

**SUBSIDIARY LEGISLATION 246.02**

**IMMOVABLE PROPERTY (DESIGNATION OF  
SPECIAL AREAS) REGULATIONS**

29th September, 2006

*LEGAL NOTICE 227 of 2006, as amended by Legal Notices 320 and 411 of 2007, and 82 of 2008.*

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

**2.** (1) The Minister responsible for finance, hereinafter referred to as "the Minister", shall only issue an Order designating an area as a Special Designated Area in terms of article 2 of the Immovable Property (Acquisition by Non-Residents) Act, hereinafter referred to as "the Act", if satisfactory evidence is submitted by the applicant to show that: Criteria and guidelines for the Designation of Special Areas. Amended by: L.N. 82 of 2008. Cap. 246.

- (a) the superficial land area is not less than ten thousand square metres (10,000m<sup>2</sup>) and is wholly owned by the applicant or held by him in perpetual emphyteusis or temporary emphyteusis for a period exceeding ninety nine years, not taking into account the period prior to the date of the application;
- (b) the applicant has committed himself to restore historic structures in the area or to regenerate a depressed urban, commercial or industrial area;
- (c) the development will provide high quality residential, commercial or industrial property;
- (d) the projected development is in harmony with its surroundings, will be of architectural significance when completed and the quality of materials and finishing to be used in the project are of the highest standard;
- (e) there is not sufficient available property in other Special Designated Areas to satisfy current demand;
- (f) outline or full development permits for the projected development have been issued by the Malta Environment and Planning Authority or such other competent authority;
- (g) the applicant has performed a feasibility study, is of good financial standing and discloses a legitimate source of funds to be utilised for the project; and
- (h) the applicant will retain the management and regular maintenance of all the area, including the infrastructure and utilities thereof, intended for public or common use; provided that such management and maintenance may be delegated to a management company with a proven track record.

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

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

(4) Upon approval of the application by the Minister, but prior to the designation of the area as a Special Designated Area, the applicant shall pay a one-time fee of twenty-three thousand euro (23,000) increased by two euro and thirty-three cents (€2.33) per square metre of superficial area for any area in excess of ten thousand square metres (10,000m<sup>2</sup>).

Criteria and guidelines for the extension of Special Designated Areas.  
Added by:  
L.N. 320 of 2007.  
Amended by:  
L.N. 82 of 2008.

**3.** (1) The Minister may also issue an Order designating an area as a Special Designated Area in terms of article 2 of the Act if an application is made in regard to a site, of a superficial area below 10,000 square metres, which is an extension of and adjacent to an existing development that has already been granted Special Designated Area status in virtue of the provisions of regulation 2, or by an Order issued prior to the coming into force of the said regulation, or in virtue of this regulation.

(2) Prior to issuing such an Order, the Minister shall ensure that satisfactory evidence is submitted to show that the applicant is the same person who was granted the original Special Designated Area status, or an assignee or successor in title of such person; and that the applicant has abided by all the conditions contained in the original Order granting Special Designated Area status as well as with all the conditions contained in these regulations, where applicable.

Criteria and guidelines for designation of vertical developments as Special Designated Areas.  
Added by:  
L.N. 82 of 2008.

**4.** (1) The Minister may also issue an Order designating an area as a Special Designated Area in terms of article 2 of the Act if an application is made in regard to a site of a superficial area below 10,000 square metres, on which site the applicant has constructed or plans to construct a minimum of thirty thousand square metres (30,000m<sup>2</sup>) of the total floor area.

(2) For the purposes of these regulations, "floor area" means the amount of floor area within a building determined by the external measurements of the building, that is including the thickness of the external walls and half the thickness of the dividing or party walls, and includes any staircase, lift, shafts, internal yards, verandahs, terraces, balconies, canopies and other spaces, and a roof or terrace used for commercial purposes.

(3) Prior to issuing such an Order, the Minister shall ensure that satisfactory evidence is submitted to show that the applicant has abided with any applicable conditions contained in these regulations.

Fee payable.

(4) Upon approval of the application by the Minister, but prior to the designation of the area as a Special Designated Area, the applicant shall pay a one-time fee of twenty three thousand euro (€23,000) increased by two euro and thirty three cents (€2.33) per

square metre of total floor area in excess of thirty thousand square metres (30,000m<sup>2</sup>).

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

Minister to keep record of transfers.  
*Amended by:*  
*L.N. 320 of 2007;*  
*L.N. 82 of 2008.*

Cap. 364.

6. (1) The failure to fulfil any commitment undertaken by the applicant in the application, shall constitute an offence under the Act and the applicant, or the person or persons responsible for the management, where the applicant is a juridical person, shall be liable, on conviction, to a fine not exceeding twenty-three thousand euro (23,000) and in the case of a continuing offence, to a further fine of not less than two hundred and thirty euro (230) and not exceeding two thousand and three hundred euro (2,300) for each day during which the offence continues.

Penalties.  
*Amended by:*  
*L.N. 320 of 2007;*  
*L.N. 411 of 2007;*  
*L.N. 82 of 2008.*

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

- (a) the applicant has made any false declaration or otherwise given incorrect or incomplete information or failed to disclose a material fact which has had, or may have had if disclosed, a bearing on the approval of the application; or
- (b) the applicant has failed to fulfil any of the commitments undertaken by him in the application within ten years from the issue of the Order designating the area as a Special Designated Area; or
- (c) the applicant has failed to complete the projected development within ten years from the issue of the Order designating the area as a Special Designated Area:

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

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