

SUBSIDIARY LEGISLATION 623.08

CONSTRUCTION MANAGEMENT SITE REGULATIONS

Circular by the Building Construction Authority (BCA) in conjunction with the Planning Authority (PA) and the Environment and Resources Authority (ERA)

Introduction:

On the 16th December 2022 the Legal Notice 340 of 2022, Construction Management Site Regulations (S.L. 623.08) issued under the Building and Construction Authority Act came into force, replacing the Environmental Management Construction Site Regulations (S.L. 552.09) that have since been repealed.

All the procedures targeted to limit environmental degradation through appropriate construction management practices that cause the least nuisance to neighbours, that were previously regulated by the Planning Authority (PA) are now under the responsibility of the Building Construction Authority (BCA).

All the practices related to the management of the construction sites are still in force under the new regulation, with the following additions as follows:

1. Bank Guarantees for Restoration of Streets:

In the new regulations the deposition of the bank guarantee to safeguard the proper restoration of the street following construction works are still applicable. However, the bank guarantee shall **now be deposited to the BCA prior to the issue of the commencement notice**. In this case the full development permits issued after 1st January 2023 shall be subject to the condition that “Prior to commencement of any development on site, a Bank Guarantee to the value of €xxx.xx (xxxxx Euro) shall be submitted to the Building Construction Authority in line with Regulation 10(1) of S.L. 623.08.”

All the pending Bank Guarantees already deposited in favour to the Planning Authority, the request for the release or forfeiture of these Bank Guarantees shall still be submitted to the Planning Authority.

In case of non-executable permits which are pending the deposition of the Bank Guarantee, the Bank Guarantee shall now be made in favour and presented to the BCA. In this regard, the Planning Authority shall inform all permit holders about this revision.

2. Standardisation of Apertures for Residential Buildings:

The Fourth Schedule, Regulation 3(b), introduced the standardization of internal and external apertures in residential buildings. Any apertures utilised in a residential building shall by design follow the standardisation of dimensions of internal and external apertures as specified in the Technical Document titled ‘Standardisation of Apertures for Residential Buildings in Malta’ as published on the website of the Building Construction Authority (<https://bca.org.mt/wp->

<content/uploads/2022/12/Technical-Document-Standardisation-of-Apertures-for-Buildings-in-Malta.pdf>)

This new obligation will only be required for those developments which include new residential development **as part of an application for development (full development or summary procedure) submitted to the Planning Authority as from the 1st January 2023.**

In this regard the development permit in relation to all applications submitted on or after the 1st January 2023, shall be subject to a standard condition that the residential component of all new structural development is to comply with the provisions of Regulation 3(b) of the Fourth Schedule.

It shall be clear that in case of new residential development obtained through an application for **change of use of an existing building** will not be subject to this regulation. The Guidance also provides exception where the strict application of standardization does not apply as follows:

- In exceptional circumstances, these standards may not be applied on scheduled buildings, in UCAs and on buildings where the overall architectural design approach provides iconic or landmark quality as determined by the Planning Authority.
- Where an aperture constitutes more than 25% of the façade or building structure housing it, it can be considered as part of the building fabric and the aperture can be exempt from these standards.
- If an existing aperture will not be structurally affected by the works when renovating or altering a building, it shall keep its existing dimensions.
- Apertures housing Fixed Glazed fittings and Skylights shall also be exempt from these standards.
- Apertures into small services shafts (not internal courtyards) with a footprint of less than 2 m² or Apertures in non-habitable rooms, except Bathrooms, Gyms, Games Rooms and Domestic Stores, shall be exempt from following the guidelines in this Technical Document.
- Apertures that existed or are in existence and that are subject to any court case, shall be exempt from these standards.

The guidance does not in any way waive or preclude applicant from any other obligations, so care must be taken to ensure the designs cater for said obligations. The applicant needs to ensure that any other obligations are adhered to whilst also following the guidelines in this technical document and that the dimensions chosen to observe minimum “Clear Opening Width” as required by other legislation. The applicant shall also ensure that the standard dimensions chosen are adequate for the window and door width of the fittings he/she intends to utilize.

The *perit* responsible for the submission of an application for development shall declare that “The proposed development relating to any new residential component has been designed in line with Regulation 3(b) of Schedule 4 of S.L. 623.08. Any updated drawings shall also conform to these standards.”

3. Recycling oriented deconstruction and controlled excavation works:

The Fourth Schedule, Regulation 3(a), introduced the requirement of a Waste Separation Catalogue for development works which include demolition and excavation works.

Waste classification is essential in the proper management of waste generated during deconstruction and controlled excavation processes. A waste catalogue shall be compiled and kept by the developer for record purposes and may be requested by the Environment and Resources Authority (ERA).

The waste catalogue can be found in the document '**Recycling-oriented Deconstruction, Controlled Excavation Works and Classification of Waste**' which can be obtained from the Malta Competition and Consumer Affairs Authority (MCCAA).

The waste catalogue shall include:

- a) A description of each waste stream identified and the corresponding European Waste Catalogue (EWC) code as per list of waste streams given in Table 1.
- b) Quantities of each waste stream.
- c) Fate and destination of each waste stream
- d) Any other information as may be required by the competent authority.

In cases involving demolition, deconstruction, and/or control excavation operations, where a waste catalogue is not required by the competent authority, a list of waste foreseen to be generated on site shall be categorised as per table 1 of the document together with corresponding quantities as a basic minimum. This shall be maintained and kept available for records on site.

Table 1 - List for the classification of waste and corresponding EWC code - is hereunder reproduced:

| Waste Description | EWC codes |
|---|-----------------------|
| Concrete/Reinforced concrete | 17 01 01 |
| Concrete blocks | 17 01 02 |
| Limestone blocks | 17 01 02 |
| Tiles and ceramics | 17 01 03 |
| Mixtures or separate fraction of concrete, blocks, tiles and ceramics containing hazardous substances | 17 01 06* |
| Mixtures of concrete, blocks, tiles and ceramics | 17 01 07 |
| Apertures: | |
| - Wooden | 17 02 01 or 17 02 04* |
| - PVC | 17 02 03 or 17 02 04* |
| - Aluminium | 17 04 02 or 17 04 09* |
| - Iron and steel | 17 04 05 or 17 04 09* |

| | |
|---|--|
| Other metals (e.g. railings, beams, etc.) | 17 04 05 or 17 04 09* |
| Other wood (e.g. beams, flooring, etc.) | 17 02 01 or 17 02 04* |
| Plastics | 17 02 03 or 17 02 04* |
| Glass | 17 02 02 or 17 02 04* |
| Cables | 17 04 11 or 17 04 10* |
| Electrical equipment/components (e.g. appliances, Circuit boards, switches, lighting, etc.) | 16 02 09* or 16 02 10* or 16 02 11* or 16 02 12* or 16 02 13* or 16 02 14 or 16 02 15* or 16 02 16 |
| Wooden pallets | 15 01 03 |
| Cardboard | 15 01 01 |
| Municipal waste | 20 03 01 or 15 01 06 |
| Bulky waste | 20 03 07 |
| Soil/Excavated material | 17 05 04 |
| Loose crushed stone material (e.g. torba) | 17 05 04 |
| Soil/Excavated material containing hazardous substances | 17 05 03* |
| Asbestos Containing Materials (e.g. water tank, down pipes, roof structures, etc.) | 17 06 01* or 17 06 05* |
| Insulation materials | 17 06 04 or 17 06 03* |
| Gypsum-based construction materials | 17 08 02 or 17 08 01* |
| Other waste streams | To be included as deemed necessary. |

Note: - Whenever multiple EWC codes are listed for an individual waste stream, reference to the Annex of Commission Decision 2000/532/EC is to be made so that the most adequate EWC code is selected. EWC codes marked with an asterisk (*) are to be used when waste is deemed as hazardous. Further guidance can be found in the Commission Notice on Technical Guidance on the Classification of Waste (2018/C 124/01). Waste streams shall be managed in line with applicable legislation. In addition, special precautionary consideration shall be given to hazardous waste streams to preserve public safety and the environment.

This new obligation will only be required for those developments which include demolishing and excavation works **subject to a planning development permit which application (full development permit or summary procedure) has been submitted to the Planning Authority as from the 1st January 2023.**

The catalogue shall be submitted to the BCA before the commencement of any works of excavation and demolition. This submission shall be submitted by the *perit* in charge of the project in conjunction and in addition to the submission of a method statement and conditions report in accordance with the procedures set in Regulation 7 of SL 623.06 (Avoidance of Damage to Third Party Property).

Further information and guidance on the compilation of the waste catalogue can be obtained directly from ERA.

Date
29th December 2022

