SUBSIDIARY LEGISLATION 441.05

TRENCHING WORKS REQUIRING PERMIT BY LOCAL COUNCILS REGULATIONS

1st August, 2002

LEGAL NOTICE 313 of 2002, as amended by Legal Notice 426 of 2007 and Act XV of 2009.

1. The title of these regulations is the Trenching Works Requiring Permit by Local Councils Regulations. Citation.

2. In these regulations, unless the context otherwise requires: Definitions. *Amended by: XV. 2009.49.*

"Act" means the Local Government Act; Cap. 363.

"applicant" means a person who applies for a permit and includes any person registered with the Authority, who acts on behalf of a contractor who is also registered with the Authority;

"application" means any application made by an applicant for authorisation in accordance with these regulations;

"Authority" means the Authority for Transport in Malta;

"contractor" includes any person, association or body of persons registered with the Authority for Transport in Malta to construct trenching works;

"licence" shall have the same meaning as assigned to it by article 25 of the Code of Police Laws; Cap. 10.

"Local Council" shall have the same meaning as assigned to it by the Local Government Act; Cap. 363.

"locality" shall have the same meaning as assigned to it by the Act and includes any arterial or distributor road or any other area within the boundaries of such locality, which under the provisions of the said Act are excluded from the responsibility of a Local Council;

"permit" shall have the same meaning as assigned to it by article 29 of the Code of Police Laws; Cap. 10.

"relative fee" means the fee that shall be paid for such authorisation, permit or licence according to Schedule C;

"street" means any street, road or railway and includes any "arterial road" or "distributor road" as defined in the Structure Plan approved in accordance with the provisions of the Development Planning Act, and includes, in relation to any such road - Cap. 552.

(*a*) any street or arterial or distributor road which has already been built or which is in the planning or the construction stage;

(*b*) the carriageway thereof as well as any border or other public open space adjacent and ancillary thereto, including side margins, central strips, roundabouts,

traffic islands, footways and pavements;

(*c*) the foundations, sub-surfaces and. surface dressing thereof;

(*d*) sub-ways, overpasses, junctions and intersections, whether multi-level or otherwise;

(*e*) road drainage works and access thereto;

(*f*) trenches and trenching works for utilities;

(*g*) ducting, conducting and the like for the distribution of utilities or the provision of services, including works connected therewith or ancillary thereto and manholes or other means of access to such utilities or works.

Works during trenching.

3. (1) During trenching construction no person shall without a licence from the Local Council, construct any work or make any thing in any street, which may cause obstruction or create danger or inconvenience to the public or, in spite of an intimation by the Police or by a community officer, leave any building or work which is ruinous or dangerous to persons or to the property of others.

(2) No person shall for any reason break up or open the footway or surface of any street without the required permit or in a manner different from that stated on such pennit.

Application for licence. *Amended by: XV. 2009.49.*

4. (1) Application for licence under regulation 3(1) and application for permit under regulation 3(2) shall be submitted to the Authority for Transport in Malta.

(2) Every application must be completed on the prescribed form in Schedule D and shall be submitted to the Local Council where the works are to be carried out or to the Authority for Transport in Malta:

Provided that, after the normal office hours of the Local Councils administrative offices, a person shaH be deemed to hold a permit from the Local Council if in case of emergency the person has already obtained a permit from the Authority for Transport in Malta and notified the community officers agency before commencement of works, until such time as the Local Council administrative offices remain closed.

Documents required.

5. Applicant shall together with his application also submit:

(*a*) a site plan of the location where works are to be carried out;

(*b*) a certificate from a civil engineer indicating the proposed work and the machinery intended to be used.

Processing the application.

6. When a Local Council receives an application, the Local Council shall, within forty-eight hours from the receipt of the application, forward such application to the Authority which shall process the application and notify back its decision to the Local Council and, in any case, any condition deemed fit to be imposed by the said Authority.

General conditions.

7. Unless otherwise specifically provided in these

regulations, the general conditions shown in Schedule B shall apply for any licence, permit or authorisation issued under these regulations.

Specific conditions for each case.

8. (1) The Local Council may together with the conditions imposed by the Authority, make other conditions as it deems fit:

Provided that the Local Council shall issue the licence subject to the conditions in sub-regulation (2).

(2) The contractor shall ensure that:

(*a*) sufficient light is placed on site by sunset;

(*b*) all necessary signs and markings are put in place so as to avoid any danger;

(*c*) all material caused during construction works is removed in a place intended for such purpose;

(*d*) no machinery is left idle in place where construction is being carried out in such a manner as to cause obstruction to the traffic;

(*e*) in the case of damage caused to buried structures or any other property, the contractor who is carrying out works shall immediately and at his own expense make all the necessary repairs;

(*f*) on completion of the work the contractor is obliged to re-instate the road surface as requested by the Authority;

(*g*) failing to do so and in the case that such reinstatement is delayed by more than three days, the Local Council shall have the right to carry out the reinstatement at the expense of the contractor;

(*h*) the expenses incurred as described in paragraph (*g*) may be re-imbursed from the bank guarantee the contractor has in favour of the Authority;

(*i*) when requested by the Local Council and together with the fees payable as established in Schedule C, applicant shall pay for the services of a local community officer to control the traffic. The fees payable shall be those established in Schedule A.

Authority's decision.

9. (1) Upon receipt of the Authority's decision, the Local Council, in the case of affirmation, shall by not later than twenty-four hours inform applicant to collect the licence on the prescribed form in Schedule D.

(2) In the case that the authorisation is refused by the Local Council, the Local Council shall give the reasons for its refusal in writing.

Authorisation by Council.

10. The Local Council shall issue its authorisation after the issue of the permit by the Authority and in all cases the authorisation shall not be granted later than two working days.

Renewal of permits.

11. (1) The Local Council, after consultation with the Authority, shall have the right to renew the permit that has already

been issued for a longer period after another application for such purpose has been submitted.

(2) In such a case, if the renewal is requested for the same works the conditions attached to the original permit shall apply:

Provided that, if an extension of the application is being requested for work in progress, in such case, the Local Council shall have the right to make new conditions.

Right of appeal.

Cap. 441.

S.L. 441.07

12. In any case where applicant feels aggrieved by a decision made by the Local Council, an applicant may appeal according to the procedures established in article 26 of the Trading Licences Act and, in such case, the appeals procedure as established in the Trading Licences Regulations shall apply for all appeals that are made under this regulation.

Penalties.
Amended by: L.N. 426 of 2007.

13. (1) Any person who without the permit of the Local Council constructs any work or make any thing in any street which may cause obstruction or create danger or inconvenience to the public, or, in spite of an intimation by the Police, or by a community officer, leave any building or work which is ruinous or dangerous to persons or to the property of others, shall, on conviction, be liable, to a fine (*ammenda*) of €116.47 and also to another fine (*ammenda*) of €4.66 for each day the offence continues.

(2) Any person who causes whatsoever the breaking up or opening of a footway or surface of any street without the required permits or is in breach of any of the conditions of the permit shall, on conviction, be liable to a fine (*ammenda*) of €116.47.

(3) Any person who fails to -

(*a*) put sufficient light where works are being carried out, after sunset;

(*b*) place traffic signs as necessary so as to avoid any danger;

(*c*) remove any material caused during construction and dispose of it in a place intended for such purpose;

(*d*) remove machinery which is not in use on the site in such a manner that such machinery causes obstruction to the traffic,

shall, on conviction, be liable to a fine (*ammenda*) of €23. 29 for each contravention.

SCHEDULE A

Amended by: L.N. 426 of 2007.

(Regulation 7)

Fees leviable for the services of a Community Officer in the locality

Field Officer	€23.29 per hour
Community Officer	€7.92 per hour

These rates shall apply for every hour or part thereof, and the minimum rate payable shall be that for two hours

---

SCHEDULE B

(Regulation 3)

General conditions that shall apply for every licence, permit or authorisation to be issued from the Local Council

1. For a licence, permit or authorisation to be issued from the Local Council to any person, an application shall be submitted to the Local Council where the activity is to be held, on the prescribed form and this form shall reach the Local Council at least forty-eight hours prior to the activity, during office hours and office days.

2. The applicant shall pay the fees due as stipulated in Schedule C.

3. If the authorisation is not granted. the fees paid shall be refunded to applicant:

Provided that the fee shall not be refunded if applicant cancels the application or if the application is revoked by the Local Council or any other authority due to a breach of any of the conditions.

4. Every licence, permit or authorisation issued by the Local Council is not transferable.

5. An applicant who is granted a licence, permit or authorisation from the Local Council shall be present at all times during the activity for which a licence, permit or authorisation have been issued, and shall be personally responsible for any breach of conditions of the aforementioned licence, permit or authorisation even if such breach is committed by his dependent or any such other person acting as substitute.

6. In case the activity shall have effect on the traffic flow, applicant shall provide the Local Council with all the details regarding the traffic signs related to any obstacle that drivers may encounter and also the direction and information to follow, If in the opinion of the Local Council, a community officer must be present during the activity, applicant shall also pay. together with the fees established in Schedule C, a fee as established in Schedule A.

Amended by:
L.N. 426 of 2007.

SCHEDULE C

(Regulation 2)

Fees leviable for permits in accordance with these regulations

For the opening or breaking up of footway or surface of any street	€2.33
For the renewal of the same permit	€2.33

SCHEDULE D

(Regulation 4(2))

LOCAL COUNCILS (Coat-of-Arms)

APPLICATION FOR TRENCHING WORKS

Details of applicant: ..... Date: .....

Name and Surname: .....

Address: .....

I.D Card No: ..... VAT Reg No (if applicable) .....

Site plan of the site where trenching works are to be carried out

Certificate from a civil engineer showing details of the works proposed and the machinery to be used

Details of site where trenching works are proposed

Address: .....

Period: from: ..... to: .....

.....

Signature of Applicant

FOR OFFICIAL USE

Date and time when application is received: ..... Registration No: .....

Fee paid: ..... Receipt No: .....

Documents:

site plan of the location where trenching works are to be carried out	YES / NO
Certificate from Civil Engineer	YES / NO
Traffic scheme - list of traffic signs/markings to be used	YES / NO

Special conditions by Council: .....

Permit No: ..... Valid from: ..... to .....

Office Rubber Stamp:

.....

Executive Secretary signature