



**WHITE PAPER SETTING UP THE BUILDING AND
CONSTRUCTION REGULATOR**

**WHITE PAPER
2018**



MINISTRY FOR TRANSPORT, INFRASTRUCTURE
AND CAPITAL PROJECTS

PARLIAMENTARY SECRETARIAT FOR
PLANNING & THE PROPERTY MARKET

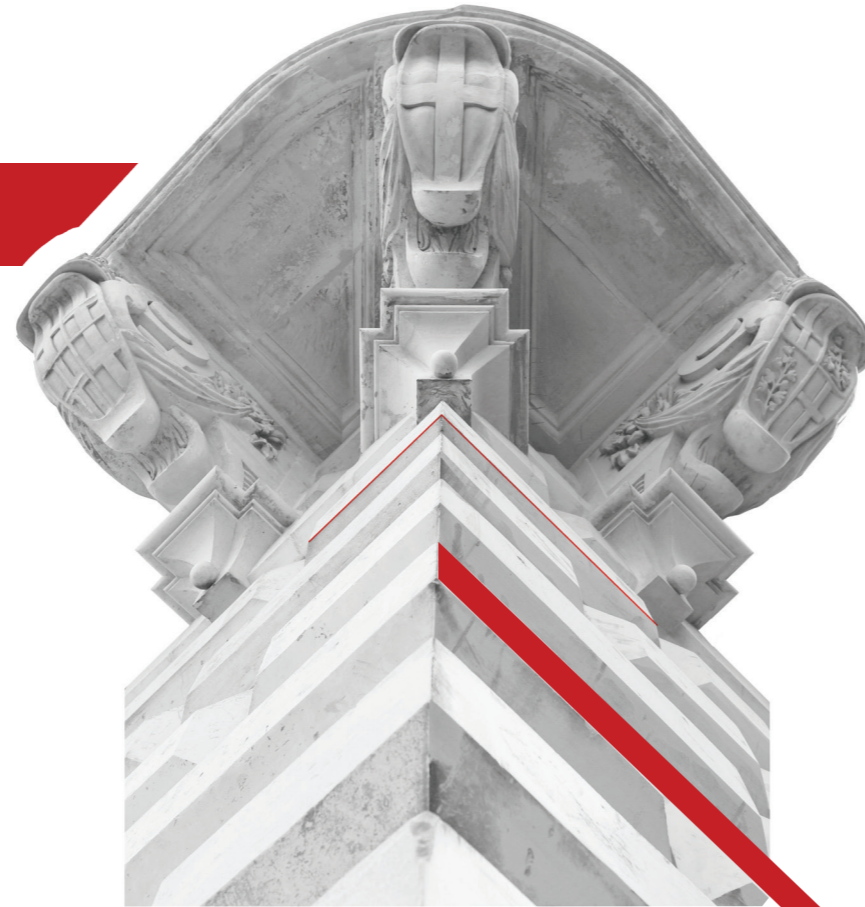
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AND CONSTRUCTION REGULATOR**

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INTRODUCTION

The building industry has come at a juncture whereby it has acquired crucial importance in the country's economy, both in terms of employment as well as in terms of the National Gross Domestic Product. In fact, as at December 2017 the construction industry generated €356.4million, that is 3.2% of the GDP while 13,076 people held jobs in the industry, both on a full-time and part-time basis, meaning that 5.1% of all gainfully occupied people in Malta worked in the construction industry. The management of the built environment and the laws related thereto, have been fragmented into a myriad of entities along the years. This state of affairs led to an organic and somewhat uncoordinated development of the sector.



Given its importance in the socio-economic development of Malta, the need for reorganisation within the industry arose. Such consolidation would entail the centralisation of laws and rules under the authority of a single entity serving as a one-stop-shop for practitioners and users alike.

The entity will serve as a vehicle leading to a consolidated approach for the building industry. Policy makers will be in a better position to tend to the sector if there is one interlocutor for the industry. Such consolidation signals Government's resolve to introduce harmonious rules and policies in all facets of the building industry with a view to implement a quantum leap in Malta's built environment, improving the quality of buildings and upgrading skills of professionals involved in the sector. Furthermore, a streamlined and properly regularised building industry is highly desirable in order to instil public trust in the industry, especially in the face of constant criticism and accusations levelled onto it by public opinion.

To this end, the authority shall take unto itself to draft the required legislation necessary to update current legislation, to portray the current situation as well as to regulate new technologies and systems of works and operations

There are a number of challenges within the industry that need to be addressed in future legislation and functions of the new regulator. These include;

- Lack of enforcement on current construction sites
- Lack of enforcement post development stage
- Lack of skills and development of such skills including new techniques to be developed
- Multiple pieces of dispersed legislation some dating back to the 1960s which still use terms not relevant to modern techniques, such as the role of the mason – Legal Notice 69/1968
- Categorisation of different trades and skills within the industry.
- Consolidation of legislation and regulations such as the health and safety regulations issued under LN281/04, 437/12 and 72/13 and the environment management regulations issued under LN259/07





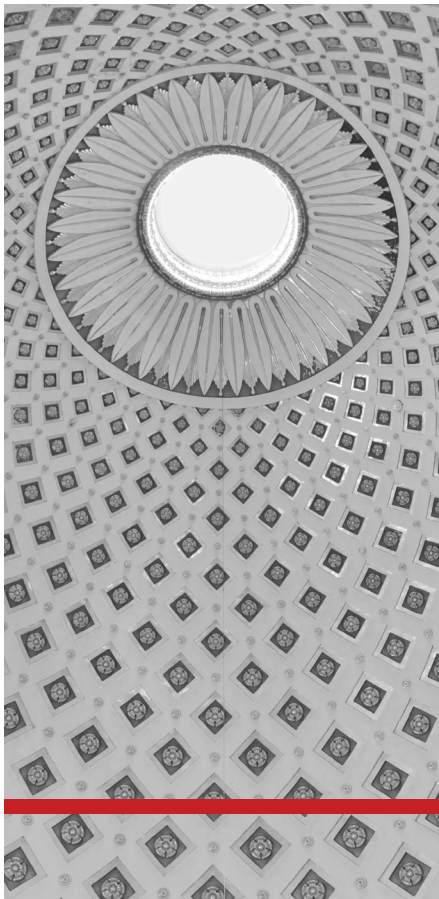
THE BUILDING AND CONSTRUCTION REGULATOR

This white paper will seek to harmonise current work practices, standards, procedures, regulations and legislation under a single piece of legislation and place the industry under the remit of a single entity. The entity shall become the regulator for the sector and act as the sole port of call for both practitioners and users.

The Minister responsible for Infrastructure, under whose authority shall lie the entity, shall appoint a Chief Executive Officer to draw up an operational plan for the coming into effect of the entity. This shall include a Human Resources plan which reflects the staffing needs of the entity, the managerial structure and the proposed composition of the board of directors.

Particular care is to be taken to the absorption of workforce from the different entities which will be assimilated by the new entity. This delicate process may require negotiations with pertinent entities and authorities in order to reach satisfactory agreements which are in line with current work arrangements and collective agreements.

The CEO shall also draw up a plan entailing the merging of the various practices, standards, procedures, regulations and law currently in force which are found under various pieces of legislation. The research will complement the feedback expected to be generated during the public consultation period of this White Paper.



With regards to current legislation, the CEO is to give particular attention to;

1. Building Regulations Act (Cap 513)
2. Parts of the Police Code (Cap 10)
3. Parts of the Civil Code (Cap 16)
4. Development Planning Act (Cap 552)
5. Avoidance of Damage to Third Party Property Regulations, 2013 (LN 72 of 2013)
6. Environmental Management Construction Site Regulations, 2007 (LN 295 of 2007)
7. Energy Performance of Buildings Regulations, 2018 (LN 47 of 2018)
8. OHSAs Code of Practice for the Construction Industry

All the above is to be conducted in the context of having regard to other legislation, rules and regulations, guidelines and policies issued by other entities such as the Access for All Design Guidelines which are issued by the CRPD.

Both the substantive and operational work to be carried out by the CEO will be incorporated in a strategy detailing the way forward, ultimately leading to the presentation of a bill in Parliament. Thus, the bill will contain a consolidated version of the laws hitherto related to the building industry, as well as provisions related to the formal setting up of the authority which is to take over from the agency once the bill is enacted.



AIMS OF THE AUTHORITY

The Authority is to undertake those tasks which are conducive to the aim of it being in a position to hit the ground running as soon as the necessary legislation is passed through parliament, starting with the integration of the following entities;

1. Building Industry Consultative Council (BICC)
2. Building Regulation Office (BRO)
3. Building Regulation Board (BRB)
4. Masons Board

In order to identify the best way of integrating the entities mentioned above, the entity shall profile the operational needs of each entity and determine the best way forward, including the streamlining of their services with a view of merging their operations within its own with the creation of structures such as units, directorates and boards according to the needs arising out of the functions currently carried out by these entities.



OBJECTIVES OF THE AUTHORITY

The authority shall achieve the aims described above by focusing on a number of objectives. It will aspire to;

1. Act as an advisor to Government on policies
2. Service the building industry
3. Conduct training to enhance skills and trades related to the industry
4. Become the national focal point for the sector, both in terms of operations and research
5. Bring together stakeholders
6. Consult industry stakeholders and the general public
7. Devise quality assurance frameworks
8. Raise industry-related standards
9. Provide a regulatory framework for the industry in which to operate
10. Provide accountability through a disciplinary process that is independent, transparent and effective;
11. Provide categorisation for the different providers in the industry;
12. Conduct research in the industry for innovation;
13. Spearhead any changes to other legislation which could impact the industry





OPERATIONAL SETUP AND FUNCTIONS OF THE REGULATOR

Prior to the enactment of the bill which will create the authority, it shall provide for its day-to-day running through the setting up of structures supporting its financial and HR functions.

Furthermore, it shall also set up the appropriate structures incorporating a number of functions.

Where necessary, the application shall also include a geological survey of the underlying area, which shall be mandatory only under certain circumstances.

After the completion of a building, the applicant shall deposit built structural drawings which shall serve as the point of reference for annual or periodical certification and checks.

Administration and Processing of Applications

There shall be a licensing department which is to be responsible for the keeping of a register of practitioners within the building industry, as well as issuing licences and skills cards, which have been introduced recently to provide due recognition to operators in the sector. It shall also be responsible for issuing Energy Performance Certificates.

The department will also be responsible for accepting and processing applications related to any process within the authority.

Such applications will include condition reports relating to adjacent properties so as to ascertain the status of such properties prior to the commencement of works. Furthermore, applications will also include statements related to the method of construction, which should be in line with the authority's policies.

Through this department, the authority shall have the faculty of granting exceptional conditions on works carried out, or remove such conditions as it may deem fit.



Enforcement Compliance

The regulator shall have the power to enforce its decisions, policies and rules, including coordination with other agencies, where necessary. Thus, during its preparatory period, the agency is to institute monitoring and enforcement units which would be able to investigate breaches of provisions of the unified act and move on to deliver administrative fines or refer to the executive police for further action where necessary. It shall also receive deposits and guarantees as set by pertinent laws and regulations.

Enforcement shall include on-site inspections both announced and unannounced and shall be responsive to reports lodged by the public. To this end, the enforcement compliance section shall have a dedicated helpline operating on a 24/7 basis so as to ensure that the authority's enforcement officers would be able to call at any site on any given time and day.

It shall also provide administrative and logistical support to the various Boards, including the profession and technical support for the drafting of new or revised legislation, ensure the respective boards are carrying out their responsibilities as required by legislation, monitor and review legislation and its impact on industry and society as well as set up, as necessary, registers and lists of stakeholders and institutions involved therein. The regulator will be assisted by an inhouse Policy Unit which will assist in delivering the input by the Regulator when this is required by the Ministry. This Unit will serve as the contact point on all matters relating to EU Affairs and EU Funds and will ensure that EU and other international obligations are adhered to in a timely manner. This administrative set up will be instrumental in ensuring coherence in positions taken at both national and non-national fora, it will ensure that there is timely and proper implementation of standards including EU standards and of reporting obligations. It will monitor all EU obligations relating to this sector within its remit. This will avoid the commencement of EU infringement procedures, of which the sector has had a number in recent years. Furthermore, rather than being responsive to EU measures, the regulator will be in a position to channel resources enabling active participation in these fora, thereby being better positioned to influence outcomes and obtain clarifications early on in the process of implementation, when this is required.

Regulations and Policies

The regulator will be responsible for the development of policies and regulations followed by codes of practice to improve the quality of the building industry. This includes the structuring, integrating and coordinating resources, in order to facilitate inter-industry linkages, enhance sustainability and competitiveness and ensure minimal bureaucracy. Furthermore, it shall introduce new regulations regarding the new professions and skills involved in construction projects as well as ancillary works. The regulator shall also compile and keep up-to-date records, statistics, and data as may be appropriate in connection with its functions. Furthermore, it shall also take measures and coordinate action-plans to achieve the policies, strategies and objectives set by Government or by itself as well as developing a comprehensive list of building regulations applicable within the local context. Such building regulations will determine various building parameters which to date are within the remit of different entities.



Research, Consultancy and Innovation



The regulator will shall build the necessary expertise in order to support the sector through the provision of appropriate advice, information, intelligence, programmes and initiatives.

The regulator shall also conduct qualitative and quantitative research for the sector, including intelligence. It shall do so through collaboration on national and international research projects and data gathering exercises with key national entities, including , but not limited to the National Statistics Office, the University of Malta, the Malta College of Science and Technology, the Central Bank of Malta, the Planning Authority and the Environment and Resources Authority.

It shall build and manage databases related to the building industry and provide data to be used by both public and private stakeholders also through the setting up of a new building data depository or data centre.

The regulator shall also have an international dimension by hosting international, including European, offices resulting from Malta's bilateral, regional, or international obligations pertinent to the sector and carry out or give effect to any relevant international conventions or other international agreements relating to which Government is or intends to become party.

It shall also consult with the industry, with stakeholders and the general public on matters relevant to the building industry.

Periodically, the regulator shall publish a State of the Building Industry Report whose conclusion and recommendations will be given due consideration in formulating strategies, plans and policies to guide the industry in the future.

Education, Training and Skills Development

This department would also be responsible for the development of a comprehensive skills training strategy which is flexible and responsive to modern industrial and technological improvements in collaboration with the industry and other interested parties. It is also to initiate and promote, in conjunction with the appropriate educational and training institutions, a more skilful and a better informed building industry workforce. It shall also hold exams leading to such licences and also receive relative fees.

The agency is also to identify the best way in which to interact with various entities, including the Planning Authority (PA). It has to position itself as the prime consultee within the PA's structures. It is being proposed that the authority is to take over the role of planning consultee currently carried out by;

1. Civil Protection Department (CPD)
2. Commission for the Rights of Persons with Disability (CRPD)
3. Department of Environmental Health (DEH)
4. Occupational Health and Safety Authority (OHSA)





FINANCING

The different functions envisaged to be assumed by the authority will allow it to accede to a number of avenues through which it is to finance, wholly or partially, its activity. Revenues are expected to be generated from a number of activities, such as fees received for training courses, the sale of publications and the registration of energy performance certificates.

CONCLUSION

This document proposes the setup of a regulator which is expected to bring a much-desired paradigm shift in the building industry. It is expected to reform the industry both in the way it operates and how it is regulated. The regulator is to take the form of an Authority with all the legal standing required to ensure that its objectives are reached. It is to be given the necessary powers through applicable legislation to carry out its day to day work.

Given the importance of the building industry in the buoyancy of the national economic growth, and its long-lasting societal effect, the safeguarding of the built and natural environment for future generations is of paramount importance as never before.

The setting up of a Building Industry Regulator signals Government's resolve at laying the foundations for a sustainable and energy-efficient sector where quality is not the opportunity cost of profit.



WHITE PAPER, 2018

For any comments, suggestions or feedback on the *White paper*, please use the following:

Send email to cba.mtip@gov.mt

Log on to: <https://mtip.gov.mt/en/Pages/Public%20Consultations/Public-Consultations.aspx>



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