

SUBSIDIARY LEGISLATION 549.26

**DEVELOPMENT PLANNING (CLAMPING AND
REMOVAL OF OBJECTS USED FOR ILLEGAL
DEVELOPMENT) REGULATIONS**

1st February, 2002

*LEGAL NOTICE 26 of 2002, as amended by Legal Notices 342 of 2002
and 425 of 2007.*

1. The title of these regulations is the Development Planning (Clamping and Removal of Objects used for Illegal Development) Regulations. Title.
2. (1) In these regulations, unless the context otherwise requires: Definitions.
*Amended by:
L.N. 342 of 2002.
Cap. 552.*

"the Act" means the Development Planning Act;

"the Authority" means the Planning Authority established under the Development Planning Act and, or the Environment and Resources Authority established under the Environment Protection Act, as the case may be; Cap. 552.
Cap. 549.

"object" means any equipment, machinery, tools, cranes, bulldozers, mechanical shovels, vehicles or other objects whether movable or immovable;

"site" means any land, building or area at sea where the Authority can execute any enforcement action.
3. The Authority or any contractor duly authorised by it for specific purposes of these regulations may remove, store and dispose of any object which is being used by any person for the carrying out of illegal development, or any object which is on the site subject to the execution of an enforcement notice. Removal, etc., of objects by the Authority or by its contractors.
4. The Authority or any contractor duly authorised by it for specific purposes of these regulations may: Fixing of clamps to equipment, machinery and vehicles used for illegal development.
 - (a) fix wheel clamps to any object which is used or which the Authority believes that it was or will be used for the carrying out of illegal development on any site; and
 - (b) fix any device to render it inoperable or to render an object unworkable, or to immobilize any object which is used or which the Authority believes that it was or will be used for the carrying out of illegal development on any site.
5. The wheel clamps shall neither be removed by the Authority nor shall the object be returned to its owner before a fee levied by the Authority in terms of these regulations has been paid: Removal of clamps.

Provided that should the owner of the clamped object fail to pay such fee within a reasonable time not exceeding twenty-four

hours, the clamped object shall be removed from site and the fees then due would be those specified in terms of regulation 9(b), (c) and (d), as the case may be.

Exemption from liability.

6. The Authority shall be exempted from any liability for damage arising in connection with the fixing or removal of clamps or the removal of any object or the storage or disposal of any object in accordance with these regulations:

Provided that a person who acts with malice or is guilty of gross negligence in the performance of his duties during such fixing or removal of clamps or the removal of any object or its storage or disposal, shall not be exonerated from liability for damages caused.

Notice of removal and storage.
Amended by:
L.N. 342 of 2002.

7. (1) The Authority shall publish a notice of removal in the Gazette and two other local newspapers, describing the objects removed and indicating the exact locality from where they have been removed.

(2) The Authority shall also indicate in the same notice the place where the objects are being stored and call on their owners to retrieve such objects after producing sufficient proof of their entitlement thereto, together with any such guarantee which the Authority may deem sufficient in indemnifying it against any claim in connection with the return of such object to its lawful owner and together with any payments due as provided in these regulations:

Provided that the provisions of this regulation shall not apply to any objects whatsoever removed by the Authority, or any contractor duly authorized by it for the specific purposes of these regulations, where such objects constituted the illegal development subject to the execution of an enforcement notice:

Provided further that the provisions of this regulation shall not apply to any objects whatsoever, which objects are the cause of the change of the use of the site subject of the enforcement notice in question.

Disposal of objects.

8. (1) The Authority may order the sale of any object if it would still not have been retrieved by its lawful owner within thirty days from the publication of the notice of removal as provided in regulation 7.

(2) Any sale made in terms of subregulation (1) shall be made either by public auction or after a call for tenders.

(3) The Authority may, at its discretion, dispose of those objects which have not been sold by public auction or after a call for tenders, after having given at least one month's notice to the Minister responsible for finance.

Fees to be levied by the Authority.
Amended by:
L.N. 425 of 2007.

9. (1) There shall be payable to the Authority the following fees:

(a) for the removal of clamps	€232.94
Provided that for the removal of clamps affixed to a vehicle, the fee is	€93.17

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| (b) for the release, towing or removal of an object and storage thereof during the first twenty-four hours or part thereof | €104.82 |
| (c) for the storage of the object after the first twenty-four hours per day or part thereof | €116.47 |
| (d) for the auction or any other form of disposal of the object | €116.47 |

Provided that when additional expenses in excess of each particular fee in paragraph (a), (b), (c) and (d) have been incurred, the Authority shall also have the right to collect such expenses and subsequently detract them from the proceeds of any sale or disposal of the object or to demand the payment thereof before surrendering any object to its lawful owner or to the purchaser in the event of a sale by auction.

(2) In case where the above fees are not collected by the Authority in whole or in part, such uncollected fees can be recovered from the lawful owner of the objects as a civil debt.

10. Any actions taken by the Authority under these regulations shall be without prejudice to any criminal or civil action or to any enforcement action taken in terms of the Act.

Criminal, civil and administrative actions to remain unprejudiced.

11. Any unauthorised person who attempts to remove or removes wheel clamps fixed to any object or attempts to remove or removes any object with clamped wheels, or attempts to contravene or contravenes the provisions of regulation 4, shall be guilty of an offence against these regulations and liable, on conviction, to a fine (*multa*) of not less than two hundred and thirty-two euro and ninety-four cents (€232.94) and not more than two thousand and three hundred and twenty-nine euro and thirty-seven cents (€2,329.37):

Offences.
Amended by:
L.N. 425 of 2007.

Provided that in the case of a second or subsequent offence, the offender shall be liable, on conviction, to a fine (*multa*) of not less than one thousand and one hundred and sixty-four euro and sixty-nine cents (€1,164.69) and not more than eleven thousand and six hundred and forty-six euro and eighty-seven cents (€11,646.87) and the Court shall order that the said object shall be confiscated and handed over to the Authority to dispose of in terms of regulation 8.