOPMENT OFFENCES AND PENALTIES

Offences.
Amended by:
XXI. 2001.51;
[L.N. 425 of 2007](#).

56. (1) Any person who -
- (a) carries out any development on any land or allows any development to be carried out on land of which he is an owner without a development permission as in force at the time of such development, or, if the development is carried out with a development permission, fails to comply or to cause compliance with any condition, restriction or other limitation to which the permission is subject; or
 - (b) acts in contravention of any of the provisions of article 46, 47 or 48 in respect of any scheduled property or tree, an emergency conservation order, or of any advertisement regulation order made under article 49;

or

- (c) having been served with an enforcement notice or other notice under articles 45, 52, 53 or 55, fails to comply with any of the requirements of such notice within the time therein specified; or
- (d) hinders, obstructs, molests or interferes with, or attempts to hinder, obstruct, molest or interfere with, any officer or employee of the Authority, or any police officer, or any public officer, or any employee or servant of any department of Government or of any agency of Government or of any local council, in the execution of his duties under the law or fails to comply with any reasonable requirement demanded of him by any such person as aforesaid or otherwise to assist him in the carrying out of the said duties, or knowingly furnishes such person with false information or neglects or refuses to give any information required for the purpose aforesaid; or
- (e) makes a declaration for any of the purposes of this Act which is false, misleading or incorrect in any material respect,

shall be guilty of an offence against this Act and shall be liable, on conviction, to a fine (*multa*) of not less than one thousand and one hundred and sixty-four euro and sixty-nine cents (1,164.69) and not exceeding one hundred and sixteen thousand and four hundred and sixty-eight euro and sixty-seven cents (116,468.67), and in respect of an offence under paragraph (d) or, in the case of an offence under paragraph (c) if the offender persists in the offence for more than three months, also to imprisonment for a term of not less than three months and not exceeding three years:

Provided that, and without prejudice to the provisions of article 46(7) and article 55A(3) and (4) and without prejudice to the maximum fine above established, the minimum fine (*multa*) to which an offender is liable under this article shall not be less than the value of any work carried out without permission or in violation of any conditions to which such permission was subject.

(2) The Court, besides awarding the punishment referred to in subarticle (1), shall order the offender to remove the causes of the offence and to undo anything which was done without a permission or to comply with the conditions imposed in the permission, as the case may be, within a time sufficient for the purpose, but in any case not exceeding three months from the date of the judgment, to be fixed by the court; and, if the offender fails to comply with any such order within the time so fixed, he shall be liable to a fine (*multa*) of not less than fifty-eight euro and twenty-three cents (58.23) and not more than one hundred and sixteen euro and forty-seven cents (116.47), as the court may fix, for every day the default continues after the expiration of the said time.

Cap. 9.

(3) Proceedings against any person for any offence as is mentioned in subarticle (1) shall be taken before the Court of Magistrates (Malta) or the Court of Magistrates (Gozo), as the case may be, as courts of criminal judicature in accordance with the provisions of the [Criminal Code](#):

Provided that, notwithstanding the provisions of article 376(1)(b) of the Criminal Code, the Court shall, at the request of the prosecution or of the accused, take down evidence given by the witnesses in the manner provided for either in article 390(6) of the said Code or in any law for the time being in force.

Cap. 9.
Cap. 446.

(4) Article 21 of the [Criminal Code](#) and the provisions of the Probation Act shall not apply to any offences referred to in this article.

(5) The filing of an application intended to regularise any illegal development to which a prosecution refers, and the filing of an appeal against a refusal of such an application shall not be a bar to the continuation of such a prosecution and the court shall continue to hear such a case and shall give judgement and shall issue an order in terms of subarticle (2) as if such an application or such an appeal had never been filed:

Provided that where such a development has been regularised no fine under subarticle (2) shall be due in respect of the time after the development has been regularised.

Certified copies of
certain documents
as evidence.

57. *(Repealed by Act X of 2010 - see [L.N. 512 of 2010](#)).*

Special procedure.
Amended by:
L.N. 425 of 2007.

58. *(Repealed by Act X of 2010 - see [L.N. 512 of 2010](#)).*

PART VII

SUPPLEMENTAL

Power to make
regulations etc. to
include power to
revoke, etc.
Cap. 249.

59. *(Repealed by Act X of 2010 - see [L.N. 512 of 2010](#)).*

Regulations.
Amended by:
XXI. 2001.53;
L.N. 425 of 2007.

60. *(Repealed by Act X of 2010 - see [L.N. 512 of 2010](#)).*

Certificate of
development
according to
permission.

61. *(Repealed by Act X of 2010 - see [L.N. 512 of 2010](#)).*

Site plans to
accompany notices
and orders.
Added by:
XXI. 2001.55.

61A. *(Repealed by Act X of 2010 - see [L.N. 512 of 2010](#)).*

Service of notices,
etc., under this Act.

62. *(Repealed by Act X of 2010 - see [L.N. 512 of 2010](#)).*

Savings.

63. *(Repealed by Act X of 2010 - see [L.N. 512 of 2010](#)).*

FIRST SCHEDULE

*Amended by:
XXIII. 1997.23.*

(Repealed by Act X of 2010 - see [L.N. 512 of 2010](#))

SECOND SCHEDULE

*Amended by:
XXIII. 1997.23.*

(Repealed by Act X of 2010 - see [L.N. 512 of 2010](#))

THIRD SCHEDULE

(Article 15)

*Amended by:
XXIII. 1997.24;
VI. 2001.22;
L.N. 22 of 2002.*

**Proceedings before the Planning Appeals Board
and appeals therefrom**

1. Any person who feels aggrieved by a decision of the Authority as provided in article 15(1) of may appeal to the Planning Appeals Board within thirty days from the date the decision is communicated to the person on whose application the decision was taken.

2. The application shall contain the grounds for the appeal and the request of the appellant, and a copy of it shall be communicated to the Authority before the appeal is heard. The Authority shall file its reply within thirty days of service upon it of the application. The reply shall be served upon the appellant.

3. The appellant shall appear before the Board either in person or by agent on the day and at the time fixed for the hearing, make his submissions and produce such evidence as the Board may allow:

Provided that the Board may postpone the hearing of the appeal if it is satisfied that the appellant was prevented from appearing before it owing to illness or absence from Malta or other similar reasonable cause.

4. The Board shall give the Authority an opportunity to make its submissions in justification of its decisions, and bring such evidence as the Board may consider necessary.

5. The Board shall have the power to summon witnesses and to administer the oath to any person appearing before it.

6. The Board shall have power to confirm, revoke or alter the decision appealed against and give such directions as it may deem appropriate.

7. The decisions of the Board shall be final and no appeal shall lie therefrom except on a question of law only.

8. If the appellant or the Authority are dissatisfied with any point of law decided by the Board, they may appeal to the Court of Appeal (Inferior Jurisdiction) by an application filed as provided in article 15(10).

9. All hearings of the Board shall be held in public and all decisions of the Board shall be given in public.

10. Subject to the foregoing provisions and to the provisions of this Act, the Board shall regulate its own procedure.

11. The Minister responsible for justice may by regulations made under this rule establish fees payable in the registry of the courts in relation to the filing of judicial acts in connection with appeals before the Court of Appeal (Inferior Jurisdiction) under this Act:

Provided that until such fees have been so established by the Minister, the fees contained in Schedule A to the [Code of Organization and Civil Procedure](#) shall apply.
