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CHAPTER 552

DEVELOPMENT PLANNING ACT

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

4th April, 2016*

ACT VII of 2016, as amended by Legal Notice 109 of 2020 and Acts XXXVI of 2020 , XXI of 2022 and XVI of 2023.

PART I

Preliminary

Short title.

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

Interpretation.
Amended by: XVI.2023.5.

2. In this Act unless the contents otherwise requires:

"action plan" has the meaning assigned to it by article 49;

"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;

"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;

"agriculture" means a human activity consisting in the growing of crops and rearing of animals for purpose of production of food or other products and includes horticulture, fruit-growing, seed production, forage growing, milk production, rearing and keeping of livestock (including any creature kept for the production of food, wool, leather, fur or for use in the cultivation of land or as breeding stock) as well the use of land for grazing or as a meadow and "agricultural" shall be construed accordingly;

"alteration" or "alterations" in relation to development includes (*a*) plastering or painting or the removal of plaster or stucco, or (*b*) the replacement of a door, window or roof, that materially alters the external appearance of a structure so as to render the appearance inconsistent with the character of the structure or neighbouring structures;

"appeal" means an appeal to the Environment and Planning Review Tribunal or to the Court of Appeal, as the case may be;

"application" means any form of application made to the

* see article 1(2) of the Act, as originally enacted, and Legal Notice 106 of 2016.

authority in terms of this Act;

"Authority" means the Planning Authority established under article 5 and includes any body or other person acting on its behalf under powers delegated by the Authority under this Act, and the Minister may, by order in the Gazette, designate different bodies or persons as a competent authority for different provisions and different purposes of this Act or any regulations made thereunder;

"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 the Development Permission Fee under article 81(1) together with the Infrastructure Service Contribution under article 81(2);

"building operations" includes rebuilding operations, structural alterations to or additions to buildings, and other operations normally undertaken in the course of construction works;

"commencement notice" means a notice submitted by the perit on behalf of the applicant to the Authority at least five (5) days prior to the date of commencement of works or of the utilization of a permit, to notify the Authority of the date of commencement of works or of the utilization of a permit;

"compliance certificate" means a certificate issued in terms of article 102;

"conservation" in relation to natural heritage, means a series of measures required to maintain or restore the natural habitats and the population of species of wild fauna and flora at a favourable status;

"conservation" in relation to cultural heritage, means any activity required to maximize the endurance or minimize the deterioration of any cultural property as far as possible and includes examining, treating, recording, preserving, maintaining, rehabilitating and restoring any such property or any part thereof;

"the Commission" means the Planning Commission established under article 65;

"days" means calendar days;

"derivatives" means parts of any specimen, whether processed by man or not;

"development brief" has the meaning assigned to it by article 51;

"development" means any interventions that fall under the provisions described in article 70;

"development order" means an order made under article 55;

"development permission" means a permission to carry out or retain development granted by the Planning Board or the Planning Commission either in consequence of an application or of a development order;

"development planning" means a planning system which shall have as its main objective sustainable development;

"engineering operations" includes any physical changes to the land surface and sea bed, to the site topography, or the formation or laying out of roads and of means of access to roads;

"environment" means the whole of the elements and conditions, natural or man-made, existing on earth, whether together or in isolation, and in particular:

(*a*) the air, water and land;

(*b*) all the layers of the atmosphere;

(*c*) all organic and inorganic matter and all living organisms;

(*d*) all ecosystems; and

(*e*) the landscape;

"Environmental Impact Assessment" means an assessment in terms of the Environmental Impact Assessment Regulations or other regulations applicable from time to time;

S.L. 549.46.

"environmental NGOs" means non-governmental organizations promoting environmental protection and which are registered under the Voluntary Organisations Act;

Cap. 492.

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

"fauna" means all types of animals and other biota including akaryotes, prokaryotes and eukaryotes, dead or alive, in whole or in part and their derivatives;

"flora" means all types of plants and other biota including akaryotes, prokaryotes and eukaryotes, dead or alive, in whole or in part and their derivatives;

"functions" includes responsibilities, powers and duties;

"Gazette" means the Government Gazette;

"illegal use" is limited, in relation to land, to use not covered by a development permission issued by an authority related to development;

"illegal works" means any works on, in, over or under land, carried out after 1967 and not covered by a development permission issued by an authority related to development;

"IPPC permit" means a permit in terms of the Industrial Emissions (Integrated Pollution Prevention and Control) Regulations;

S.L. 549.77

"land" includes a building and also land which has been formed following land reclamation and also the sea and the seabed;

"land reclamation" means the gain of land from the sea, or wetlands, or other water bodies and restoration of productivity or use to lands that have been degraded by human activities or impaired by natural phenomena;

"land use planning" shall include regulation both on land and land to be reclaimed from sea;

"local council" means a local council established under the Local

Cap. 363

Government Act;

"local plan" has the meaning assigned to it by article 48;

"maintenance operations" shall not include demolition and rebuilding works, irrespective of where such demolition and rebuilding works are carried out;

"major projects" is a project as defined by regulations under this Act;

"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;

"the Minister" means the Minister or Parliamentary Secretary under whose portfolio the Authority is included;

"owner" means -

(*a*) a person who in his own right or as a duly authorised 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, but does not include a person who holds the land under title of an agricultural lease;

(*b*) where the land is subject to usufruct, the bare owner or the usufructuary;

(*c*) an emphyteuta;

(*d*) any one of the co-owners of the land on which development takes place;

(*e*) any one of the spouses, where the land to which the development relates forms part of the community of acquests;

(*f*) the director or directors of the company duly authorised to appear and represent the company which owns the land to which the development relates;

"permission" means a development permission;

"person" includes a body or other association of persons whether granted legal personality or not and shall include environmental NGOs;

"plan" means a plan approved in accordance with the provisions of this Act;

"policy" means a policy approved in accordance with the provisions of this Act;

"position statement" means a statement issued by either the Minister or the Executive Council 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;

"projects of common interest" means a project necessary to implement the energy infrastructure priority corridors and areas set

out in Annex I to Regulation EC No. 347/2013 and which is part of the Union list of projects of common interest referred to in article 3 of Regulation EC No. 347/2013 or other regulations applicable from time to time;

"public officer" has the meaning assigned to it by article 124 of the Constitution;

"registered interested person or party" means any person who makes representations as provided for in article 71(6);

"regulation" means a regulation made under article 84;

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

"scheduled buildings" has the meaning assigned to it by article 57;

"Standing Committee" means the Standing Committee on the Environment, Climate Change and Development Planning established in terms of article 60;

"Spatial Strategy" means the Spatial Strategy for Environment and Development as defined in article 44;

"subject plan" has the meaning assigned to it by article 47;

"subsidiary plans" includes subject plans, local plans, action plans or management plans and development briefs;

Cap. 551.

"Tribunal" means the Environment and Planning Review Tribunal established under the Environment and Planning Review Tribunal Act;

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

"waste" means anything, substance or object which the holder discards or intends to discard, or is required to keep in order to discard, and includes such other thing, substance or object as the Minister may prescribe.

PART II

Duty to promote a Comprehensive, Sustainable, Land Use Planning System

Duty to promote a comprehensive sustainable land use planning system.

3. It shall be the duty of the Government to enhance the quality of life for the benefit of the present and future generations, without compromising the ability of future generations to meet their own needs, through a comprehensive sustainable land use planning system, and to that effect:

(*a*) to preserve, use and develop land and sea for this and future generations, whilst having full regard to environmental, social and economic needs;

(*b*) to ensure that national planning policies are unambiguous, accessible and clear to the general public;

(*c*) to deliver regular plans in accordance with the needs and exigencies from time to time;

(*d*) to identify regional planning shortcomings and address any problems found in relation thereto;

(*e*) to apply scientific and technical knowledge, resources and innovation for the effective promotion of development planning; and

(*f*) to consider public values, costs, benefits, risks and uncertainties involved when taking any decisions.

Application of article 3.

4. The provisions of article 3 shall not be directly enforceable in any court, but, notwithstanding this, the principles therein contained are fundamental to the Government of Malta and these principles shall be employed in the interpretation of the other provisions of this Act or of any other law relating to matters governed by this Act.

PART III

Establishment and Scope of the Authority

Establishment of the Planning Authority.

5. There is hereby established an authority, to be known as the Planning Authority, hereinafter referred to as the Authority, which shall consist of the Executive Council and the Planning Board.

Authority to be body corporate and representation of the Authority.

6. (1) The Authority shall be a body corporate having a distinct legal personality and shall be capable, subject to the provisions of this Act, of entering into contracts, of acquiring, holding and disposing of any kind of property for the purposes of its functions, of suing and being sued, and of doing all such things and entering into all such transactions as are incidental or conducive to the exercise or performance of its functions under this Act, including the lending or borrowing of money.

(2) The legal and judicial representation of the Authority shall be vested in the Executive Chairperson of the Executive Council:

Provided that the Executive Chairperson may appoint any one or more of the other members of the Executive Council or any one or more of the officers or employees of the Authority to appear in the name and on behalf of the Authority in any proceedings and in any act, contract, instrument or other document whatsoever.

Functions of the Authority. *Amended by: XXI.2022.2.*

7. (1) The Authority shall be the principal means whereby the Government shall implement its duties under this Act.

(2) The functions of the Authority shall be the following:

(*a*) to perform and succeed in the functions which were previously assigned to the Malta Environment and Planning Authority under the provisions of the Environment and Development Planning Act and are now contained in this Act and to perform and succeed in the assets, rights, liabilities and obligations of the Malta Environment and Planning Authority established under the provisions of the Environment and Development Planning Act to the extent that the

Cap. 504.

Minister may prescribe by regulations under this Act;

(*b*) the functions of the Executive Council and the Planning Board listed under articles 38 and 64;

(*c*) to facilitate and coordinate the permit granting process for projects of common interest;

(*d*) *Repealed by Act XXI.2022.2.*

(*e*) the performance of any other functions as may from time to time be assigned to it by the Minister, including the functions required to give effect to any international obligation entered into by Malta relative to matters regulated by this Act.

Cap. 513

(3) The Authority may also exercise all powers of control over development as may from time to time be delegated to it in writing by the Minister on behalf of any department or agency of Government.

(4) It shall be the Minister's function to ensure that the Executive Council is fully informed of Government's strategic directions relative to development planning, and to monitor the proper execution of such policies.

(5) The Authority shall execute its duties, functions and responsibilities in accordance with Government's strategic directions relating to development planning.

(6) In the pursuance of its functions under this Act, the Authority shall, as far as possible, make reference to European Union best practices and standards.

(7) In the pursuance of its functions under this Act, the Authority shall regulate its own procedure.

(8) The Authority shall also ensure that it keeps an audit trail of all its files, including all documentation and reports:

Provided that files, documentations and reports may be digitised and the Authority may after digitisation dispose of hard copies of files, documentations and reports after a period of twenty (20) years from date of submission to the Authority or to any other previous entity carrying out the same functions.

PART IV

Common Provisions

Delegation of power.

8. The Authority may, in accordance with the provisions of this Act and with the approval of the Minister, delegate any one or more of its functions under this Act under such conditions as it may deem appropriate. Notice of any such delegation shall be published in the Gazette.

Appointment of advisory boards and committees.

9. The Executive Council may with the approval of the Minister appoint advisory boards and committees to assist it in the

performance of its functions under this or any other law. The functions of the said boards and committees shall be prescribed by the Executive Council with the approval of the Minister.

Conduct of the affairs of the Authority.

10. (1) Subject to the other provisions of this Act, the affairs and business of the Authority shall be the responsibility of the Executive Council. The executive conduct of the Authority, its administration and organisation and the administrative control of its Directorates and of its officers and employees, shall be the responsibility of the Executive Chairperson of the Executive Council, who shall also have such other powers as may from time to time be delegated to him by the Minister.

(2) The Authority and each of its Directorates may exercise any one or more of their functions or responsibilities either directly or through any of their officers or employees authorised for the purpose.

(3) Where in this Act anything is to be done by or with respect to the Authority, any such thing may also be done by the Directorates, under whose jurisdiction the matter falls by reason of a delegation of function to such Directorate; and for the purposes aforesaid any reference in this Act to the Authority includes a reference to the appropriate Directorate.

Other matters relating to officers of the Authority.

11. (1) The Executive Chairperson shall, himself or his representative, have the right to be present and participate at all meetings of the Planning Board, the Commission and all the meetings held by all the boards and committees appointed by the Executive Council.

(2) The Minister, in consultation with the respective chairperson of the Executive Council and the Planning Board shall appoint a secretary to assist the respective entity. The secretary shall have the duty of calling meetings and keeping minutes and assume such other duties as the chairperson of the Executive Council or Planning Board may delegate to him.

(3) The Executive Council shall also appoint an Internal Auditor. The Internal Auditor shall:

(*a*) oversee the systems of internal control and risk management of the Authority and assist and support the Authority in discharging its responsibilities in relation thereto;

(*b*) provide the communication link with external auditors and evaluate and coordinate the audit and financial reporting process of the Authority;

(*c*) scrutinize and evaluate any transaction to be entered into by the Authority with a value exceeding two hundred and fifty thousand euro (€250,000); and

(*d*) review and assess the effectiveness of the management of the Authority in its compliance with policies and in the discharge of its regulatory and compliance functions in so far as financial matters are concerned.

(4) The Internal Auditor shall report directly and exclusively to

the Executive Council in accordance with procedures established by the Executive Council.

Staff appointments.

12. (1) Subject to the provisions of the Constitution, any other enactment applicable thereto, and without prejudice to the other provisions of this Act, the employment and appointment of officials and other employees of the Authority shall be made by the Executive Council and the terms and conditions of their employment and appointment shall be established by the Executive Council with the concurrence of the Minister.

(2) The Executive Council may, with the approval of the Minister given after consultation with the Minister responsible for finance, establish a scheme or schemes, whether by contributory or non-contributory arrangements or partly by one and partly by the other, for the payment of pensions, gratuities and other like benefits to its officers and employees on their retirement, death or injury, or to their dependants.

Disclosure of interests.

13. (1) Where any member of the Authority, or a member of the staff of the Authority, or a consultant, advisor or other person engaged by the Authority, has any interest in any matter which falls to be considered by the Authority, he shall upon becoming aware of such interest:

(*a*) disclose to the Executive Council or the Planning Board, as the case may be, the nature of his interest;

(*b*) neither influence nor seek to influence the processing and the decision in relation to such matter;

(*c*) take no part in any consideration of such matter; and

(*d*) not attend nor participate in any meeting on such matter.

(2) Where a question arises as to whether or not a course of conduct, if pursued by a person, would constitute failure by him to comply with the requirements of sub-article (1), the question shall be referred to the Executive Council or the Planning Board as the case may be and the decision taken and its motivation shall be recorded in the minutes of the meeting during which the decision was taken and such person is to be duly informed.

(3) Where a disclosure is made to the Executive Council or the Planning Board as the case may be pursuant to sub-article (1), particulars of the disclosure shall be recorded in the minutes of the relative meeting.

(4) Where a person to whom sub-article (1) applies, excluding members of the Authority, fails to make the required disclosure, the Executive Council shall decide the appropriate action to be taken which may include, after concurrence from the Minister, the removal from office or termination of the contract of the person concerned. In the case of members of the Authority, the provisions of articles 37(3) and 63(6) shall apply.

Appointment and functions of officers and employees of the Authority.

14. The Executive Council shall appoint and employ, at such remuneration and upon such terms and conditions as it may, in accordance with article 12, determine, such officers and employees of the Authority as may from time to time be necessary for the due and efficient discharge of the functions of the Authority.

Detailing of public officers for duty with the Authority.

15. (1) The Prime Minister may, from time to time, direct that any public officer shall be detailed for duty with the Authority in such capacity and with effect from such date as may be specified in the Prime Minister's direction.

(2) The period during which a direction as aforesaid shall apply to any officer specified therein shall, unless the officer retires from the public service, or otherwise ceases to hold office at an earlier date, or unless a different period is specified in such direction, end on the happening of any of the following events, that is to say:

(*a*) the acceptance by such officer of an offer of transfer to the service of, and permanent employment with, the Authority made in accordance with the provisions of article 17; or

(*b*) the revocation of such direction by the Prime Minister, in relation to such officer:

Provided that in relation to a public officer detailed for duty with the Authority with effect from such date as the Prime Minister may in a direction as aforesaid establish, the detailing of such public officer shall cease to have effect after one year from the effective date of such direction, unless the direction is revoked earlier by the Prime Minister.

(3) Where a direction as aforesaid is revoked by the Prime Minister in relation to any officer, the Prime Minister may, by further direction, detail such officer for duty with the Authority in such capacity and with effect from such date as may be specified in the Prime Minister's direction, and the provisions of sub-article (2) shall thereupon apply to the period of duration of such detailing by any such further direction in relation to such officer.

Status of public officers detailed for duty with the Authority.

16. (1) Where any public officer is detailed for duty with the Authority under any of the provisions of article 15, such officer shall, during the time in which such direction has effect in relation to him, be under the administrative authority and control of the Executive Council but he shall for all intents and purposes remain and be considered and treated as a public officer.

(2) Without prejudice to the generality of the foregoing, an officer detailed for duty as aforesaid:

(*a*) shall not during the time in respect of which he is so detailed:

(i) be precluded from applying for a transfer to a department of the Government in accordance with the terms and conditions of service attached to the appointment held by him under the Government on the date on which he was so

detailed for duty; or

(ii) receive remuneration and be subject to conditions of service which are less favourable than those attached to the appointment under the Government held by him on the date aforesaid or which would have become attached to such appointment, during the said period, had such officer not been detailed for duty with the Authority; and

(*b*) shall be entitled to have his service with the Authority considered as service with the Government for the purposes of any pension, gratuity, or benefit under the Pensions Ordinance and the Widows' and Orphans' Pensions Act and for the purpose of any other right or privilege to which he would have been entitled, and liable to any liability to which he would have been liable, but for the fact of his being detailed for duty with the Authority.

Cap. 93.
Cap. 58.

(3) Where an application is made as provided in sub-article (2)(*a*)(i) the same consideration shall be given thereto as if the applicant had not been detailed for service with the Authority.

(4) The Authority shall pay to the Government such contributions as may from time to time be determined by the Minister responsible for finance in respect of the cost of pensions and gratuities earned by an officer detailed for duty with the Authority as aforesaid during the period in which he is so detailed.

Offer of permanent employment with the Authority to public officers detailed for duty with the Authority.

17. (1) The Executive Council may, with the approval of the Prime Minister, offer permanent employment with the Authority to any officer detailed for duty with the Authority under any of the provisions of article 15 at remuneration and on terms and conditions as set out by the Authority.

(2) Every officer who accepts permanent employment with the Authority offered to him under the provisions of sub-article (1) shall, for all purposes other than those of the Pensions Ordinance and of the Widows' and Orphans' Pensions Act, and saving the provisions of article 30 of this Act, be deemed to have ceased to be in service with the Government and to have entered into service with the Authority on the date of his acceptance, and for the purposes of the said Ordinance and of the said Act, so far as applicable to him, service with the Authority shall be deemed to be service with the Government within the meanings thereof respectively.

Cap. 93.
Cap. 58.

(3) Every such officer as aforesaid who, immediately before accepting permanent employment with the Authority was entitled to benefit under the Widows' and Orphans' Pensions Act, shall continue to be so entitled to benefit thereunder to all intents as if his service with the Authority were service with the Government.

Cap. 58.

(4) The Authority shall pay to the Government such contributions as may from time to time be determined by the Minister responsible for finance in respect of the cost of pensions and gratuities earned by an officer who has accepted permanent employment with the Authority as aforesaid during the period

commencing on the date of such officer's acceptance.

(5) In the case of a public officer detailed for duty with the Authority with effect from the date established under the proviso to article 15(2)(*b*) and who subsequently accepts permanent employment with the Authority the foregoing provisions shall apply subject to the following provisions of this article.

(6) For the purposes of the Pensions Ordinance the pensionable emoluments on retirement of any public officer to whom sub-article (5) applies shall be deemed to be the pensionable emoluments payable to an officer in Government service in a grade and at an incremental level corresponding to the post occupied and incremental level on the date on which the officer retires from the Authority. Cap. 93.

(7) (*a*) The classification referred to in sub-article (6) shall be carried out by a board composed of a chairperson appointed by the Ministry responsible for finance and two other members, one appointed by the Ministry responsible for personnel policies in general in the public service and one appointed by the Ministry responsible for the Authority. The classification shall be subject to the final approval of the Minister responsible for finance.

(*b*) Such classification shall take place within three months of any adjustment of salaries of employees in Government service and, or of employees of the Authority.

(*c*) Without prejudice to article 113 of the Constitution, no person may, following a classification as aforesaid, be entitled to rights under the said Pensions Ordinance less favourable than those to which he would have been entitled prior to such classification. Cap. 93.

Authority to meet expenditure out of revenue.

18. (1) Without prejudice to the following provisions of this article, the Executive Council shall so conduct the affairs of the Authority so that the expenditure required for the proper performance of its functions shall, as far as practicable, be met out of its revenue.

(2) For the purposes of sub-article (1) the Authority shall levy all fees, rates and other payments prescribed or deemed to be prescribed by or under this Act or any other law providing for matters falling under the powers and functions vested in the Authority by or under this Act.

(3) The Authority shall also be paid by Government out of the Consolidated Fund such sums as Parliament may from time to time authorise to be appropriated to meet the costs of specified works or activities to be continued or otherwise carried out by the Authority.

(4) Subject to such directives as the Minister may give from time to time after consultation with the Minister responsible for finance, any excess of revenue over expenditure shall be applied by the Authority to the formation of reserve funds to be used for the purposes of the Authority. Without prejudice to the generality of the power of the Minister to give directives under this sub-article,

any directive given by the Minister as aforesaid may order the transfer to the Government, or the application in such manner as may be specified in the direction, of any part of the fees, rates and other payments levied in accordance with sub-article (2).

(5) Any funds of the Authority not immediately required to meet expenditure may be invested by the Authority in such manner as may from time to time be approved by the Minister.

Power to borrow or raise capital.

19. For the purpose of carrying out any of its functions under this Act, the Authority may, with the approval in writing of the Minister given after consultation with the Minister responsible for finance, borrow, including by way of overdraft or otherwise, or raise money in such manner, from such person, body or authority, and under such terms and conditions as the Minister, after consultation as aforesaid, may in writing approve.

Advances from Government.

20. The Minister responsible for finance may, after consultation with the Minister, make advances to the Authority of such sums as he may agree to be required by the Authority for carrying out any of its functions under this Act, and may make such advances on such terms and conditions as he may, after consultation as aforesaid, deem appropriate. Any such advance may be made by the Minister responsible for finance out of the Consolidated Fund, and without further appropriation other than this Act, by warrant under his hand authorising the Accountant General to make such advance.

Borrowing from Government.

21. (1) The Minister responsible for finance may, for any requirements of the Authority of a capital nature, contract or raise loans, or incur liabilities, for such periods and on such terms and conditions as he may deem appropriate, and any sums due in respect of or in connection with any such loan or liability shall be a charge on the Consolidated Fund.

(2) Notice of any loans, liabilities or advances made or incurred under the foregoing provisions of this article shall be given to the House of Representatives as soon as practicable.

(3) Pending the raising of any such loan as is mentioned in sub-article (1), or for the purpose of providing the Authority with working capital, the Minister responsible for finance may, by warrant under his hand, and without further appropriation other than this Act, authorise the Accountant General to make advances to the Authority out of the Treasury Clearance Fund under such terms as may be specified by the Minister upon the making thereof.

(4) The proceeds of any loan raised for the purposes of making advances to the Authority, and any other moneys to be advanced to the Authority under this article, shall be paid into a fund specially established for the purpose and which shall be known as the "Authority Loan Fund".

(5) Sums received by the Accountant General from the Authority by way of repayment of advances made to the Authority under sub-article (3) shall be paid into the Treasury Clearance Fund and sums received by the Accountant General by way of interest on such advances shall be paid into the Consolidated Fund.

Estimates of the Authority.

22. (1) The Authority shall cause to be prepared in every financial year, and shall not later than four weeks before the end of such year adopt, estimates of the income and expenditure of the Authority for the following financial year:

Provided that the estimates for the first financial year of the Authority shall be prepared and adopted within such time as the Minister may by notice in writing to the Authority specify.

(2) In the preparation of such estimates the Authority shall take account of any funds and other monies that may be due to be paid to it out of the Consolidated Fund during the relevant financial year, whether by virtue of this Act or of an appropriation Act or of any other law; and the Authority shall so prepare the said estimates so as to ensure that the total revenues of the Authority are at least sufficient to meet all sums properly chargeable to its revenue account, including, but without prejudice to the generality of that expression, depreciation.

(3) The estimates shall be made out in such form and shall contain such information and such comparisons with previous years as the Minister responsible for finance may direct.

(4) A copy of the estimates shall, upon their adoption by the Authority, be sent forthwith to the Minister and to the Minister responsible for finance.

(5) The Minister shall, at the earliest opportunity and not later than six weeks after he has received a copy of the estimates from the Authority, approve the same with or without amendment after consultation with the Minister responsible for finance.

Expenditure to be according to approved estimates.

23. (1) No expenditure shall be made or incurred by the Authority unless provision thereof had been made in the estimates approved as provided in article 22.

(2) Notwithstanding the provisions of sub-article (1):

(*a*) until the expiration of six months from the beginning of a financial year, or until the approval of the estimates for that year by the House, whichever is the earlier date, the Authority may make or incur expenditure for carrying on its functions under this Act not exceeding in the aggregate one-half of the amount approved for the preceding financial year;

(*b*) expenditure approved in respect of a head or subhead of the estimates may, with the approval of the Minister given after consultation with the Minister responsible for finance, be made or incurred in respect of another head or subhead of the estimates;

(*c*) if in respect of any financial year it is found that the amount approved in the estimates is not sufficient or a need has arisen for expenditure for a purpose not provided for in the estimates, the Authority may adopt supplementary estimates for approval by the Minister and in any such case the provisions of this Act applicable to the estimates shall as near as practicable apply to the supplementary estimates.

Publication of approved estimates.

24. The Minister shall, at the earliest opportunity and not later than eight weeks after he has received a copy of the estimates and supplementary estimates of the Authority, or if at any time during that period the House of Representatives is not in session, within eight weeks from the beginning of the next following session, cause such estimates to be laid on the Table of the House of Representatives, together with a motion that the House approve the said estimates. One sitting day shall be allotted for the debate in the House on such motion, and both the motion and the approval of the estimates by the House may be with or without amendment to the estimates.

Accounts and audit.

25. (1) The Authority shall cause to be kept proper accounts and other records in respect of its operations, and shall cause to be prepared a statement of accounts in respect of each financial year.

(2) The accounts of the Authority shall be audited by an auditor or auditors to be appointed by the Authority and approved by the Minister:

Provided that the Minister responsible for finance may, after consultation with the Minister, require the books and accounts of the Authority to be audited or examined by the Auditor General who shall for the purpose have the power to carry out such physical checking and other verifications as he may deem necessary.

(3) The Authority shall not later than three months after the end of each financial year cause a copy of the statement of accounts duly audited to be transmitted to the Minister and to the Minister responsible for finance together with a copy of any report made by the auditors on that statement or on the accounts of the Authority.

(4) The Minister shall cause a copy of every such statement and report to be laid before the House as soon as practicable.

Deposit of revenues and payments by the Authority.

26. (1) All monies accruing to the Authority shall be paid into a bank or banks appointed as bankers of the Authority by a resolution of the Authority. Such monies shall, as far as practicable, be paid into any such bank from day to day, except such sum as the Authority may authorise to be retained to meet petty disbursements and immediate cash payments.

(2) All payments out of the funds of the Authority, other than petty disbursements not exceeding a sum fixed by the Authority, shall be made by such officer or officers of the Authority as the Authority shall appoint or designate for that purpose.

(3) Cheques against and withdrawals from any bank account of the Authority shall be signed by such officer of the Authority as may be appointed or designated by the Authority for that purpose and shall be countersigned by the Executive Chairperson or such other member or officer of the Authority as may be authorised by the Authority for that purpose.

(4) The Authority shall also make provision with respect to:

(*a*) the manner in which and the officer or officers by whom payments are to be authorised or approved;

(*b*) the title of any account held with the bank or banks

into which the monies of the Authority are to be paid, and the transfer of funds from one account to the other;

(*c*) the method to be adopted in making payments out of funds of the Authority, and generally with respect to any matter which is relevant to the proper keeping and control of the accounts and books, and the control of the finances, of the Authority.

Contracts of supply or works.

27. The Authority shall not award or enter into any contract for the supply of goods or materials or for the execution of works, or for the rendering of services, to or for the benefit of the Authority, except in accordance with regulations in force regulating the procurement of all goods and services in the public sector.

Annual Report

28. The Authority shall, not later than three months after the end of each financial year, make and transmit to the Minister and to the Minister responsible for finance a report dealing generally with the activities of the Authority during that financial year containing such information relating to the proceedings and policy of the Authority as either of the said Ministers may from time to time require. The Ministers shall cause a copy of every such report to be laid on the Table of the House as part of the estimates referred to in article 24.

Exemption from tax.

29. The Authority shall be exempt from any liability for the payment of any tax on income or duty on documents for the time being in force in Malta.

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

30. (1) For the purposes of the Criminal Code and of any provision of a penal nature in any other law, the members of the Authority, namely the Executive Council, the Planning Board and any committee, board, commission or other body or office established by this Act, and every officer or employee thereof, shall be deemed to be and be treated as a public officer.

(2) The members, officers and employees of the Authority in the performance of their functions under this Act or under any other law administered by the Authority, shall not be liable for any loss or damage suffered by any person by reason of anything done or omitted to be done in good faith in the course of the administration of this Act or of any other law.

Consultations.

31. The Executive Council, the Planning Board, the Commission, any committee, or board may consult with any officer of the Authority or any other person or entity whose advice is considered relevant to any matter under its consideration.

Declaration of assets, code of conduct and publication of names.

32. (1) Every member of the Executive Council, the Planning Board, the Commission and each Director shall submit a declaration of assets in accordance with the procedures established for this purpose by the Minister.

(2) The Minister shall, in consultation with the Authority, issue, publish and review a code about the conduct expected of the members of the Authority, the Executive Chairperson, chairpersons, Directors and officers of the Authority in connection

with the performance of the Authority's functions.

(3) The provisions of the code of conduct shall be taken into account in deciding whether any such member or officer is unfit to perform the duties assigned to him under this Act or whether his term of office is to be renewed.

(4) The names of all the members of the Executive Council, the Planning Board, the Commission and any committee, board, or other body established by this Act, and any other change in such membership shall be published in the Gazette.

Access to information. *Amended by: XXI.2022.3.*

33. (1) The Minister shall, in consultation with the Executive Council, by regulations under this article provide that members of the public or such categories of persons as may be prescribed shall be entitled to request from such Government departments, authorities, public corporations or other persons as may be prescribed, such information that they may have in their possession and relating to development planning. Without prejudice to the generality of the foregoing, such regulations may prescribe:

(*a*) the nature of the information that may be requested;

(*b*) the circumstances in which such information may be requested;

(*c*) the circumstances in which such information may be withheld by the requested entity and the publication of the reasons for which such information is withheld;

(*d*) the fees that may be charged in respect of the granting of any such information; and

(*e*) the time-frame within which such information is to be supplied.

(2) Without prejudice to the generality of sub-article (1), the Authority shall keep and make available for public inspection at such reasonable times as it may determine, a register or registers:

(*a*) of all applications for development permission received by it containing the name of the applicant and details of the proposal, including documents and detailed plans;

(*b*) of all decisions including documents and detailed plans made on such applications; and

(*c*) *Repealed by Act XXI.2022.3.*

Provided that for the purposes of this sub-article the application report and any plans concerning applications which relate to national security, defence, banks, prisons, the airport and other institutions or premises whose security it is desirable to safeguard as the Authority may establish shall not be made accessible to the public:

Provided further that for the purposes of this article, in the case of a file held by the Authority, any person shall have access to that part of the file containing the following information:

(i) the application report of all applications and any planning report regarding such applications;

(ii) all decisions relating to development permissions issued by the Authority together with the relative plans and documents including the reasons for the grant of such permissions or refusal;

(iii) all environmental impact statements, environmental planning statements and traffic impact statements; and

(iv) all alternative site assessments and cost-benefit analysis.

(3) The Authority shall ensure that detailed information is made available to the public concerning access to appeal procedures before the Tribunal and the Court of Appeal, including information on the rights of any person to institute appeal proceedings and shall give information on legal time limits and on mandatory fees payable in respect of such proceedings including through publication on the electronic website of the Authority.

Service of notices, etc., under this Act.

34. (1) Where any notice or other instrument or document whatsoever is required or authorised to be served or given by or under this Act, it may be served or given in any of the following manners:

(*a*) by delivering it to the person on whom it is to be served or to whom it is to be given; or

(*b*) by leaving it at the usual or last known place of abode of that person, or of his place of work, or if such person has furnished an address for service, at that address; or

(*c*) by sending it in a registered letter addressed to that person at the place of abode or the address for service aforesaid; or

(*d*) in the case of a body corporate or other body of persons, by delivering it to an officer or servant thereof at the registered or principal office, or sending it in a registered letter addressed to the body aforesaid at that office; or

(*e*) in any case in which it is not reasonably possible to effect service in any of the foregoing manners whether on all or on any one or more of the persons on whom service is to be made or notice is to be given, by affixing the notice or other instrument or document to be served or given in a conspicuous place on the land to which it relates and keeping it so affixed for five working days and by publishing the notice, or other instrument or document in a local newspaper. Where the notice, or other instrument or document to be served or given is affixed on the land but is removed before the expiry period of five working days, the re-affixing of the notice, or other instrument or document shall only be for the remaining period after the document was removed.

(2) Where any notice or other document is required or authorised to be served or given to any person as having an interest in land, and the name of that person cannot be ascertained after reasonable inquiry, or is required or authorised to be served on an occupier of land, the notice shall be deemed to be duly served or given if it is served or given in any of the manners indicated in sub-article (1) and addressed to the person having an interest in the land, by the description of "owner", "occupier", or "owners", "occupiers", as the case may require.

(3) A person who at any time after a notice is affixed pursuant to sub-article (1)(*e*), removes, damages or defaces the notice without lawful authority shall be guilty of an offence against this Act.

Savings.
Amended by: XXI.2022.4.
Cap. 504.
Cap. 10.

35. (1) The Minister may with effect from such date as may be established by notice in the Gazette repeal the Environment and Development Planning Act, and, or amend Code of Police Laws and different dates, rules and procedures may be so established for the revocation and, or applicability of different provisions thereof.

Cap. 504.
Cap. 10.
Cap. 549.

(2) Any order, rule, regulation, bye-law, notice, plan or policy or other instrument having the force of law made under the authority or kept in force under any of the provisions of the Environment and Development Planning Act, and the relevant provisions of the Code of Police Laws shall continue in force and shall continue to have effect as if made under this Act and may be amended, substituted or revoked accordingly, unless such order, rule, regulation, bye-law, notice, plan or policy or other instrument relate to matters which fall under the Environment Protection Act.

Cap. 504.
Cap. 10.
Cap. 549.

(3) Any licence, permission, order, notice or certificate, or any prosecution or charges, granted or made under or kept in force under any of the provisions of the Environment and Development Planning Act, and the relevant provisions of the Code of Police Laws and still in force immediately before the date of coming into force of this Act, shall as from such date continue in force as if it were a licence, permission, order, notice or certificate, or prosecution or charges, granted or made under a corresponding provision of this Act, and any such licence, permission, order, notice or certificate, or prosecution or charges as aforesaid shall be treated and dealt with accordingly, unless such licence, permission, order, notice or certificate, or any prosecution or charges granted or made, relate to matters which fall under the Environment Protection Act:

Provided that in the case of any such licence, permission, order, notice or certificate issued as operative for a specific period, such licence, permission, order or certificate shall remain operative for such a period from the date such licence, permission, order, notice or certificate was issued.

Cap. 504.

(4) The Users' Committee established under the provisions of article 61, shall perform and succeed all the functions, assets, rights, liabilities and obligations of the Users' Committee established under the provisions of the Environment and Development Planning Act.

(5) *Repealed by Act XXI.2022.4.*

PART V

Provisions related to the Executive Council

Establishment and Scope of the Executive Council

Establishment of the Executive Council.

36. (1) There is hereby established the Executive Council.

(2) The members of the Executive Council shall consist of the following:

(*a*) an Executive Chairperson appointed by the Minister as established in article 37;

(*b*) two permanent members who shall be the chairperson and the deputy chairperson of the Planning Board as established in article 63;

(*c*) two permanent members who shall be independent members and who shall be appointed by the Minister for a period of three years which may be extended for further periods of three years each. The provisions of article 37(3) shall *mutatis mutandis* apply;

(*d*) two members who shall be appointed by the Malta Environment Authority who will always be called in, without fail, to attend meetings of the Executive Council by the Executive Chairperson whenever the Executive Council is considering matters related to policies, scheduling and planning control applications;

(*e*) any other observatory member from the list of entities indicated in the Fourth Schedule who may be called in to attend meetings of the Executive Council at the discretion of the Executive Chairperson:

Provided that when the Executive Council is considering scheduling and conservation orders and emergency conservation orders, the Executive Chairperson shall always call in the Superintendent of Cultural Heritage.

(3) The provisions of the First Schedule shall apply to the Executive Council and regulate its proceedings.

(4) The Executive Council shall transmit a copy of the agenda, minutes and relative enclosures of its meetings to the Minister for his information.

(5) A member who has ceased to be a member of the Executive Council shall be eligible for reappointment, but no person shall be a member of the Executive Council for more than six years.

Appointment of the Executive Chairperson.

37. (1) The Minister shall appoint an Executive Chairperson. Such appointment shall be for a period of three years which may be extended for further periods of three years each.

(2) The Executive Chairperson shall be responsible for the implementation of the objectives of the Authority as set by the Executive Council. In the exercise of his functions and without prejudice to the generality of the foregoing the Executive

Chairperson shall:

(*a*) assume the overall supervision and control of the Directorates, including the establishment of departments as in the opinion of the Executive Chairperson may be necessary for the proper functioning of the Authority and assign to such departments their respective duties;

(*b*) co-ordinate the workings of the Executive Council and of the Directorates and assign to the Directorates such duties which are by, or in accordance with, the provisions of this Act vested in such Directorates;

(*c*) develop the necessary strategies for the ongoing implementation of the objectives of the Authority;

(*d*) give his advice on any matter referred to him or on any matter on which he considers his advice necessary or expedient;

(*e*) carry out such other functions and duties as the Minister may assign to him from time to time;

(*f*) establish and co-ordinate working groups that are set up from time to time to formulate policies, plans or regulations.

(3) The Executive Chairperson may only be dismissed by a Resolution of the House of Representatives at any time for a just cause and it shall be a just cause if the Minister determines that he has not achieved the targets and objectives set for him by the Minister.

(4) In the absence of the Executive Chairperson, or if the Executive Chairperson is unable to perform the functions of his office, whether under this or any other provision of this Act, the Executive Chairperson may, following consultation with the Minister, appoint any one of the other members of the Executive Council or any one of the officers or employees of the Authority to act as acting Executive Chairperson.

Functions of the Executive Council. *Amended by: XXI.2022.5.*

38. (1) The functions of the Executive Council shall be the following:

(*a*) to provide a centralized office for the receipt and processing of development applications;

(*b*) to provide a centralized office for the receipt and processing of complaints, reports and assessment of information, related to alleged breaches of the provisions of this Act, and to co-ordinate investigations undertaken by the competent authorities whenever the Authority is of the opinion that a breach should be pursued by enforcement action or other remedies;

(*c*) to formulate, implement and update plans and policies relating to the promotion of proper land and sea use, both public and private; development planning of land and at sea, both public and private; and such other matters as may be necessary, ancillary, incidental or

conducive to the better carrying out of the provisions of this Act, whilst taking into account the protection and management of the environment and the sustainable management of natural resources;

(*d*) to enforce the control of such development in accordance with plans, policies and permissions in terms of this Act;

(*e*) to carry out national mapping, including carrying out land surveys of specific areas and keeping up to date the national geographical database to undertake the functions mentioned in this sub-article;

(*f*) to regulate alignment and levelling schemes and their interpretation on site;

(*g*) to seek the co-operation of, or make arrangements with, other entities or persons to enable it to better monitor the implementation of, and compliance with, the provisions of this Act;

(*h*) to establish long and short term objectives and strategies for the proper administration of the Authority;

(*i*) to advise the Minister on the making of guidelines and regulations under this Act;

(*j*) to provide support and advisory services, relating to development planning on land and at sea in a sustainable manner, to Government and local authorities in relation to the performance of their functions;

(*k*) to undertake research and conduct consultations with Government departments, non-governmental organisations, private organisations and international organisations and other persons relating to the development of planning methods and models relating to development planning on land and at sea and any other related matters;

(*l*) to publish and update, as circumstances may warrant, an official manual, which shall be published and updated in electronic format or in any other format as it may deem necessary, containing such matters as the Minister may prescribe and which shall be made available to the public, provided that:

(i) no plan or policy or amendment thereto shall have effect unless it is approved in accordance with the provisions of this Act and published in the official manual;

(ii) a plan or policy or an amendment thereto, as the case may be, shall be published in the official manual within one month from the date of its approval in terms of this Act;

(*m*) to make orders under this Part of this Act;

(*n*) to issue technical guidance documents as may be

required from time to time;

(*o*) *Repealed by Act XXI.2022.5.*

(*p*) to appoint from time to time sub-committees for the purpose of compiling technical reports and, or identifying procedures to be adopted.

(2) In the execution of its functions under this Part of this Act, the Executive Council shall consult with the Minister, and it shall have and may exercise all or any one or more of the powers vested in it or entrusted to it by this Act.

Establishment of Directorates.

39. (1) The Executive Council shall establish Directorates which shall have their respective responsibilities.

(2) The Executive Council shall in writing vest in the Directorates established under sub-article (1), and subject to the overall supervision and control of the Executive Chairperson, such of the Authority's functions as relate or are ancillary to the matters for which such Directorates are made responsible. The said Directorates are to give effect to the strategies, policies and directives of the Authority and to otherwise discharge effectively and efficiently the functions of the Authority in their respective areas of operation.

(3) Each of the Directorates established under sub-article (1) shall be headed by a person having adequate experience or knowledge in the respective area of operation who shall either be a public officer detailed for duty with the Authority or any employee of the Authority, or a person detailed to work for the Authority in accordance with an agreement made between the Authority and a public or private undertaking.

(4) Such Directors shall be appointed by the Executive Council with the approval of the Minister for a period of three years which may be extended for further periods of three years each.

Plans and Policies

Plans, policies and regulations.

40. Without prejudice to the provisions of this Act, development planning shall be regulated by plans, policies and regulations, which are prepared and amended from time to time in accordance with the provisions of this Act.

Preparation of a plan or policy by the Executive Council out of its own motion or following a request by the Minister.

41. (1) The Executive Council shall, out of its own motion, but after consultation with the Minister, or if so requested by the Minister, make a plan or a policy on any matter relating to development planning.

(2) The Executive Council may also, either out of its own motion, but after consultation with the Minister, or if so requested by the Minister, review a plan or a policy which is already in force.

(3) When the Minister requests the Executive Council to make a plan or a policy on any matter relating to development planning or to review such a plan or policy, he shall make such a request in writing, containing the reasons for making such a request together with a statement of goals and objectives to be attained by the plan or policy or by a revision of such plan or policy.

(4) The preparation and review of the Spatial Strategy shall be regulated by the provisions of articles 44 to 46, whereas the preparation or review of any other plan or policy shall be regulated by the provisions of article 53:

Provided that the Minister may, without prejudice to the provisions of articles 44 to 46 and article 53, set out any additional procedure that the Executive Council ought to follow, including the carrying out of assessments, and, or consultations, including public consultations, he may deem necessary.

Where the Executive Council is unable to prepare a plan or policy.

42. (1) Where the Executive Council informs the Minister within thirty days of receipt of a request from the Minister to prepare or review a plan or policy, that it is unable to prepare or review the plan or policy, the Minister shall request any person that the Minister deems competent in terms of sub-article (5), including any government agency, other than the Executive Council, to prepare on his behalf a plan or policy or a revision of such a plan or policy.

(2) The Minister shall also request the said person to comply with article 53(2)(*a*) and (*b*).

(3) If the Executive Council agrees with such a plan, policy or revision thereof, it shall adopt it for submission to the Minister for his approval; and the provisions of article 53(2) shall, *mutatis mutandis*, apply.

(4) If the Executive Council does not agree with the said plan, policy or revision of such plan or such policy, it shall draw up a position statement indicating the changes to be made to the said plan, policy or revision thereof and shall refer both the said plan, policy or revision of such plan or such policy and its position statement to the Minister; and the provisions of article 53(2)(*g*), (*h*), (*i*) and (*j*) shall *mutatis mutandis* apply.

(5) The plan, policy or the revision of such plan or policy shall only be prepared by or under the direction of an expert in the environment or spatial planning fields, having such qualifications as the Minister may prescribe.

Strategic Environment Assessment and other assessments.

43. Without prejudice to the provisions of The European Strategic Environmental Assessment Directive, the Minister may direct the Executive Council to subject any plan, policy or strategy adopted or planned to be adopted by it to a Strategic Environment Assessment or any other assessment as may by law be prescribed.

Spatial Strategy for Environment and Development

The Spatial Strategy for Environment and Development and its preparation and review.

44. (1) The Spatial Strategy for Environment and Development or "Spatial Strategy":

(*a*) is a strategic document regulating the sustainable management of land and sea resources covering the whole territory and territorial waters of the Maltese Islands;

(*b*) shall be based on an integrated planning system that ensures the sustainable management of land and sea

resources together with the protection of the environment;

(*c*) must set out objectives in relation to the sustainable development and use of land and sea and shall be illustrated by diagrams as necessary;

(*d*) must ensure that:

(i) plans and policies issued under this Act are spatial, holistic and comprehensive so that all factors in relation to land and sea resources and related environment conservation, are addressed and included and balance demands for development with socio-economic considerations and the need to protect the environment;

(ii) sectoral policies, activities and inputs are integrated and coordinated with each other, combining the inputs of all disciplines and groups;

(iii) all actions are based on a clear understanding of the natural and legitimate objectives and needs of the various land users;

(iv) it follows other national policies and plans.

(2) The Executive Council shall monitor the Spatial Strategy and review it in part as often as may be necessary and in full not before five years. Every such review shall be made in accordance with the goals and objectives as set out by the Cabinet and shall take effect as provided in the following provisions of this Part of this Act.

(3) In order to achieve the objectives set out in this article, the Cabinet shall take the necessary measures intended to coordinate and improve the spatial impacts of other sectoral policies and their relation to the Spatial Strategy.

(4) For the preparation or review of the Spatial Strategy, the Executive Council shall carry out surveys of those matters which affect the character and quality of the environment, its conservation and its development. These may include:

(*a*) demographic considerations;

(*b*) the agricultural, industrial, commercial, touristic and other existing and, or projected 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*) the state of the environment report National Strategy for

the Environment, nitrate vulnerable zone mapping, flood sensitivity mapping, other issues emanating from water, air quality and waste framework regulations;

(*i*) such other matters as may be required by the Government, or which may be deemed necessary by the Executive Council.

(5) In preparing or reviewing the Spatial Strategy, the Executive Council shall have regard to:

(*a*) the current economic policies affecting development;

(*b*) the current social policies affecting development;

(*c*) the current environmental policies affecting development;

(*d*) the policies of the Government with respect to the matters set out in sub-article (4);

(*e*) the resources likely to be available for the implementation of the plan;

(*f*) all possible land and sea-use options.

(6) Prior to the preparation of the draft of the Spatial Strategy, or a review thereof, the Executive Council shall provide adequate opportunities for individuals and organisations to make representations for a period of not less than three weeks.

(7) A review of the Spatial Strategy which is necessitated by the proposed adoption of, or an amendment to a subsidiary plan need not comply with the provisions of sub-articles (4) and (5) if the matters referred to therein and that are relevant to the review have already been carried out in the preparation of the subsidiary plan.

Publication of the draft Spatial Strategy or its reviews.

45. (1) When the draft of the Spatial Strategy or a review thereof has been prepared in consultation with the Minister, the Executive Council shall publish the strategy together with a statement of the representations it has received during the preceding public consultation exercise and the responses it has made to those representations that were received within the consultation period specified in article 44(6).

(2) The Executive Council shall invite representations on the draft of the Spatial Strategy to be submitted to it within a specified period of not less than six weeks.

(3) The draft of the Spatial Strategy, or any review thereof, a position statement by the Executive Council recommending changes to the said draft together with all representations made to the Executive Council and the responses the Executive Council has made to those representations that were received within the consultation period specified in sub-article (2) shall, as soon as practicable, after the expiry of the period specified in sub-article (2)(*a*), be referred to the Minister.

Final consideration and approval of Spatial Strategy or review.

46. (1) At the conclusion of the procedures set out in the foregoing provisions, the draft Spatial Strategy, and any review thereof, shall be considered by the Cabinet of Ministers together with the Minister's position statement and all documentation indicated in article 45(3).

(2) The Minister shall then cause the draft of the Spatial Strategy, or as revised by the Cabinet, to be laid before the House of Representatives together with a motion for a resolution that the Spatial Strategy be approved by the House of Representatives, with such amendments, if any, as may be specified in the resolution.

(3) When notice of the motion referred to in sub-article (2) of this article is given by the Minister, that motion, the draft of the Spatial Strategy as laid before the House and the representations received within the consultation period specified in sub-article 2(*a*) of article 45, shall be referred to the Standing Committee on the Environment, Climate Change and Development Planning for its effective scrutiny. The Standing Committee shall discuss the said motion, the draft of the Spatial Strategy and the representations received within the consultation period specified in sub-article (2) of article 45, not later than one month after they have been referred to the Standing Committee, and shall report thereon to the House not later than one month from when it has discussed the motion, the draft of the Spatial Strategy and the representations above mentioned:

Provided that where the said Standing Committee fails to report to the House within the said period above mentioned, the House may pass on to discuss the motion and the draft of the Spatial Strategy.

(4) The Spatial Strategy, and any review thereof as approved by the House of Representatives shall have effect as from such date as may be specified for that purpose by the Minister by order in the Gazette.

(5) All representations, made to the Executive Council and the responses the Executive Council has made to those representations that were received within the consultation period specified in sub-article (2) of article 45 shall be published by the Executive Council following the date the Spatial Strategy or review thereof comes into effect as specified in sub-article (3).

Subsidiary Plans and Policies

Subject plan.

47. (1) A subject plan is a plan that deals with a specific development planning matter setting out policies in relation to the specific development planning matter in conformity with the Spatial Strategy and including also detailed specifications intended for its implementation.

(2) A subject plan shall consist of a written statement supported by such documents, 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 Spatial Strategy, whether or not such areas are also covered by another plan or policy.

Local plan.

48. (1) A local plan is a plan that deals with the specific development planning requirements of an area where the rate of development or redevelopment cannot be satisfactorily managed or where special factors cannot be taken into account solely on the basis of the Spatial Strategy. It shall set out detailed policies in relation to the development planning matters of the area in general conformity with the Spatial Strategy and where applicable, any subject plan.

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

Action plan or management plan.

49. (1) An action plan or a management plan is a plan for a specific area where the rate of development or redevelopment cannot be satisfactorily managed or where special factors cannot be taken into account solely on the basis of the local plan. It shall set out detailed policies in relation to development planning matters of the specific area in general conformity with the local plan and the Spatial Strategy.

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

Other policies.

50. (1) "Other policies" are detailed policies and guidelines that deal with the proper and effective management of development of land and sea other than those already contained in a subsidiary plan. They shall be in conformity with subsidiary plans and the Spatial Strategy.

(2) Such policies shall be in a form appropriate to the particular subject matter and may be supported by such documents, assessments, maps and diagrams, drawings and illustrations as may be considered necessary.

Development brief.

51. (1) A development brief is a document setting out detailed planning guidance for the development of a specific site or specific small area where it is considered that such guidance is necessary in order to secure proper and orderly environmental management or development of that site or area, or to implement to that specific site or small area a policy or policies in a plan.

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

(3) A brief shall contain guidance and information on the following matters as may be considered necessary:

(*a*) a description of the site and its location;

(*b*) guidelines on the development of the site, including:

(i) land uses and site layout,

(ii) building form, heights and design,

(iii) any building and landscape features to be retained,

(iv) access, parking and circulation requirements,

(v) landscaping and nature conservation aspects;

(*c*) environmental matters and constraints including the necessity of any environmental assessment;

(*d*) tenure of the site;

(*e*) services and infrastructure;

(*f*) the format and content of submission requirements;

(*g*) any other information which may be relevant to the site and to the purpose of the development brief.

Order or precedence of plans and policies in case of conflict.

52. In the circumstances where multiple plans and policies apply to the same matter or area and there is a material conflict between any of them, precedence should be afforded in the following order: the Spatial Strategy over the subject plan; the subject plan over the local plan, the local plan over the action plan or management plan, the action plan or the management plans over the development brief and the development brief over other policies mentioned in article 50.

Procedure for subsidiary plans and policies.

53. (1) In the preparation or review or withdrawal of a subsidiary plan or policy, whether such plan or policy is prepared, reviewed or withdrawn on the Executive Council's own motion or following direction from the Minister, the procedure set out in this article shall be followed with respect to the said plan or policy.

(2) In the preparation or review of a subsidiary plan or policy, the Executive Council shall comply to the following procedure:

(*a*) prior to the preparation of the draft of the subsidiary plan or policy, or a review thereof, the Executive Council shall provide adequate opportunities for individuals and organisations to make representations to the Executive Council for a period of not less than three weeks;

(*b*) when the draft of the subsidiary plan or policy or a review thereof has been prepared, the Executive Council shall:

(i) publish the draft of the subsidiary plan or policy or a review thereof together with a statement of the representations it has received during the preceding public consultation exercise, and the responses it has made to those representations that were received within the consultation period specified in paragraph (*a*);

(ii) invite representations on the draft of the subsidiary plan or policy or a review thereof, to be submitted to it within a specified period of not less than six weeks;

(iii) refer the draft of the subsidiary plan or policy or a review thereof to the Standing Committee on the Environment, Climate Change and Development Planning established by article 60 for its effective scrutiny, which Committee shall draw up a report within the consultation period specified in sub-

paragraph (ii) and forward it to the Executive Council;

(*c*) if the Executive Council does not make changes to this draft, it shall adopt it and refer it to the Minister as the final draft. It shall also forward to the Minister:

(i) the statement of representations it has received during the preceding two consultation exercises;

(ii) the responses it has made as a result of those representations that were received within the consultation periods specified in paragraphs (*a*) and (*b*)(ii);

(iii) the report of the Standing Committee on the Environment, Climate Change and Development Planning; and

(iv) all the relative documentation and studies in relation to the preparation of the subsidiary plan or policy;

(*d*) paragraphs (*g*), (*h*), (*i*) and (*j*) shall then apply;

(*e*) if the Executive Council makes changes to this draft after the public consultation process mentioned in paragraph (*b*)(ii), the Executive Council shall adopt the revised draft and publish the amendments. It shall then invite representations on the amendments within a specified period of not less than six weeks and refer the amendments to the Standing Committee on the Environment, Climate Change and Development Planning for its effective scrutiny which Committee shall prepare a new report if deemed necessary and forward it to the Executive Council;

(*f*) the Executive Council shall refer the final draft of the subsidiary plan or policy as adopted by it to the Minister for his approval without further amendments together with:

(i) all the statements of representations and all the responses made to those representations that were received within the consultation period specified for each consultation period;

(ii) all reports prepared by the Standing Committee on the Environment, Climate Change and Development Planning;

(iii) a precise indication of all the amendments it has made to the plan or policy; and

(iv) all the relative documentation and studies in relation to the preparation of the subsidiary plan or policy;

(*g*) where the Minister agrees with the final draft of the subsidiary plan or policy or a review thereof, he shall approve it as submitted by the Executive Council and shall refer it to the Standing Committee on the Environment, Climate Change and Development

Planning where applicable in terms of Schedule III of this Act for its effective scrutiny. The Standing Committee shall discuss the subsidiary plan or policy or review thereof within one month and report to the House within one month from when the subsidiary plan or policy was discussed. The Standing Committee shall also refer a copy of the report to the Minister.

The Minister shall take cognisance of the report and when no further changes are proposed provide his final approval. The Executive Council shall also publish a consolidated version of the subsidiary plan or policy;

(*h*) where the Minister does not agree with the final draft of the subsidiary plan or policy or a review thereof as adopted by the Executive Council, he shall prepare a position statement informing the Executive Council of the changes proposed by the Minister to the final draft. Where in such a position statement it is proposed that any land be excluded from a development boundary as indicated in a local plan, the Executive Council shall publish in the Gazette and in two local daily newspapers a notice showing the land that is to be excluded;

(*i*) the Executive Council shall forthwith amend the final draft of the subsidiary plan or policy or a review thereof in accordance with the Minister's position statement and submit the same for the Minister's approval. The Minister shall refer the amended final draft of the subsidiary plan or policy or a review thereof to the Standing Committee on the Environment, Climate Change and Development Planning where applicable in terms of Schedule III of this Act for its effective scrutiny. The Standing Committee shall discuss the subsidiary plan or policy or review thereof within one month and report to the House within one month from when the subsidiary plan or policy was discussed. The Standing Committee shall also refer a copy of the report to the Minister.

The Minister shall take cognisance of the report and when no further changes are proposed provide his final approval.

When further changes are required, the Minister shall prepare a position statement informing the Executive Council of the changes required and the Executive Council shall forthwith amend the amended final draft in accordance with the Minister's position statement and submit the same for the Minister's final approval;

(*j*) upon such approval by the Minister, the Executive Council shall publish the approved subsidiary plan or policy or a review thereof together with the representations and responses. The Executive Council shall also publish a consolidated version of the subsidiary plan or policy.

(3) In the withdrawal of a subsidiary plan or policy, the

Executive Council shall comply with the following procedure:

(*a*) prior to the preparation of a notice of withdrawal of a subsidiary plan or policy, the Executive Council shall provide adequate opportunities for individuals and organisations to make representations to the Executive Council for a period of not less than six weeks;

(*b*) consult the Standing Committee on the Environment, Climate Change and Development Planning established by article 60 on the intention of preparing a notice of withdrawal of a subsidiary plan or policy, which Committee shall draw up a report within the consultation period indicated in paragraph (*a*);

(*c*) on the lapse of the public consultation process mentioned in paragraph (*a*) the Executive Council shall prepare a position statement confirming the withdrawal of the subsidiary plan or policy, or otherwise, and refer it to the Minister. It shall also forward to the Minister:

(i) the statement of representations it has received during the preceding consultation exercise;

(ii) the responses it has made as a result of those representations that were received within the consultation period specified in paragraph (*a*);

(iii) the report of the Standing Committee on the Environment, Climate Change and Development Planning;

(*d*) upon receipt of the position statement and documents from the Executive Council, the Minister shall refer them to the Standing Committee on the Environment, Climate Change and Development Planning where applicable in terms of Schedule III of this Act for its effective scrutiny. The Standing Committee shall discuss the position statement and documents within one month and report to the House within one month from when the position statement and documents were discussed. The Standing Committee shall also refer a copy of the report to the Minister.

The Minister shall take cognisance of the report and inform the Executive Council of his final decision together with reasons for reaching such a decision and the Executive Council shall forthwith publish a notice of withdrawal in line with the Minister's final decision together with the representations and responses.

(4) The Executive Council shall monitor every subsidiary plan or policy and review such plan or policy in part or in full, as frequently as may be necessary. The procedure in this article shall apply for such reviews.

Minor modifications applications.

54. (1) Minor modifications may be carried out following a planning control application submitted to the Executive Council by any person:

Provided the Authority shall not be construed as "any person" for the purposes of this sub-article.

(2) For the purpose of sub-article (1), the following shall be considered to constitute minor modifications:

(*a*) changes in the alignment of roads and buildings in a local plan; and

(*b*) changes in zoning, other than:

(i) changes in height limitation; and

(ii) changes in zoning of a site which lies in an Outside Development Zone or which is within the Development Zone but not designated for the purpose of development.

(3) Where the Executive Council is considering a planning control application in terms of sub-article (2), this shall be carried out in accordance with regulations which may be prescribed by the Minister.

(4) An appeal from a decision concerning a planning control application related to sub-article (2)(*a*) under this article may be lodged before the Tribunal according to the Environment and Planning Review Tribunal Act.

Cap. 551.

(5) The Executive Council may, upon a request by any person, by a decision revoke or modify a decision concerning a minor modification application related to sub-article (2) and the provisions of article 80 shall *mutatis mutandis* apply to such requests.

Orders

Development orders.

55. (1) The Executive Council may on its own motion or following a request by the Minister prepare or review development orders regulating development and other activities which may otherwise require the submission of an application prior to their carrying out, in such circumstances and under such conditions as may be specified in the order, being development and activities within the scope of, and not in conflict with, the proposals contained in any plan or policy approved under this Act.

(2) A development order may include works and activities deemed compatible with the area in which they are being carried out.

(3) Development orders under this Act shall not be published unless a draft of the said orders has been issued for public consultation thereby allowing any person a period of at least two weeks to make representations to the Executive Council stating how in his opinion the proposed or revised orders could be improved to reach their ultimate aim:

Provided that within the said period the Executive Council shall consult the Chamber of Architects and Civil Engineers and the Chamber of Planners and shall invite representations to be submitted to it within the said period:

Provided further that the provisions of this sub-article shall

not apply in respect of any development orders which the Minister declares to be urgent for reasons related to public health and safety, or national security or when a form of public consultation was already carried out before the date of coming into force of this Act:

Provided that in all cases, including urgent ones, the Local Council or Councils affected shall be informed.

(4) Following the consultation period, the Executive Council shall adopt the development orders with or without amendments and shall refer the same orders together with representations received within the consultation period specified in sub-article (3) together with the relative responses made to such representations to the Minister for final approval. The Minister may approve the development orders as adopted by the Executive Council or amend the development orders and such orders shall then be published in the Gazette and shall have effect from the date specified or indicated therein.

(5) Works and activities carried out under development orders are to be carried out under the supervision of a person holding a warrant of *perit*, or under the supervision of such other persons who are competent for the purpose as the Minister may by regulations prescribe and, where required in the order as specified in sub-article (6), works and activities are to be notified in writing to the Planning Board.

(6) A development order may regulate:

(*a*) development or an activity described as permitted in a development order which development or activity does not require that written notification of such development or activity be given to the Planning Board;

(*b*) development or an activity described as permitted in a development order provided that written notification of such development or activity is to be given to the Planning Board;

(*c*) development or an activity described as permitted in a development order provided that written notification of such development or activity is to be given to the Planning Board and the Planning Board has endorsed such development or activity as being permitted.

(7) No new development or activity in terms of a development order may be carried out on a site if on the said site there exists an illegal development of whatever nature, or if an activity has been carried out in breach of the provisions of this Act, unless that new development or activity is one which the Executive Council may prescribe and which is covered by a development order as mentioned in sub-article (6).

Discontinuance order or removal order.

56. (1) The Executive Council may, having regard to the provisions of this Act, regulations, plans, policies and to other material considerations, by order served on the owner or occupier of any land, require any existing use or activity or any works to be discontinued or any building, plant, equipment or other thing

whatsoever to be removed from any land, or requiring both such discontinuance and removal.

(2) Where a discontinuance order or removal order is made in respect of an activity, works or use, or in respect of a building, plant, equipment or other thing lawfully carried out or lawfully existing on the land mentioned in the order, the Authority shall be liable to pay compensation for any losses sustained as a result of the order:

Provided that any benefits derived from the same discontinuance order or removal order shall be offset against the losses aforesaid:

Provided further that no such compensation is due if the permission itself allows the Authority to request the discontinuance of any existing use or activity or any works to be discontinued or any building, plant, equipment or other thing whatsoever to be removed from any land.

Scheduling orders and Conservation orders.

57. (1) A list of:

(*a*) areas, buildings, structures and remains of geological, palaeontological, cultural, archaeological, architectural, historical, antiquarian, artistic or landscape importance, (hereinafter referred to as "scheduled property") shall be prepared by the Executive Council and scheduled for conservation through a scheduling order; and

(*b*) areas of natural beauty, of ecological or scientific value (hereinafter also referred to as "scheduled property") shall be prepared by the Malta Environment Authority and scheduled by the Executive Council for conservation through a scheduling order:

Provided that the Executive Council may in respect of all or any one or more of the scheduled property also make conservation orders to regulate their conservation:

Provided further that upon the issue of a scheduling order the owner shall have the right to immediate access at reasonable times to all documentation of the Authority concerning the scheduling order for the purpose of studying the relative findings and considerations.

(2) The list of scheduling orders, and any additions or amendments thereto, shall be published in the Gazette and in a local newspaper. The Executive Council shall also notify any one of the owners of any property subject to a scheduling order of the fact of its inclusion in the list and of any conservation order made with respect to it. Notice of such scheduling order shall also be affixed on site. If none of such owners is known, or if it is not reasonably possible to effect service on such owners, the said notice shall only be affixed on site and no service on such owners as aforesaid need be made. Notice of such scheduling order shall be registered in an index held for that purpose which index identifies the property subject to that order. The said index shall be held in an electronic form in such a way that researches to determine whether

a property is subject to such an order may be carried out. The Executive Council shall keep a copy of the said index in the office of the Land Registry and shall issue a certificate which indicates whether a particular property is subject to the said order on the payment of such fee as may be prescribed.

(3) Where the Executive Council has issued a conservation order in terms of this article, it shall register the said property in the index mentioned in sub-article (2) indicating the said property as having been issued with a conservation order, and the provisions of the said sub-article concerning the indexing of scheduling orders shall *mutatis mutandis* apply. The list of conservation orders, and any additions or amendments thereto, shall be published in the Gazette and in a local newspaper.

(4) For the purposes of sub-articles (2) and (3), "site" means a single property or more than one property, irrespective of who is the owner of that property, which forms part of the land which is scheduled or which is subject to a conservation order in terms of this article.

(5) The carrying on of any work in, and the demolition, alteration or extension of, any scheduled property is prohibited or restricted as provided in this article or in the relative conservation order.

(6) No works of any description shall be carried out in or on any scheduled property and no scheduled property shall be demolished, altered or extended except with the permission of the Planning Board, granted on an application made to it and giving such details as the Planning Board may require or in accordance with the provisions of a conservation order, and for the purpose of this article, damage to or destruction of any part of a scheduled property shall be deemed to be a demolition thereof:

Provided that a scheduling order or a conservation order shall not adversely affect development already legally carried out before the coming into force of this Act or development already granted by a development permission under this Act, before the scheduling order or conservation order is issued.

(7) A permission granted by the Planning Board or a conservation order made by the Executive Council under this article may contain such conditions and other provisions as the Authority may deem necessary or expedient, and a conservation order may regulate any matter affecting scheduled property.

(8) In respect of any scheduled property subject to a conservation order, the Executive Council shall also have power to require the owner, by notice in writing, to undertake such works generally, or as may be specified in such notice as may be necessary to ensure that no further deterioration occurs. In default, the Executive Council may give a further notice to the owner to carry out and complete the works within a specified time, and if the owner is still in default it may itself carry out, or cause to be carried out, the necessary works and recover the cost thereof from the owner of the scheduled property.

(9) If any scheduled property is demolished in contravention of

any of the provisions of this article, then, in addition to any penalty or other effect under this Act, every person convicted of such offence shall be liable to pay compensation to the Authority calculated on the basis of whichever is the highest of the following:

(*a*) the value of the thing destroyed,

(*b*) the cost of restoration or repair,

(*c*) the financial benefit which could be achieved as a consequence of the demolition.

(10) An owner of scheduled property may request the reconsideration of any scheduling of his property. Such request shall be entered in writing with the Executive Council within thirty days of notification or publication in the Gazette of the scheduling order, whichever is the later, and the Executive Council shall decide within three months of receipt of such request.

(11) Any person who feels aggrieved by a decision of the Executive Council under this article may appeal to the Tribunal for a revocation or modification of such a decision according to the provisions of the Environment and Planning Review Tribunal Act.

Cap. 551.

(12) Notwithstanding the right to appeal before the Tribunal as established by the Environment and Planning Review Tribunal Act, an appeal to the Tribunal from a scheduling of property or the descheduling of property or its downgrading in the protection afforded by the scheduling or the issue of a conservation order shall not stay the execution of such scheduling or conservation order.

Cap. 551.

Emergency conservation order.

58. (1) If a property, site or area which is not scheduled or protected under the provisions of this Act or any regulations made thereunder, but which the Executive Council believes could have an importance or value sufficient to have it scheduled or protected, is at risk of being demolished, damaged or destroyed, the Executive Council may make an emergency conservation order and take such further steps for the protection of such property, site or area as it may deem necessary and the provisions of the proviso to sub-article (1) of article 57 shall apply:

Provided that in case of urgency the Executive Chairperson may make an emergency conservation order without the need of consulting the other members of the Executive Council.

(2) An emergency conservation order shall be published in the Gazette and shall have effect immediately on its publication.

(3) An emergency conservation order shall, for a period of twelve months from its publication in the Gazette, have the same effect as the inclusion of the property to which it refers in the list of scheduled property. It shall cease to have any effect on the expiration of the period aforesaid.

(4) An appeal to the Tribunal from an emergency conservation order shall not stay the execution of such order.

The Development Planning Fund

The Development Planning Fund and other funds.

59. (1) The Authority shall set up a fund, hereinafter referred to as the Development Planning Fund.

(2) The Development Planning Fund shall be administered by the Executive Council.

(3) The Development Planning Fund shall be used to finance both public and privately owned projects, programmes and schemes, and costs intended to enforce and manage the aims and objectives of this Act, as well as works which may be needed for that purpose or to remedy any harm caused to the environment in connection with any contingency or emergency plan, or to finance such other activities, including activities organised by non-governmental organisations, as the Minister in consultation with the Executive Council may prescribe:

Provided that, without prejudice to the aforesaid, the Development Planning Fund shall not be used to finance other costs of the Authority.

(4) There shall be paid into the Development Planning Fund:

(*a*) any sums appropriated by Parliament for the purpose;

(*b*) any donations or grants made to the Development Planning Fund by individuals or institutions;

(*c*) sums received by the Authority for the purpose of being placed in the Development Planning Fund;

(*d*) such other sums or monies as may from time to time be provided by, or under this or any other law or regulations.

(5) The Executive Council shall keep a proper account of the revenue and expenditure of the Development Planning Fund and it shall, without prejudice to the powers of the Auditor General and of the Minister responsible for finance under any law, each year cause the accounts of the Development Planning Fund to be audited by suitably qualified Public Auditors and Accountants appointed by it with the concurrence of the Minister.

(6) The Executive Council shall every financial year deliver to the Minister, a copy of a duly audited balance sheet together with a report of the activities during the previous financial year of the Development Planning Fund. The Minister shall lay a copy of the balance sheet and of the report on the Table of the House within a month of the receipt of same from the Executive Council.

(7) The revenue generated through the Development Planning Fund shall not be subject to tax under the Income Tax Act, and it shall not be liable to tax under the Duty on Documents and Transfers Act. Cap. 123. Cap. 364.

(8) The Minister, after consulting the Executive Council, may make regulations prescribing the procedure to be followed by the Executive Council in the management of the Development Planning Fund.

(9) The Executive Council may set up other funds and prescribe what shall be paid into such funds and how the said funds shall be administered and used. The provisions of sub-articles (4),

(5), (6), (7) and (8) shall apply *mutatis mutandis* to such other funds.

PART VI

Policy Advisory Committees

The Standing Committee on the Environment, Climate Change and Development Planning

Standing Committee on the Environment, Climate Change and Development Planning. *Substituted by: XXXVI.2020.11.*

60. (1) There shall be a Standing Committee on the Environment, Climate Change and Development Planning which shall consist of five members appointed by the House, of whom three shall be members representing the Government, one of whom shall be appointed as Chairperson, and the other two shall be members representing the Opposition.

(2) The Standing Committee shall discuss any strategy, plan or policy referred to it in terms of articles 46 and 53 and any other matter referred to it in terms of the Environment Protection Act and the Climate Action Act and prepare a report and refer it to the House and to the Minister.

Cap. 549. Cap. 543.

Such a report may also include any dissenting opinion on the strategy, plan or policy. The Minister shall take cognizance of the report:

Provided that where the said Standing Committee fails to prepare a report within the period stipulated in this Act, the Executive Council may adopt the said strategy, plan or policy and the Minister may also approve the said strategy, plan or policy as forwarded to him by the Executive Council.

The Users' Committee

Establishment and functions of the Users' Committee.

61. (1) There shall be a Committee, to be known as the Users' Committee, which shall consist of not less than seven and not more than eleven members being not more than one representative from each of the interested national constituted bodies recognised by the Minister. The Users' Committee shall be autonomous from the Authority and shall be appointed by the Minister.

(2) The Users' Committee shall propose to the Executive Council such changes to administrative processes and practices in relation to planning matters as it may deem appropriate. It shall report to the Executive Council at least every six months. A copy of such a report is also to be forwarded to the Minister.

Establishment of the Building Regulation Committee.

62. *Repealed by Act XXI.2022.6.*

PART VII

Provisions related to the Planning Board

The Planning Board

Establishment of the Planning Board.

63. (1) There is hereby established a Planning Board which shall consist of the members mentioned in sub-article (2), which members shall, save as hereunder provided, be appointed or chosen, as the case may be, by the Minister.

(2) The members of the Planning Board shall consist of the following:

(*a*) a Chairperson, who shall be chosen from the five members mentioned in paragraph (*b*);

(*b*) five members, (hereinafter called the "independent members") chosen from amongst persons of known integrity and with knowledge of and experience in any of the following:

(i) commerce, economy and industry;

(ii) cultural heritage;

(iii) matters relating to environment, development, social and community affairs;

(iv) sustainable development and urban planning; and

(v) architecture and infrastructure;

(*c*) one member who shall be chosen from amongst the chairperson/s of the Planning Commissions;

(*d*) two members who shall be members of the House of Representatives and of which one shall be appointed by the Prime Minister and the other by the Leader of the Opposition;

(*e*) a member representing the interests of environmental NGOs, who shall be chosen from amongst a number of persons nominated by the said NGOs;

(*f*) a member representing the Malta Environment Authority;

(*g*) three public officers representing the Government being persons who have experience or qualifications in matters concerning any of the following: planning, the environment, the infrastructure, social policy in so far as it relates to land use, economic affairs, agriculture, tourism and transport;

(*h*) a member chosen by the local council, within whose boundaries a major project application lies, which member shall be considered as a member of the Planning Board only when the Planning Board is deliberating and deciding a major project application within the boundaries of that particular local council. In the case where a major project lies within more than one local council boundary, the member shall be chosen from among the persons chosen by the respective local councils within whose boundaries a major project application lies:

Provided that the Planning Board shall be properly constituted and may function notwithstanding any failure to appoint either or both members of the Planning Board mentioned in paragraph (d), or any failure to make the required nominations under paragraphs (e) or (h).

(3) The Chairperson of the Planning Commission appointed as

member of the Planning Board shall be appointed as deputy chairperson.

(4) Save as provided in sub-articles (2) and (3), no person shall be qualified to be appointed as, or remain, a member of the Planning Board if he:

(*a*) is a public officer:

Provided that the Executive Chairperson and the Chairperson of the Planning Commission, shall not be considered as public officers for the purposes of this sub-article;

(*b*) is an employee of any department, agency, Corporation or Authority of the Government, provided that for the purposes of this paragraph a member of the academic staff of the University shall be excluded;

(*c*) is a Minister, Parliamentary Secretary or a member of the House of Representatives, of the European Parliament or of a Local Council;

(*d*) is a judge or magistrate of the courts of justice;

(*e*) has a financial or other interest in any enterprise or activity which is likely to affect the discharge of his functions as a member of the Planning Board:

Provided that the Minister may determine that the person's interest is not likely to affect the discharge of his functions and upon such determination that person shall be qualified to hold the office of member of the Planning Board provided that the declared interest and the Minister's determination are published in the Gazette;

(*f*) is interdicted or incapacitated;

(*g*) is convicted of an offence affecting public trust, or of theft or fraud, or of knowingly receiving property obtained by theft or fraud or of bribery or of money laundering; or

(*h*) is subject to disqualification under article 320 of the Companies Act. Cap. 386.

(5) The independent members and the member representing the interests of environmental NGOs, shall hold office for such period, being not less than three years, as may be specified in the letter appointing them and if no such period is specified shall remain in office for three years. In determining such period of office the Minister shall, as far as practicable, ensure a measure of rotation.

(6) Without prejudice to the provisions of sub-article (5), the independent members and the member representing the interests of environmental NGOs may resign by letter addressed to the Minister, but may not be removed from office except by a resolution of the House of Representatives on the ground of misconduct or inability to perform the duties of their office.

(7) The member chosen by the local council or chosen by the Minister from the members nominated by different local councils,

as the case may be, shall remain in office only until the Planning Board decides the particular major project application within the boundary or boundaries of the respective local council or local councils.

(8) The other members of the Planning Board shall hold office until they are replaced by the Minister, and as long as they remain public officers or members of the House, as the case may require. Members of the House may also resign from office by letter addressed to the authority appointing them.

(9) A person who has ceased to be a member of the Planning Board shall be eligible for reappointment, but no person shall be a member of the Planning Board for a total of more than six years.

(10) The provisions of the Second Schedule shall apply to the Planning Board and regulate its proceedings.

(11) The Planning Board shall transmit a copy of the agenda, minutes and relative enclosures of its meetings to the Minister for his information.

Functions of the Planning Board. *Substituted by: XXI.2022.6.*

64. The functions of the Planning Board are the issue of any development permissions that may be required by or in accordance with this Act under such conditions as it may, without prejudice to any other provision of this Act or any other law, deem necessary to balance out any concurrent interests on the best use of land and sea.

The Planning Commission. *Amended by: XXI.2022.6.*

65. (1) There shall be a Commission, to be known as the Planning Commission, which may have such number of divisions as the Minister may by order in the Gazette prescribe.

The Commission or such number of divisions of the Commission, shall deal with such types of applications as the Minister may, after consulting the Executive Chairperson, prescribe.

(2) The Commission or in case of there being a number of divisions, each division of the Commission, shall be appointed by the Minister and shall consist of three permanent members including its Chairperson, and one supplementary member. The Commission shall be chosen from persons of known integrity and who shall have knowledge of, and experience in, matters relating to sustainable development:

Provided that the three persons who are appointed to act as permanent members of the Commission or a division of the Commission, as the case may be, shall attend the meetings of the Commission and take part in the deliberations and decisions, while the supplementary member may attend meetings, but shall only take part in the deliberations and decisions in substitution of any permanent member who cannot for any reasonable cause properly fulfil his duties.

(3) The members of the Commission shall hold office for a period of four years. They shall be eligible for reappointment for further terms, each term being a period of four (4) years. The provisions of article 63(6) shall also apply to the members of the Commission.

(4) Subject to sub-article (1) of this article and to article 75, the functions of the Commission shall be such of the functions of the Planning Board with respect to development control as the Planning Board may from time to time delegate to it and require it to perform, subject to such conditions as the Planning Board may deem appropriate.

(5) The decisions of the Commission on any development permission issued by it shall be deemed to be, and shall have the same force and effect as, the decisions of the Planning Board, except in respect of matters which the Planning Board expressly reserves to itself or requires to be referred to it for determination, and the expression "decision of the Planning Board", wherever it appears in this Act, shall be construed accordingly.

(6) The decisions of the Commission shall only be binding if they are supported by the votes of not less than two of its members. The decisions shall be published as soon as practicable after the meeting at which they are taken.

(7) The Commission shall communicate to the Executive Chairperson a copy of its decisions and the relative deliberations leading to its decisions, as soon as practicable after the meeting at which the decisions are taken.

(8) Subject to the foregoing provisions of this Act, and to the Second Schedule, and to any rules that may be prescribed by the Planning Board, the Commission may regulate its own procedures.

(9) The staff of the Commission shall consist of officers and employees of the Authority detailed to service the Commission, and the Executive Council shall further provide the Commission, out of its own resources, with such other support as the Commission may reasonably require to carry out its functions.

(10) The Commission may at any time draw up reports, which shall be discussed by the Authority:

(*a*) on any issue relevant to this Act, including on any particular application;

(*b*) concerning the development control process; and

(*c*) on any subject which should be addressed by the Executive Council by means of a new policy or an amendment to an existing one.

The Agricultural Advisory Committee.

66. (1) There shall be a committee known as the Agricultural Advisory Committee, whose members are appointed by the Minister.

(2) The Agricultural Advisory Committee shall consist of a Chairperson representing the Authority and representatives from the departments, agencies or authorities responsible for agriculture, veterinary services, resources and environmental health.

(3) Three members of the Agricultural Advisory Committee shall constitute the quorum at the meetings of the Agricultural Advisory Committee. The chairperson at a meeting shall have an original vote and, in the case of equality of votes, a casting vote. There shall also be a secretary of the Agricultural Advisory

Committee to be appointed by the Minister and shall have such duties as may be assigned to it by the Agricultural Advisory Committee.

(4) It shall be the function of the Agricultural Advisory Committee to provide professional and expert advice to the Planning Board on development applications related to agriculture and other development outside the development zone. The Committee shall also evaluate development proposals and state whether the proposed interventions would benefit or hinder sustainable agriculture, farm, rural development, adducing detailed reasons thereto. The Committee shall, where appropriate, suggest methods as to how a development proposal may be rendered acceptable in terms of sustainable agriculture, farm, and rural development. The Agricultural Advisory Committee shall also collate information regarding development applications related to agriculture.

(5) The Agricultural Advisory Committee shall make available for public inspection any recommendation made by it to the Planning Board.

(6) The Agricultural Advisory Committee may call upon any person to give it expert or professional advice on any matter being dealt by it.

(7) Subject to the foregoing provisions of this sub-article and to any rules prescribed by the Minister, the Agricultural Advisory Committee may regulate its own procedure.

The Design Advisory Committee.

67. (1) There shall be a committee known as the Design Advisory Committee.

(2) The Design Advisory Committee shall make recommendations with respect to development applications related to urban conservation areas and major projects and shall consist of a chairperson and two other members appointed by the Minister.

(3) Two members of the Design Advisory Committee shall constitute the quorum at the meetings of the Design Advisory Committee. The chairperson at a meeting shall have an original vote and, in the case of equality of votes, a casting vote. There shall also be a secretary of the Design Advisory Committee to be appointed by the Minister and shall have such duties as may be assigned to it by the Design Advisory Committee.

(4) It shall be the function of the Design Advisory Committee to provide professional and expert advice to the Planning Board in relation to design in development applications related to urban conservation areas and major projects.

(5) The Design Advisory Committee shall make available for public inspection any recommendation made by it to the Planning Board.

(6) The Design Advisory Committee may call upon any person to give it expert or professional advice on any matter being dealt by it.

(7) Subject to the foregoing provisions of this article and to any

rules prescribed by the Minister, the Design Advisory Committee may regulate its own procedure.

The Registration Board.

68. (1) There shall be a Registration Board whose function shall be to evaluate applications for registration in the Register of Consultants eligible to carry out assessments in relation to matters as specified in this Act not related to environment.

(2) The Registration Board shall be composed of a minimum of three members and a maximum of five members, one of whom shall be the chairperson. The members of the Registration Board shall be appointed by the Minister.

(3) The members of the Registration Board shall be independent members and not involved in any way in the preparation of assessments falling within the jurisdiction of the Registration Board.

(4) The Registration Board shall assess applications for such registrations and approve those that meet the requirements for registration. The Registration Board shall give reasons for its decisions.

(5) The decision of the Registration Board to grant or to refuse an application for registration in the Register kept by the Executive Council shall be notified in writing to the applicant without delay.

(6) The Registration Board may direct the Executive Council to update the Register at such regular intervals as it may deem fit by the inclusion of other disciplines in the Register, which disciplines might have in the meantime evolved.

(7) The decisions of the Registration Board shall be final. An appeal shall lie to the Tribunal only on the grounds that the Registration Board has, in its decision, wrongly applied the provisions of this Act or any regulations made thereunder.

(8) The decision of the Registration Board shall be binding if it is supported by the opinion of a majority of its members, and the dissenting member or members, if any, may express his/their opinion separately, and all decisions of the Registration Board shall be published as soon as practicable after the sitting at which they are given.

(9) The Minister may, after consultation with the Registration Board, make regulations to give better effect to the provisions of this article and, without prejudice to the generality of the foregoing, he may:

(*a*) establish criteria that applicants are expected to meet in order to qualify for registration;

(*b*) establish the procedure to be followed by the Registration Board;

(*c*) prescribe a tariff of fees for registration with the Registration Board.

Powers of the Registration Board.

69. (1) The Registration Board may, out of its own motion or at the request of the Executive Council, cancel any approval granted under the provisions of article 68 or refuse any application

for a renewal of the registration, when a person:

(*a*) is found guilty by a court of criminal jurisdiction of a crime being a crime committed through imprudence, carelessness, unskillfulness in an art or profession, or non-observance of regulations; or

(*b*) is found guilty by a court of criminal jurisdiction of any offence under the provisions of the Act or of any regulations made thereunder; or

(*c*) has, in the opinion of the Executive Council and the Registration Board, submitted sub-standard or deliberately misleading work in an assessment; or

(*d*) has participated in the preparation of an assessment when he was not registered in the Register; or

(*e*) was the recipient of an approval issued under the provisions of article 68 based on information given by the applicant which is false or misleading; or

(*f*) fails to pay the yearly renewal fee.

(2) Notwithstanding the provisions of sub-article (1), the Registration Board may opt for a suspension, rather than the cancellation of an approval, in the circumstances specified in sub-article (1)(*d*) and (*f*).

(3) Notwithstanding the provisions of sub-article (1), if a person participates in the preparation of an assessment without being registered in the Register, he shall subsequently be barred from registering or participating in any assessments in Malta for a period to be decided by the Registration Board which period shall in no case be less than three years.

Requirement of Permission

Development to require permission.

70. (1) Subject to the provisions of this article and to the following provisions of this Part of the Act, and subject to articles 55 and 85(2)(*n*), no development shall be carried out except with development permission.

(2) For the purposes of this article, and, unless the context otherwise requires, for all other purposes in this Act, "development" means the carrying out of building, engineering, quarrying, mining or other operations for the construction, demolition or alterations in, on, over, or under any land or the sea, the placing of advertisements or the making of any material change in use of land or building and sea, other than:

(*a*) maintenance operations which affect only the interior of a building or which do not materially affect the external appearance of the building:

Provided that such maintenance works are not contrary to any order made under this Act in relation to the building:

Provided further that maintenance operations shall not include demolition and rebuilding works, irrespective of the location where such demolition and rebuilding

works are carried out;

(*b*) the use of land for agriculture, animal husbandry and forestry (including afforestation), except where such use consists of:

(i) the erection of buildings or amounts to intensive raising of crops or animals; or

(ii) the reclamation of land for agriculture by the deposit of material on such land unless such reclamation of land for agriculture can be proven to have subsisted prior to 1994;

(*c*) in the case of buildings or other land that are used for a purpose of any class specified in an order made by the Minister, as the case may be, under this Act, the use thereof for any other purpose of the same class;

(*d*) emergency works in relation to public safety carried out by Government;

(*e*) a use which subsisted continuously from a period when such use was not considered illegal and did not require a permit;

(*f*) the placing of plant and machinery required for the operation of a use already covered by development permission on land within the perimeter of the site covered by the same permission of the use being operated.

(3) For the purpose of this article -

(*a*) the use of a building resulting in an increase in the number of dwelling units in which the building was previously used; or

(*b*) the deposit of materials on land; or

(*c*) the use for the display of advertisements on any external part of a building that is not normally used for that purpose,

involves a material change in the use of that building or land, or part thereof, without prejudice, in the case of advertisements, to any regulations or order made under this Act with respect to their control.

(4) For the purpose of this article, development includes clearing of valleys from accumulated sediment and development in relation to the sea includes land reclamation from the sea, aquaculture and beach developments and their related uses.

Application for permission. *Amended by: XXI.2022.9.*

71. (1) Any person, including a department of government or a body corporate established by law, wishing to carry out any development referred to in article 70, shall apply to the Planning Board for such permission, in such manner, on such form and giving such information as the Planning Board may prescribe.

(2) The Planning Board may grant three types of development permissions:

(*a*) an outline development permission which gives approval in principle to the proposed development, but specifies reserved matters which need to be included in a full development permit application or applications. A period of time shall be stated within which the full development permit application or applications shall be submitted, failure of which would render the outline development permit null. Such period shall in no case exceed five years. No development may commence without a full development permit;

(*b*) a full development permission is required before any development can commence, whether or not preceded by an outline development permission. The full development permission will be given subject to conditions included in the permission;

(*c*) a non-executable full development permission which approves the development but imposes conditions to be adhered to before a full development permission is issued.

(3) Any person may also apply to the Planning Board for a determination as to whether a proposal requires a development permission and the Planning Board is bound to inform that person whether a development permission or any other form of notification is required in terms of this Act or not.

(4) An applicant for development permission shall declare to the Authority that:

(i) he is the owner of the site or that he has notified the owner of his intention to apply by registered letter of which a copy has been received by the Authority and that the owner has granted his consent to submit an application; or

(ii) he is authorised to carry out such proposed development under any other law or through an agreement with the owner.

(5) Where:

(i) the applicant is the Government of Malta, or any department, agency, authority or other body corporate wholly owned by the Government; or

(ii) the applicant is not the owner of the site, but he holds the site under title of agricultural lease, or holds the premises under a title of lease and he is carrying out the works under a scheme of a Government entity,

the applicant must still notify the owner of his intention to apply by registered letter of which a copy has been received by the Authority, but need not certify that the owner has granted his consent to such a proposal.

(6) Any person may declare an interest in a development and, on the basis of issues relevant to environment and planning, make representations on the development. Such declaration of interest

and representations shall be in writing and is to be received by the Planning Board within such period as established by regulations prescribed by the Minister. A declaration that is not submitted within this stipulated period shall be considered null and may not be considered by the Planning Board.

(7) During the processing of the application, the Executive Chairperson shall consider representations made by registered interested parties in accordance with the provisions of sub-article (6).

(8) The Planning Board shall inform the registered interested parties where fresh drawings have been filed and the registered interested parties shall be notified of the Planning Board's sitting when such application shall be discussed:

Provided that such submissions may be made in any format deemed appropriate by the Planning Board, and shall include submissions received by post or by hand and electronic submissions:

Provided further that if the last day for submissions as set out by the Planning Board is a public holiday or a day when the offices of the Authority are closed to the public, the time limit for such submissions shall be deemed to expire on the next following working day.

Permissions.

72. (1) The Planning Board shall have the power to grant or to refuse a development permission. Any development permission approved shall be without prejudice to third party rights and shall not in any manner constitute or be construed as a guarantee in favour of the applicant as to the title to the property. Moreover in the granting of a development permission, the Planning Board shall be entitled to impose such conditions which it may deem appropriate:

Provided that the Planning Board shall give specific reasons for any refusal or for any particular conditions that may have been imposed.

(2) In its determination upon an application for development permission, the Planning Board shall have regard to:

(*a*) plans;

(*b*) policies:

Provided that subsidiary plans and policies shall not be applied retroactively so as to adversely affect vested rights arising from a valid development permission, or a valid police or trading licence issued prior to 1994;

(*c*) regulations made under this Act:

Provided that the Planning Board shall only refer to plans, policies or regulations that have been finalised and approved by the Minister or the House of Representatives, as the case may be, and published;

(*d*) any other material consideration, including surrounding legal commitments, environmental,

aesthetic and sanitary considerations, which the Planning Board may deem relevant;

(*e*) representations made in response to the publication of the development proposal; and

(*f*) representations and recommendations made by boards, committees and consultees in response to notifications of applications.

(3) Saving development which in the opinion of the Minister is of strategic significance or of national interest, related to any obligation ensuing from a European Union Act, affects national security or affects the interests of other governments but not subject to an Environmental Impact Assessment and, or IPPC matters, the execution and validity of a permit shall be automatically temporarily suspended and no works as approved by the said development permit may commence before the lapse of the time periods established in article 13 of the Environment and Planning Review Tribunal Act and subsequently will remain so suspended if the Tribunal so decides in accordance with the Environment and Planning Review Tribunal Act. Cap. 551.

(4) A development permission may be granted for a limited period but shall cease to be operative if the activity or development has not been completed within the period specified in the development permission, if any:

Provided that the Planning Board shall, on the application of the person holding the full development permission, renew the said permission on receiving a valid renewal application while the previous development permission is still operative, to such further period or periods as it may consider reasonable:

Provided further that where there has been a change in plans or policies applicable to the requested renewal development permission, these new plans and policies shall be taken into account unless the site subject to the application is already committed by the original development permission in relation to these plans and policies:

Provided futher that if the applicant fails to submit the commencement notice relative to the permission, such development permission shall be considered as never having been utilised.

(5) Any permission still in force shall automatically pass on to the new owners of the development.

(6) In granting a development permission, the Planning Board may require the applicant to carry out the activity or development in stages. The Planning Board shall inform the applicant in the permission which are the said stages and, following the completion of each stage, the applicant shall request the Planning Board to carry out an inspection of the activity or works carried out, and if, following such an inspection, it is found that the activity or works have been carried out in terms of the development permission, the Planning Board shall authorise the applicant to carry out the next stage of the activity or development.

(7) Where the Planning Board considers it appropriate to

closely monitor specific conditions in a development permission by appointing a person competent for the said purpose, it shall do so at the expense of the applicant.

(8) Without prejudice to the provisions of this article, where an application to develop land consists in the mining of minerals, the Planning Board may and, where planning and environmental standards so require, shall, require the applicant to provide a scheme for the treatment of the working and surrounding areas during the working period and for the treatment of the said areas when working is completed.

(9) The Planning Board shall not grant permission for the mining of minerals unless it is satisfied that planning and environmental standards will be met and that the site will be kept and eventually left in acceptable conditions.

(10) Where the Planning Board has required a scheme to be submitted for the various stages as provided in sub-article (6), the scheme, as accepted by the Planning Board, shall be made a condition of any permission granted by it, and the Planning Board shall further require such guarantees to be given by the applicant as it deems necessary to ensure that the scheme will be adhered to.

Supplementary provisions regarding permissions.

73. (1) In any case in which the Planning Board may under this Act grant permission to develop land, it may grant permission for the retention on land of any buildings or works constructed or carried out thereon, or for the continuance of any use of land, without permission under this Act or after such permission has ceased to be valid or operative, and references in this Act to permission to develop land or carry out any development on land, and to applications for such permission, shall be construed accordingly:

Provided that any application or permission under this sub-article shall not be processed or granted unless the applicant or his predecessor in title has:

(*a*) forthwith upon being required so to do, ceased to carry out any development he was required to interrupt; and

(*b*) paid such fines or made such other payments as may be due on the site subject of the application.

(2) A permission under this article may be granted so as to take effect from the date on which the buildings or works were constructed or carried out or the use was commenced, or from the date the development permission ceased to be valid or operative, as the case may be.

(3) A development permission must specify the purposes for which a building may be used and if no purpose is specified, the permission shall be construed as including permission to use the building for the purpose for which it is designed.

(4) Where a development permission is given for a limited period only, and a condition to this effect is included in the permit, nothing in this Act shall be construed as requiring permission to be obtained thereunder for the resumption, at the expiration of that

period, of the use of the land for the purpose for which it was normally used before the permission was granted, but no account shall be taken of any use made in contravention of this Act.

(5) The Planning Board may, prior to the issue of, or in issuing a development permission, demand from the person in whose favour the permission will be issued, as a condition for the issue of the development permission, to provide a bond in favour of the Authority in order to guarantee compliance with the conditions of the permission once issued, or in order to guarantee payment in respect of damages which may be caused to the environment or to the infrastructure. The Planning Board may, after the issue of a development permission, if the development or activity is not being carried out in accordance with the permission, or is otherwise causing damage to the environment or the infrastructure, demand the said person in whose favour the permission has been issued, as a condition for the continuance of the development permission, to provide a bond in favour of the Authority in order to guarantee compliance with the conditions of the permission, or in order to guarantee payment in respect of damages which may be caused to the environment or to the infrastructure:

Provided that nothing in this sub-article shall be interpreted as authorising the Planning Board to demand a bond in an amount not commensurate with the nature of the development project or activity:

Provided further that such a bond may only be forfeited in favour of the Authority if there is clear evidence that the applicant has not complied with the conditions of the development permission and the reasons for forfeiting the bond shall be communicated in writing to the applicant.

Decisions to be taken without delay.

74. (1) Decisions on applications shall be taken without delay.

(2) The Minister may make regulations to give better effect to the provisions of this article and, without prejudice to the generality of the foregoing, he may:

(*a*) establish the procedures to be used by the Planning Board and the applicant in the processing and determination of applications;

(*b*) establish the procedures to be used by an applicant prior to the submission of an application;

(*c*) establish time limits within which submissions have to be made and decisions have to be taken and communicated.

Applications, the decisions of which cannot be delegated.

75. The Planning Board shall not delegate to the Commission or to any other body or person, the determination of the following applications:

(*a*) applications in respect of an activity or development of a national or strategic significance or affecting matters of national security or other national interests;

(*b*) applications in respect of an activity or development which could affect the interests of other governments;

(*c*) applications in respect of development which is subject to an environmental impact statement;

(*d*) requests for reconsideration where the decision to be reconsidered was taken by the Planning Board itself.

Re-consideration.

76. (1) If an applicant considers that conditions imposed upon a development permission are unreasonable, he may, without prejudice to his right of appeal, request the Planning Board or the Commission, as the case may be, to reconsider such conditions.

(2) A request for a reconsideration shall be made within thirty days from notification of the decision of the Planning Board or of the Commission, as the case may be, and may not be made concurrently with an appeal. The request for a reconsideration shall include a written document containing the reasons for such a request.

(3) The Planning Board or the Commission shall inform the registered interested parties where a request for a reconsideration has been filed and the registered interested parties shall be notified of the Planning Board's or the Commission's sitting when such a request for a reconsideration shall be discussed.

(4) No reconsideration may be demanded by a registered interested party, even if such interested party has made written objections in accordance with the provisions of article 71(6).

Appeal.
Amended by: XXI.2022.10.

77. (1) If an applicant considers that the conditions imposed upon a full development permission or outline development permission, or a refusal of such a permission, or any other decision, is unreasonable, he may lodge an appeal with the Tribunal according to the Environment and Planning Review Tribunal Act.

Cap. 551.

(2) Where a request for reconsideration has been made, and the Planning Board or the Commission revises its decision, an appeal from such a reconsidered decision may be made by the applicant, registered interested third parties and external consultees to the Tribunal in accordance with the Environment and Planning Review Tribunal Act.

Cap. 551.

Cap. 551.

(3) Other parties indicated in the Environment and Planning Review Tribunal Act may lodge an appeal from a decision of the Planning Board or of the Commission with the Tribunal according to the Environment and Planning Review Tribunal Act.

(4) *Repealed by Act XXI.2022.10.*

Call in Procedure.

78. (1) Where an appeal is lodged by an applicant or by a registered interested third party, or by any external consultee from any decision of the Planning Board or the Commission relative to the instances referred to in sub-article (2), the secretary of the Tribunal 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 Tribunal to proceed with the determination of the appeal or decide to refer the appeal to the Cabinet of Ministers for determination. Where the Minister does not decide to refer such an

appeal to the Cabinet of Ministers 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 Tribunal for its decision.

(2) The Minister may refer to the Cabinet of Ministers any appeal called in by him in terms of sub-article (1), where such an appeal relates to decisions in respect of:

(*a*) a development which appears to him to be of a strategic significance;

(*b*) a development which appears to him to affect matters of national security or national interests;

(*c*) a development which appears to him likely to affect the interests of the Government of Malta or other governments;

(*d*) a development which is subject to an environmental impact assessment and which in the Minister's opinion is of national interest;

(*e*) a development where the applicant is a department of Government or a body corporate established by law.

(3) Where the Minister decides to refer to the Cabinet of Ministers an appeal referred to him, he shall request the Tribunal to draw up its recommendation on that appeal after having heard the parties and the Tribunal shall send its recommendation on that particular appeal to the Minister who shall refer it to the Cabinet of Ministers. Such recommendation shall be available to the public.

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

(5) A decision by the Cabinet of Ministers pursuant to this article which relates to a development or an installation which is subject to an environmental impact assessment and, or an IPPC permit, may, upon an application by the appellant or by an interested party, which may include a non-governmental organisation having as one of its purposes the promotion of environmental protection and is registered under the Voluntary Organisations Act, be subject to appeal on matters of substantive and procedural legality to the Court of Appeal in its superior jurisdiction. An appeal in terms of this sub-article shall be made by an application to be filed within ten days from the date of communication of the decision of the Cabinet of Ministers to the parties. The appeal proceedings shall be concluded by the Court of Appeal within four months from the filing of the appeal before it and shall not be prohibitively expensive. Legal and judicial costs and fees in the said proceedings shall be taxed in accordance with paragraph (7) of item 3 of Tariff A and with paragraph (*b*) of item 15 of Tariff E in Schedule A to the Code of Organization and Civil Procedure. Cap. 492. Cap. 12.

(6) The execution of any development or the operation of any installation which is subject to an environmental impact assessment and, or an IPPC permit, and which is pending a decision by the Cabinet of Ministers in terms of this article shall be suspended until the decision of the Cabinet is taken.

(7) Where a decision of the Cabinet of Ministers is subject to an appeal in accordance with sub-article (5), the Court of Appeal may, upon a request of the appellant or of an interested party, which may include a non-governmental organisation having as one of its purposes the promotion of environmental protections and which is registered under the Voluntary Organisations Act, order that the execution of the development or the operation of the installation be suspended whilst proceedings before the said Court are pending.

Cap. 492.

Planning obligation.

79. (1) A planning obligation may be entered into in those cases where the Planning Board, in connection with a grant of a development permission, seeks to impose on the applicant an obligation:

(*a*) to carry out an activity or works:

(i) on the land in respect of which development permission is sought, or

(ii) on any other land or area, or

(iii) on the land or area mentioned in both sub-paragraphs (i) and (ii); or

(*b*) to make some payment or confer some extraneous right or benefit, where the Planning Board considers it to be more appropriate. The Planning Board shall seek to obtain these benefits or gains by means of conditions attached to a grant of the development permission, or by means of a planning obligation entered into by a public deed.

(2) Any person may, by agreement with the Planning Board, enter into a planning obligation:

(*a*) restricting the development or use of that land in any specified way;

(*b*) requiring specified operations or activities to be carried out, in, on, under or over that land or area;

(*c*) requiring that land or area to be used in any specified way; or

(*d*) requiring a sum or sums to be paid to the Authority on a specified date or dates or periodically.

(3) The Minister may make regulations for giving better effect to the provisions of this article and may, without prejudice to the generality of the foregoing:

(*a*) prescribe the procedure how a planning obligation may be entered into, enforced, modified and discharged;

(*b*) establish any restrictions, conditions or the payment of any sums of money which may be imposed in such planning obligations.

(4) The applicant and any person interested in the land may appeal to the Tribunal from a planning obligation entered into in terms of sub-article (1).

Revocation or Modification of Permission

Revocation and modification.

80. (1) The Planning Board may, only in:

(*a*) the cases of fraud; or

(*b*) the submission of any information, declaration or plan which is incorrect or does not reflect the situation on site; or

(*c*) where there is an error on the face of the record; or

(*d*) where public safety is concerned,

by a decision revoke or modify any development permission granted under this Act, including any clearance issued by the Planning Board under an Order, stating in such decision its reasons for so doing and indicating in a clear manner the legal basis for the revocation.

Upon any such request made by any person to revoke or modify a permission in terms of this Act, or out of its own motion, the Executive Chairperson must prepare his recommendations to the Planning Board as to whether the development permission should be revoked or modified and invite both the applicant and the person making the request, if any, to make written submissions.

The Planning Board shall communicate the date and time of its hearing to the applicant and to the interested person making the request under this article, if any. During such hearing the Planning Board shall also hear the said applicant's submissions, if the latter opts to attend, the interested person's submissions, if any, and any other person's submissions:

Provided that the Executive Chairperson may in relation to any development permission, including any clearance issued under an Order after the date of coming into force of this Act, commence proceedings to revoke or modify any such development permission, including any clearance issued by the Planning Board under an Order, within five years from the date of issuing of the development permission, including any clearance issued under an Order.

(2) For the purposes of sub-article (1):

"fraud" means the submission to the Planning Board of any information, declaration or plan on the basis of which the Planning Board has approved a development permission, where such information, declaration or plan is false;

"incorrect information, declaration or plan" means the submission to the Planning Board of any information, declaration or plan on the basis of which the Planning Board has approved a development permission, where such information, declaration or plan does not reflect the situation on site or is erroneous or

mistaken;

"error on the face of the record" means an error made by the Planning Board in reaching a decision and such error is apparent from the records of its proceedings:

Provided that the Planning Board shall not revoke or modify a development permission on the basis of fraud or incorrect information, declaration or plan or error on the face of the record, where such circumstance did not have a material bearing on the issuing of the development permission in such a manner that had the correct information been available at the time of the decision the outcome would not have been different.

(3) The applicant, or the interested person making a request under this article shall, if he feels aggrieved by the decision taken by the Planning Board, have a right to appeal the Planning Board's decision to the Tribunal within thirty days from the date of the hearing when the decision was taken.

(4) No compensation may be demanded from the Authority when it acts under the provisions of sub-article (1) where the reason for the revocation or a modification of a development permission is based on fraud, incorrect information, declaration or plan, or error on the face of the record or for considerations of public safety.

Charges and Contributions

Charges and contributions.

81. (1) The Authority shall have power to levy a charge in respect of any permission to carry out development, to be known as the Development Permission Fee, including any application therefor, in accordance with a schedule of charges established by it with the concurrence of the Minister and of the Minister responsible for finance, taking account of the nature of the development, the timing of the development in relation to the planned phasing thereof, of the conditions attaching to the permission and of any other relevant consideration.

(2) The Authority shall have power to levy a contribution towards the cost of the infrastructure services and other services or facilities arising from any permission to develop land, to be known as the Infrastructure Service Contribution, from the person applying for such permission or carrying out such development, in accordance with such rates as the Authority may, with the concurrence of the Minister and of the Minister responsible for finance, from time to time determine, taking account of the services involved, the areas of development and other material considerations.

(3) The sums collected by the Authority under sub-article (2) shall be paid to the Government each year after a deduction therefrom is made to cover the reasonable costs incurred in the determination and levying of the contribution, as prescribed by regulations.

(4) The Authority shall have power to levy a charge in respect of any other application made to it.

(5) The schedule of charges and the rates of contributions established under this article, as from time to time in force, shall be published as regulations and shall have effect as so published.

(6) The charges and contributions levied under sub-articles (1) and (2) aforesaid shall be collectively known as the "development levy".

Payment of fee and contribution.

82. No development permission shall be processed and no activity or development authorised by an order shall be carried out, unless and until any fee or contribution payable under article 81 has been paid to and received by the Authority, and any activity or works carried out without such payment having been made and received shall be deemed to be an activity or development carried out without the permission of the Authority.

PART VIII

Power to make Regulations

General

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

83. Without prejudice to the provisions of article 6 of the Interpretation Act, any power conferred by this Act to make regulations, rules, orders, lists, schedules and any other instrument of like nature, includes the power from time to time to revoke, replace, amend, alter or add to any such instrument as aforesaid.

Procedure for making of regulations.

84. (1) Regulations under this Act shall be made by the Minister after consultation with the Authority, and except for regulations under article 85(2)(*a*), (*b*) and (*m*) and in the cases referred to in sub-article (2) hereof, shall not be made unless a draft of the said regulations has been issued for public consultation thereby allowing any person a period of at least two weeks to make representations to the Minister stating how in his opinion the proposed regulations could be improved to reach their ultimate aim.

(2) The provisions of sub-article (1) with regard to the publication of a draft of the regulations for public consultation shall not apply in respect of any regulations which the Minister declares to be urgent or when a form of public consultation was already carried out before the date of coming into force of this Act.

(3) When the Minister makes regulations concerning the procedure before the Executive Council or any board, commission or other body established under this Act, he shall also consult the Executive Council or such board, commission or body.

Planning and Development Regulations

Power to make Planning and Development Regulations.

85. (1) The Minister may, acting in accordance with the provisions of article 84, make regulations for the better carrying out of the provisions of this Act and may in particular by such regulations appoint the Authority or any person or body to be the designated authority for the purposes of any international obligation to which Malta may be a party.

(2) Without prejudice to the generality of the provisions of sub-article (1), such regulations may, in particular:

(*a*) prescribe the charges and fees that may be levied by the Authority for services rendered by it under this Act, or in respect of any matter for which it is considered that a fee should be payable;

(*b*) provide for the procedure to be applied by the Authority and the applicant before and after the submission of an application under this Act, as well as fees chargeable therefor, as well as the procedures to be used by the applicant and the Authority in the processing of the said application, including, but not limited to, the advertising, communication and vetting of the said application, and the general conditions under which the Authority may require the giving of financial guarantees or the provision of assurance to make good for any damage that may be caused;

(*c*) prescribe what type of information held by the Authority shall be accessible to the public, as well as to establish the procedure concerning access thereto and the relative fees to be paid to obtain copies of such information;

(*d*) give effect to any international treaty or instrument, including directives, regulations and decisions, relating to any matter governed by this Act to which Malta may from time to time be a party or subject to, and to set up structures and make other provisions for the implementation thereof;

(*e*) provide for any matter relating to planning and development and sanitary or other activities affecting land or sea, including policy requirements relating to construction, demolition and alteration works, as well as any other matter relating thereto, taking account of all relevant considerations, including safety, aesthetics, health and environment;

(*f*) prescribe the manner in which Development Permission Fees or other charges, contributions or fees made under this Act or under regulations made under this Act are to be established, made, reviewed, collected, utilised or otherwise dealt with;

(*g*) in relation to confiscation of objects used for, or in connection with anything contrary to the provisions of this Act or any regulations issued thereunder and related matters:

(i) establish the circumstances where such objects can be confiscated and establish the relative procedure for their confiscation and disposal;

(ii) authorise and regulate clamping, towing, removal and storage by the Authority of any object used for or in connection with anything contrary to the provisions of this Act or any regulation issued thereunder;

(iii) exclude the Authority from any liability, other

than liability for gross negligence, incurred in connection with the execution of its duties under the said regulations;

(iv) provide for the disposal of such objects when the said objects are not claimed by their owners within such time as may be prescribed;

(v) establish fees payable to the Authority for the removal of clamps, for towing, for the storage of such objects and for the auction or other form of disposal of such objects;

(vi) establish offences and the relative punishments in relation to matters referred to in sub-paragraphs (i) to (v);

(*h*) specify the type of illegal activity the provisions of articles 101 and 103 shall apply to and establish the relative penalty;

(*i*) amend, substitute, add to or otherwise alter anything contained in the Schedules to this Act;

(*j*) prescribe regulations for any other purpose for which regulations are authorised or required to be made;

(*k*) prescribe the form of any notice, order or other document authorised or required by this Act to be made, served or given;

(*l*) regulate how any notice or communication to or from the Authority which in terms of this Act shall be in writing, may be made in electronic form;

(*m*) provide that any person who acts in contravention of any regulation under this Act shall be guilty of an offence against this article, and establishing such penalty, being a penalty not greater than a fine (*multa*) of two hundred and forty thousand euro (€240,000) or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment, to which any person so guilty may be liable:

Provided that such regulations may provide that a person, who, having been sentenced for an offence against the same regulation by a judgement which has become absolute, commits a further offence against the same regulation within such time as may be prescribed, shall be liable to pay a higher fine (*multa*), not exceeding double the fine (*multa*) which would otherwise have been inflicted, and for the purpose of this proviso the maximum fine that may be established by such regulations shall be four hundred and eighty thousand euro (€480,000):

Provided further that such fine shall in all cases be due to the Government as a civil debt, and that where the person guilty of the offence is a director, secretary or manager of a body corporate for the economic benefit of whom the offence was committed, such body corporate shall be liable *in solidum* with the offender

for the payment of the said civil debt;

(*n*) prescribe any other matter that is to be or may be prescribed under this Act.

(3) Notwithstanding the other provisions of this Act or of any other law, Schedules annexed to regulations made under this Act may be made or published in the English language only.

Power to make regulations on the issue of licences in the building industry and the registration of consultants in the building industry, building contractors and building tradespersons.

86. *Repealed by Act XXI.2022.11.*

Buildings to be designed and constructed in accordance to buildings regulations.

87. *Repealed by Act XXI.2022.12.*

Power to make building regulations.

88. *Repealed by Act XXI.2022.13.*

Power to issue guidelines related to contracts of works and services.

89. *Repealed by Act XXI.2022.14.*

Power to prohibit the use of certain materials, etc.

90. *Repealed by Act XXI.2022.15.*

Technical guidance documents.

91. *Repealed by Act XXI.2022.16.*

Building Control Regulations.

92. *Repealed by Act XXI.2022.17.*

Amendment of the Code of Police Laws

Amendment of the Code of Police Laws. Cap. 10.

93. (1) The Minister may, without prejudice to the provisions of sub-article (2), by regulations amend, substitute or repeal any of the provisions of Part V of the Code of Police Laws, with effect from such date as the Minister may, by order in the Gazette, establish.

(2) The Minister may by regulations made under this sub-article provide for transitory provisions.

PART IX

Monitoring and Enforcement

Right of entry.

94. (1) Notwithstanding the provisions of any other law, for the purposes of carrying out their functions under this Act, the Executive Council and such officer, employee or committee or any other person as may be authorised by the Executive Council or the

Executive Chairperson for this purpose, and if so required by the Executive Council with the assistance of the Police Force, shall have:

(*a*) the right to enter any premises, public or private, at all reasonable times, and in the case of a dwelling house after giving previous reasonable notice of at least twenty-four hours and not before seven o'clock in the morning or later than seven o'clock in the evening, and inspect or survey any land, or verify whether an illegal development or activity is taking or has taken place or to take any photographs after entering or request any legitimate information from any occupier of such premises; and

(*b*) the right to do anything that is ancillary or consequential thereto.

(2) Any person authorised pursuant to sub-article (1) shall produce a means of identification issued by the Authority and thereon be authorised to enter the land.

Monitoring of activities and development.

95. (1) The Executive Council shall monitor all activities falling within the scope of this Act, including all development operations to ensure that all such activities and development are carried out only in accordance with the requirements of this Act and in compliance with the decisions lawfully taken under this Act and may for such purpose request and obtain the assistance of the Police Force, any local council, any department of Government or any agency of Government.

(2) The Executive Council shall also undertake a review of all such activities and development carried out before the coming into force of this Act, or any other Act preceding this Act, not being development carried out before 1967, not in compliance with rules, regulations, plans or policies in force at the time the activity or development took place, and in respect of any such activity or development the Executive Council shall have such powers as it has in respect of an activity or development carried out after the coming into force of this Act in order to ensure that the rules, regulations, plans and policies aforesaid are enforced or, if this is not reasonably possible, to regularise any such activity or development to the extent the Executive Council deems adequate in the circumstances:

Provided that the onus of proof that a development or activity is not in compliance with rules, regulations, plans or policies in force at the time the activity or development took place is on the Executive Council.

(3) The Executive Council shall also monitor all activities falling within the scope of this Act, to ensure that all such activities are carried out in accordance with licences, permits, certificates issued by the Authority concurrently with the planning decision.

Officers.

96. (1) The Executive Council may appoint officers for the purposes of this Act, and such officers may, upon production of proof of their identity, in order to ensure compliance with this Act

or any regulations made thereunder:

(*a*) enquire from any person information in connection with any activity or other matter regulated by this Act;

(*b*) issue stop notices or enforcement notices or stop and enforcement notices or warning notices to any person in accordance with the provisions of article 97.

(2) The provisions of sub-article (1) shall be without prejudice to the powers of the Police, Community Officers, the Comptroller of Customs or of any other authority under the Criminal Code, the Customs Ordinance or any other law.

Cap. 9.
Cap. 37.

(3) Officers appointed under this article shall, notwithstanding any other law, have the right to assist the police in the conduct of prosecution for offences under this Act and to plead the case on behalf of the prosecution.

Enforcement procedure.

97. (1) If it appears to the Executive Council that an activity and, or development is being carried out without the grant of a permission and, or licence required under this Act or that any conditions subject to which such permission was granted in respect of any such activity and, or development are not being complied with or such activity and, or development is against this Act or regulations made under this Act, the Executive Council shall issue a stop notice to any such person carrying out such an activity and, or development:

Provided that when the illegal activity and, or development is limited to part of the site, the Authority may in its discretion issue a partial stop notice requiring the activity and, or development to be stopped forthwith only in relation to that part of the activity and, or development to where the illegal development subsists and not in relation to the whole development:

Provided further that no such notice shall be issued for any development carried out before 1967:

Provided further that the Executive Council may issue a warning notice in writing requiring illegal activity and, or development to be stopped forthwith prior to proceeding with the issue of a stop notice, which has to be abided with immediately on notification, provided that only one warning notice may be issued for the same infringement.

(2) A copy of the notices mentioned in sub-article (1) may also be served on any representative, builder, contractor or workman on the site and the Executive Council shall also affix such notices in a prominent position at a point of entry onto the site.

(3) The Executive Council shall, in the case of a stop notice issued under sub-article (1), also inform:

(*a*) the local council in whose locality the land mentioned in sub-article (1) is found;

(*b*) the *perit* responsible for the said works and the site manager, if known, that a stop notice as aforesaid has been issued by the Executive Council:

Provided that the non-compliance with the provisions of this sub-article shall in no case invalidate any notice issued under sub-article (1).

(4) If it appears to the Executive Council that any activity and, or development of land has been carried out after the coming into force of this Act without the grant of permission required on that behalf under this Act, or that any conditions subject to which such permission was granted in respect of any activity and, or development have not been complied with, the Executive Council may, having regard to the provisions of development plans, planning policies and any other material consideration, serve on the owner of the land or on the occupier of the land or on the person responsible for the acts mentioned in the notice or any combination thereof as the Executive Council deems most expedient, an enforcement notice and sub-article (3) shall also here apply, requiring such steps as may be specified in the notice to be taken within such time as may also be so specified for restoring the land to its condition before the activity and, or development took place or for removing such development or for securing compliance with the conditions aforesaid, as the case may be, and in particular, but without prejudice to the generality of the aforesaid any such notice may, for the purpose aforesaid, require the demolition or alteration of any buildings or works, the discontinuance of any use of land, or the carrying out on the land of any building or other operations:

Provided that where the Executive Chairperson believes that there is an imminent danger to the environment, an emergency enforcement notice may be served on the above indicated persons without the need of consulting the other members of the Executive Council:

Provided further that an appeal from an emergency enforcement notice or the submission of an application for the retention on land of any buildings, works or development or to sanction the continuance of any use of the land to which the emergency enforcement notice relates shall not stay the operation of the emergency enforcement notice.

(5) The Executive Council shall register all stop notices and all other enforcement notices issued in terms of this Act in the index mentioned in article 57(2), and the provisions of the said article concerning indexing of conservation orders shall *mutatis mutandis* apply to stop and other enforcement notices in terms of this Act.

(6) Any notice made under this article shall contain a detailed description of the infringements being alleged and where applicable, a site plan indicating the land which is the subject of such a notice shall be annexed thereto together with any additional information as deemed appropriate by the Executive Council to clearly identify the alleged infringements.

(7) A notice under this article may include a combination of a stop notice and enforcement notice and shall be known as a stop and enforcement notice. Moreover a notice given under any of the provisions of this article, other than the immediate request stopping or prohibiting any further work or development or requiring the

cessation of use, shall take effect at the expiration of such period, being not less than fifteen days and not more than sixty days after service thereof, as may be specified therein.

(8) When an application for development permission has been submitted before the expiry of the period mentioned in sub-article (7) -

(*a*) for the retention on the land of any buildings, works or development to which the enforcement notice relates; or

(*b*) to sanction the continuance of any use of the land to which the enforcement notice relates,

the operation of the notice, in respect of any requirement other than a requirement stopping or prohibiting any further activity and, or development or requiring the cessation of a use, shall be suspended pending the final determination of the application. If the permission applied for is granted on that application and it comes into operation, the enforcement notice shall cease *ipso jure* to have effect.

(9) Any application to regularise an activity or a development or an appeal to the Tribunal from a refusal, may be dismissed forthwith if a requirement in the notice stopping or prohibiting further activity and, or development, or requiring the cessation of a use, has not been complied with and there is evidence to show that the notice has not been complied with during the processing of the application or during the Tribunal sittings, or if any penalty or other payment for which any person has become liable under this Act in respect of the relevant activity or development has not been paid.

(10) The Executive Council may exercise its powers under article 100(1) notwithstanding that a second or subsequent application intended to regularise the illegal activity or development may have been filed with the Planning Board concerning the same or part of the same activity or site, irrespective of whether the said application is filed by the same applicant or by another applicant.

(11) Any person who feels aggrieved by any notice served on him may appeal against it to the Tribunal in terms of the Environment and Planning Review Tribunal Act, in which case the effects of the notice, other than the request stopping or prohibiting any further activity and, or development or requiring the cessation of a use, shall be suspended pending the final determination of the appeal.

Cap. 551.

Enforcement in relation to Scheduled Property. *Amended by: XXI.2022.18.*

98. (1) If it appears to the Executive Council that anything which is prohibited or restricted or subject to a condition by or under any of the provisions of article 57 is being done or carried on or has been done or carried on in contravention of any such prohibition, restriction or condition or without any permission or other requirement, or without compliance with any condition, mentioned in those articles or any orders made thereunder, the Executive Council shall serve a notice on the owner of the land or

on the occupier of the land or on the person responsible for the acts mentioned in the notice or any combination thereof, as the Executive Council deems most expedient, requiring such steps as may be specified in the notice, including the discontinuance of anything being done or carried on, to be taken within such time as may also be specified in the notice. The provisions of article 97(3) shall also apply to any notice under this article.

(2) A notice under this article shall also be referred to as an "enforcement notice" and, unless the context otherwise requires and subject to such modifications and adaptations as may be necessary to give full effect to the provisions of those articles, wherever the expression appears in this Act, it shall include a notice given under this article:

Provided that no such notice shall be issued for any development carried out before 1967.

Injury to amenity and removal of danger. *Amended by: XXI.2022.19.*

99. (1) If it appears to the Executive Council that the amenity of any area is injured by the appearance or structural condition of any building or any land, being a garden, vacant site or other open land, or by the appearance of a site upon which development or construction or any other works are taking or have taken place, the Executive Council may serve an enforcement notice on the owner of the land or on the occupier of the land or on the person responsible for the acts mentioned in the notice or any combination thereof, as the Executive Council deems most expedient, requiring such steps to be taken for abating the injury as may be specified in the notice. The provisions of article 97(3) shall also apply to any notice under this article.

(2) The Minister may, in consultation with the Executive Council, by regulations under this article provide that property which is in a state of disrepair and, or constitutes a danger, shall be demolished by its owner or by the Authority, at the owner's expense, in accordance with the provisions of article 100. Without prejudice to the generality of the foregoing, such regulations may prescribe:

(*a*) the manner through which the state of the property is certified as constituting a danger,

(*b*) the methodology and procedures to be used by the Authority in any action it may take as aforesaid.

(3) A notice under this article shall also be referred to as an "enforcement notice" and unless the context otherwise requires and subject to such modifications and adaptations as may be necessary to give full effect to the provisions of those articles, wherever the expression appears in this Act, it shall include a notice given under this article. Such notices may also be issued for any development carried out before 1967.

Supplementary provisions as to enforcement and proceedings for debts due to the Authority.

100. (1) If any steps or other action, including any discontinuance, stoppage or similar requirement, required to be taken by an enforcement notice have not been taken within the time specified therein, the Executive Council may enter on the land or the area at sea and take such steps or other action as aforesaid

without any other formalities required by any other law, including the disabling or removal of any equipment, machinery, tools, belongings, vehicles or other objects that may be on site and the carrying out of any works necessary to comply with what is requested in the enforcement notice and may for such purpose request the assistance of the Police Force, any local council, any department of Government or any agency of Government, and the Police Force and, or Armed Forces shall for such purpose exercise such powers as are vested in them at law, on the demand of the Executive Council for assistance.

(2) Where the removal of an illegal development involves by strict necessity the removal also of a development which is not illegal, the Executive Council may proceed to remove also such other development, the removal of which is strictly necessary as aforesaid.

(3) Notwithstanding the provisions of any other law and saving the provisions of article 46 of the Constitution and article 4 of the European Convention Act, no precautionary act may be issued by any court against the Authority restraining it from the exercise of the powers conferred upon it by this article.

Cap. 319.

(4) Subject to the provisions of, or regulations made under, this Act, when an enforcement notice has not been appealed and the owner or the occupier of the land subject to an enforcement notice or any person responsible for the acts mentioned in the notice, fails to comply with the said enforcement notice within the period therein prescribed, such person shall be liable to a daily fine to be regulated by regulations made by the Minister, not being more that fifty euro (€50) per day which shall apply from the date that such illegality mentioned in the notified enforcement notice continues. When the notice has been appealed and the enforcement is confirmed by the Tribunal or the Court of Appeal (Inferior Jurisdiction), as the case may be, the daily fine for continuation of illegality shall be calculated from the original date notified in the enforcement notice:

Provided that the Minister may by regulation prescribe different dates from which daily fines shall be calculated.

(5) All expenses reasonably incurred by the Executive Council in the exercise of its powers under this article, or any other amount due to the Authority under any other provision of this Act or regulations made thereunder shall be recoverable as a civil debt by the Authority from the present owner of the land, or from any occupier of the land, or from any person responsible for the acts mentioned in the notice, including a notice of payment, or an applicant, subject to such right of recovery such person may have against any other person. The Authority shall not be liable for any damages as a result of the exercise of its powers under this article, unless it is proved that such damage resulted from gross negligence on the part of the Authority, its officers and agents. The Authority, in its discretion, can dispose of the objects constituting the illegality or illegalities, without any other formalities whatsoever if the objects remain unclaimed within seven days.

(6) Where the Authority desires to sue for the recovery of a

debt due to the Authority under any law or regulation which it is entitled to enforce, the Executive Chairperson or an officer of the Authority duly authorised by the Executive Chairperson to act on his behalf, may make a declaration on oath before the Court Registrar or before any other officer authorised to administer the oath in judicial matters, wherein he states the nature of the debt and the name of the debtor and confirm that it is due.

(7) The declaration referred to in sub-article (6) shall be served upon the debtor by means of a judicial act and it shall have the same effect as a final judgement of the competent court unless the debtor shall, within a period of twenty days from service upon him of the said declaration, oppose the claim by filing an application demanding that the court declares the claim unfounded.

(8) The application filed in terms of sub-article (7) shall be served upon the Authority, which shall be entitled to file a reply within a period of twenty days. The court shall appoint the application for hearing on a date after the lapse of that period.

(9) Any debts due to the Authority shall be prescribed by the lapse of the period of five years from the date on which the debt was due.

Procedure to apply to certain types of development.

101. (1) Notwithstanding the other provisions of this Act, any person shall have the right to request the Authority to regularise development which may be regularised by virtue of regulations made by the Minister under this Act in accordance with and subject to procedures established by the Authority.

(2) Notwithstanding the other provisions of this Act, any person who is served with an enforcement notice in respect of development which may be regularised by virtue of regulations made by the Minister under this Act, shall have the right to request the Authority to regularise such development in accordance with and subject to procedures established by the Authority:

Provided that the development in question shall not be considered as having been regularised in terms of this Act unless and until a development permission has been granted to cover the development in question and a penalty fixed by the Authority within the limits established in article 105 has been paid.

(3) Where any person claims to the Authority that an enforcement notice falls within the provisions of sub-article (2), and he requests the Authority to regularise such development and the Authority does not accept such claim, the period mentioned in article 97(7) shall commence to run from the date that the Authority serves such person with a notice to the effect that it is not accepting such claim.

(4) The Minister may, after consultation with the Authority, make regulations to give better effect to the provisions of this article.

Compliance Certificates.

102. (1) The following provisions shall have effect with respect to any development which has taken place after the date of the coming into force of the Development Planning Act, 1992,

hereinafter referred to as "new development".

(2) No service consisting in the supply of water or electricity to any new development shall be provided by any authority unless there is in respect of such development a certificate issued by the Authority or any other certificate as prescribed by regulations stating that the development is in accordance with a development permission or has been conceded or approved by the Authority in terms of the Development Planning Act, 1992, the Environment and Development Planning Act, or this Act or under any regulation made therein. Any service for the supply of water and electricity which was provided following the issue of a compliance certificate which is subsequently revoked by the Authority due to irregularities contained in such certificate, shall be suspended at the request of the Authority.

Cap. 504.

(3) In any of the circumstances in which the Authority may serve an enforcement notice under any of the provisions of this Act, the Minister shall, in consultation with the Authority, by regulations under this article, provide that such a notice is registered with the Land Registry and served on the Director of the Public Registry of Malta in the case of land situated in the Island of Malta and on the Director of the Public Registry of Gozo in the case of land situated in Gozo. Without prejudice to the generality of the foregoing, such regulations may prescribe the procedures to be used by the Authority in making such a registration.

PART X

Offences

Offences.

103. (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 or occupier without a valid development permission, 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 articles 57 and 58 in respect of any scheduled property or an emergency conservation order; or

(*c*) having been served with an enforcement notice or other notice under articles 56, 97, 98 or 99 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 or army 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 fails 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 five hundred euro (€1,500) and not exceeding one hundred thousand euro (€100,000), 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 articles 57(9) and 100(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 sub-article (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 judgement, 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 euro (€50) and not more than one hundred euro (€100), as the court may fix, for every day the default continues after the expiration of the said time and may also order the modification, suspension or revocation of any authorisation or permission.

(3) Any person who is convicted of an offence under this article may also, at the request of the prosecution, be disqualified from signing and submitting to the Authority, for a period not exceeding two years from the date of conviction for the offence, certificates of compliance or fire safety certificates, or any other certificate required in accordance with this Act or any other regulations made thereunder and, accordingly, the Authority shall not accept certificates for registration which are signed by a person while so disqualified.

(4) Proceedings against any person for any offence as is mentioned in sub-article (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: Cap. 9.

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 Cap. 9.

said Code or in any law for the time being in force.

(5) The filing of an application intended to regularise any illegal development or activity 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 sub-article (2) as if such an application or such an appeal had never been filed:

Provided that where such an activity or development has been regularised no fine (*multa*) under sub-article (2) shall be due in respect of the time after the development has been regularised.

(6) (*a*) Without prejudice to any other provisions of this Act, or other provisions or regulations, made under this Act, which the Authority is entitled to enforce, the Authority shall have the power to impose in respect of any person who infringes any provision of this Act or of any regulations made thereunder, or who fails to comply with any directive or decision given by the Authority, whether under this Act, or regulations prescribed thereunder, or under any other law which the Authority is entitled to enforce, an administrative fine using such procedures as established in this Act or regulations made thereunder.

(*b*) An administrative fine imposed shall not, unless provided otherwise by or under this Act, exceed two hundred thousand euro (€200,000), and two thousand euro (€2,000) each day, in the case where the infringement persists:

Provided that all the fines provided for in this article shall be due to the Government as a civil debt and following the service of a judicial act, in terms of article 466 of the Code of Organization and Civil Procedure.

Cap. 12.

Certified copies of certain documents.

104. In any proceeding or prosecution under this Act, a copy of any order, notice, decision or other document purporting to have been made under this Act and purporting to have been signed by the Executive Chairperson, shall be accepted as evidence of the order, notice, decision or other document, and of the facts appearing therein, without further proof.

Special compromise procedure.

105. (1) Notwithstanding any other law providing for the trial and punishment of offences, where the Executive Council believes that a person has committed an offence against this Act, other than an offence under article 103(1)(*d*), the Executive Council may give notice in writing to such person describing the offence of which the person is accused, indicating the steps to be taken to remedy the offence and a compromise fine which he is required to pay in respect of that offence:

Provided that the Executive Council may not require the payment of a compromise fine higher than fifty thousand euro (€50,000).

(2) Where a notice under this article has been given, the person named in the notice may, within sixty days of the service of the notice, accept responsibility in writing for the offence specified in the notice and within the same period, remedy the offence, and pay or undertake in writing to pay the fine indicated in the notice or such other compromise fine as the Executive Council may accept in lieu, and in any such case:

(*a*) the person named in the notice shall be deemed to have committed the offence and to have admitted his guilt in respect thereof, and the compromise fine paid, or agreed to be paid, shall be the penalty to which he becomes liable to pay;

(*b*) if the offence is remedied to the satisfaction of the Executive Council and the compromise fine is paid within the period, no further proceedings may be taken against the said person in respect of the same facts:

Provided that the agreement to pay the compromise fine shall not extinguish any civil liability to make good any damages to any person or authority and any liability arising under article 103(2);

(*c*) if the compromise fine is not paid within the aforesaid period, it shall be treated as if it were a penalty ordered to be paid by a court and proceedings may be taken accordingly to recover the same as a civil debt due to the Authority.

(3) Where the person to whom notice is given under sub-article (1) does not accept or, having accepted such responsibility, fails to remedy the offence within the time aforesaid, and even if he has paid the compromise fine, ordinary criminal proceedings may be taken against him in accordance with the provisions of law applicable to the offence.

Amended by:
L.N. 109 of 2020.

FIRST SCHEDULE
Provisions with respect to the Executive Council

1. The provisions of this schedule regulate the procedures to be used by the Executive Council.

2. Subject to the provisions of this Act, including this Schedule, the Executive Council may regulate its own procedure. It may also convene and conduct meetings using such electronic or other viable means of communication as it deems appropriate, in which case any reference in this Schedule to a quorum or any reference made to presence of or voting by the member of the Executive Council at the meeting, shall be construed accordingly, and any such meeting held by using electronic or other viable means of communication shall have the same effect at law as a meeting held without such means.

3. When the Executive Council is considering plans and policies, the spatial strategy for environment and development, subsidiary plans and policies, and the making of orders as regulated under Part V of this Act, the following procedure shall be observed:

(*a*) The quorum shall consist of the Executive Chairperson or acting Executive Chairperson and at least three other members of the Council.

(*b*) The Executive Chairperson, or the acting Executive Chairperson acting in his place, shall have an original vote and in the case of a tie a casting vote. All members of the Executive Council except those having observatory status present at the meetings shall cast their vote in favour or against any motion put to the vote. Decisions shall be adopted by a simple majority of the votes of the members present and voting.

(*c*) Without prejudice to the provisions of article 13, a member of the Executive Council who has a direct or indirect interest in any matter coming before the Executive Council for consideration shall, not later than the first meeting held after the relevant circumstances have come to his knowledge, disclose the nature of his interest. Such disclosure shall be recorded in the minutes of the meeting and the member:

(i) shall not take part in any discussions or decisions of the Executive Council with respect to that matter; and

(ii) shall be disregarded for the purpose of constituting a quorum for any such discussions or decisions.

(*d*) All acts done by any person in good faith as a member of the Executive Council shall be valid and effective as if he were a member even if some defect in his qualification for appointment is subsequently discovered.

(e) The Executive Council may not delegate to the Executive Chairperson or any of its members, the power to endorse any documents or plans relating to any matter under its consideration.

(f) The meetings of the Executive Council shall be open to the public when the Executive Council is considering a planning control application in terms of article 54(1), (2) and (3), descheduling and requests for reconsideration of scheduling in terms of article 57(10), and the Executive Council shall allow the applicant or the owner (in the case of requests for reconsideration from scheduling) and his representative, or any one of them, and any interested third party who made representations in

accordance with the provisions of any regulations made under article 54(3), to make submissions on any matter under consideration. The Executive Chairperson, at his absolute discretion, may also allow any other member of the public to make submissions, subject to the power of the Executive Chairperson to exclude any member of the public if he deems it necessary so to do for the maintenance of order and to limit the participation of the applicant and his representative or of the interested third party who made representations in accordance with the provisions of any regulations made under article 54(3) or the public as he may deem appropriate:

Provided that for such meetings in which the Executive Council is to consider a planning control application in terms of article 54(1), (2) and (3), descheduling or a request for reconsideration of scheduling in terms of article 57(10), the Executive Chairperson may, where he deems appropriate, convene and conduct the meeting of the Executive Council through such electronic or other viable means of communication as he deems appropriate. In such case, and subject to the powers of the Executive Chairperson in accordance with the foregoing paragraph, the applicant or the owner (in the case of requests for reconsideration from scheduling) and his representative, or any one of them, any interested third party who made representations in accordance with the provisions of any regulations made under article 54(3), or any member of the public who, in the absolute discretion of the Executive Chairperson, is allowed to make submissions, shall be allowed to make submissions through such electronic or other viable means. The Executive Chairperson may take all such measures, deemed appropriate in his discretion, to ensure the proper conduct of the meeting by electronic or other viable means:

Provided further that, in order to allow a member of the public to participate in any such meeting held through electronic or other viable means of communication as aforesaid, the Executive Chairperson may, through a notice posted on the electronic portal of the Planning Authority, require that anyone interested in participating in the said meeting, to register such interest, in the manner therein indicated, at least one working day before the date of the meeting, in order to enable the Executive Chairperson to take any measure he deems appropriate to allow the participation of the member of the public. Nothing in this paragraph shall be interpreted as voiding or annulling the procedure or parts thereof, including any decision taken by the Executive Council, should any member of the public fail to participate in the proceedings, wherever allowed to do so, due to the failure of the electronic or other means used to conduct the meeting or his inability to do so:

Provided further that in the event that the Executive Council conducts any such meeting of the Executive Council through such electronic or other viable means of communication, any reference in this Schedule to a quorum or any reference made to presence of or voting by the members of the Executive Council at the meeting shall be construed accordingly:

Provided further that any such meeting of the Executive Council held through electronic or other viable means of communication in accordance with this paragraph shall have the same effect at law as if the said meeting was not held through such means.

(g) Where the Executive Council votes against a recommendation, if any, made by the Executive Chairperson, the Executive Council shall register in the relevant file the specific planning reasons adduced by it justifying the overturning of such recommendation.

(h) Meetings of the Executive Council on the contents of a planning control application to the Executive Council, may also not be held in public but votes may not be taken.

(i) Subject to the provisions of this Act, including this Schedule, the Executive Council may regulate its own procedure.

Amended by:
L.N. 109 of 2020.

SECOND SCHEDULE
Provisions with respect to the Planning Board and the Planning Commissions

1. The provisions of this Schedule regulate the procedures to be used by the Planning Board and the Planning Commissions. For the purposes of this Schedule, wherever the word "Planning Board" is used, it is to be construed as to include the Planning Commissions, unless the context otherwise requires.

2. The Planning Board may act notwithstanding any vacancy amongst its members, provided there is a quorum present at the meeting.

3. The quorum of the Planning Board shall consist of the Chairperson or deputy Chairperson and not less than half the number of the other members constituting the Planning Board, at the time of the meeting.

4. The meetings of the Planning Board shall be called by the Chairperson either on his own initiative or at the request of any two members of the Planning Board, and the Planning Board shall also meet at such times as it may itself decide.

5. The Chairperson, or the deputy Chairperson acting in his place, shall have an original vote, and where the votes are equally divided, a second or casting vote. All members of the Planning Board present at its meetings shall cast their vote in favour or against any motion put to the vote. Decisions shall be adopted by a simple majority of the votes of the members present and voting.

6. Without prejudice to the provisions of article 13, a member of the Planning Board who has a direct or indirect interest in any matter coming before the Planning Board for consideration shall, not later than the first meeting held after the relevant circumstances have come to his knowledge, disclose the nature of his interest. Such disclosure shall be recorded in the minutes of the meeting and the member:

(*a*) shall not take part in any discussions or decisions of the Planning Board with respect to that matter; and

(*b*) shall be disregarded for the purpose of constituting a quorum for any such discussions or decisions.

7. All acts done by any person in good faith as a member of the Planning Board shall be valid and effective as if he were a member even if some defect in his qualification for appointment is subsequently discovered.

8. Subject to the provisions of this Act, including this Schedule, the Planning

Board may regulate its own procedure.

9. The meetings of the Planning Board shall be open to the public, and the Planning Board shall allow the applicant and his representative, or any one of them, and an interested third party who made representations in accordance with the provisions of article 71(6), to make submissions on any matter under consideration. The Chairperson, at his absolute discretion, may also allow any other member of the public to make submissions, subject to the power of the Chairperson to exclude any member of the public if he deems it necessary so to do for the maintenance of order and to limit the participation of the applicant and his representative or of the interested third party who made representations in accordance with the provisions of article 71(6) or the public as he may deem appropriate:

Provided that the Chairperson may, where he deems appropriate, convene and conduct the meeting of the Planning Board through such electronic or other viable means of communication as he deems appropriate, in which case, the applicant and his representative, or any of them, and an interested third party who made representations in accordance with the provisions of article 71(6), and any member of the public who, in the absolute discretion of the Chairperson, is allowed to make submissions, shall be allowed to make submissions through such electronic or other viable means. The Chairperson may take all such measures, deemed appropriate in his discretion, to ensure the proper conduct of the meeting by electronic or other viable means:

Provided further that, in order to allow a member of the public to participate in the meeting held through electronic or other viable means of communication as aforesaid, the Chairperson may, through a notice posted on the electronic portal of the Planning Authority, require that anyone interested in participating in the said meeting, to register such interest, in the manner therein indicated, at least one working day before the date of the meeting, in order to enable the Chairperson to take any measure he deems appropriate to allow the participation of the member of the public. Nothing in this paragraph shall be interpreted as voiding or annulling the procedure or parts thereof, including any decision taken by the Planning Board, should any member of the public fail to participate in the proceedings, wherever allowed to do so, due to the failure of the electronic or other viable means used to conduct the meeting or his inability to do so:

Provided further that in the event that the Planning Board conducts the meeting of the Planning Board through electronic or other viable means of communication, any reference in this Schedule to a quorum or any reference made to presence of or voting by the members of the Planning Board at the meeting shall be construed accordingly:

Provided further that meetings of the Planning Board held through electronic or other viable means of communication in accordance with this paragraph shall have the same effect at law as if the said meetings were not held through such means.

10. Where the Planning Board votes against a recommendation, if any, made by the Executive Chairperson, the Planning Board shall register in the relevant file the specific planning reasons adduced by it justifying the overturning of such recommendation:

Provided that the Planning Board may also delegate to the Chairperson or any of its members, the power to endorse any documents or plans relating to any matter under its consideration.

11. Meetings of the Planning Board where the Executive Chairperson is providing information on the contents of a development application to the Planning Board, may also not be held in public but votes may not be taken.

THIRD SCHEDULE

The Standing Committee on the Environment and Development Planning

The plans and policies that shall be referred to the Standing Committee in accordance with the provisions of article 60 are:

(*a*) those plans and policies which refer to the land situated outside the development zones as defined in the Spatial Strategy or in any other plan;

(*b*) those plans and policies which exclusively regulate height limitations and restrictions thereon;

(*c*) local plans, excluding minor amendments to such plans;

(*d*) policies relating to and regulating compliance certificates.

FOURTH SCHEDULE

List of observatory members of the Executive Council

(i) National Commission Persons with Disability (KNPD);

(ii) The Superintendent of Cultural Heritage;

(iii) Occupational Health and Safety Authority;

(iv) Transport Malta;

(v) Malta Tourism Authority;

(vi) Water Services Corporation;

(vii) Civil Protection Department;

(viii) Enemalta Corporation;

(ix) Any other government department, entity, authority and any other non-government entity indicated by the Minister from time to time.