**L.N. 227 of 2006**

# IMMOVABLE PROPERTY (ACQUISITION BY NON-RESIDENTS) ACT (CAP. 246)

## Immovable Property (Designation of Special Areas) Regulations, 2006

IN exercise of the powers conferred by article 8 of the Immovable Property (Acquisition by Non-Residents) Act, hereinafter referred to as "the Act", the Prime Minister and Minister of Finance has made the following regulations:-

Title.

**1.** The title of these regulations is the Immovable Property (Designation of Special Areas) Regulations, 2006.

Criteria and guidelines for the Designation of Special Areas.

**2.** (1) The Minister responsible for finance, hereinafter referred to as "the Minister", shall only issue an Order designating an area as a Special Designated Area in terms of article 2 of the Act if satisfactory evidence is submitted by the applicant to show that:

(a) the superficial land area is not less than ten thousand square metres (10,000$m^2$) and is wholly owned by the applicant or held by him in perpetual emphyteusis or temporary emphyteusis for a period exceeding ninety nine years, not taking into account the period prior to the date of the application;

(b) the applicant has committed himself to restore historic structures in the area or to regenerate a depressed urban, commercial or industrial area;

(c) the development will provide high quality residential, commercial or industrial property;

(d) the projected development is in harmony with its surroundings, will be of architectural significance when completed and the quality of materials and finishing to be used in the project are of the highest standard;

(e) there is not sufficient available property in other Special Designated Areas to satisfy current demand;

(f) outline or full development permits for the projected development have been issued by the Malta Environment and Planning Authority or such other competent authority;

(g) the applicant has performed a feasibility study, is of good financial standing and discloses a legitimate source of funds to be utilised for the project; and

(h) the applicant will retain the management and regular maintenance of all the area, including the infrastructure and utilities thereof, intended for public or common use; provided that such management and maintenance may be delegated to a management company with a proven track record.

(2) A Special Designated Area shall be defined by reference to the boundaries set out in the Order and by reference to a site plan contained in the Order.

(3) In assessing the suitability of the area indicated in the application and the conformity of the development projected thereon with the parameters of sub-regulation (1) of this regulation, the Minister shall seek the advice of experts in the respective fields.

Fee payable.

**3.** Upon approval of the application by the Minister, but prior to the designation of the area as a Special Designated Area, the applicant shall pay a one-time fee of ten thousand liri (Lm10,000) increased by one lira (Lm1) per square metre of superficial area for any area in excess of ten thousand square metres (10,000$m^2$).

Minister to keep record of transfers.

**4.** The Minister shall keep a separate record showing all transfers of ownership or other transfers of real rights in Special Designated Areas and, to this end, every Notary publishing such deed shall indicate whether the deed relates to property in a Special Designated Area or otherwise, on the notice submitted to the Commissioner of Inland Revenue (Capital Transfer Duty Department) for the purpose of the Duty of Documents and Transfers Act. Cap. 364.

Penalties.

**5.** (1) The failure to fulfil any commitment undertaken by the applicant in the application, shall constitute an offence under the Act and the applicant, or the person or persons responsible for the management, where the applicant is a juridical person, shall be liable, on conviction, to a fine not exceeding ten thousand liri (Lm10,000) and in the case of a continuing offence, to a further fine of not less than one hundred liri (Lm100) and not exceeding one thousand liri (Lm1,000) for each day during which the offence continues.

(2) The Minister may, furthermore and without prejudice to any other remedy or penalty, at any time revoke the Special Designated Area status of an area by notice published in the Gazette in the event that:

(a) the applicant has made any false declaration or otherwise given incorrect or incomplete information or failed to disclose a material fact which has had, or may have had if disclosed, a bearing on the approval of the application; or

(b) the applicant has failed to fulfil any of the commitments undertaken by him in the application within ten years from the issue of the Order designating the area as a Special Designated Area; or

(c) the applicant has failed to complete the projected development within ten years from the issue of the Order designating the area as a Special Designated Area:

Provided that such revocation shall not be imposed retroactively and shall not prejudice the Special Designated Area status of any property in the area which has been validly transferred to third parties prior to the date of such revocation.

Revokes L.N. 48 of 1993.

**6.** The Immovable Property (Designation of Special Areas) Regulations, 1993, are hereby revoked.

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