

Nru. 2

29. 10. 87

MALTA

KAMRA TAD-DEPUTATI

ABBOZZ ta' Ligi mressaq mill-Onorevoli Michael Falzon, M.P., Ministru għall-Iżvilupp ta' l-Infrastruttura u moqri għall-Ewwel darba fis-Seduta tat-13 ta' Lulju, 1987.

ATT biex jirregola l-ghoti ta' permessi għat-tluġ u demolizzjoni ta' bini, u sabiex jagħmel dispożizzjonijiet ohra supplimentari għal dan.

P. MUSCAT TERRIBILE
Agent Skrivan tal-Kamra tad-Deputati

HOUSE OF REPRESENTATIVES

A BILL introduced by the Honourable Michael Falzon, M.P., Minister for Development of Infrastructure and read the First time at the Sitting of the 13th July, 1987.

AN ACT to regulate the grant of permits for the erection and demolition of buildings, and to make other provisions supplementary thereto.

P. MUSCAT TERRIBILE
Acting Clerk to the House of Representatives

ABBOZZ TA' LIĠI msejjah

ATT biex jirregola l-ghoti ta' permessi ghat-tluġh u demolizzjoni ta' bini, u sabiex jagħmel dispożizzjonijiet ohra supplimentari għal dan.

IL-PRESIDENT, bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqgħa f'dan il-Parlament, u bl-awtorità ta' l-istess, hareġ b'liġi dan li ġej:—

1. (1) Dan l-Att jista' jissejjah l-Att ta' l-1987 dwar Permessi ta' Bini (Provvedimenti Temporani).

Titolu
fil-qosor
u bidu
fis-sehh.

(2) Dan l-Att, hliet għal dan l-artikolu, għandu jidhol fis-sehh f'dik id-data li l-Ministru jista' b'ordni jistabilixxi fil-Gazzetta, u dati differenti jistgħu jiġu hekk stabbiliti għal dispożizzjonijiet differenti ta' l-Att.

2. (1) F'dan l-Att, kemm-il darba r-rabta tal-kliem ma tehtiegħ xort'ohra:

Tifsir.

“Area għall-Iżvilupp tal-Bini” u “Pjan għall-Iżvilupp tal-Bini” għandhom l-istess tifsir kif kien mogħti lilhom bl-Att ta' l-1983 dwar Arei għall-Iżvilupp tal-Bini;

Att Nru. 1
ta' l-1983

“Kodiċi” tfisser il-Kodiċi tal-Liġijiet tal-Pulizija;

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“Area Żviluppata” tfisser l-arej li fid-dhul fis-sehh ta' dan l-Att kienu mibnijin jew b'xi mod iehor kienu kommessi għal bini bi żvilupp eżistenti jew billi jkunu ġew provduti għalihom triqat u servizzi municiġjali ohrajn; u tfisser ukoll arej li qabel għadda l-Att ta' l-1983 dwar Arei għall-Iżvilupp tal-Bini, kienu jaqgħu taht proġetti regolaturi magħmulin skond il-Kodiċi, jew proġetti regolaturi dipartimentali u arej f'Għawdex indikati bħala arej ta' żvilupp; u dawk l-arej li wara li dahal fis-sehh l-imsemmi Att ta' l-1983 dwar Arei għall-Iżvilupp tal-Bini, kienu skond dak l-Att dikjarati u approvati bħala Arei għall-Iżvilupp tal-Bini;

“Ministru” tfisser Ministru responsabbli għax-xoghlijiet.

(2) F'dan l-Att, u fit-Taqsima I tal-Kodiċi:

(a) "Persuna" tinkludi korp ġuridiku mwaqqaf b' liġi u dipartiment tal-Gvern; u

(b) meta reat taht jew kontra xi dispożizzjoni li tinsab f'dan l-Att jew fit-Taqsima I tal-Kodiċi, jitwettaq minn korp ġuridiku mwaqqaf b'liġi jew minn dipartiment tal-Gvern, kull min fiż-żmien tat-twettieq tar-reat, kien *chairman*, *manager*, segretarju, kap jew ufficjal simili iehor tal-korp ġuridiku jew tad-dipartiment, jew ta x'wiehed jifhem li kien qiegħed jaġixxi f'kapacità bhal din, għandu jkun hati ta' dak ir-reat sakemm huwa ma jgħibx prova li huwa kien għamel hiltu biex iżomm milli jitwettaq ir-reat, jew li minkejja li huwa kien għamel hiltu r-reat twettaq mingħajr ma huwa kien jaf.

Pjan ta' struttura.

3. (1) (a) Il-Ministru għandu kemm jista' jkun malajr wara d-dhul fis-seħħ ta' dan l-Att ihejji pjan ta' struttura għall-iżvilupp ta' l-art f'Malta.

(b) Il-Ministru għandu jara li dak il-pjan ta' struttura jitqiegħed fuq il-Mejda tal-Kamra, u l-Kamra għandha b'riżoluzzjoni tadotta jew tiċhad dak il-pjan flimkien ma' dawk it-tidiliet fih li jkun jidhrilha xierqa.

(c) Pjan ta' struttura jista' jiġi revokat jew emendat b'riżoluzzjoni tal-Kamra tad-Deputati.

Survey.

(2) Il-Ministru għandu jagħmel *survey* ta' Malta, li fih jiġu eżaminati dawk il-hwejjeġ li jistgħu jolqtu l-iżvilupp jew l-ippjanar ta' l-iżvilupp tagħha u għandu jinkludi:

(a) il-karatteristiċi prinċipali fiżiċi u ekonomiċi nkluzi l-għanijiet prinċipali li għalihom tkun qegħda tiġi użata l-art;

(b) id-daqs, kompożizzjoni u distribuzzjoni tal-popolazzjoni;

(c) il-komunikazzjonijiet, sistema ta' trasport, u sistema ta' toroq;

(d) kull konsiderazzjoni li ma hijjex imsemmija f'xi wiehed mill-paragrafi ta' qabel li tista' tkun mistennija tolqot xi hwejjeġ ġa msemmija bħalma huma: l-iżvilupp industrijali, l-agrikoltura, djar, l-edukazzjoni, il-konservazzjoni u l-preservazzjoni, ir-riżorsi naturali, il-mistrieħ, ir-rikreazzjoni, it-turiżmu, is-servizzi pubbliċi u r-rimi ta' l-iskart; u

(e) dawk il-hwejjeġ l-oħra li jistgħu jiġu stabbiliti mill-Ministru.

Pjan.

(3) Il-pjan ta' struttura għandu jkun dokument miktub li ma jkunx marbut ma' siti speċifikati:

(a) li jkun jifformula l-*policy* nazzjonali ta' ppjanar u l-proposti ġenerali dwar l-iżvilupp u l-użu iehor ta' l-art inklużi miżuri għat-titjib ta' l-ambjent fiżiku u t-tmexxija tat-traffiku;

(b) li jkun jinterpreta r-relazzjoni ta' *policies* nazzjonali f'dak li hu ppjanar fiżiku u ambjentali safejn dawn il-*policies*

jirrigwardaw l-integrazzjoni tal-*policies* ekonomiċi, soċjali u ambjentali; u

(ċ) li jkun fih dawk il-hwejjeġ l-oħra li jistgħu jiġu stabbiliti mill-Ministru.

(4) Fil-formulazzjoni tal-*policy* u l-proposti generali skond il-paragrafu (a) tas-subartikolu (3) ta' dan l-artikolu, il-Ministru għandu jassigura li l-*policy* u l-proposti jkunu ġustifikati bir-riżultati tas-*survey* skond is-subartikolu (2) ta' dan l-artikolu u b'kull informazzjoni oħra li huwa jista' jikseb u li jkollha x'taqsam:

Gustifikazzjonijiet raġunati.

(a) ma' *policies* kurrenti dwar l-ippjanar ekonomiku nazzjonali u oġġettivi ta' żvilupp nazzjonali;

(b) ma' riżorsi li x'aktarx ikunu meħtieġa għat-twettiq tal-proposti tal-pjan ta' struttura;

(ċ) ma' dawk il-hwejjeġ l-oħra li jistgħu jiġu stabbiliti skond il-paragrafu (ċ) tas-subartikolu (3) ta' dan l-artikolu.

(5) Il-pjan ta' struttura għandu jkun fih jew ikun akkumpanjat minn dawk id-diagrammi, illustrazzjonijiet u informazzjoni deskrittiva li l-Ministru jista' jikkunsidra xierqa bil-ghan li jispjega jew juri ċar il-proposti fil-pjan, u kull diagramma, illustrazzjoni u informazzjoni deskrittiva għandha titqies bħala li tagħmel parti mill-pjan.

(6) Matul iż-żmien ta' tnejn tal-pjan ta' struttura qabel ma dan jiġi sottomess għall-adozzjoni tiegħu mill-Kamra skond il-paragrafu (b) tas-subartikolu (1) ta' dan l-artikolu, il-Ministru għandu jara li jkun hemm parteċipazzjoni pubblika billi jipprovdi:

(a) illi tinghata pubbliċità adegwata lir-rapport tas-*survey* li jkun sar skond is-subartikolu (2) ta' dan l-artikolu u lill-hwejjeġ li jkun propost li jiġu nklużi fil-pjan;

(b) illi dawk il-persuni li jistgħu jkunu mistennija li jixtiequ jagħmlu kull kumment tagħhom lill-Ministru dwar dawk il-hwejjeġ ikunu mgħarrfa li għandhom l-opportunità li jagħmlu dan; u

(ċ) illi dawk il-persuni jinghataw opportunità adegwata li jagħmlu dawk il-kummenti; u l-Ministru għandu jikkunsidra kull kumment illi jsirli f'dak iż-żmien li jista' jiġi stabbilit minnu.

(7) Hekk kif il-Ministru jkun hejja pjan ta' struttura, huwa għandu jipubblika abbozz ta' dak il-pjan li fih jindika ż-żmien li fih persuna tkun tista' tagħmel il-kummenti tagħha lilu dwar dak l-abbozz.

(8) Kemm jista' jkun malajr wara ż-żmien imsemmi fil-paragrafu ta' l-aħħar ta' qabel dan il-Ministru għandu jhejji abbozz finali tal-Pjan ta' Struttura b'dak it-tibdil li huwa jista' jqis xieraq wara li jikkunsidra kull kumment li seta' jkun sarlu skond is-subartikolu ta' qabel ta' dan l-artikolu, sabiex jissottomettih quddiem il-Kamra tad-Deputati skond is-subartikolu (1) ta' dan l-artikolu.

(9) (i) Meta pjan ta' struttura jkun ġie approvat skond is-

Pjani Lokali.

subartikolu (1) ta' dan l-artikolu, il-Ministru jista' jhejji pjani lokali ghal arei partikolari ta' Malta.

(ii) Il-pjani lokali msemija fil-paragrafu (i) ta' dan is-subartikolu ghandhom ikunu jikkonsistu f'mappa u tifsir miktub u ghandhom:

(a) jizviluppaw il-*policies* u proposti ġenerali tal-pjan ta' struttura u jirrelatawhom ghal arei speċifiċi ta' art;

(b) jipprovdu bażi dettaljata ghal kontroll ta' żvilupp;

(ċ) jipprovdu bażi dettaljata ghall-ko-ordinament u d-direzzjoni ta' proposti sew pubbliċi sew privati ghall-iżvilupp u użu iehor ta' l-art; u

(d) ikun fihom dawk il-hwejjeġ li l-Ministru jista' jistabbilixxi.

(iii) Il-pjan lokali ghal kull area għandu jkun fih, jew ikun akkompanjat minn, dawk id-diagrammi, illustrazzjonijiet u informazzjoni deskrittiva li l-Ministru jista' jistabbilixxi bil-għan li jispjega jew li juri ċar il-proposti fil-pjan; u kull diagramma, illustrazzjoni u informazzjoni deskrittiva bhal dik għandha titqies bhala parti mill-pjan.

(iv) Meta jiġu formulati l-proposti fi pjan lokali l-Ministru għandu jassigura li l-proposti jkunu b'mod ġenerali jaqblu mal-pjan ta' struttura kif approvat mill-Kamra u għandu jikkunsidra kull informazzjoni u kull konsiderazzjoni ohra li jkunu jidhrulu li huma rilevanti.

(v) Il-proċedura msemija fis-subartikoli (6), (7) u (8) ta' dan l-artikolu għandha tkun segwita *mutatis mutandis* fit-thejjija u approvazzjoni ta' pjani lokali.

(10) Meta l-pjan ta' struttura jkun ġie approvat, il-Ministru jista' biss jagħti permessi li jkunu skond il-prinċipji u l-*policies* stabbiliti fil-pjan ta' struttura u, barra minn hekk, meta pjan lokali jkun ġie approvat ghal area partikolari, il-Ministru jista' biss jagħti permessi għad-demolizzjoni u tluġ ta' bini f'dik l-area, skond dak il-pjan lokali.

Il-Ministru jista' jagħmel proġetti ta' pjani regolaturi.

4. (1) Sa dak iż-żmien li jkun ġie approvat pjan lokali ghal area partikolari li tkun tagħmel parti minn area żviluppata, il-Ministru jista' jagħmel proġetti ta' pjani regolaturi (hawnhekk iżjed 'il quddiem imsemija bhala proġett) dwar dik l-area skond is-subartikolu (2) ta' dan l-artikolu.

(2) Meta l-Ministru jkollu hsieb li jagħmel proġett jew li jagħmel emenda ghal proġett, huwa għandu:

(a) qabel ma japprova proġett bhal dak jew emenda, ihejji Proposta ta' Proġett ta' Pjan Regolatur (hawnhekk iżjed 'il quddiem imsejha "proposta") li għandha tinkludi dawk il-pjanti, kundizzjonijiet dwar żoni u dak it-tagħrif deskrittiv iehor li jista' jkun mehtieġ biex juri kif dan il-proġett jew emenda ser ikunu;

(b) kemm jista' jkun malajr wara t-thejjija tal-proposta jqiegħed kopja tagħha fuq il-Mejda tal-Kamra u minnufih jiehu

hsieb biex kopja ohra titqiegħed fl-uffiċċju tad-Dipartiment tax-Xoghlijiet, u dik il-kopja tkun miftuha għal spezzjoni pubblika għal żmien ta' 30 jum. Id-Direttur tax-Xoghlijiet għandu jiehu hsieb li jiġi ppubblikat avviż fil-Gazzetta u f'mhux inqas minn żewġ gazzetti ta' kuljum, fejn juri l-ġranet u l-hinijiet, li fihom u matulhom il-proposta għandha tkun miftuha għall-ispezzjoni pubblika;

(ċ) jagħti żmien ta' mhux inqas minn 30 jum mid-data li fiha l-proposta kienet għall-ewwel darba miftuha għall-ispezzjoni pubblika, matul liema żmien kull persuna jew korp ta' persuni jistgħu jissottomettu kull kumment tagħhom bil-miktub lill-Ministru li fihom tingħata kull raġuni għaliex il-proġett jew emenda maħsubin ma għandhomx ikunu approvati jew għandhom ikunu approvati wara li jkun emendati;

(d) kemm jista' jkun malajr wara li ż-żmien imsemmi fl-aħħar paragrafu ta' qabel dan ikun skada, u f'kull każ mhux aktar tard mill-ewwel seduta tal-Kamra wara li jgħaddi perijodu iehor ta' ġimgħa, iqiegħed kopja tal-kummenti kollha li jkun hekk irċieva fuq il-Mejda tal-Kamra;

(e) wara li jkun qiegħed il-kopja tal-kummenti fuq il-Mejda tal-Kamra skond il-paragrafu li jiġi minnufih qabel dan, jirtira jew japprova l-proġett kif introdott fil-proposta jew kif mibdul skond ma jkun ġie suġġerit f'xi kummenti magħmula skond il-paragrafu (ċ) ta' dan l-artikolu:

Iżda meta l-Ministru jkollu hsieb li japprova proġett kif mibdul hekk kif seta' ġie suġġerit kif imsemmi qabel, u dawn il-bidliet huma ta' sura li jibdlu sostanzjalment l-iskop tal-proposta oriġinali, il-Ministru għandu qabel ma japprova proġett bhal dak jinkorpora dawk il-bidliet fi proposta ġdida u d-dispożizzjonijiet ta' dan l-artikolu għandhom ikunu japplikaw għal dan.

(3) Minkejja d-dispożizzjonijiet tas-subartikolu (2) ta' dan l-artikolu, il-Ministru jista' mingħajr ma jirreferi lil xi awtorità ohra, jagħmel tibdil fil-linja ta' bini u ta' toroq fi proġett, sakemm dak it-tibdil ma jkunx jeffettwa l-kundizzjonijiet dwar żoni tiegħu.

(4) Fil-każ tat-tluġh jew demolizzjoni ta' bini f'area żviluppata li ma tkunx area li jkun ġie approvat għaliha pjan lokali, il-Ministru jista' biss jagħti permessi:

Permessi
għat-
tluġh
ta' bini
f'arei
żviluppati.

(a) fejn proġett ikun ġie approvat għar-rigward ta' l-art li fuqha jkun ser jittella' jew jiġi demolit bini, skond dak il-proġett; u

(b) fejn ebda proġett ma jkun hekk ġie approvat, skond dik il-politika stabbilita mill-Ministru u ppublikata fil-Gazzetta.

(5) Fil-każ tat-tluġh jew demolizzjoni ta' bini 'l barra minn area żviluppata li ma tkunx area li għaliha jkun ġie approvat pjan lokali l-Ministru jista' jagħti biss permessi:

Permessi
għal bini
'l barra minn
arei
żviluppati.

(a) skond *policy* magħmula għal dan il-ghan mill-Ministru u approvata b'riżoluzzjoni tal-Kamra tad-Deputati; jew

(b) meta l-ghoti ta' dak il-permess ikun awtorizzat b'riżoluzzjoni speċjali tal-Kamra.

(6) Minkejja d-dispożizzjonijiet tas-subartikoli (4) u (5) ta' dan l-artikolu l-Ministru jista' jawtorizza li jittella':

(a) bini li għandu jinbena fuq biċċiet ta' art akkwistati minghand l-Awtorità tad-Djar;

(b) bini li għall-kostruzzjoni speċifika tiegħu tkun giet trasferita art lil xi persuna mill-Gvern.

(7) Bla hsara għal kull setgħa oħra taht din il-liġi jew xi liġi oħra, il-Ministru jista' qabel ma jikkunsidra jekk għandux jagħti permess jew le, jordna lil min ikun applika sabiex jagħti dik il-pubblicità lill-applikazzjoni tiegħu b'dak il-mod li l-Ministru jista' jqis neċessarju sabiex il-pubbliku jkun jista' jsir jaf bl-applikazzjoni u jkun jista' jkollu l-opportunità li jagħmel kull kumment dwarha.

Il-Ministru
jista' jimponi
kundizzjonijiet
speċjali
fil-permessi.

5. Minghajr preġudizzju għal kull setgħa oħra taht din il-liġi jew xi liġi oħra, il-Ministru jista' fl-għoti ta' permess għad-demolizzjoni ta' xi bini, jimponi dawk il-kundizzjonijiet li jista' jqis li jkunu xierqa dwar it-tluġ ta' rpar jew struttura oħra madwar is-sit tax-xoghlijiet, sabiex jiżgura li kull inkonvenjenza għal terzi u kull periklu possibbli jiġu minimizzati.

Arei ta'
Preservazzjoni
u Konservazzjoni.

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6. (1) Bla hsara għall-Att dwar il-Protezzjoni ta' l-Antikitajiet u d-dispożizzjonijiet ta' kull liġi oħra dwar il-protezzjoni tal-wirt storiku, kulturali u naturali ta' Malta, il-Ministru għandu kemm jista' jkun malajr wara l-bidu fis-sehh ta' dan l-Att, jiddikjara kull area f'Malta li tkun Area ta' Preservazzjoni u Konservazzjoni.

(2) Il-proċedura stipulata fis-subartikolu (2) ta' l-artikolu 3 għandha tithares għall-approvazzjoni ta' Arei ta' Preservazzjoni u Konservazzjoni.

(3) Arei ta' Preservazzjoni u Konservazzjoni għandhom jiġu dikjarati u approvati dwar:

(a) arei li jkunu delinejati bi preċiżjoni li huma kkunsidrati li jiffurmaw parti mill-wirt kulturali ta' Malta li huma identifikati għall-protezzjoni bħala li għandhom valur kbir f'dik li hi storja, arti jew xjenza u li jinkludu:

(i) monumenti — li jkunu xoghlijiet arkitettoniċi, xoghlijiet ta' skultura monumentali, elementi jew strutturi ta' għamla arkeoloġika, għerien u kombinazzjonijiet ta' fattizzi;

(ii) gruppi ta' bini — li jkunu gruppi ta' bini separat jew konness, bini singolari jew il-vicinanze immedjati ta' madwarhom.

(iii) siti — li jkunu xogħol-il bniedem jew ix-xogħol kombinat tan-natura u tal-bniedem u arei li jinkludu siti arkeoloġiċi;

(b) arei li jkunu delinejati bi preċiżjoni li huma kkunsidrati li jiffurmaw parti mill-wirt naturali ta' Malta li huma identifikati għall-protezzjoni bħala li għandhom valur kbir f'dik li hi estetika, xjenza, konservazzjoni jew gmiel naturali u li jinkludu:

(i) fattizzi naturali — maghdudin formazzjonijiet fiżiċi u bijoloġiċi jew gruppi ta' dawk il-formazzjonijiet;

(ii) formazzjonijiet ġeoloġiċi u fiżjografiċi — li jikkostitwixxu l-ambjent fejn iġhixu speċi ta' annimali u pjanti mheddin;

(iii) siti naturali;

(ċ) dwar arei ta' attività intensiva f'dik li hi biedja;

(d) dwar arei identifikati għall-protezzjoni bhala li għandhom valur kbir minhabba t-tip ta' arkitettura u żvilupp tagħhom vernakulari, rurali jew modern jew minhabba l-interess storiku, kulturali u arkitettoniku tagħhom.

(4) Fejn area tkun giet dikjarata area ta' Preservazzjoni u Konservazzjoni:

(i) taht il-paragrafu (a) tas-subartikolu (3) il-Ministru għandu jawtorizza biss xogħlijiet ta' bini neċessarji għall-protezzjoni u konservazzjoni ta' bini u strutturi eżistenti;

(ii) taht il-paragrafu (b) tas-subartikolu (3) il-Ministru għandu jawtorizza biss xogħlijiet ta' bini neċessarji għat-tisbiħ, manutenzjoni u studji xjentifiċi ta' l-arej;

(iii) taht il-paragrafu (ċ) tas-subartikolu (3) il-Ministru għandu jawtorizza biss xogħlijiet ta' bini li għandhom x'jaqsmu direttament mal-biedja; u

(iv) taht il-paragrafu (d) tas-subartikolu (3) il-Ministru għandu jawtorizza biss xogħlijiet ta' bini li jkunu skond il-karatteristiċi ambjentali eżistenti.

(5) Id-dispożizzjonijiet tas-subartikolu (7) ta' l-artikolu 4 ta' dan l-Att għandhom ikunu japplikaw *mutatis mutandis* għal applikazzjonijiet għal permessi taht dan l-artikolu.

7. (1) Minkejja d-dispożizzjonijiet ta' l-artikolu 17 tal-Kodiċi u bla hsara għad-dispożizzjonijiet ta' l-Att dwar il-Protezzjoni ta' l-Antikitajiet, fejn il-Ministru jidhirlu li xi persuna tkun għamlet jew ikkawżat jew halliet li ssir xi haġa li għaliha kien meħtieġ permess skond is-subartikolu (1) ta' l-artikolu 16 tal-Kodiċi, meta ma jkunx hemm dak il-permess, jew li xi persuna ma tkunx qegħda żżomm jew tiżgura li jinżammu l-kundizzjonijiet stipulati fil-permess, il-Ministru jista' jordna n-notifika lil dik il-persuna ta' Ordni ta' Eżekuzzjoni li tkun tordna lil dik il-persuna biex ma tkomplex tagħmel, jew tikkawża jew thalli li ssir dik il-haġa li għaliha huwa meħtieġ permess taht is-subartikolu msemmi, jew li dik il-persuna tosserva dawk il-kundizzjonijiet stipulati fil-permess; u kull persuna li ma tobdux dik l-Ordni ta' Eżekuzzjoni li tiġi notifikata lilha kif imsemmi qabel, tkun hatja ta' reat kontra dan l-Att u oltre l-piena li tista' tehel taht xi liġi oħra, tehel meta tinstab hatja multa ta' elf lira Maltija.

Ordnijiet ta' Eżekuzzjoni.

(2) Il-multa msemmija fis-subartikolu (1) ta' dan l-artikolu għandha tingabar bhala dejn ċivili u għandha tiġi dikjarata mill-qorti kompetenti fl-ghoti tas-sentenza li hi dovuta u li għandha tithallas lid-Dipartiment tax-Xogħlijiet u għandha tiġi eżegwita fl-istess qorti li tagħ-

ti s-sentenza bl-istess mod bhallikieku nġatat f'azzjoni ċivili magħmula bejn id-Dipartiment tax-Xoghlijiet u l-hati.

Thassar l-Att ta' l-1983 dwar Arei għall-Iżvilupp tal-Bini.

8. (1) L-Att ta' l-1983 dwar Arei għall-Iżvilupp tal-Bini huwa b'dan imħassar.

(2) Minkejja d-dispożizzjonijiet tas-subartikolu (1) ta' dan l-artikolu, id-dispożizzjonijiet ta' l-Att ta' l-1983 dwar Arei għall-Iżvilupp tal-Bini għandhom ikomplu jsehhu:

(i) dwar l-emenda jew it-thassir ta' dikjarazzjoni magħmula mill-Ministru u adottata mill-Kamra skond l-artikolu 3 ta' dan l-Att, qabel il-bidu fis-sehħ ta' dan l-Att;

(ii) dwar il-hlas ta' kumpens li jista' jkun dovut lil xi persuna li jkollha dritt fuq jew interess f'xi art li għaliha l-artikolu 5 ta' dak l-Att japplika;

(iii) dwar ir-registrazzjoni ta' xi art f'Area għall-Iżvilupp tal-Bini, fir-Registru ta' l-Artijiet;

(iv) dwar kull permess għat-tluġ ta' xi bini mogħti skond id-dispożizzjonijiet ta' dak l-Att, qabel il-bidu fis-sehħ ta' dan l-Att; u

(v) dwar kull reat li sar kontra d-dispożizzjonijiet ta' dak l-Att, u kull responsabbiltà li tohroġ minnu, qabel il-bidu fis-sehħ ta' dan l-Att.

Emenda tal-Kodiċi.

9. Il-Kodiċi għandu jkun emendat kif ġej:

(1) fis-subartikolu (1) ta' l-artikolu 16 tiegħu, minflok il-kliem "jew ittella' xi bini" għandhom jidhlu l-kliem "jew tagħmel skavi jew tiddemolixxi jew ittella' xi bini";

(2) Fl-artikolu 17 tiegħu —

(a) minflok il-kliem "hamsin lira u mhux iżjed minn mitt lira" fis-subartikolu (2) tiegħu, għandhom jidhlu l-kliem "hamsin lira Maltija u mhux iżjed minn elf lira Maltija";

(b) minflok il-kliem "hamsin lira" fis-subartikolu (3) tiegħu għandhom jidhlu l-kliem "elf lira Maltija";

(ċ) is-subartikolu (7) tiegħu għandu jiġi enumerat mill-ġdid bhala s-subartikolu (9);

(d) minnufih wara s-subartikolu (6) tiegħu għandhom jidhlu dawn is-subartikoli godda:

"(7) Meta persuna tkun akkużata b'reat taht dan l-artikolu u f'kull appell minn dikjarazzjoni ta' htija taht dan l-artikolu l-qorti għandha tappunta l-każ għas-smiġh b'urġenza.

(8) Kull multa msemmija f'dan l-artikolu għandha titqies bhala deġn ċivili u għandha tiġi dikjarata mill-qorti kompetenti fl-ghoti tas-sentenza li hi dovuta u li għandha tithallas lid-Dipartiment tax-Xoghlijiet u għandha tiġi eżegwita fl-istess qorti li tagħti s-sentenza bl-istess mod bhallikieku nġatat f'azzjoni ċivili debitament magħmula bejn id-Dipartiment tax-Xoghlijiet u l-hati."; u

(e) fis-subartikolu (9) tiegħu kif enumerat mill-ġdid, wara l-kliem "ta' dan l-artikolu" għandhom jidhlu l-kliem "ukoll meta l-akkużat jiġi liberat mill-akkuża u l-qorti tkun sodisfatta li l-bini li għalih tkun tirreferi l-akkuża kien ittella' bi ksur ta' dan l-artikolu".

(3) Minnufih wara l-artikolu 17 għandhom jidhlu dawn l-artikoli li ġejjin:

"Konfiska ta' proprjetà li fuqha jittella' bini bi ksur ta' l-artikolu 16.

17A. B'żieda mal-pieni msemmija fl-artikolu 17 ta' dan il-Kodiċi, il-qorti għandha tordna l-konfiska favur il-Gvern ta' xi dritt li l-hati jkollu fi jew fuq proprjetà immobbli li dwarha jkun sar ir-reat.

Is-sid jista' jehles lilu nnifsu minn kull responsabbiltà.

17B. Meta min ikun akkużat taht l-artikolu 17 ta' dan il-Kodiċi jipprova li hu s-sid ta' l-art li dwarha jkun sar ir-reat jew li mod iehor għandu d-dritt li jiddisponi minn dik l-art u jiddikjara li ma kienx jaf bit-tweqqiq tar-reat u jawtorizza lid-Dipartiment tax-Xoghlijiet biex jiddemolixxi kull bini li jkun inbena mingħajr permess jew mhux skond il-kondizzjonijiet imposti fil-permess, il-qorti ma għandhiex tindaga dwar il-veracità ta' dik id-dikjarazzjoni, u dak is-sid għandu jinheles minn kull responsabbiltà taht l-artikoli 17 u 17A ta' dan il-Kodiċi, u ma' dan id-Dipartiment tax-Xoghlijiet ikun awtorizzat jiddemolixxi dak il-bini, u għandu jwettaq dik id-demolizzjoni."

10. Kull permess mogħti qabel il-bidu fis-sehħ ta' dan l-Att u li jkun għadu fis-sehħ minnufih qabel il-bidu fis-sehħ ta' dan l-Att, għandu minkejja kull haġa li tinsab f'dan l-Att, jibqa' fis-sehħ wara l-bidu fis-sehħ ta' dan l-Att, u għandu jkun jista' jiġġedded u jkompli jkun regolat b'dawk il-liġijiet li kienu fis-sehħ qabel il-bidu fis-sehħ ta' dan l-Att. Rizerva.

11. Matul dak iż-żmien li fih dan l-Att jibqa' fis-sehħ is-setgħa tal-Ministru li jagħmel proġetti skond l-artikolu 3 tal-Kodiċi hija sospiza. Transitorja.

Għanijiet u Raġunijiet

L-Għan ta' l-Abbozz huwa li jirregola s-setgħa tal-Ministru responsabbli għax-xoghlijiet fl-għemil ta' pjani regolaturi u fl-ghoti ta' permessi tal-bini, b'mod li jnaqqas il-possibilità ta' korruzzjoni. L-Abbozz jipprovdi wkoll għal thassir ta' l-Att ta' l-1983 dwar Arei għall-Iżvilupp tal-Bini li kien jipprovdi għall-iżvilupp fiżiku tal-gżira mingħajr ebda riferenza għal pjani jew gwida razzjonali għall-iżvilupp, u jipprovdi minflok sa-

biex isir *survey* li fuqu għandu jiġi bbażat pjan ta' struttura għal Malta li għandu jinkludi *policy* ta' ppjanar nazzjonali dwar l-iżvilupp u użu ieħor ta' l-art. L-Abbozz jipprovdi wkoll għall-holqien ta' Arei ta' Preservazzjoni u ta' Konservazzjoni, u l-hruġ ta' Ordnijiet ta' Eżekuzzjoni u żieda fil-pieni sabiex iż-żamma tal-liġi tkun iktar żgurata. L-Abbozz jipprovdi għal grad ogħla ta' partecipazzjoni pubblika fil-formulazzjoni tal-*policy* għall-iżvilupp fiżiku ta' Malta. Id-dispożizzjonijiet ta' l-Att huma maħsuba li jibqgħu biss fis-seħh sakemm issir leġislazzjoni oħra iktar organika għall-iżvilupp fiżiku tal-gżejjer.

**A BILL
entitled**

AN ACT to regulate the grant of permits for the erection and demolition of buildings, and to make other provisions supplementary thereto.

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:—

1. (1) This Act may be cited as the Building Permits (Temporary Provisions) Act, 1987.

Short title
and
commencement.

(2) This Act, other than this section, shall come into force on such date as the Minister may by order in the Gazette establish, and different dates may be so established for different purposes and provisions of the Act.

2. (1) In this Act, unless the context otherwise requires:

Interpretation.

“Building Development Area” and “Building Development Plan” have the same meaning as was assigned to them in the Building Development Areas Act, 1983;

Act I of 1983

“Code” means the Code of Police Laws;

Cap. 10

“Developed Area” means the areas which on the coming into force of this Act had been built up or otherwise committed to building by existing development or by the provision of streets and other municipal services; and includes also areas which prior to the enactment of the Building Development Areas Act, 1983, were covered by planning schemes made in accordance with the Code, or departmental planning schemes and areas in Gozo designated as development zones; and such areas which after the coming into force of the said Building Development Areas Act, 1983, were in accordance with such Act, declared and approved as Building Development Areas;

“Minister” means the Minister responsible for works.

(2) In this Act, and in Part I of the Code:

(a) "Person" includes also, a body corporate established by law and a Government department; and

(b) where an offence under or against any provision contained in this Act or in Part I of the Code, is committed by a body corporate established by law or by a government department, every person who, at the time of the commission of the offence, was chairman, manager, secretary, head or other similar officer of the body corporate or department, or was purporting to act in such capacity, shall be guilty of that offence unless he proves that he exercised due diligence to prevent the commission of the offence, or that notwithstanding that he exercised such diligence the offence was committed without his knowledge.

Structure
plan.

3. (1) (a) The Minister shall as soon as may be after the coming into force of this Act prepare a structure plan for the development of land in Malta.

(b) The Minister shall cause such structure plan to be laid on the Table of the House, and the House shall by resolution adopt or reject such plan or adopt such plan subject to such modifications as it may deem fit

(c) A structure plan may be revoked or amended by a resolution of the House of Representatives.

Survey.

(2) The Minister shall institute a survey of Malta, examining the matters likely to affect the development or the planning of its development and shall include:

(a) the principal physical and economic characteristics including the principal purposes for which the land is used;

(b) the size, composition and distribution of the population;

(c) the communications, transport system and road network;

(d) any considerations not mentioned in any of the foregoing paragraphs which may be expected to affect any matters so mentioned such as: industrial development, agriculture, housing, education, conservation and preservation, natural resources, leisure, recreation, tourism, public services and waste disposal; and

(e) such other matters as may be established by the Minister.

Plan.

(3) The structure plan shall be a written statement not being site-specific:

(a) formulating the national planning policy and general proposals in respect of the development and other use of land including measures for the improvement of the physical environment and the management of traffic;

(b) interpreting the relationship of national policies in terms of physical and environmental planning in so far as these policies concern the integration of the economic, social and environmental policies; and

(c) containing such other matters as may be established by the Minister.

(4) In formulating the policy and general proposals under paragraph (a) of subsection (3) of this section, the Minister shall secure that the policy and proposals are justified by the results of the survey under subsection (2) of this section and by any other information which he may obtain and shall have regard:

Reasoned
justifications.

(a) to current policies with respect to the national economic planning and development objectives;

(b) to the resources likely to be available for the carrying out of the proposals of the structure plan;

(c) to such other matters as may be established under paragraph (c) of subsection (3) of this section.

(5) The structure plan shall contain or be accompanied by such diagrams, illustrations and descriptive matter as the Minister considers appropriate for the purpose of explaining or illustrating the proposals in the plan, and any such diagrams, illustrations and descriptive matter shall be treated as forming part of the plan.

(6) In the course of preparation of the structure plan before submission for adoption by the House in accordance with paragraph (b) of subsection (1) of this section, the Minister shall take such steps to afford public participation by providing:

(a) that adequate publicity is given to the report of the survey carried out under subsection (2) of this section and to the matters which it is proposed to include in the plan;

(b) that persons who may be expected to desire an opportunity of making representations to the Minister with respect of those matters are made aware that they are entitled to the opportunity of doing so; and

(c) that such persons are given an adequate opportunity of making such representations; and the Minister shall consider any representations made within such period as may be established by him.

(7) As soon as the Minister shall have prepared a structure plan, he shall publish a draft copy of such plan indicating therein the time within which any person may make representations to him in relation to the draft.

(8) As soon as may be after the period referred to in the last preceding paragraph the Minister shall prepare a final draft of the Structure Plan with such alterations as he may deem fit after considering any representations that may have been made in accordance with the foregoing subsections of this section, for submission to the House of Representatives in accordance with subsection (1) of this section.

(9) (i) Where a structure plan has been approved in accordance with subsection (1) of this section, the Minister may prepare local plans for particular areas of Malta.

Local Plans.

(ii) The local plans referred to in paragraph (i) of this subsection shall consist of a map and a written statement and shall:

- (a) develop the policies and general proposals of the structure plan and relate them to precise areas of land;
- (b) provide a detailed basis for development control;
- (c) provide a detailed basis for co-ordinating and directing both public and private proposals for the development and other use of land; and
- (d) contain such matters as may be established by the Minister.

(iii) The local plan for any area shall contain, or be accompanied by, such diagrams, illustrations and descriptive matter as the Minister may establish for the purpose of explaining or illustrating the proposals in the plan; and any such diagrams, illustrations and descriptive matter shall be treated as forming part of the plan.

(iv) In formulating the proposals in a local plan the Minister shall secure that the proposals conform generally to the structure plan as approved by the House and shall have regard to any information and any other considerations which appear to him to be relevant.

(v) The procedure laid down in subsections (6), (7) and (8) of this section shall *mutatis mutandis*, be followed in the preparation and approval of the local plans.

(10) Where the structure plan has been approved the Minister may only grant permits in accordance with the principles and policies laid down in the structure plan, and moreover, where a local plan has been approved for a particular area, the Minister may only grant permits for the demolition or erection of buildings in that area, in accordance with such local plan.

Minister
may make
planning
schemes.

4. (1) Until such time as a local plan has been approved for a particular area being part of a developed area, the Minister may make planning schemes (hereinafter in this section referred to as a scheme) in relation to that area in accordance with subsection (2) of this section.

(2) Where the Minister intends to make a scheme or to make an amendment to a scheme, he shall:

(a) before approving such a scheme or amendment, prepare Planning Scheme Proposal (hereinafter referred to as a "proposal") which shall include such plans, zoning conditions and such descriptive matter as may be necessary to show how such scheme or amendment will be;

(b) as soon as may be after the preparation of the proposal lay a copy thereof on the Table of the House and thereupon cause another copy to be deposited at the office of the Department of Works, and such copy shall be open for public inspection for a period of 30 days. The Director of Works shall cause a notice to be published in the Gazette and in at least two daily newspapers, indicating the days and hours, on and during which the proposal shall be open to public inspection;

(c) allow a period of at least 30 days from the date on which the proposal was first open to public inspection, during which period any person or body of persons may submit representations in writing to the Minister wherein shall be stated any reason why the intended scheme or amendment should not be approved or should be approved subject to amendments;

(d) as soon as may be after the period referred to in the last preceding paragraph has elapsed, and in any case not later than the first sitting of the House after the lapse of a further period of one week lay a copy of all representations so received on the Table of the House;

(e) after laying the copy of the representations on the Table of the House in accordance with the immediately preceding paragraph, withdraw or approve the scheme as proposed in the proposal or subject to any modification as may have been suggested in any representations made in accordance with paragraph (c) hereof:

Provided that where the Minister intends to approve a scheme subject to any modifications as may have been suggested as aforesaid, and such modifications are of a nature as to alter substantially the scope of the original proposal, the Minister shall before approving such a scheme incorporate such modifications in a new proposal and the provisions of this section shall thereupon apply thereto.

(3) Notwithstanding the provisions of subsection (2) hereof, the Minister may without reference to any other authority, make adjustments to the alignment of buildings and streets in a scheme, provided that such adjustments do not affect the zoning conditions thereof.

(4) In the case of the erection or demolition of buildings in a developed area other than an area for which a local plan has been approved the Minister may only grant permits:

Permits for the erection of buildings in developed areas.

(a) where a scheme has been approved in relation to the land on which the building is to be erected or demolished; in accordance with such scheme; and

(b) where no scheme has been so approved; in accordance with such policy which shall be laid down by the Minister and published in the Gazette.

(5) In the case of the erection or demolition of buildings outside a developed area other than an area for which a local plan has been approved the Minister may only grant permits:

Permits for buildings outside developed areas.

(a) in accordance with a policy made for the purpose by the Minister and approved by resolution of the House of Representatives; or

(b) where the grant of such permit is authorised by special resolution of the House.

(6) Notwithstanding the provisions of subsections (4) and (5) of this section the Minister may authorise the erection of:

- (a) buildings to be built on plots of land acquired from the Housing Authority;
- (b) buildings for the specific construction of which land has been transferred to any person by the Government.

(7) Without prejudice to any other power under this or any other law, the Minister may before considering whether to grant a permit or otherwise, order the applicant to cause such publicity to be given to his application as the Minister may deem necessary so that the public may be aware of the application and may have the opportunity to make representations thereon.

Minister may impose special conditions in permits.

5. Without prejudice to any other power under this or any other law, the Minister may in granting a permit for the demolition of any building, impose such conditions as he may deem fit in relation to the erection of any hoarding or other structure around the site where the works are to be carried out, to ensure that inconvenience to third parties and any possible hazard is kept to a minimum.

Preservation and conservation areas.
Cap. 90

6. (1) Without prejudice to the Antiquities Protection Act and to the provisions of any other law relating to the protection of historical, cultural and natural heritage of Malta, the Minister shall as soon as may be after the coming into force of this Act, declare any area in Malta to be a Preservation and Conservation Area.

(2) The procedure laid down in subsection (2) of section 3 shall be followed for the approval of Preservation and Conservation Areas.

(3) Preservation and Conservation Areas shall be declared and approved in relation to:

(a) precisely delineated areas considered to form part of Malta's cultural heritage which are identified for protection as having outstanding value from the point of view of history, art or science including:

(i) monuments — being architectural works, works of monumental sculpture, elements or structures of an archaeological nature, caves and combinations of features;

(ii) groups of buildings — being groups of separate or connected buildings, singular buildings or their immediate surroundings;

(iii) sites — being works of man or the combined works of nature and of man and areas including archaeological sites;

(b) precisely delineated areas considered to form part of Malta's natural heritage which are identified for protection as having outstanding value from the point of view of aesthetics, science, conservation or natural beauty including:

(i) natural features — including physical and biological formations or groups of such formations;

(ii) geological and physiographical formations — constituting the habitat of threatened species of animals and plants;

(iii) natural sites;

(c) in relation to areas of intense agricultural activity;

(d) in relation to areas identified for protection as having outstanding value by virtue of their vernacular, rural or modern type of architecture and development or by virtue of their historic, cultural and architectural interest.

(4) Where an area has been declared a Preservation and Conservation area:

(i) under paragraph (a) of subsection (3) the Minister shall only authorise building operations necessary for the protection and conservation of existing buildings and structures;

(ii) under paragraph (b) of subsection (3) the Minister shall only authorise building operations necessary for the enhancement, maintenance and scientific studies of the areas;

(iii) under paragraph (c) of subsection (3) the Minister shall only authorise building operations directly connected with agriculture; and

(iv) under paragraph (d) of subsection (3) the Minister shall only authorise building operations which are in keeping with the existing environmental character.

(5) The provisions of subsection (7) of section 4 of this Act shall *mutatis mutandis* apply to applications for permits under this section.

7. (1) Notwithstanding the provisions of section 17 of the Code and without prejudice to the provisions of the Antiquities Protection Act, where it appears to the Minister that any person has done or has caused or allowed to be done anything for the doing of which a permit is required under subsection (1) of section 16 of the Code, when there is not such a permit, or that any person is not complying or ensuring compliance with the conditions imposed in the permit, the Minister may cause to be served on such person an Enforcement Order ordering such person not to continue doing or causing or allowing to be done the thing for the doing of which a permit is required under the said subsection, or to ensure compliance with the conditions imposed in the permit; and any person who does not obey such an Enforcement Order served upon him as aforesaid, shall be guilty of an offence against this Act and shall in addition to any liability incurred under any other law, be liable on conviction to a fine (*multa*) of one thousand liri.

Enforcement
Orders.

(2) The fine referred to in subsection (1) of this section shall be recoverable as a civil debt and shall be declared by the competent court in passing judgement as being so owed and payable to the Department of Works and shall be executable in the same court pronouncing

judgement in the same manner as if it had been given in a civil action duly instituted between the Department of Works and the convicted person.

Repeal of
Building
Development
Areas Act
1983

8. (1) The Building Development Areas Act, 1983, is hereby repealed.

(2) Notwithstanding the provisions of subsection (1) of this section, the provisions of the Building Development Areas Act 1983, shall continue to be operative:

(i) in relation to the amendment or revocation of a declaration made by the Minister and adopted by the House in accordance with section 3 of that Act, prior to the coming into force of this Act;

(ii) in relation to the payment of compensation that may be due to any person having a right over or an interest in any land to which section 5 of that Act applied;

(iii) in relation to the registration of any land in a Building Development Area, at the Land Registry;

(iv) in relation to any permit for the erection of any building, granted in accordance with the provisions of that Act, prior to the coming into force of this Act; and

(v) in relation to any offence committed against the provisions of that Act, and any liability incurred thereby, prior to the coming into force of this Act.

Amendment
to the Code.

9. The Code shall be amended as follows:

(1) In subsection (1) of section 16 thereof, for the words "or erect any building" there shall be substituted the words "or to carry out excavations or demolish or erect any building";

(2) In section 17 thereof:

(a) for the words "fifty liri and not more than one hundred liri" in subsection (2) thereof, there shall be substituted the words "fifty liri and not more than one thousand liri";

(b) for the words "fifty liri" in subsection (3) thereof there shall be substituted the words "one thousand liri";

(c) subsection (7) thereof shall be renumbered as subsection (9);

(d) immediately after subsection (6) thereof there shall be added the following new subsections:

"(7) Where a person is charged with an offence under this section and in any appeal from a conviction under this section the court shall appoint the case for hearing with urgency.

(8) Any fine referred to in this section shall be deemed a civil debt and shall be declared by the

competent court in passing judgement as being so owed and payable to the Department of Works and shall be executable in the same court pronouncing judgement in the same manner as if it had been given in a civil action duly instituted between the Department of Works and the convicted person.”; and

(e) in subsection (9) thereof as renumbered, after the words “of this section” there shall be inserted the words “even where the person charged is acquitted of the charge and the court is satisfied that the building to which the charge refers has been erected in contravention of this section”.

(3) Immediately after section 17 thereof there shall be added the following sections:

“Forfeiture of property on which buildings are erected in contravention of section 16.

17A. In addition to the penalties referred to in section 17 of this Code, the court shall order the forfeiture in favour of the Government of any right pertaining to the offender in or over the immovable property in relation to which the offence was committed.

Owner may relieve himself of any liability.

17B. Where any person charged under section 17 of this Code proves that he is the owner of the land in relation to which the offence was committed or otherwise has the right to dispose of such land and declares that he had no knowledge of the commission of the offence and authorises the Department of Works to demolish any structure built without a permit or not in compliance with the conditions imposed in the permit, the court shall not enquire into the truth of such declaration, and such owner shall be freed from any liability under section 17 and 17A of this Code, and thereupon the Department of Works shall be authorised to demolish such building, and shall carry out such demolition.”.

10. Any permit granted before the coming into force of this Act and still in force immediately before the coming into force of this Act, shall notwithstanding anything contained in this Act, remain in force after the coming into force of this Act and may be renewed and continue to be governed by such laws as were in force prior to the coming into force of this Act. Saving.

11. During such time as this Act shall remain in force the power of the Minister to make schemes in accordance with section 3 of the Code is suspended. Transitory.

Objects and Reasons

The Object of the Bill is to regulate the power of the Minister responsible for works in the making of planning schemes and the grant of building permits, thus reducing the

possibility of corruption. The Bill also provides for the repeal of the Building Development Areas Act, 1983 which provided for the physical development of the island without any reference to any rational framework or guideline for development, and provides instead for the making of a survey upon which shall be based a structure plan for Malta which shall include a national planning policy in respect of the development and other use of land. The Bill also provides for the establishment of Preservation and Conservation Areas, and the issue of Enforcement Orders and an increase in penalties so that compliance with the law is further ensured. The Bill provides for a greater degree of public participation in the formulation of the policy for the physical development of Malta. The provisions of the Act are intended to remain in force only until more organic legislation for the physical development of the islands is enacted.