

I assent.

(L.S.)

Ugo MIFSUD BONNICI
President

12th August, 1997

ACT No. XXIII of 1997

AN ACT further to amend the Development Planning Act, 1992.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same, as follows:-

Short title.

1. This Act may be cited as the Development Planning (Amendment) Act, 1997, and shall be read and construed as one with the Development Planning Act, 1992, hereinafter referred to as “the principal Act”.

Act I of 1992.

Amendment of
section 2 of the
principal Act.

2. Section 2 of the principal Act shall be amended as follows:

(a) immediately after the definition of “building operations” there shall be inserted the following new definition:

“ “conditions” means general conditions applied by the Authority in respect of applications and in respect of their processing but does not include particular conditions tied to the issue of a particular permit;”;

(b) immediately after the definition of “erection” there shall be inserted the following new definition:

“ “exempt works” means any works or development which do not require a development permit under Part IV of this Act;” and

(c) immediately after the definition of "use" there shall be inserted the following new definition:

"“Users’ Committee” means the Committee established under section 17A of this Act;”.

3. Section 5 of the principal Act shall be amended as follows:

Amendment of
section 5 of the
principal Act.

(a) in subsection (1) thereof, for the words “with approved policies and plans.” there shall be substituted the words “with policies, plans and conditions approved by Government and with procedures as approved by the Minister.”;

(b) for paragraph (a) of subsection (2) thereof there shall be substituted the following:

“(a) the preparation of the structure plan and the supplementary documents, including any other matter ancillary, incidental or conducive thereto, and the maintenance thereof following their approval by Government.

(c) in paragraph (b) of subsection (2) thereof for the words “relating to planning.” there shall be substituted the words “relating to planning;”;

(d) immediately after paragraph (b) of subsection (2) thereof there shall be added the following new paragraph:

(c) the publication and updating, as circumstances may warrant, of an official manual containing:

(i) policies, plans, conditions and procedures approved as provided in subsection (1) of this section and which will be taken into consideration when applications for permits for development are considered;

(ii) the list of exempt works;

(iii) the effective date of such policies, plans, conditions and procedures;

(iv) all other relevant material pertaining to development applications and permits.”;

(e) in subsection (4) thereof:

(i) for the words "the Authority may delegate" there shall be substituted the words "the Authority may, with the approval of the Minister, delegate"; and

(ii) immediately after the words "as it may deem appropriate." there shall be added the words "Notice of any such delegation shall be published in the Gazette."; and

(f) for subsection (5) thereof there shall be substituted the following subsections (5) and (6):

"(5) 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.

(6) It shall be the Minister's function to ensure that the Authority is fully informed of Government's policies relative to development, and to monitor the proper execution of such policies."

Amendment of
section 6 of the
principal Act.

4. For subsections (1) and (2) of section 6 of the principal Act, there shall be substituted the following:

"(1) The Authority shall appoint a Director of Planning and a Director, Administration and Implementation of Procedures who shall report directly to the Board of the Authority and who shall themselves or their representatives have the right to be present at all meetings of the Authority and of the Development Control Commission. The Authority shall also appoint such other officers and employees as the Authority may from time to time deem necessary to carry out its functions under this Act.

(2) The Authority shall also appoint one of its officers to act as secretary of the Authority. The secretary shall have the duty of calling meetings and keeping minutes and such other duties as the Chairman may delegate to him."

Amendment of
section 12 of the
principal Act.

5. In subsection (3) of section 12 of the principal Act, for the words "may regulate its own proceedings." there shall be substituted the words "may regulate its own proceedings. The Committee shall

report in writing to the Minister and to the Authority on a quarterly basis about its operations.”.

6. Section 13 of the principal Act shall be amended as follows: Amendment of section 13 of the principal Act.

(a) in paragraph (b) of subsection (1) thereof, for the words “appointed by the Authority from among its members, and” there shall be substituted the words “appointed by the Authority; and”; and

(b) in subsection (5) thereof, for the words “prior arrangements.” there shall be inserted the words “prior arrangements. At the request of any member of the Commission, the deliberations of the Commission shall be held in private but every vote, even if by secret ballot, shall be conducted in public.”.

7. Section 14 of the principal Act shall be amended as follows: Amendment of section 14 of the principal Act.

(a) in subsection (1) thereof immediately after the words “the President” there shall be inserted the words “acting on the advice of the Minister”;

(b) in subsection (2) thereof immediately after the words “The President” there shall be inserted the words “, acting on the advice of the Minister,”;

(c) in subsection (3) thereof, for the words “the members shall be substituted either by another person appointed for the purpose by the President” there shall be substituted the words “the member shall be substituted by another person either appointed for the purpose by the President acting on the advice of the Minister”; and

(d) immediately after subsection (3) thereof there shall be added the following new subsections:

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

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

Amendment of
section 15 of the
principal Act.

8. Section 15 of the principal Act shall be amended as follows;

(a) in paragraph (a) of subsection (1) thereof, for the words "including the enforcement of such control;" there shall be substituted the following:

"including the enforcement of such control:

Provided that such an appeal may only be made by the applicant or by a third party who had submitted comments when the application to carry out the development had been published and no appeal shall lie by a third party from development control decisions concerning a development which is specifically authorised in an approved development plan."; and

(b) for subsection (7) thereof there shall be substituted the following:

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

Addition of new
section 17A to
the principal Act.

9. Immediately after section 17 of the principal Act there shall be added the following new heading and new section:

"6. USERS' COMMITTEE

Establishment
and
functions
of the Users'
Committee.

17A. (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 recognized by the Minister for the purpose of this section. The Users' Committee shall be autonomous from the Authority and shall be appointed by and be responsible to the Minister to whom it shall report at least every six months, or earlier as the need arises.

(2) The Users' Committee shall supervise the general functioning of the Authority particularly to ensure, in the interest of the general public an expeditious and fair

process and transparency and uniformity in the Authority's decisions and acts. For these purposes the Users' Committee shall monitor the running of the Authority and shall propose, to the Authority or the Minister as the case may be, such changes to administrative processes and practices as it may deem appropriate."

- 10.** For subsection (3) of section 18 of the principal Act there shall be substituted the following: Amendment of section 18 of the principal Act.

"(3) The Authority shall monitor the structure plan and review it as often as may be necessary provided such review shall not take place within a period of less than 5 years. The structure plan can be reviewed in parts by Parliamentary Resolution, provided such review shall not adversely affect the rights acquired by any person prior to the effective date of such review. Every such review shall be made and shall take effect as provided in the following provisions of this Part of this Act."

- 11.** Section 30 of the principal Act shall be substituted by the following new section: Substitution of section 30 of the principal Act.

*Developments to require permission. **30. (1)** Subject to the provisions of this section and to the following provisions of this Part of the Act, no development shall be carried out after the coming into force of this Act except with the permission of the Authority, in this Act referred to as development permission.

(2) For the purposes of this section, 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 or the making of any material change in use of land or building other than:

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

(b) internal alterations to a building which do not affect the external configuration of appearance thereof and comply with any regulations made under section 60 of this Act;

(c) 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; or

(iii) the conversion to agricultural use of land which is not currently used for agricultural purposes; and

(d) in the case of buildings or other land that are used for a purpose of any class specified in an order made by the Authority under this Act, the use thereof for any other purpose of the same Class.

(3) For the purpose of this section:

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

(b) the deposit of refuse or waste materials on land; or

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

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

(4) For the purpose of this section, development in relation to the sea includes land reclamation from the sea, aquaculture and beach developments and their related uses.”.

Amendment of
section 31 of
the principal Act.

12. Section 31 of the principal Act shall be amended as follows:

(a) in subsection (1) thereof, for the words “The Authority” there shall be substituted the words “The Authority in consultation and agreement with the Chamber of Architects”;

(b) in subsection (2) thereof, for the words “or indicated therein.” there shall be substituted the words “or indicated therein. The development or any aspect thereof regulated by such an order shall be called ‘exempt works’ ”; and

(c) immediately after subsection (3) thereof there shall be added the following new subsections:

“(4) A development order shall include works of a relatively minor nature such as internal works, minor additions to existing buildings, minor variations during construction, repairs to dangerous structures, and reconstruction of damaged buildings which repairs and reconstruction are to be carried out in the existing style or according to permitted policies or conditions.

(5) Copies of development orders shall be readily accessible to the public by the Authority on the payment of the prescribed fee.

(6) The Authority in consultation with the Chamber of Architects shall periodically review development orders to minimise the development requiring the Authority’s permission.

(7) Works carried out under development orders, where so specified in the development orders, are to be carried out under the supervision of a person holding a warrant of architect and civil engineer and are to be notified in writing to the Authority.”.

13. Immediately after subsection (4) of section 32 of the principal Act there shall be added the following new subsection: Amendment of section 32 of the principal Act.

“(5) Any person may on the basis of issues relevant to planning make representations objecting against the development. Such objection is to be in writing and shall contain a reasoned justification therefor, and is to be received by the Authority within a period of fifteen days from the publication of the notice referred to in subsection (4) of this section. Such period may be shortened to seven days in urgent cases as may be indicated in the publication. The Authority shall consider and decide on the objection.”.

14. Section 33 of the principal Act shall be amended as follows: Amendment of section 33 of the principal Act.

(a) for subsections (1), (2) and (3) thereof there shall be substituted the following:

“(1) In its determination upon an application the Authority shall have regard to the following:

(a) policies emanating from the existing structure plan and from any subsidiary plans, if any;

(b) development plans;

(c) representations made in response to the publication of the proposal;

(d) any other material consideration including aesthetic, sanitary and other considerations which the Authority may deem relevant.

Provided that legislated policies and conditions shall not be applied retroactively so as to adversely affect acquired rights arising from a valid development permit.

(2) The Authority shall have power to grant or to refuse a development permit, and in granting such permit the Authority shall be entitled to impose such condition which it may deem appropriate:

Provided that upon a refusal or the imposition of particular conditions, the Authority, or the Commission shall give detailed reasons based on existing policies for such refusal or for any particular conditions that may have been imposed.

(3) The term of validity of a development permit shall be three years from the date of issue and upon the lapse of the said period:

(a) if the site has not been committed in accordance with the permit a new application which shall be presented and shall be considered by the Authority according to the policies in force at the time of the said new application shall be required for the development to take place;

(b) if the site has been committed and works have commenced on the site the validity of the permit shall be extended for a period of a further twelve months;

(c) where at the lapse of the period as extended in virtue of paragraph (b) hereof, the development has not been completed, the Authority may, on the application of the person holding the permit, extend the permit to further period or periods as it may consider reasonable.”; and

(b) in subsection (4) thereof, for the words "its validity or operation." there shall be substituted the words "its validity or operation. The permit shall automatically pass on to new owners upon the notification of the transfer of ownership by simple letter to the Authority."

- 15.** Immediately after subsection (4) of section 34 of the principal Act there shall be added the following new subsection: Amendment of section 34 of the principal Act.

"(5) Where, after a development permit is issued the development is not being carried out in accordance with the permit, or is otherwise causing damage to the environment or the infrastructure, the Authority may demand, as a condition of the continuance of the permit, that the person in whose favour the permit is issued should provide a bond in favour of the Authority in order to guarantee compliance with the conditions of the permit 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 subsection shall be interpreted as authorising the Authority to demand a bond in an amount not commensurate with the nature of the project."

- 16.** For section 35 of the principal Act there shall be substituted the following: Substitution of section 35 of the principal Act.

"Register of applications. **35.** 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; and

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

Provided that the detailed plans shall only be accessible to persons holding the warrant of architect and civil engineer upon a declaration in writing about their interest to see the same."

- 17.** For subsections (1) and (2) of section 36 of the principal Act there shall be substituted the following: Amendment of section 36 of the principal Act.

“(1) The Authority shall take a decision on any application for development proposed within a temporary provisions scheme boundary or a development boundary as indicated in an approved local plan not later than twelve weeks after it has validated the application and, in default, permission shall be deemed to have been granted provided that the application conforms with approved policies:

Provided that the Authority may extend the said period by an additional period of twenty-six weeks by posting a registered letter to the applicant giving the reasons, based on planning issues, for such an extension.

(2) The Authority shall take a decision on an application not falling under subsection (1) of this section not later than twenty-six weeks after it has validated the application:

Provided that the Authority may extend the said period by an additional period of twenty-six weeks by posting a registered letter to the applicant giving the reasons, based on planning issues, for such an extension.

(3) Notwithstanding the foregoing provisions of this section, where the Authority, within the said period of twelve weeks or of twenty-six weeks, as the case may be, has informed the applicant that the application requires or calls for a full environmental impact assessment or an environment planning statement, whether under the Environment Protection Act, 1991, or because of any other consideration, or where a traffic impact statement is required, or where the Authority requires consultation with government departments or agencies, the period taken for the submission of an acceptable assessment or statement by applicant or response by government departments or agencies, as the case may be, shall not be taken into consideration for the purpose of the twelve weeks or twenty-six weeks mentioned in subsection (1) or (2) of this section.

(4) Government departments or agencies shall respond in writing to the Authority not later than four weeks from date of receipt of request by the Authority. In default, such government departments or agencies shall be deemed not to object to such application.

(5) In all cases moreover, the period required for the applicant to submit amended plans, new information or reasons why the

application should not be refused, shall not be construed as forming part of the said periods of twelve weeks or of twenty-six weeks aforesaid.”.

- 18.** For subsection (2) of section 37 of the principal Act there shall be substituted the following subsections (2) and (3):

Amendment of
section 37 of
the principal Act.

“(2) An appeal under this section shall be made within thirty days of receipt by registered mail of the decision of the Authority.

Provided that, where the Authority is requested to reconsider its decision, and such request is made within fourteen days after the receipt of such decision by the applicant, the Authority shall give a detailed reply by registered mail to such a request within thirty days from receipt of the same and the period of thirty days within which an appeal may be entered shall commence to run from the date or which the reply of the Authority to such request is received.

(3) The Appeals Board shall then appoint the first hearing of the appeal within three months from the date of filing of the appeal.”.

- 19.** Section 40 of the principal Act is hereby repealed.

Repeal of
section 40
of the
principal Act.

- 20.** Section 46 of the principal Act shall be amended as follows:

Amendment of
section 46 of
the principal Act.

(a) in subsection (1) thereof, for the words “to regulate their conservation.” there shall be substituted the words “to regulate their conservation:” and immediately thereafter there shall be added the following proviso:

“Provided that upon the issue of a conservation order the owner shall have the right to immediate access at reasonable times to all documentation of the Authority concerning the said order for the purpose of studying the relative findings and considerations and the owner may contest the said decision in writing with the Authority within thirty days from the date when the order is notified to him or is published in the Gazette.”;

(b) subsection (2) thereof shall be substituted by the following:

“(2) The list of conservation orders and of schedule property, and any additions or amendments thereto, shall be published in the Gazette. The Authority shall also notify any one of the known owners of any scheduled property of the fact of its inclusion in the list and of any conservation order made with respect to it. Notice of the conservation order and scheduling shall also be affixed on site.”; and

(c) immediately after subsection (7) thereof, there shall be added the following new subsection:

“(8) An owner of scheduled property has a right to demand the reconsideration of any scheduling of his property. Such demand shall be entered in writing with the Authority within thirty days of notification or publication in the Gazette, whichever is the later, of the scheduling and the Authority shall decide within three months of receipt by it of the demand for reconsideration.”.

Amendment of
section 47 of the
principal Act.

21. In subsection (1) of section 47, for the words “as it may deem necessary.” there shall be substituted the words “as it may deem necessary and the provisions of the proviso to subsection (1) of section 46 of this Act shall apply:

Provided that in case of urgency the Chairman of the Authority may make an emergency conservation order without the need of consulting the other members of the Authority.”.

Amendment of
section 52 of the
principal Act.

22. Section 52 of the principal Act shall be amended as follows:

(a) in subsection (1) thereof, for the words “shall serve a notice” there shall be substituted the words “shall serve a stop notice” and for the words “to be stopped forthwith.” there shall be substituted the words “to be stopped forthwith. If the owner of the land is not known to the Authority the stop notice shall be served on the occupier.”; and

(b) in the English text of subsection (2) thereof, for the words “may also be served” there shall be substituted the words “shall also be served”.

Amendment of the
First Schedule to
the principal Act.

23. The First Schedule to the principal Act shall be amended as follows:

(a) in paragraph 3 thereof, for the words “as it may itself decide.” there shall be substituted the words “as it may itself decide. The provisions of subsection (5) of section 13 shall *mutatis mutandis* apply to the Authority.”; and

(b) in paragraph 4 thereof, for the words “a second or casting vote.” there shall be substituted the words “a second or casting vote. All members of the Authority present at its meetings shall cast their vote in favour or against any motion put to the vote.”.

24. Immediately at the end of paragraph 2 of the Third Schedule to the principal Act, there shall be added the words “The Authority shall file its reply within 30 days from service upon it of the application. The reply shall be served on the appellant.”.

Amendment of the
Third Schedule to the
principal Act.

25. (1) Any appeals pending before the Planning Appeals Board before the coming into force of this Act, shall on the coming into force of this Act continue to be heard and be determined by the Planning Appeals Board constituted under section 14 of the principal Act, as amended by this Act and where such appeals have been appointed or put off for any particular date by the said Board as previously constituted they shall remain so appointed or put off by the Board as now constituted.

Transitory
provisions.

(2) Any permit in force immediately before the coming into force of this Act shall upon notification to the Authority by the person in whose favour the permit is issued of his intention to avail himself of the right granted under this subsection, be automatically extended for a period of three years from the date when the permit was originally issued, and the provisions of paragraphs (a), (b) and (c) of subsection (3) of section 33 of the principal Act as amended by section 13 of this Act shall apply upon the lapse of said period.

(3) Without prejudice to the provisions of subsection (1) of this section, those persons who immediately before the coming into force of this Act are members of the Planning Appeals Board shall continue to hold office for a period of three months from the coming into force of this Act after which period their appointment shall lapse but they may be reappointed in accordance with and for such period as provided by the provisions of the principal Act as amended by this Act.

Passed by the House of Representatives at Sitting No. 115
Wednesday, 30th July, 1997.

Myriam Spiteri Debono
Speaker

RICHARD J. CAUCHI
Clerk to the House of Representatives.