L. N. 277 of 2012

ENVIRONMENT AND DEVELOPMENT PLANNING ACT (CAP. 504)

Schedule of Penalties Regulations, 2012

BY VIRTUE of the powers conferred by articles 61 and 79 of the Environment and Development Planning Act, the Minister for Tourism, Culture and the Environment, after consultation with the Malta Environment and Planning Authority, and with the concurrence of the Minister of Finance, the Economy and Investment, has made the following regulations:

Title, commencement and applicability.

1. (1) The title of these regulations is the Schedule of Penalties Regulations, 2012.

(2) These regulations shall come into force on the 24th November, 2012, and shall apply to those applications submitted on or after the date of coming into force of these regulations.

Definitions.

2. (1) In these regulations, unless the context otherwise requires:-

Cap. 504.

"the Act" means the Environment and Development Planning Act;

"the Authority" has the same meaning as is assigned to it in article 2 of the Act;

L.N. 356 of 2010.

"DPF" means the development permission fee in accordance with the Development Planning (Fees) Regulations, 2010 applicable on an application relating to the illegal development undertaken, or relating only to the illegal part in the case of an application covering a number of developments;

"ODZ" means Outside Development Zone and means development outside the boundary of a temporary provisions scheme or outside the boundary for development in a local plan;

"Protected Area" means an area which is protected under the provisions of the Act or any regulation issued thereunder.

(2) Development under these regulations shall exclude minor amendments and development notification orders without notification.

(3) In these regulations any expression defined by the Act has the same meaning as it has in the Act.

Schedule of penalties.

3. Where the Authority gives notice in writing to a person in accordance with subarticle (1) of article 93 of the Act, the penalty which is to be notified to such person shall be in accordance with the schedules to these regulations in terms of the following regulations.

Development not in accordance with a development permission.

4. (1) Where the offence consists in failure to comply with approved plans or conditions or other obligations imposed by a development permission, unless such offence falls under Schedule C to these regulations, the penalties shall be in accordance with Schedule A to these regulations.

(2) The penalties mentioned in Schedule A to these regulations shall be paid upon the decision of a development planning application indicating the need for sanctioning the offence, and shall be increased by a further 50% if such offence was not indicated by applicant when the said application was submitted.

(3) The penalty shall be calculated in relation to the DPF, as shown in Schedule A to these regulations.

Development without a development permission.

5. (1) Where the offence consists of development carried out without a development permission, unless such offence falls under Schedule C to these regulations, the penalties shall be in accordance with Schedule B to these regulations.

(2) The penalties mentioned in Schedule B to these regulations shall be paid upon the decision of a development planning application indicating the need for sanctioning the offence, and shall be increased by 50% if such offence was not indicated by applicant when the said application was submitted.

(3) The penalty shall be calculated in relation to the DPF, as shown in Schedule B to these regulations.

Minor offences.

6. The following offences shall be considered as minor offences for the purposes of these regulations and shall, unless such property is within a protected area, be regulated by the penalties mentioned in Schedule C to these regulations:

(a) an extension to a change of use not exceeding 25 square metres, changes to size, style, form and other similar elements of the facade, excluding timber balconies, where such changes alter materially the character or context of the building and its surroundings but does not result in a totally different facade, and

(b) addition of 36 square metres to a building, provided that such an addition would not result in the creation of an additional dwelling unit;

(c) a development notification order with notification.

Other offences.

7. The offences mentioned in Schedule D to these regulations shall be regulated by the penalties mentioned therein.

SCHEDULE A
DEVELOPMENT NOT IN ACCORDANCE WITH A DEVELOPMENT PERMISSION OR NOT ACCORDING TO OFFICIAL ALIGNMENT, EXCLUDING MINOR AMENDMENTS

Development not in ODZ	Penalty
Where the DPF is Euro 1000 or less	Euro 300+200% of the DPF with a minimum of Euro 500
Where the DPF is between Euro 1000 and Euro2000	Euro 400+200% of the DPF
Where the DPF is more than Euro 2000	Euro 500+200% of the DPF up to a maximum of Euro 50,000
Development in ODZ	**Penalty**
Where the DPF is Euro 1000 or less	Euro 300+400% of the DPF with a minimum of Euro 100
Where the DPF is between Euro 1000 and Euro2000	Euro 400+400% of the DPF
Where the DPF is more than Euro 2000	Euro 500+400% of the DPF up to a maximum of Euro 50,000

Where the development above-mentioned is carried out in a protected area and not related to development within registered livestock farms, the above-mentioned fine may be increased by 100% up to a maximum of Euro 50,000

For the purposes of this Schedule, “development not in accordance with a development permission” shall mean a development which exceeds the approved footprint or, increases the approved volume of the building in excess of what is provided for in regulation 6(b).

SCHEDULE B
DEVELOPMENT WITHOUT A DEVELOPMENT PERMISSION.

Development not in ODZ	Penalty
Where the DPF is Euro 1000 or less	400% of the DPF with a minimum of Euro 100
Where the DPF is between Euro 1000 and Euro2000	400% of the DPF
Where the DPF is more than Euro 2000	400% of the DPF up to a maximum of Euro 50,000
Development in ODZ	**Penalty**
Where the DPF is Euro 1000 or less	Euro 300+600% of the DPF with a minimum of Euro 100
Where the DPF is between Euro 1000 and Euro2000	Euro 400 +600% of the DPF
Where the DPF is more than Euro 2000	Euro 500 +600% of the DPF up to a maximum of Euro 50,000

Where the development above-mentioned is carried out in a protected area and not related to development within registered livestock farms, the above-mentioned fine may be increased by 100%.

SCHEDULE C
MINOR OFFENCES AND DEVELOPMENT NOTIFICATION ORDER

The penalty is Euro 150

Where the development above-mentioned is carried out in a protected area and not related to development within registered livestock farms, the above-mentioned fine may be increased by 100%.

SCHEDULE D
OTHER OFFENCES

Type of offence	Penalty
Failure to serve a commencement notice or to serve it within the required time when this is required: For alterations or extensions For single dwelling units For other development	 Euro 50 Euro 75 Euro 200
Failure to return Setting Out Request Notice when this is required	Euro 150
Failure to affix the permit notice when required when development is taking place: At first instance For subsequent instances on same site	 Euro 50 Euro 100
Failure to obtain a Completion Certificate (certifying that the development has been carried out in accordance with the approved plans and with the conditions imposed on a permission) if imposed in a condition	Euro 1500
Tampering with seals placed by the Authority	1st attempt: Euro 1500 subsequent attempts: Euro 12,000 each time

Where the development above-mentioned is carried out in a protected area and not related to development within registered livestock farms, the above-mentioned fine may be increased by 100%.

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