



THE MALTA CHAMBER

## **DRAFT CONSTRUCTION INDUSTRY LICENSING REGULATIONS, 2023**

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### **Response to the Public Consultation**

Submitted to: Building and Construction Authority

Medium: email sent on [consultation.construction@gov.mt](mailto:consultation.construction@gov.mt)

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### A. INTRODUCTION

This document is in response to the public consultation published on the 13<sup>th</sup> March 2023 by the Building and Construction Authority in respect of the “**Draft Construction Industry Licensing Regulations**”.

The Malta Chamber of Commerce, Enterprise and Industry (The Malta Chamber) commends this first step in ensuring that the current rudimentary practices within the construction sector start being addressed seriously. The Malta Chamber has long been in favour of these changes, as evidenced both in our “**Recommendations for the 2023 National Budget**”<sup>1</sup> and “**Time to Step Up, Recommendations for the Next Legislature 2022 – 2027**”<sup>2</sup>.

The Malta Chamber firmly believes that the country must move forward with the licensing of and classification of contractors, building upon a three-tier framework – administrative compliance, financial soundness and technical competency. This is indeed paramount in order to achieve a long-term economic vision for Malta as a ‘Smart and Sustainable Island’. There should be no delay in recasting the foundations upon which the industry currently operates. By exclusively demanding the highest of standards, the country’s trajectory will be steered towards an upgraded quality of life and a smooth transition towards environmental sustainability and higher occupational health and safety standards.

Following feedback from industry stakeholders<sup>3</sup> The Malta Chamber has identified and collated several valid issues for your consideration and as the voice of ethical business, we reiterate our continued support towards this initiative and its far-reaching benefits for both economy, society and the environment.

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<sup>1</sup> <https://www.maltachamber.org.mt/wp-content/uploads/2023/03/100c42c5-f8e9-46ae-bcf7-e894c9ae8a51.pdf>

<sup>2</sup> <https://www.maltachamber.org.mt/wp-content/uploads/2023/03/1e5effd5-e5c9-4006-9124-d11e454b1ac6.pdf>

<sup>3</sup> The Malta Chamber has consulted with developers, contractors, M&E experts, periti, project managers, site managers, site technical officers, health & safety professionals, fire safety professionals, installers, suppliers of material and systems used in the construction industry as well as suppliers of machinery.



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### B. FEEDBACK

1. Clear demarcation between the roles and responsibilities of the developer, the contractor, the developer-contractor

The terms developer and contractor are often used interchangeably. It is important to distinguish clearly between the two in terms of definition and particular attention must be given to the definition of the status brought about by the developer-contractor.

It is also important to explain the ramifications of these new regulations to the general public.

2. Self Employed Contractors

Attention is being drawn to SL 452.108 and the interpretation given to a self-employed person, where the self-employed is considered to be an employee. One needs to evaluate the applicability to and effect of this definition on the draft contractor licensing regulations, particularly since the latter regulations stipulate different requirements for employers and employees.

The question that arises is whether a self-employed contractor will be considered an employer or an employee.

This point merits due consideration in the design of the intended legislation discussed today as it can have significant impact on the concepts of responsibility and liability.

3. Masons Licence and Other Licences/Programmes

The current masons license course needs to be revisited so as to include new methodologies as well as the use/application/installation of new technologies, products and systems. Today, the majority of construction is no longer made up of load bearing globigerina limestone walls, arches etc but it is more focused on reinforced concrete frame structure with blockwork walls acting either as partitions or cladding.



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Without questioning whether a person in possession of the traditional Mason's License is qualified to supervise these types of works, we firmly believe that supervision can also be undertaken by those who do not possess the Mason's License but instead have an MQF Level 4 certification in Construction Management or Practice.

Training and industry standards are also required for other service providers within the industry such as (shutterers/steel fixers/bricklaying etc).

Incentives and training programmes should be available for all workers (not just licensed contractors) to obtain the relevant competences. The skill card was a good initiative but unfortunately it was never implemented on site.

#### 4. Registration

##### *Administrative Compliance*

The applicant should be vetted for tax, VAT and NI compliance. The applicant should also be requested to declare the employee count as registered with Jobsplus and evidence of Safety Cards and/or the minimum Skill Card requirements in force at that time

##### *Machinery*

It is to be noted that whereas there are a number of contractors that own their machinery and plants, there are a number of contractors who rent/lease out the machinery that they would be using.

The draft regulations require the applicant to submit a list of machinery at registration stage. Whereas the applicability of this requirement is very clear with respect to contractors who own their machinery and plant, it is not clear how it will be applied to those contractors who rent/lease out the machinery.



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### 5. Supervision Requirements

The draft regulations require all demolition, excavation and piling works to be supervised by an MQF level 4 supervisor. It does not impose the same requirement when the applicant is an individual. Supervision requirements should be the same throughout, irrespective of whether one is operating as self-employed or a limited liability company.

### 6. Technology and Communication

The Malta Chamber is in favour of better use of technology and communication at the various stages of the planning and building process between entities such as PA, BCA, OHSA, and Enemalta.

### 7. Building Manual/Register

The Malta Chamber believes that one should also start looking into the introduction of a Building Manual/Register. It should serve as the main source of information to anyone involved with the day-to-day operation and management of the building or anyone conducting any maintenance work on it or its building services.

### 8. Insurance

Refer to suggestions put forward by The Malta Insurance Association.



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## C. CONCLUSION

The Draft Construction Industry Licensing Regulations 2023 is welcome even if it is long overdue. The Malta Chamber looks forward to its effective implementation within a timely manner and insists that, in parallel, one should also be looking at contractor classification.

The Malta Chamber pledges to remain committed to participate actively in social dialogue and public consultation, in representation of ethical business.

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