

TAQSIM TAL-ATT

		Artikoli
Taqsim I	Dispożizzjonijiet Preliminari	1-2
Taqsim II	Twaqqif u l-Għan tat-Tribunal	3-10
Taqsim III	Proċeduri quddiem it-Tribunal fir-rigward ta' Deċiżjonijiet mehuda mill-Awtorità ta' Malta dwar l-Ippjanar u l-Iżvilupp	11-32
Taqsim IV	Deċiżjonijiet tat-Tribunal fir-rigward ta' Deċiżjonijiet mehuda mill-Awtorità ta' Malta dwar l-Ippjanar u l-Iżvilupp	33-46
Taqsim V	Proċeduri quddiem it-Tribunal relatati ma' Deċiżjonijiet mehuda mill-Awtorità ta' Malta dwar l-Ambjent	47-49
Taqsim VI	Appelli minn Deċiżjonijiet tat-Tribunal	50-55

**Abbozz ta' Ligi  
msejjah**

*ATT biex jistabbilixxi tribunal bil-għan li jirrevedi deċiżjonijiet tal-Awtorità tal-Ippjanar u tal-Awtorità dwar l-Ambjent, biex jipprovdi għall-mod kif għandhom isiru l-proċeduri quddiem it-tribunal, u biex jipprovdi għal appelli minn deċiżjonijiet tat-tribunal.*

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

Taqsim I

Disposizzjonijiet Preliminari

Titolu fil-qosor  
u bidu fis-sehh.

**1.** (1) It-titolu fil-qosor ta' dan l-Att huwa l-Att tal-2015 dwar it-Tribunal ta' Revizjoni tal-Ambjent u l-Ippjanar.

(2) Dan l-Att għandu jidhol fis-sehh f'dik id-data li l-Ministru jista' jistabbilixxi b'avviż fil-Gazzetta, u dati differenti jistgħu jiġu hekk stabbiliti għal dispozizzjonijiet differenti jew għanijiet differenti ta' dan l-Att.

Tifsir.

**2.** (1) F'dan l-Att, kemm-il darba r-rabta tal-kliem ma tehtiegħ xort'oħra, il-frazzjonijiet li ġejjin għandhom it-tifsira li qed tingħatalhom hawnhekk.

"Awtorità" tfisser l-Awtorità tal-Ippjanar;

"Awtorità tal-Ambjent" għandha l-istess tifsira mogħtija lilha fl-Att tal-2015 dwar il-Protezzjoni tal-Ambjent;

"Awtorità tal-Ippjanar" għandha l-istess tifsira mogħtija lill-Awtorità fl-artikolu 2 tal-Att tal-2015 dwar l-Ippjanar tal-Iżvilupp;

"*Chairperson*" tfisser kull *Chairperson* tat-Tribunal ta' Reviżjoni tal-Ambjent u l-Ippjanar maħtur skont dan l-Att;

"Gvern" tfisser il-Gvern ta' Malta;

"konsulent estern" għandha l-istess tifsira mogħtija lilha fir-regolament 2 tar-Regolamenti tal-2010 dwar l-Ippjanar tal-Iżvilupp (Proċedura ta' Applikazzjonijiet u d-Deċiżjoni Relattiva). A.L. 514 tal-2010.

"NGOs Ambjentali" tfisser organizzazzjonijiet mhux governattivi li jippromwovu l-protezzjoni ambjentali u li huma reġistrati taħt l-Att dwar l-Organizzazzjonijiet Volontarji; Kap. 492.

"partijiet oħra fl-appell" tfisser l-Awtorità, l-applikant, il-partijiet terzi interessati dikjarati, konsulenti esterni u NGOs tal-Ambjent f'appelli minn deċiżjonijiet tat-Tribunal dwar applikazzjonijiet soġġetti għal studju dwar l-impatt ambjentali u, jew materji li għandhom x'jaqsmu mal-IPPC, li ppartecipaw fil-proċeduri quddiem it-Tribunal;

"permess għall-iżvilupp" tfisser permess biex isir jew jinżamm żvilupp mogħti mill-Bord tal-Ippjanar jew mill-Kummissjoni tal-Ippjanar kemm b'konsegwenza ta' applikazzjoni f'dak ir-rigward jew f'każ ta' ordni dwar l-iżvilupp;

"persuna" tinkludi assocjazzjoni jew korp ta' persuni, kemm jekk ikun ingħatalha l-istat ta' personalità ġuridika kemm jekk le;

"rakkomandazzjoni" tfisser ir-risposta magħmula minn konsulent estern li tista tindika kemm li ma hemmx oġġezzjoni għal applikazzjoni, jew li tapprova l-applikazzjoni soġġetta għal kondizzjonijiet indikati mill-konsulent estern jew li hemm oġġezzjoni għall-applikazzjoni għar-raġunijiet mogħtija mill-konsulent estern;

"Segretarju" tfisser is-Segretarju għat-Tribunal ta' Reviżjoni tal-Ambjent u l-Ippjanar;

"Tribunal" tfisser Tribunal ta' Reviżjoni tal-Ambjent u l-Ippjanar.

(2) Kliem u frażijiet oħra użati f'dan l-Att għandhom l-istess tifsira mogħtija lilhom fl-Att tal-2015 dwar l-Ippjanar tal-Iżvilupp.

## TAQSIMA II

## Twaqqif u l-Għan tat-Tribunal

Tribunal ta' Revizjoni tal-Ambjent u l-Ippjanar.

3. Għandu jitwaqqaf skont id-disposizzjonijiet ta' dan l-Att, tribunal indipendenti u imparzjali, li jkun magħruf bħala t-Tribunal ta' Revizjoni tal-Ambjent u l-Ippjanar, sabiex jirrevedi d-deciżjonijiet tal-Awtorità tal-Ippjanar u d-deciżjonijiet tal-Awtorità ta' Malta dwar l-Ambjent, li jiġu riferuti lilu skont dan l-Att jew kull liġi oħra, u sabiex jeżerċita kull ġurisdizzjoni oħra u funzjoni mogħtija lit-Tribunal b'dan jew taht dan l-Att jew b'xi jew taht xi liġi oħra, sew jekk qabel kif ukoll wara l-bidu fis-seħħ ta' dan l-Att.

Kif għandu jkun kompost it-Tribunal.

4. (1) Il-Prim Ministru jista' b'ordni jistabbilixxi *panels* tat-Tribunal, u jista' jindika il-kategoriji ta' każijiet li għandhom jiġu assenjati lil kull *panel* u jista' b'ordni sussegwenti ibiddel, jirrevoka jew jisostitwixxi dak l-ordni.

(2) Kull *panel* għandu jikkonsisti fi tliet membri, b'żewġ membri minnhom għandu jkollhom għarfien sew fil-liġi tal-ippjanar tal-iżvilupp u fil-liġi ambjentali u l-membri l-ieħor għandu jkun avukat.

(3) Kull *panel* għandu jkollu *Chairperson*, li għandu jippresjedi fuq il-*panel*, u viċi *Chairperson*. Fl-assenza ta' *Chairperson*, il-viċi *Chairperson* għandu jaqdi l-funzjonijiet ta' *Chairperson*.

(4) Il-membri kollha li jippresjedu fuq kull *panel*, inkluż iċ-*Chairperson* u l-viċi *Chairperson*, għandhom jiġu mahtura mill-Prim Ministru.

(5) Is-Segretarju tat-Tribunal għandu jistabbilixxi l-lista tal-każijiet ta' kull *panel*, wara li jikkunsidra n-numru ta' każijiet pendenti li jkunu ġew assenjati lil kull *panel*.

Kap. 12.

(6) Membru tat-Tribunal għandu jkun skwalifikat milli jisma' appell skont id-dispożizzjonijiet tal-artikolu 734 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili u f'kull każ bħal dak, dak il-membri għandu jiġi sostitwit minn persuna oħra jew mahtura għal hekk mill-Prim Ministru, jew magħzula mis-Segretarju mill-membri tal-*panel* jew *panels* l-oħra hekk appuntati.

(7) Il-membri tat-Tribunal għandhom jibqgħu fil-kariga għal terminu ta' hames snin. Huma ma jistgħux jiġu nominati mill-ġdid għal terminu sussegwenti.

(8) Fl-eżerċizzju tal-funzjonijiet tagħhom taht dan l-Att, iċ-

*Chairperson* u l-membri tat-tribunal m'għandhomx ikunu soġġetti għall-kontroll jew id-direzzjoni ta' xi persuna jew awtorità oħra, u jistgħu jitneħħew biss mill-kariga mill-President fuq il-parir tal-Prim Ministru, għal raġunijiet ta' inkapaċità ppruvata li jaqdu l-funzjonijiet tal-kariga tagħhom (kemm jekk għal mard korporali jew mentali jew għal xi raġuni oħra), imġieba hażina ppruvata, negligenza serja jew għal raġuni ġusta u għandha titiqies raġuni ġusta jekk il-membri ma jkunx kiseb il-miri u l-għanijiet stabbiliti fir-rigward tad-dmirijiet tiegħu.

5. (1) It-Tribunal għandu jkollu segretarjat amministrattiv indipendenti minn kull awtorità, magħmul minn Segretarju u dawk l-uffiċjali jew impjegati oħra li jistgħu jkunu meħtieġa sabiex il-ħwejjeg amministrattivi li jaqgħu taħt il-funzjonijiet tat-Tribunal jiġu gestiti fil-pront u b'mod effiċjenti.

Segretarjat tat-Tribunal.

(2) Is-Segretarju u s-segretarjat amministrattiv għandu jiġi maħtur mill-Prim Ministru.

(3) L-ispejjeż magħmula f'konnessjoni mal-amministrazzjoni tat-Tribunal, inkluż il-ħlas tal-onorarju liċ-*Chairperson* u l-membri tat-Tribunal u s-salarju tas-Segretarju tat-Tribunal u l-persunal tat-Tribunal, għandhom jiġu mħallsa mill-Fond Konsolidat mingħajr il-ħtieġa ta' ebda approprjazzjoni ulterjuri.

(4) Is-Segretarju għandu jaqdi kull dmir li jiġi fdat lilu taħt dan l-Att jew taħt regoli magħmulin taħt l-istess Att.

6. (1) It-Tribunal għandu jzomm seduti f'Malta u, jew f'Għawdex, f'dawk l-intervalli regolari li jkunu meħtieġa sabiex iwettaq b'mod spedit ix-xogħol tiegħu.

Seduti tat-Tribunal.

(2) It-Tribunal għandu jzomm is-seduti tiegħu f'kull post indikat mill-Prim Ministru.

(3) Is-seduti tat-tribunal għandhom ikunu bil-miftuħ għall-pubbliku, bla ħsara għall-poteri li t-Tribunal għandu li jeskludi lil xi membri tal-pubbliku, jekk huwa jidhirlu li jkun meħtieġ sabiex jinżamm il-bonordni.

7. (1) Għandu jkun hemm registru tat-Tribunal.

Registru tat-Tribunal.

(2) Il-Prim Ministru għandu b'regolamenti jistabbilixxi l-funzjonijiet tar-Registru tat-Tribunal u bl-istess regolamenti jista' ukoll jahtar lil dawk l-uffiċjali li jistgħu jkunu meħtieġa biex dak it-Tribunal ikun jista' jiffunzjona. Ir-rekords kollha tat-Tribunal għandhom jiġu pprezentati fir-registru msemmi f'dan is-subartikolu.

(3) Ir-reġistru għandu jkun jinsab fi kwalunkwe post indikat mill-Prim Ministru.

(4) Is-Segretarju tat-Tribunal għandu jkun responsabbli għat-tmexxija tar-reġistru.

Ġurament tal-Kariga tal-membri tat-Tribunal.

**8.** (1) Membru tat-Tribunal għandu hekk kif jiġi mahtur jieħu l-ġurament hawn stabbilit quddiem l-Avukat Ġenerali:

"Jien ..... (żid isem u kunjom) li ġejt mahtur sabiex inkun Membru għall-għanijiet tal-Att dwar it-Tribunal ta' Reviżjoni tal-Ambjent u l-Ippjanar, nahlef li bil-fedeltà kollha, minghajr ma nżomm ma' hadd, u mill-aħjar li nista' naqdi d-dmir u x-xogħol li jmissni bis-saħħa tal-imsemmija hatra. Hekk Alla jgħini".

(2) L-imsemmi ġurament għandu jkun ffirmat mill-Membru tat-Tribunal u mill-Avukat Ġenerali. Il-ġurament jiġi depożitat mas-Segretarju tat-Tribunal.

Prinċipji ta' mgħiba amministrattiva tajba.

**9.** (1) Fir-relazzjonijiet tiegħu mal-pubbliku, it-Tribunal għandu jirrispetta u japplika il-prinċipji ta' mgħiba amministrattiva tajba.

(2) Il-prinċipji ta' mgħiba amministrattiva tajba jinkludu dawn li ġejjin:

(a) it-Tribunal għandu jirrispetta d-dritt tal-partijiet li jingħataw smiġh xieraq, inklużi l-prinċipji tal-ġustizzja naturali, jiġifieri:

(i) *nemo judex in causa sua*, u

(ii) *audi et alteram partem*;

(b) it-terminu li fih it-Tribunal jieħu d-deċiżjonijiet tiegħu għandu jkun wiehed raġjonevoli skont iċ-ċirkostanzi ta' kull każ. Id-deċiżjoni għandha tingħata kemm jista' jkun malajr u għal dan il-għan it-Tribunal għandu jagħti deċiżjoni waħda dwar il-kwistjonijiet kollha involuti fl-appell li jkollu quddiemu kemm jekk ikunu ta' natura preliminari, proċedurali jew sostantiva;

(ċ) it-Tribunal għandu jiżgura li l-partijiet fil-proċeduri jkollhom l-istess mezzi proċedurali. Kull parti għandha tingħata l-opportunità li tipprezenta l-każ tagħha, kemm bil-kitba, jew bil-fomm, jew bit-tnejn, minghajr ma titqiegħed fi żvantagġ;

(d) it-Tribunal għandu jiżgura li l-Awtorità tal-Ippjanar tagħmel disponibbli lill-partijiet fil-proċeduri, id-dokumenti u l-informazzjoni rilevanti għall-appell;

(e) il-proċeduri quddiem it-Tribunal għandu jkollhom il-forma ta' parti kontra l-oħra. Il-provi kollha migjuba lit-Tribunal għandhom, bħala prinċipju, jkunu disponibbli għall-partijiet biex dawn ikunu jistgħu jargumentaw il-pożizzjonijiet diversi tagħhom;

(f) it-Tribunal għandu jkun f'qagħda li jeżamina kull kwistjoni ta' fatt u ta' dritt rilevanti għall-appell ipprezentata mill-partijiet skont il-liġi applikabbli;

(g) sakemm il-liġi ma tiddisponix mod ieħor, il-proċeduri quddiem it-Tribunal għandhom isiru bil-miftuħ għall-pubbliku;

(h) it-Tribunal għandu jagħti, b'mod biżżejjed ċar, il-motivi li fuqhom tkun tistrieħ d-deċiżjoni tiegħu. Ma jkunx meħtieġ li t-Tribunal jiddisponi minn kull eċċezzjoni imqajma, salv li fejn eċċezzjoni tkun waħda li, kieku tiġi aċċettata, tkun deċiżiva għar-riżultat tal-appell, tali eċċezzjoni għandha tingħata konsiderazzjoni speċifika u espressa.

**10.** (1) Il-Prim Ministru jista' jagħmel regolamenti biex jimplementa u jwettaq b'mod aħjar id-disposizzjonijiet ta' dan l-Att u jista', mingħajr preġudizzju għas-setgħa ġenerali preċedenti:

Setgħa tal-Prim Ministru li jagħmel regolamenti.

(a) jistabbilixxi d-data tad-dhul fis-seħħ ta' kull dispozizzjoni ta' dan l-Att;

(b) jistabbilixxi l-proċedura quddiem it-Tribunal;

(c) jistabbilixxi l-proċedura fl-appelli minn deċiżjonijiet tat-Tribunal;

(d) jistabbilixxi il-forom li għandhom jintużaw fil-proċeduri quddiem it-Tribunal;

(e) jistabbilixxi il-forom li għandhom jintużaw fil-proċeduri fl-appelli minn deċiżjonijiet tat-Tribunal;

(f) jistabbilixxi r-rati u t-tariffi relatati mal-proċeduri quddiem it-Tribunal;

(g) jistabbilixxi d-drittijiet li jistgħu jkunu dovuti lir-Registru tat-Tribunal;

Kap. 12.

(h) jistabbilixxi d-dmirijiet tas-Segretarju tat-Tribunal;

(i) jistabbilixxi liema disposizzjonijiet tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, jekk hemm, li ma humiex imsemmija f'dan l-Att, għandhom japplikaw għall-proċeduri quddiem it-Tribunal;

(j) jippreskrivi ordna kull haġa li tista' jew li għandha tiġi preskritta skont dan l-Att;

(k) jagħmel dawk l-emendi, alterazzjonijiet, tħassir, revoki, korrezzjonijiet, bidliet u modifiki f'kull liġi prinċipali jew liġi sussidjarja bil-għan li jgħib dik il-liġi primarja jew liġi sussidjarja konformi mad-disposizzjonijiet ta' dan l-Att.

### TAQSIMA III

Proċeduri quddiem it-Tribunal fir-rigward ta' deċiżjonijiet meħuda mill-Awtorità tal-Ippjanar

Ġurisdizzjoni.

**11.** (1) Bla ħsara għad-dispożizzjonijiet tal-Att dwar l-Ippjanar tal-Iżvilupp, it-Tribunal għandu jkollu ġurisdizzjoni li:

(a) jisma' u jiddeċiedi kull appell magħmul mill-applikant minn deċiżjoni mogħtija wara applikazzjoni:

(i) għal permess ta' żvilupp;

(ii) għal permess taħt ordni dwar notifikazzjoni ta' żvilupp;

(iii) għal permess taħt proċess ta' regolarizzazzjoni;

(iv) għal tibdil fl-allinjament permezz ta' applikazzjoni għall-kontroll tal-ippjanar;

(v) għal permess għal proġett ta' interess komuni (PCI);

(vi) għal reġistrazzjoni mill-Bord tar-Registrazzjoni;

(b) jisma' u jiddeċiedi kull appell magħmul mill-applikant minn deċiżjoni meħuda wara talba għal *screening* ta' żvilupp propost, meta fl-istess deċiżjoni:

(i) jintalbu sottomissjonijiet, studji, valutazzjonijiet u dokumentazzjoni ulterjuri; u, jew



(ii) miżata u, jew kontribuzzjonijiet huma mitluba li jiġu mħallsa lill-Awtorità qabel is-sottomissjoni, mas-sottomissjoni jew waqt l-ipproċessar tal-applikazzjoni u l-applikant ma jkunx qabel mal-ammont tal-miżata u, jew kontribuzzjonijiet;

(ċ) jisma' u jiddeċiedi kull appell magħmul minn kull persuna:

(i) aggravata b'avviż maħruġ skont id-disposizzjonijiet tat-Taqsima IX tal-Att dwar l-Ippjanar tal-Iżvilupp;

(ii) aggravata b'deċiżjoni fir-rigward ta' ordni ta' skedar u ordni ta' konservazzjoni;

(iii) aggravata b'deċiżjoni fuq talba għal tibdil jew revoka ta' permiss;

(d) jisma' u jiddeċiedi kull appell magħmul minn kull persuna jew istituzzjoni jew kull dipartiment jew aġenzija tal-Gvern, li jkollha interess dirett u li tkun aggravata b'xi deċiżjoni, jew ordni jew direzzjoni fir-rigward ta' Regolamenti tal-Bini u Regolamenti dwar il-Kontroll tal-Bini, ukoll jekk dik id-deċiżjoni ma toħroġ minn proċess ta' applikazzjoni għal żvilupp;

(ċ) jisma' u jiddeċiedi kull appell magħmul minn terza persuna interessata li tkun issottomettiet rappreżentazzjonijiet bil-miktub kif stabbilit mill-Awtorità tal-Ippjanar skont l-artikolu 71(6) tal-Att tal-2015 dwar l-Ippjanar tal-Iżvilupp:

(i) minn deċiżjoni fuq applikazzjoni għal permiss ta' żvilupp;

(ii) minn deċiżjoni fuq applikazzjoni għall-kontroll tal-ippjanar relatata ma' tibdil fl-allinjament;

(iii) minn deċiżjoni fuq ordni ta' skedar u ordni ta' konservazzjoni;

Iżda l-Avukat Ġenerali għan-nom tal-Gvern u kull dipartiment, aġenzija, awtorità jew korp ġuridiku ieħor kollu kemm hu proprjetà tal-Gvern, li ma jkunx konsulent estern, għandu dejjem ikun meqjus għall-finijiet u effetti kollha tal-liġi bħala terza persuna interessata minkejja illi ma jkunx ġew sottomessi rappreżentazzjonijiet bil-miktub:

Iżda NGO Ambjentali għandu dejjem ikun meqjus għall-finijiet u effetti kollha tal-liġi bħala terza persuna jew parti interessata, salv li l-appell ikun jirrigwarda Studju dwar l-Impatt Ambjentali jew permess tal-IPPC:

Iżda l-Awtorità ma għandhiex tiġi meqjusa bħala terza persuna interessata għall-finijiet ta' dan il-paragrafu;

(d) jisma' u jiddeċiedi kull appell magħmul minn konsulenti esterni minn deċiżjoni meħuda wara applikazzjoni:

(i) għal permess tal-iżvilupp;

(ii) għal tibdil fl-allinjament permezz ta' applikazzjoni għall-kontroll tal-ippjanar;

(iii) għal permess għall-proġetti ta' interess komuni (PCI):

Iżda dak l-appell jista' jiġi mressaq biss minn konsulent estern li jkun ippreżenta ir-rakkomandazzjoni tiegħu lill-Awtorità tal-Ippjanar u fir-rakkomandazzjoni jkun jew indika li l-applikazzjoni għandha tiġi approvata sugġetta għall-kondizzjonijiet indikati mill-konsulent estern, jew li l-applikazzjoni hija oġġezzjonabli għar-raġunijiet mogħtija mill-konsulent estern;

(g) jisma' u jiddeċiedi talbiet għal sospensjoni skont l-artikolu 33;

(h) jeżerċita dawk il-funzjonijiet li jiġu assenjati lill-Id-dispożizzjonijiet ta' dan l-Att.

(2) Il-Prim Ministru jista' jordna li kull deċiżjoni oħra tal-Awtorità tal-Ippjanar tkun soġġetta għall-ġurisdizzjoni tat-Tribunal.

Proċeduri.  
Kap. 12.

**12.** Id-dispożizzjonijiet tal-artikoli 21, 22 u 23 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili għandhom japplikaw għall-proċeduri kollha quddiem it-Tribunal.

Żminijiet għall-  
preżentata ta'  
appell.

**13.** (1) Sakemm ma jkunx previst mod ieħor taħt xi dispożizzjoni ta' dan l-Att, appell jista' jiġi preżentat quddiem it-Tribunal fi żmien tletin ġurnata mid-data tal-pubblikazzjoni tad-deċiżjoni f'gazzetta lokali mill-Awtorità:

Iżda appelli minn deċiżjonijiet li m'hemmx bżonn li jiġu pubblikati, għandhom jiġu ipprezentati quddiem it-Tribunal fi żmien tletin ġurnata mid-data tan-notifika tad-deċiżjoni.

(2) Meta appell jiġi pprezentat quddiem it-Tribunal minn parti li ma tkunx l-applikant skont id-disposizzjonijiet tal-artikolu 77(3) tal-Att tal-2015 dwar l-Ippjanar tal-Iżvilupp u l-applikant ikun ipprezenta talba għal rikonsiderazzjoni skont id-disposizzjonijiet tar-Regolamenti tal-2010 dwar l-Ippjanar tal-Iżvilupp (Proċedura ta' Applikazzjonijiet u d-Deciżjoni Relattiva), il-proċeduri quddiem it-Tribunal jiġu sospiżi sakemm it-talba għal rikonsiderazzjoni tiġi deteminata u kopja tad-deciżjoni tingħata lit-Tribunal mill-Awtorità għall-Ippjanar, u it-termini kollha stabbiliti b'dan il-Att relatati ma' proċeduri quddiem it-Tribunal jibdeu jgħoddu mid-data meta it-Tribunal jirċievi d-deciżjoni dwar it-talba għal rikonsiderazzjoni:

A.L. 514 tal-2010.

Iżda kull parti li ma tkunx l-applikant li tkun ipprezentat l-appell kif intqal qabel, għandha fi żmien tletin ġurnata min-notifika tad-deciżjoni dwar it-talba għal rikonsiderazzjoni, tibdel l-appell jew tagħmel sottomissjonijiet oħra lit-Tribunal, jekk jidhrilha meħtieġ.

(3) Kull persuna li thoss ruħha aggravata minn xi avviż notifikat lilha tista' tipprezentat appell minn dak l-avviż lit-Tribunal fi żmien hmistax-il ġurnata min-notifika tal-avviż jew fi żmien hmistax-il ġurnata mill-pubblikazzjoni tal-istess avviż f'gazzetta lokali, jekk l-Awtorità jidhrilha xieraq li tagħmel tali publikazzjoni.

**14.** Il-proċeduri ta' appell quddiem it-Tribunal għandhom jitmexxew fi żmien tajjeb, mingħajr ebda dewmien, u ma għandhomx ikunu daqshekk għaljin li jipprojbixxu l-utilizzar tagħhom.

Proċeduri  
jitmexxew fi  
żmien tajjeb.

**15.** Appell minn deciżjoni tal-Awtorità għandu jkun fil-forma ta' rikors, u għandu:

X'għandu jkun  
fih ir-rikors tal-  
appell.

(a) jagħmel referenza għad-deciżjoni tal-Awtorità li minnha qed isir appell;

(b) isemmi distintament il-kapi tad-deciżjoni li magħhom ma hemmx qbil taht intestaturi differenti, flimkien mar-raġunijiet taht kull intestatura għaliex ikun qiegħed isir l-appell;

(c) jiddikjara speċifikament taht kull intestatura l-mod kif huwa mixtieq li d-deciżjoni tiġi varjata; u

(d) jinkludi kull dokumentazzjoni rilevanti għall-motivazzjonijiet tal-appell.

**16.** Appell minn avviż ta' infurzar jew avviż ieħor għandu jinkludi ukoll kopja tal-avviż ta' infurzar jew avviż ieħor li qed jiġi appellat.

Appell minn  
avviż ta'  
infurzar jew  
avviż ieħor.

Indikazzjoni tax-xhiedha fir-rikors tal-appell.

**17. (1)** Il-partijiet kollha tal-appell għandhom, jekk jehtieġu persuni bħala xhieda, flimkien mal-appell jew risposta tal-appell, jagħtu l-ismijiet u l-indirizzi tax-xhieda li jkun bi hsiebhom jgibu, filwaqt li jiddikjaraw dwar kull wieħed minnhom x'fatti bi hsiebhom jistabilixxu bix-xiehda tagħhom.

(2) It-Tribunal għandu jkollu s-setgħa li jħarrekk xhieda u li jagħti l-gurament lil kull min jidher quddiemu.

Rappreżentanza.

**18.** Il-partijiet fl-appell jistgħu jiġu rappreżentati minn agent quddiem it-Tribunal.

Talba sabiex jintwerew il-fajls tal-Awtorità.

**19.** Bla hsara għad-dispożizzjonijiet tal-artikolu 33 tal-Att tal-2015 dwar l-Ippjanar tal-Iżvilupp, il-partijiet kollha fl-appell jistgħu jagħmlu talba lit-Tribunal sabiex jaraw l-atti tal-Awtorità f'kull hin qabel is-seduta tat-Tribunal.

Notifika tar-rikors tal-appell lill-Awtorità.

**20.** Kopja tar-rikors tal-appell u d-dokumentazzjoni anċillari għandhom minnufih jingħataw lill-Awtorità fi żmien hamest ijiem ta' hidma minn meta s-Segretarju jalloka l-każ sabiex jinstema' minn *panel* speċifiku. L-Awtorità għandha tippreżenta r-risposta tagħha fi żmien għoxrin jum minn meta tkun giet notifikata bir-rikors tal-appell. Ir-risposta għandha, f'kull każ, tkun limitata għar-raġunijiet ta' rifjut jew għall-kondizzjonijiet imposti mill-Awtorità. L-Awtorità għandha tippreżenta kull dokumentazzjoni li fil-fehma tagħha huma rilevanti sakemm ma jkunux diġà fil-proċess jew proċessi relattivi tal-Awtorità. Ir-risposta tal-Awtorità u d-dokumentazzjoni kollha għandha tiġi notifikata minnufih lill-appellant.

Notifika tar-rikors tal-appell lil terzi persuni li jkunu rreġistraw l-interess tagħhom.

**21.** Terza persuna li tkun reġistrata skont l-artikolu 71(6) tal-Att tal-2015 dwar l-Ippjanar tal-Iżvilupp għandha tiġi infurmata mit-Tribunal li jkun gie ppreżentat appell u din tista' titlob lis-Segretarju tat-Tribunal sabiex jirreġistraha bħala terza persuna interessata f'dak l-appell, fi żmien hamest ijiem tax-xogħol minn dik in-notifika. Tali persuna għandu jkollha d-dritt li tindirizza lit-Tribunal u tista' tkun mitluba mill-partijiet tal-appell sabiex tagħti x-xhieda tagħha fil-proċeduri tal-appell. Sakemm it-Tribunal ma jiddeċidix xort'oħra, tali terza persuna interessata tista' tkun preżenti matul is-seduti kollha tat-Tribunal. Iżda tali persuna ma tkunx tista' tattendi għal aċċessi fuq il-post meta t-Tribunal jidhol fil-proprjetà tal-appellant, jekk l-appellant joġġezzjona għall-preżenza ta' tali terza persuna interessata fil-proprjetà tiegħu. Tali terza persuna interessata għandu jkollha d-dritt li tingħata kopja tad-deċiżjoni tat-Tribunal fir-rigward ta' dawk il-proċeduri ta' appell li għalihom tkun giet reġistrata mis-Segretarju tat-Tribunal:

Iżda din il-proċedura hija applikabbli ukoll għal dawk il-konsulenti esterni li jkunu għamli r-rakkomandazzjonijiet tagħhom skont ir-regolament 7 tar-Regolamenti tal-2010 dwar l-Ippjanar tal-Iżvilupp (Proċedura ta' Applikazzjonijiet u d-Deciżjoni Relattiva), liema konsulenti esterni ikollhom il-jedd li jattendu għal aċċessi fuq il-post.

A.L. 514 tal-2010.

**22.** (1) Meta jsir appell minn terza persuna interessata skont dan l-Att, dik il-persuna m'għandhiex għalfejn iġġib prova li hi għandha xi interess f'dak l-appell skont id-duttrina ta' interess ġuridiku, u tali duttrina ma għandhiex tapplika għal proċeduri bħal dawn, iżda tali persuna għandha tissottometti motivazzjonijiet raġunati bbażati fuq konsiderazzjonijiet ambjentali u, jew tal-ippjanar biex tiġġustifika l-appell tagħha.

Appelli minn terzi persuni interessati.

(2) Id-dispożizzjonijiet tal-artikolu 21 għandhom *mutatis mutandis* japplikaw favur l-applikant:

Iżda meta jiġi ppreżentat appell bħal dan, l-applikant għandu jiġi infurmat mit-Tribunal li jkun ġie ppreżentat appell u jingħata d-dritt li jipparteċipa f'dawk il-proċeduri.

**23.** (1) It-Tribunal għandu, fi żmien xahrejn minn meta jiġi ppreżentat ir-rikors tal-appell, ħlief fil-każijiet meta l-appell ikun akkumpanjat minn talba għas-sospensjoni tal-eżekuzzjoni tal-permess, jahtar il-jum u s-sieġha u jzomm l-ewwel seduta għall-partijiet sabiex jidhru quddiemu, sabiex juru għaliex it-talbiet, eċċezzjonijiet u x-xhieda indikati fl-applikazzjoni u t-twegiba rispettiva tagħhom għandhom jiġu aċċettati. It-Tribunal għandu, fl-istess jum u fis-sieġha appuntata għall-ewwel seduta tal-appell, jiddeċiedi liema xhieda, elenkati fir-rikors tal-appell u r-risposta għall-appell, jikkunsidra rilevanti għall-fini tal-ġoti tax-xhieda:

L-ewwel seduta tal-appell.

Iżda fejn ma jkun hemm l-ebda talba għal sospensjoni tal-eżekuzzjoni tal-iżvilupp kif previst fl-artikoli hawn aktar 'l isfel, avviż bil-quddiem ta' mhux inqas minn erbatax-il jum, b'dak il-mod li t-Tribunal jidhirlu xieraq, għandu jingħata dwar l-ewwel seduta tat-Tribunal lill-partijiet, u dawk it-terzi persuni interessati li rreġistraw l-interess tagħhom matul l-ipproċessar tal-applikazzjoni quddiem l-Awtorità, u dawk il-konsulenti esterni li għamli ir-rakkomandazzjonijiet tagħhom skont ir-Regolamenti tal-2010 dwar l-Ippjanar tal-Iżvilupp (Proċedura ta' Applikazzjonijiet u d-Deciżjoni Relattiva):

A.L. 514 tal-2010.

Iżda wkoll f'każijiet ta' urġenza l-imsemmi terminu ta' erbatax-il jum jista' jiġi mqassar b'ordni tat-Tribunal, jekk it-Tribunal ikun sodisfatt li l-parti li qed titlob urġenza tat raġuni valida bil-miktub dwar dan.

(2) Meta l-appell ikun akkumpanjat minn talba għas-sospensjoni tal-eżekuzzjoni tal-permess, it-Tribunal għandu jinnotifika lill-partijiet, iżomm l-ewwel smiġh tiegħu u jiddeċiedi t-talba fiż-żmien stipulat fl-artikolu 33(2).

Procedura quddiem it-Tribunal.

**24.** Fid-data u l-ħin stabbilit wara l-ewwel seduta, l-appellant u l-Awtorità għandhom jidhru quddiem it-Tribunal u jressqu dawk il-provi li t-Tribunal jista' jkun ordna.

Appelli multipli mill-istess deċiżjoni.

**25.** Meta mill-istess deċiżjoni ikun gie ipprezentat aktar minn appell wiehed minn persuni u entitajiet differenti intitolati li jipprezentaw appell skont dan l-Att, it-Tribunal għandu jagħmel hiltu sabiex jiżgura li l-appelli kollha jinstemgħu flimkien u barra minn hekk għandu jagħmel hiltu sabiex jagħti d-deċiżjonijiet kollha flimkien.

Xhieda mhux indikati.

**26.** Il-partijiet kollha jistgħu jehtiegu li jressqu xhieda mhux indikati fl-appell jew fir-risposta għall-appell li l-prova tagħhom tista' tkun meħtieġa fid-dawl ta' xhieda mogħtija jew prodotta minn xhieda oħra. Dawn ix-xhieda għandhom ikunu awtorizzati biex jixhdu, salv li tkun ingiebet l-approvazzjoni minn qabel tat-Tribunal, liema approvazzjoni taqa' fid-diskrezzjoni esklussiva tat-Tribunal.

Sottomissjonijiet finali.

**27.** Wara li l-ġbir tal-provi ikun gie konkluz, it-Tribunal għandu jagħti l-opportunità lill-appellant u lill-Awtorità sabiex jagħmlu s-sottomissjonijiet finali tagħhom:

Iżda meta l-applikant ma jkunx l-appellant, l-applikant ukoll ikollu jedd li jagħmel sottomissjonijiet finali.

Sospensjoni tas-smiġh.

**28.** It-Tribunal jista' jipposponi is-smiġh tal-appell jekk ikun sodisfatt li xi hadd mill-partijiet ma' setax jidher quddiemu minhabba mard pruvat jew assenza minn Malta jew għal xi raġuni oħra simili.

Meta xhud jonqos milli jidher.

**29.** Jekk xhud debitament notifikat permezz ta' taħrika ffirmata miċ-*Chairperson* tat-Tribunal jonqos milli jidher quddiem it-Tribunal mingħajr raġuni valida, tali persuna għandha tigi mmultata mit-Tribunal multa ta' mhux inqas minn mitejn euro (€200) u mhux iżjed minn hamest elef euro (€5,000).

Esperti.

**30.** (1) It-Tribunal jista' jitlob kull dipartiment jew aġenzija tal-Gvern sabiex jipprovdi lit-Tribunal dik l-informazzjoni li t-Tribunal jidhirlu meħtieġa għall-eżekuzzjoni xierqa tal-funzjonijiet tiegħu.

(2) Il-ħatra ta' esperti għandha tkun regolata mid-dispożizzjonijiet li ġejjin:

(a) it-Tribunal jista' jahtar espert jew aktar minn espert

wieħed sabiex ihejji rapport fuq kull kwistjoni li t-Tribunal jidhirlu relevanti għall-appell;

(b) meta l-partijiet jiftiehem li jipproponu l-isem ta' espert, it-Tribunal għandu jaħtar l-espert li dwaru jkunu ftehem l-partijiet;

(ċ) meta l-partijiet ma jilhqux ftehim dwar il-ħatra ta' espert, it-Tribunal għandu jaħtar espert tal-għażla tiegħu.

(3) Fid-digriet tat-Tribunal li bih jinħatar l-espert, it-Tribunal għandu:

(a) ifisser l-iskop tal-ħatra;

(b) jiffissa gurnata u hin meta l-espert għandu jwettaq *access in faciem loci* fejn dan ikun meħtieġ;

(ċ) jagħti direzzjonijiet lill-espert sabiex jagħraf jimxi fl-esekuzzjoni tad-dmirijiet tiegħu, fejn meħtieġ;

(d) jistabbilixxi data sa meta l-espert għandu ihejji r-rapport;

(e) jiddikjara liema parti għandha thallas l-ispejjeż tal-espert.

(4) It-Tribunal jista', f'kull żmien, jordna lill-espert sabiex jirritorna l-atti tal-appell li jinsabu fil-pussess tiegħu. Fil-każ li l-espert ma jikkonformax ruħu mal-ordni tat-Tribunal, l-espert ikun, mingħajr preġudizzju għal kull proċedura oħra li tista' tittieħed kontrih, ħati ta' disprezz lejn l-ordni tat-Tribunal.

(5) It-Tribunal jista' jordna lill-espert sabiex jattendi għas-seduti tal-appell u jagħmel dawk il-mistoqsijiet lix-xhieda li jidhrulu meħtieġa jew rilevanti sabiex jgħinuh ihejji r-rapport tiegħu.

(6) L-espert għandu jiġi notifikat b'kopja tad-dokumentazzjoni kollha li tinsab fil-proċess tal-appell.

(7) Espert jista' jiġi rikuzat minn kull waħda mill-partijiet fl-appell meta tintwera raġuni tajba lit-Tribunal, kif imsemmi fil-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili. Kap. 12.

(8) Ir-rapport tal-espert għandu jindika l-investigazzjonijiet mwettqa mill-espert u s-sejbiet minnu magħmula flimkien mar-raġunijiet għal dawk is-sejbiet.

(9) Ir-regoli applikabbli għall-periti fil-Kodiċi ta' Kap. 12.

Organizzazzjoni u Proċedura Ċivili għandhom japplikaw *mutatis mutandis* għall-esperti mahtura mit-Tribunal.

Setgħa li jikkonferma, iħassar jew ibiddel d-deċiżjoni.

**31.** It-Tribunal għandu jkollu s-setgħa li jikkonferma, iħassar jew ibiddel d-deċiżjoni appellata u li jagħti dawk l-ordnijiet li jidhirlu xierqa:

Iżda t-Tribunal jista', skont iċ-ċirkostanzi, u qabel ma jikkonferma, iħassar jew ibiddel d-deċiżjoni, jitlob lir-rikorrenti jipprezenta dokumenti u pjanti godda, f'liema każ it-Tribunal għandu jagħti r-raġunijiet għal dik it-talba, salv li l-mertu tal-kwistjoni kif gie ipprezentat quddiem l-Awtorità ma jinbidilx. Fejn it-Tribunal jidhirlu illi l-mertu tal-kwistjoni kif gie ipprezentat quddiem l-Awtorità ser jinbidel, huwa jista' jagħti dawk l-ordnijiet li jidhirlu xierqa fiċ-ċirkostanzi fir-rigward tal-pretensjonijiet rispettivi billi jerga' jibgħat id-dokumenti u l-pjanti sabiex jiġu deċiżi mill-gdid mill-Awtorità.

It-Tribunal jista' jirregola l-proċedura tiegħu stess.

**32.** Fin-nuqqas ta' xi regoli fuq xi kwistjoni, it-Tribunal jista' jirregola l-proċedura tiegħu stess.

#### TAQSIMA IV

Deċiżjonijiet tat-Tribunal fir-rigward ta' deċiżjonijiet meħuda mill-Awtorità tal-Ippjanar

Sospensjoni tal-iżvilupp.

**33.** (1) It-Tribunal jista', fuq talba tal-appellant, liema talba tista' biss issir b'rikors ipprezentat flimkien mar-rikors tal-appell, jissospendi permezz ta' deċiżjoni parzjali, b'mod sħiħ jew f'parti minnu, l-eżekuzzjoni ta' kull permess, sakemm tingħata deċiżjoni mill-istess Tribunal, taħt dawk it-termini, kondizzjonijiet u miżuri oħra li jidhirlu xieraq:

Iżda t-Tribunal ma jistax jissospendi l-eżekuzzjoni ta' permess fir-rigward ta' applikazzjoni, għall-iżvilupp li, fil-fehma tal-Ministru responsabbli għall-Awtorità tal-Ippjanar, huwa ta' sinifikat strateġiku jew ta' interess nazzjonali, relatat ma' xi obbligu li jirriżulta minn Att tal-Unjoni Ewropea, jaffettwa s-sigurtà nazzjonali jew jaffettwa l-interessi tal-Gvern u, jew ta' gvernijiet oħra. Din l-eċċezzjoni ma hiex applikabbli għall-applikazzjonijiet relatati għall-iżvilupp u stallazzjonijiet li huma soggetti għal Studju dwar l-Impatt Ambjentali u, jew materji li għandhom x'jaqsmu mal-prevenzjoni u l-kontroll integrat tat-tniġġis ('IPPC').

(2) It-Tribunal għandu jzomm l-ewwel seduta u jagħti deċiżjoni fir-rigward tat-talba għas-sospensjoni tal-permess, fi żmien tletin jum minn meta jirċievi ir-rikors.

(3) It-Tribunal m'għandux jissospendi l-eżekuzzjoni ta' tali



permess sakemm ma jkunx sodisfatt, wara li jisma' lill-partijiet kollha, li jekk l-eżekuzzjoni tal-permess ma tiġix sospiża l-preġudizzju ikkawżat ikun sproporzjonat meta mqabbel mal-preġudizzju kkawżat jekk tiġi sospiża l-eżekuzzjoni tal-permess. It-Tribunal ukoll m'għandux jissospendi l-eżekuzzjoni ta' tali permess jekk ikun sodisfatt, wara li jisma' lill-partijiet kollha, illi l-iżvilupp jista' jiġi faċilment imneħhi jew imqieghed lura fl-istat li kien qabel dak l-iżvilupp jew jekk it-talba titqies frivola jew vessatorja.

(4) It-Tribunal għandu jagħti raġunijiet li jiġġustifikaw d-deċiżjoni tiegħu li jilqa' jew jiċhad talba għal sospensjoni tal-eżekuzzjoni tal-permess.

(5) It-Tribunal m'għandux jissospendi l-eżekuzzjoni tal-permess għal aktar minn:

(a) tliet xhur mid-data tal-ewwel seduta tal-appell quddiem it-Tribunal f'każ ta' applikazzjoni li ma tkunx waħda deskritta fil-paragrafu (b);

(b) xahar mid-data tal-ewwel seduta tal-appell quddiem it-Tribunal, f'każ ta' applikazzjoni soġġetta għal Studju dwar l-Impatt Ambjentali u, jew għal permess tal-IPPC, li fil-fehma tal-Ministru responsabbli għall-Awtorità tal-Ippjanar hija ta' sinifikat strateġiku jew ta' interess nazzjonali, relatata ma' xi obbligu li jirriżulta minn Att tal-Unjoni Ewropea, taffettwa s-sigurtà nazzjonali jew taffettwa l-interessi tal-Gvern u, jew ta' gvernijiet oħra.

(6) L-ordni ta' sospensjoni għandha tkun meqjusa li tkun skadiet *ipso iure* wara l-iskadenza tal-perjodi indikati fis-subartikolu (5).

**34.** It-Tribunal għandu, kull meta l-eżekuzzjoni ta' permess tkun giet sospiża, jagħti d-deċiżjoni finali tiegħu fuq il-mertu tal-appell:

Deċiżjoni fuq il-mertu meta l-eżekuzzjoni ta' permess tkun giet sospiża.

(a) fi żmien tliet xhur mid-data tal-ewwel seduta tal-appell;

(b) fi żmien xahar mid-data tal-ewwel seduta tal-appell quddiem it-Tribunal, f'każ ta' applikazzjoni soġġetta għal Studju dwar l-Impatt Ambjentali u, jew għal permess tal-IPPC li fil-fehma tal-Ministru hija ta' sinifikat strateġiku jew ta' interess nazzjonali, relatat ma' xi obbligu li jirriżulta minn Att tal-Unjoni Ewropea, jaffettwa s-sigurtà nazzjonali jew jaffettwa l-interessi tal-Gvern u, jew ta' gvernijiet oħra.

Deciżjoni fuq il-mertu meta ma jkunx hemm talba għas-sospensjoni tal-eżekuzzjoni ta' permess jew meta ma tkunx giet sospiża.

### 35. It-Tribunal għandu:

(a) kull meta ma jkunx hemm talba għas-sospensjoni tal-eżekuzzjoni tal-permess, jagħti d-deciżjoni finali tiegħu fuq il-mertu tal-appell fi żmien sena mid-data tal-ewwel seduta tal-appell liema perijodu jista' jiġi estiż għal darba waħda biss b'perijodu ulterjuri ta' sitt xhur f'kazijiet eċċezzjonali, fl-interess tal-gustizzja;

(b) kull meta talba għas-sospensjoni tal-eżekuzzjoni tal-permess tiġi miċhuda, jagħti d-deciżjoni finali tiegħu fuq il-mertu tal-appell fi żmien sena mid-deciżjoni parzjali, liema perijodu jista' jiġi estiż għal darba waħda biss b'perijodu ulterjuri ta' sitt xhur f'kazijiet eċċezzjonali fl-interess tal-gustizzja;

(ċ) fir-rigward ta' appelli minn applikazzjonijiet bil-proċedura *fast track*, jagħti id-deciżjoni finali tiegħu fuq il-mertu tal-appell fi żmien tliet xhur mid-data tal-ewwel seduta tal-appell:

Iżda f'każ li l-perijodu oriġinali jiġi estiż kif dikjarat hawn fuq, ebda provi jew sottomissjonijiet m'għandhom jitressqu fil-perijodu ta' estensjoni:

Iżda f'każ li deciżjoni finali ma tiġix mogħtija fl-iskadenzi hawn fuq indikati, l-appell għandu jiġi assenjat mis-Segretarju lill-*panel* ieħor.

Appelli minn avviżi ta' infurzar.

**36. (1)** Meta jiġu pprezentati appelli minn xi persuna li tħoss ruħha aggravata minn xi avviż ta' waqfien jew infurzar notifikat lilha skont l-artikolu 97, 98 u 99 tal-Att tal-2015 dwar l-Ippjanar tal-Iżvilupp, it-Tribunal:

(a) jekk ikun sodisfatt li jkun ingħata permess taħt l-Att tal-2015 dwar l-Ippjanar tal-Iżvilupp, jew taħt xi liġi oħra li kienet fis-seħħ qabel l-Att tal-2015 dwar l-Ippjanar tal-Iżvilupp u li kienet tirregola l-attività inkwistjoni jew permessi tal-bini, għall-attività jew żvilupp li l-avviż ikun jirreferi għalih, jew li ebda permess ma kien meħtieġ fir-rigward tiegħu, skont il-każ, u li l-kondizzjonijiet li taħthom ingħata l-permess ikunu ġew imħarsa, għandu jannulla l-avviż li dwaru jkun sar l-appell jew dik il-parti tiegħu li dwarha t-Tribunal ikun sodisfatt kif imsemmi qabel;

(b) f'kull każ ieħor, għandu jiċhad l-appell:

Iżda t-Tribunal għandu jordna lill-Awtorità tal-Ippjanar

sabiex tbiddel l-avviż jekk huwa jqis li mhux l-illegalitajiet kollha elenkati fid-deskrizzjoni dettaljata fl-avviż huma illegali jew li wħud mill-illegalitajiet ġew imneħħija.

(2) Jekk qabel ma jiġi ppreżentat appell jew matul il-mori ta' appell, l-appellant jew xi persuna oħra jippreżenta lill-Awtorità tal-Ippjanar applikazzjoni għal permess ta' żvilupp dwar l-attività u, jew żvilupp imsemmi fl-avviż, it-Tribunal għandu jiċhad l-appell jekk ikun sodisfatt illi dik l-applikazzjoni tkun intiża biex tirregolarizza l-attività jew l-iżvilupp imsemmi fl-avviż.

(3) Meta appell ikun miċhud skont is-subartikolu (2), id-dispożizzjonijiet tal-artikolu 97(8) tal-Att tal-2015 dwar l-Ippjanar tal-Iżvilupp għandhom japplikaw.

(4) It-Tribunal jista' jikkorregi kull difett jew żball fl-avviż ta' infurzar, ukoll jekk ikun wieħed li kieku mhux għall-korrezzjoni jirrendih invalidu, iżda l-appellant għandu jingħata żmien biżżejjed biex jipprepara u jressaq il-każ tiegħu.

(5) It-Tribunal għandu, fir-rigward ta' appelli minn avvizi ta' infurzar, jagħti d-deċiżjoni finali tiegħu fuq il-mertu tal-appell fi żmien sena mid-data tal-ewwel seduta, liema perijodu jista' jiġi estiż għal darba waħda biss b'perijodu ta' sitt xhur f'każijiet eċċezzjonali, fl-interess tal-ġustizzja:

Izda f'każ li l-perijodu originali jiġi estiż kif dikjarat hawn qabel, ebda provi jew sottomissjonijiet m'għandhom jitressqu fil-perijodu ta' estensjoni:

Izda f'każ li deċiżjoni finali ma tiġix mogħtija fl-iskadenzi hawn fuq indikati, l-appell għandu jiġi assenjat mis-Segretarju lil *panel* ieħor.

**37.** (1) Meta jiġi ppreżentat appell minn xi persuna li tħoss ruħha aggravata b'deċiżjoni tal-Kunsill Eżekuttiv li permezz tagħha ordni ta' skedar u, jew ordni ta' konservazzjoni tiġi maħruġa skont l-artikolu 57(11) tal-Att tal-2015 dwar l-Ippjanar tal-Iżvilupp, it-Tribunal għandu jirrevoka jew ibiddel l-ordni, jew jikkonferma l-ordni.

Appelli minn ordni ta' skedar u ordni ta' konservazzjoni.

(2) Meta t-Tribunal jiddeċiedi li jneħħi l-iskedar minn fuq proprjetà jew inaqas il-livell ta' protezzjoni mogħti lil proprjetà skedata, it-Tribunal għandu jitlob l-approvazzjoni tal-Ministru responsabbli mill-Awtorità tal-Ippjanar u t-terminu tal-preżentata tal-appell mid-deċiżjoni tat-Tribunal lill-Qorti tal-Appell, għandu jibda jiddekorri mid-data li fiha t-Tribunal ikun għarraf lill-appellant bl-approvazzjoni tal-Ministru.

Disposizzjonijiet applikabbli għad-deċizzjonijiet kollha.

**38.** (1) Id-deċizzjonijiet tat-Tribunal għandhom jorbtu lill-Awtorità, lill-konsulenti esterni, lil terzi persuni interessati u reġistrati u lil kull pesuna oħra u, jew entità affettwata bid-deċizzjoni, jekk ikunu appoġġjati mill-opinjoni ta' żewġ membri tiegħu, u l-membri li ma jaqbilx, jekk ikun hemm, jista' jesprimi l-opinjoni tiegħu separatament.

(2) Id-deċizzjonijiet kollha tat-Tribunal għandhom jinghataw fil-pubbliku u għandhom ikunu ippublikati kemm jista' jkun malajr wara s-seduta li fiha jkunu ngħataw.

Appelli minn deċizzjonijiet tat-Tribunal.

**39.** Id-deċizzjonijiet tat-Tribunal ikunu finali u ma jkun hemm ebda appell minnhom, hlief fuq punt ta' liġi deċiż mit-Tribunal jew dwar kull kwistjoni oħra relatata ma' allegat ksur tad-dritt ta' smiġh xieraq quddiem it-Tribunal.

Tribunal għandu jagħti raġunijiet għad-deċizzjoni.

**40.** It-Tribunal għandu jindika, b'mod ċar, ir-raġunijiet li fuqhom hija bbażata d-deċizzjoni tiegħu.

Konsiderazzjonijiet speċifiċi u espressi.

**41.** Għalkemm ma għandux ikun meħtieġ li t-Tribunal fid-deċizzjoni tiegħu jittratta kull punt mressaq b'argument, sottomissjoni li, jekk tiġi milqugħa, tkun deċiżiva għall-eżitu tal-każ, għandha tinghata konsiderazzjoni speċifika u espressa.

Abbandun ta' appelli.

**42.** It-Tribunal jista' jqis li appell ġie abbandunat jekk l-appellant ma jurix interess fl-appell minnu pprezentat. In-nuqqas tal-appellant li jidher quddiem it-Tribunal għal żewġ seduti konsekuttivi mingħajr raġuni tajba, għandha titqies li l-appellant m'għandux interess fl-appell.

Appelli frivoli u vessatorji.

**43.** It-Tribunal jista' jimponi multa fuq l-appellant ta' elfejn u ħames mitt euro (€2,500) f'dawk il-każijiet fejn jiddikjara li l-appell huwa frivolu jew vessatorju u f'każijiet bħal dawn id-deċizzjoni tat-Tribunal għandha tkun finali mingħajr ebda rimedju quddiem il-Qorti tal-Appell (Kompetenza Inferjuri).

Spejjeż għal aċċess fuq is-sit.

**44.** It-tribunal jista' jimponi dawk id-drittijiet li jidhirlu xieraq fuq il-parti li tagħmel talba għal aċċess fuq is-sit. Jekk it-Tribunal fuq mozzjoni tiegħu stess jiddeċiedi li jagħmel dak l-aċċess, l-appellant għandu jhallas l-ispejjeż tal-aċċess.

Penali, drittijiet u kontribuzzjonijiet.

**45.** (1) Jekk it-tribunal, jiddeċiedi li jagħti permess jew li jbidel deċizzjoni meħuda mill-Awtorità, huwa jista' jimponi penali, il-hlas ta' drittijiet u kontribuzzjonijiet u, jew kondizzjonijiet oħra, li t-Tribunal jidhirlu xierqa. Il-fondi akkumulati minn dawn il-penali, drittijiet u kontribuzzjonijiet għandhom jiġu miġbura u amministrati mill-Awtorità.

(2) L-Awtorità għandha, toħroġ il-permess jew tikkonforma

mad-deċiżjoni tat-Tribunal fi żmien xahar mid-deċiżjoni tat-Tribunal, jew, jekk fid-deċiżjoni tat-Tribunal tkun giet imposta xi kondizzjoni jew giet imposta xi penali, hlas ta' dritt jew kontribuzzjoni, fi żmien xahar minn meta l-appellant jikkonforma ruħu ma' dik il-kondizzjoni jew il-hlas ta' tali piena, dritt jew kontribuzzjoni imposta mit-Tribunal fid-deċiżjoni tiegħu.

**46.** (1) It-Tribunal jista', f'kull waqt tal-proċedura, qabel ma tingħata d-deċiżjoni, fuq talba ta' waħda mill-partijiet, u wara li jisma' meta jeħtiegħ lill-partijiet, jordna s-sostituzzjoni ta' xi att jew jippermetti tibdil fl-iskritturi, sew billi fihom jiżdied jew jitneħħa l-isem ta' waħda mill-partijiet u jitqiegħed ieħor floku, jew billi jissewwa żball fl-isem tal-partijiet jew fil-kwalità li fiha jidhru, jew billi jissewwa kull żball ieħor jew billi jiddaħħlu sottomissjonijiet oħra ta' fatt jew ta' dritt ukoll permezz ta' nota separata, sakemm sostituzzjoni jew tibdil bħal dak ma jbidilx fis-sustanza l-azzjoni jew l-eċċezzjoni fuq il-meritu tal-każ.

Tribunal jista' jordna jew jippermetti tibdil fl-iskritturi.

(2) Kull nuqqas jew żball amministrattiv f'att jista', sa qabel ma tingħata deċiżjoni, jiġi rimedjat mit-Tribunal fuq istanza tiegħu stess.

(3) It-Tribunal jista', fuq rikors ta' waħda mill-partijiet li għandu jiġi notifikat lill-partijiet l-oħra fl-appell, jirraġa f'kull żmien, permezz ta' digriet, xi żball ta' kalkolu li jkun sar fid-deċiżjoni.

(4) Xejn m'għandu jzomm lit-Tribunal milli jikkorreġi kull żball fil-kliem użat fid-deċiżjoni, jew milli jbidel kull espressjoni li ma tkunx ċara, jew li tista' tiftiehem xort'oħra minn dak li jidher fiċ-ċar li ried ifisser it-Tribunal, kemm-il darba jsir rikors għal dak il-għan fi żmien għoxrin ġurnata mid-data ta' meta d-deċiżjoni tiġi pubblikata, u f'dak il-każ, iż-żmien stabbilit minn dan l-Att għall-preżentata ta' appell quddiem il-Qorti tal-Appell (Kompetenza Inferjuri) minn kull deċiżjoni li tkun giet hekk mibdula, jibda' jgħaddi minn dak in-nhar tan-notifika tad-digriet mogħti fuq it-talba għall-korrezzjoni.

## TAQSIMA V

Proċeduri quddiem it-Tribunal relatati ma' Deċiżjonijiet meħuda mill-Awtorità ta' Malta dwar l-Ambjent

**47.** (1) Kull parti aggravata tista' tappella lit-Tribunal skont id-dispożizzjonijiet tal-Att tal-2015 dwar il-Protezzjoni tal-Ambjent u kull regolament magħmul tahtu.

(2) Appell lit-Tribunal jista' jiġi pprezentat fuq kwalunkwe

raġuni inkluz:

- (a) li sar żball materjali dwar il-fatti;
- (b) li kien hemm żball proċedurali materjali;
- (c) li sar żball ta' liġi;
- (d) li kien hemm xi illegalità materjali, irragonevolezza, konsiderazzjoni ineffettiva jew insuffiċjenti ta' effetti negattivi, jew nuqqas ta' proporzjonalità.

(3) L-effett ta' deċiżjoni li għaliha l-appell jirreferi m'għandhux, hlief fejn it-Tribunal jew il-Qorti tal-Appell, kif jista' jkun il-każ, hekk jordna, ikun sospiż b'konsegwenza tal-preżentata tal-appell:

Iżda fil-każ ta' appell mill-approvazzjoni jew l-approvazzjoni parzjali ta' azzjoni potenzjalment irriversibbli jew azzjoni li potenzjalment tista' tkun ta' ħsara sinifikanti għall-ambjent, l-approvazzjoni tista' tiġi sospiża mit-Tribunal sakemm tinghata deċiżjoni finali mit-Tribunal jekk l-imsemmi Tribunal iqis li dan ikun fl-interess li jiġu evitati kwalunkwe probabbli effetti jew implikazzjonijiet sinifikanti jew irriversibbli fuq l-ambjent jew għal raġunijiet li huma ġustifikati b'mod simili.

(4) Id-dritt ta' appell quddiem it-Tribunal għandu jkun kompetenti għal kull parti aggravata mid-deċiżjoni mingħajr il-ħtieġa li ttiprova l-interess tagħha fil-kwistjoni.

(5) Id-dispożizzjonijiet li jirrigwardaw il-pubblikazzjoni u l-komunikazzjoni ta' applikazzjonijiet, sottomissjonijiet u deċiżjonijiet mill-Awtorità għandhom japplikaw *mutatis mutandis* għad-deċiżjoni tat-Tribunal, minbarra l-proċeduri stabbiliti f'dan l-artikolu.

(6) Sabiex tiżdied l-effettività tad-dispożizzjonijiet ta' dan l-artikolu, l-Awtorità għandha tiżgura illi informazzjoni Prattika dwar l-aċċess għall-proċeduri rilevanti tkun disponibbli għall-pubbliku.

(7) Il-partijiet kollha fl-appell jistgħu jagħmlu talba lit-Tribunal sabiex jaraw l-atti tal-Awtorità f'kull hin qabel is-seduta tat-Tribunal.

(8) Id-dispożizzjonijiet tal-artikoli 12, 13, 14, 15, 16, 17, 18, 20, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 39, 40, 41, 42, 43, 44, 45 u 46 għandhom japplikaw *mutatis mutandis* għall-appelli ppreżentati taħt din it-Taqsima ta' dan l-Att, u kull referenza għall-Awtorità f'dawn l-artikoli għandha tinftiehem b'hal referenza għall-Awtorità

ta' Malta dwar l-Ambjent.

**48.** (1) Meta jiġu ppreżentati appelli minn xi persuna li tħoss ruħha aggravata minn xi ordni ta' waqfien jew konformità notifikat lilha skont l-artikolu 76 tal-Att tal-2015 dwar il-Protezzjoni tal-Ambjent, it-Tribunal:

Appelli minn ordni ta' waqfien u ordni ta' konformità.

(a) jekk ikun sodisfatt li jkun ingħata permess taħt l-Att tal-2015 dwar il-Protezzjoni tal-Ambjent, jew taħt xi liġi oħra li kienet fis-seħħ qabel l-Att tal-2015 dwar il-Protezzjoni tal-Ambjent u li kienet tirregola l-attività inkwistjoni, għall-attività li l-ordni jkun jirreferi għaliha, jew li ebda awtorizzazzjoni ma kienet meħtieġa fir-rigward tagħha, skont il-każ, u li l-kondizzjonijiet li taħthom ingħatat l-awtorizzazzjoni jkunu ġew imħarsa, għandu jannulla l-ordni li dwaru jkun sar l-appell jew dik il-parti tiegħu li dwarha t-Tribunal ikun sodisfatt kif imsemmi qabel;

(b) f'kull każ ieħor, għandu jiċhad l-appell:

Izda t-Tribunal għandu jordna lill-Awtorità ta' Malta dwar l-Ambjent sabiex tbiddel l-ordni jekk huwa jqis li mhux l-illegalitajiet kollha elenkati fid-deskrizzjoni dettaljata fl-ordni huma illegali jew li wħud mill-illegalitajiet ġew imneħħija.

(2) Jekk qabel ma jiġi ppreżentat appell jew matul il-mori ta' appell, l-appellant jew kull persuna oħra jippreżenta lill-Awtorità ta' Malta dwar l-Ambjent applikazzjoni għal awtorizzazzjoni dwar l-attività imsemmija fl-ordni, it-Tribunal għandu jiċhad l-appell jekk ikun sodisfatt illi dik l-applikazzjoni tkun intiża biex tirregolarizza l-attività imsemmija fl-ordni.

(3) Meta appell ikun miċhud skont is-subartikolu (2), id-dispożizzjonijiet tal-artikolu 76(12) tal-Att tal-2015 dwar il-Protezzjoni tal-Ambjent għandhom japplikaw.

(4) It-Tribunal jista' jikkorreġi kull difett jew żball fl-ordni ta' waqfien, ukoll jekk ikun wieħed li kieku mhux għall-korrezzjoni jirrendih invalidu, izda l-appellant għandu jingħata żmien biżżejjed biex jipprepara u jressaq il-każ tiegħu.

(5) It-Tribunal għandu, fir-rigward ta' appelli minn ordni ta' waqfien, jagħti id-deċiżjoni finali tiegħu fuq il-mertu tal-appell fi żmien sena mid-data tal-ewwel seduta liema perijodu jista' jiġi estiż għal darba waħda biss b'perijodu ta' sitt xhur f'każijiet eċċezzjonali fl-interess tal-gustizzja;

Izda f'każ li l-perijodu originali jiġi estiż kif dikjarat hawn

qabel, ebda provi jew sottomissjonijiet m'għandhom jitressqu fil-perijodu ta' estensjoni:

Iżda ukoll f'kaz li deċiżjoni finali ma tiġix mogħtija fl-iskadenzi hawn fuq indikati, l-appell għandu jiġi assenjat mis-Segretarju lill-*panel* ieħor.

Appelli minn deċiżjonijiet ta' protezzjoni u ordnijiet ta' konservazzjoni.

**49.** (1) Meta jiġi ppreżentat appell minn XI persuna li tħoss ruħha aggravata b'deċiżjoni tal-Awtorità tal-Ambjent skont id-dispożizzjonijiet tal-Artikolu 69 tal-Att tal-2015 dwar il-Protezzjoni tal-Ambjent, it-Tribunal għandu jirrevoka jew ibiddel l-ordni, jew jiċċad l-appell.

(2) Meta t-Tribunal jiddeċiedi li jneħhi d-dikjarazzjoni ta' protezzjoni minn fuq zona protetta jew inaqqas il-livell ta' protezzjoni mogħti lil zona li giet dikjarata bħala protetta, it-Tribunal għandu jitlob l-approvazzjoni tal-Ministru responsabbli mill-Awtorità ta' Malta dwar l-Ambjent u t-terminu tal-preżentata tal-appell mid-deċiżjoni tat-Tribunal lill-Qorti tal-Appell, għandu jibda jiddekorri mid-data li fiha t-Tribunal ikun għarraf lill-appellant bl-approvazzjoni tal-Ministru.

## TAQSIMA VI

### Appelli minn Deċiżjonijiet tat-Tribunal

Appelli minn deċiżjonijiet tat-Tribunal.

Kap. 12.

**50.** Bla hsara għad-dispożizzjonijiet tal-artikolu 39, appell mill-appellant jew minn kull parti oħra fl-appell minn deċiżjonijiet tat-Tribunal għandu jsir quddiem il-Qorti tal-Appell kostitwita skont l-artikolu 41(6) tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, fuq punti ta' liġi.

Appelli minn deċiżjonijiet parzjali tat-Tribunal.

**51.** Appell minn deċiżjoni parzjali tat-Tribunal skont l-artikolu 33 jista' jiġi ppreżentat biss flimkien ma' appell mid-deċiżjoni finali tat-Tribunal.

Perijodu għall-preżentata ta' appell minn deċiżjoni tat-Tribunal.

Kap. 12.

**52.** Appell quddiem il-Qorti tal-Appell (Kompetenza Inferjuri) għandu jiġi ppreżentat fi żmien għoxrin ġurnata minn meta d-deċiżjoni tat-Tribunal tiġi moqrija fil-pubbliku u dak l-appell għandu ikun regolat mir-regoli tal-qorti magħmula taht l-artikolu 29 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili.

Spejjeż legali u ġudizzjarji u d-drittijiet.

Kap. 12.

**53.** Proċeduri tal-appell quddiem il-Qorti tal-Appell (Kompetenza Inferjuri) skont l-artikolu 49 għandhom jiġu konklużi mingħajr dewmien. L-ispejjeż legali u ġudizzjarji u d-drittijiet li għandhom jiġu fl-imsemmija proċeduri għandhom jiġu intaxxati skont il-paragrafu (7) tal-partita 3 tat-Tariffa A u skont il-paragrafu (b) tal-partita 15 tat-Tariffa E fl-Iskeda A li tinsab tal-Kodiċi ta'



## Organizzazzjoni u Proċedura Ċivili.

**54.** Ir-rappreżentanza legali u ġuridika tat-Tribunal tkun vestita fis-Segretarju tat-Tribunal jew f'kull persuna oħra kif il-Prim Ministru jista' jahtar specifikatament għal kull każ jew grupp ta' każijiet.

Rappreżentanza  
legali u  
ġuridika.

**55.** It-Tribunal stabbilit taħt id-dispożizzjonijiet ta' dan l-Att għandu jaqdi u jissuċċedi fil-funzjonijiet, l-attiv, jeddijiet, passiv u obbligi kollha tat-Tribunal ta' Reviżjoni tal-Ambjent u l-Ippjanar rispettivament, stabbilit taħt id-dispożizzjonijiet tal-Att dwar l-Ambjent u l-Ippjanar tal-Izvilupp.

Riserva.

Kap. 504

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### Ghanijiet u Raġunijiet

L-għan ta' dan l-Abbozz ta' Liġi hu sabiex jistabbilixxi tribunal bil-għan li jirrevedi deċiżjonijiet tal-Awtorità tal-Ippjanar u tal-Awtorità dwar l-Ambjent, biex jipprovdi għall-mod kif għandhom isiru l-proċeduri quddiem it-tribunal, u biex jipprovdi għal appelli minn deċiżjonijiet tat-tribunal.

## ARRANGEMENT OF ACT

		Articles
Part I	Preliminary Provisions	1-2
Part II	Establishment and Scope of the Tribunal	3-10
Part III	Proceedings before the Tribunal related to Decisions taken by the Planning Authority	11-32
Part IV	Decisions of the Tribunal related to Decisions taken by the Planning Authority	33-46
Part V	Proceedings before the Tribunal related to Decisions taken by the Malta Environment Authority	47-49
Part VI	Appeals from Decisions of the Tribunal	50-55

**A Bill  
entitled**

*AN ACT to establish a tribunal for the purpose of reviewing decisions of the Planning Authority and of the Malta Environment Authority, to provide for the manner in which proceedings of the tribunal are to be conducted, and to provide for appeals from decisions of the tribunal.*

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:-

PART I

Preliminary Provisions

1. (1) The short title of this Act is the Environment and Planning Review Tribunal Act, 2015. Short title and commencement.

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

2. (1) In this Act, unless the context otherwise requires, Interpretation. the following expressions have the meaning hereby assigned to them:

"appellate parties" means the Authority, the applicant, the registered interested third parties, external consultees and environmental NGOs in appeals from decisions of the Tribunal on applications subject to an environmental impact assessment and, or IPPC matters, who participated in the proceedings before the Tribunal;

"authority" means the Planning Authority;

"Chairperson" means any Chairperson of the Environment and Planning Review Tribunal appointed in terms of this Act;

"development permission" means a permission to carry out or retain development, granted by the Planning Board or Planning Commission either pursuant to an application in that regard or in the case of a development order;

"Environment Authority" has the same meaning as assigned to it in the Environment Protection Act, 2015;

Cap. 492.

"Environmental NGOs" means non-governmental organizations promoting environmental protection and which are registered under the Voluntary Organisations Act;

L.N. 514 of 2010.

"external consultee" has the same meaning assigned to it in regulation 2 of the Development Planning (Procedure for Applications and their Determination) Regulations, 2010;

"Government" means the Government of Malta;

"person" includes an association or body of persons, whether registered as a legal person or not;

"Planning Authority" has the same meaning assigned to the term "Authority" in article 2 of the Development Planning Act, 2015;

"recommendation" means the reply lodged by an external consultee which may either indicate a no objection to an application, or an approval of the application subject to conditions indicated by the external consultee or that the application is objectionable for reasons indicated by the external consultee;

"Secretary" means the Secretary to the Environment and Planning Review Tribunal;

"Tribunal" means the Environment and Planning Review Tribunal.

(2) Other words and expressions contained in this Act shall have the same meaning assigned to them in the Development Planning Act, 2015.

## PART II

## Establishment and Scope of the Tribunal

3. There shall be set up in accordance with the provisions of this Act, an independent and impartial tribunal, to be known as the Environment and Planning Review Tribunal, for the purpose of reviewing the decisions of the Planning Authority and the decisions of the Malta Environment Authority, referred to it in accordance with this Act or any other law, and for the purpose of exercising any other jurisdiction and function conferred on the Tribunal by or under this or any other law, whether before or after the coming into force of this Act.

The  
Environment  
and Planning  
Review  
Tribunal.

4. (1) The Prime Minister may by order establish panels of the Tribunal, and may designate the categories of cases to be assigned to each panel and may by subsequent order amend, revoke or substitute such order.

Composition of  
the Tribunal.

(2) Each panel shall consist of three members, with two of its members being well versed in development planning legislation and environmental legislation and the other member an advocate.

(3) Each panel shall have a Chairperson, who shall preside over the panel, and a deputy Chairperson. In the absence of the Chairperson, the deputy Chairperson shall perform the functions of Chairperson.

(4) All members sitting on each panel, including the Chairperson and the deputy Chairperson, shall be appointed by the Prime Minister.

(5) The Secretary to the Tribunal shall establish the case list of each panel, having regard to the pending case load assigned before each panel.

(6) A member of the Tribunal shall be disqualified from hearing an appeal in terms of article 734 of the Code of Organization and Civil Procedure and in any such case, such member shall be substituted by another person either appointed for the purpose by the Prime Minister, or chosen by the Secretary from the members of the other panel or panels so appointed.

Cap. 12.

(7) The members of the Tribunal shall hold office for a term of five years. They shall not be eligible for reappointment for a subsequent term.

(8) In the exercise of their functions under this Act, the

Chairperson and the members of the Tribunal shall not be subject to the control or direction of any other person or authority, and may only be removed from office by the President acting on the advice of the Prime Minister, for the reasons of proved inability to perform functions of their office (whether arising from infirmity of body or mind or any other cause), proved misbehaviour, gross negligence or for a just cause and it shall be a just cause if the member does not achieve the targets and objectives set in relation to his duties.

Secretariat of the Tribunal.

**5.** (1) The Tribunal shall have an administrative secretariat independent from any authority, consisting of a Secretary and such other officers or employees as may be necessary for a prompt and efficient management of administrative matters within the Tribunal's functions.

(2) The Secretary and the administrative secretariat shall be appointed by the Prime Minister.

(3) The expenses incurred in connection with the administration of the Tribunal, including the payment of the honorarium to the Chairperson and members of the Tribunal and the salary of the Tribunal's Secretary and the Tribunal's staff, shall be paid out of the Consolidated Fund without the necessity of any further appropriation.

(4) The Secretary shall perform any duty which may be incumbent upon him under this Act or any rules made thereunder.

Sittings of the Tribunal.

**6.** (1) The Tribunal shall hold sittings in Malta and, or Gozo, at such regular intervals as may be necessary to expedite its business.

(2) The Tribunal shall hold its sittings at any place indicated by the Prime Minister.

(3) The sittings of the Tribunal shall be open to the public, subject to the power of the Tribunal to exclude any member of the public, if it deems it necessary so to do for the maintenance of order.

Registry of the Tribunal.

**7.** (1) There shall be a registry of the Tribunal.

(2) The Prime Minister shall by regulations establish the functions of the Registry of the Tribunal and by the same regulations may also appoint such officers as may be necessary for the operation of the said Registry. All the records of the Tribunal shall be filed in the Registry referred to in this sub-article.

(3) The registry shall be situated at any place indicated by the

Prime Minister.

(4) The Secretary to the Tribunal shall be responsible for the running of the Registry.

**8.** (1) A member of the Tribunal shall upon appointment take the following oath before the Attorney General:

Oath of Office of members of the Tribunal.

"I ..... (add name and surname) having been appointed to be a Member for the purposes of the Environment and Planning Review Tribunal Act, do swear that I will faithfully, fully, impartially and to the best of my ability discharge the trust and perform the duties devolving upon me by virtue of the said appointment. So help me God".

(2) The said oath shall be signed by the member of the Tribunal and the Attorney General. It shall be deposited with the Tribunal's Secretary.

**9.** (1) In its relations with the public, the Tribunal shall adhere to and apply the principles of good administrative behaviour.

Principles of good administrative behaviour.

(2) The principles of good administrative behaviour include the following:

(a) the Tribunal shall respect the parties' right to a fair hearing, including the principles of natural justice, namely:

(i) *nemo judex in causa sua*, and

(ii) *audi et alteram partem*;

(b) the time within which the Tribunal shall take its decisions shall be reasonable depending on the circumstances of each case. The decision shall be delivered as soon as possible and for this purpose the tribunal shall deliver a single decision about all matters involved in an appeal before it whether they are of a preliminary, substantive or procedural nature;

(c) the Tribunal shall ensure that there shall be procedural equality between the parties to the proceedings. Each party shall be given an opportunity to present its case, whether in writing, or orally, or both, without being placed at a disadvantage;

(d) the Tribunal shall ensure that the Planning Authority makes available to the parties to the proceedings, the documents and information relevant to the appeal;

(e) proceedings before the Tribunal shall be adversarial in nature. All evidence admitted to the tribunal shall, in principle, be made available to the parties with a view to adversarial argument;

(f) the Tribunal shall be in a position to examine all of the factual and legal issues relevant to the appeal presented by the parties in terms of the applicable law;

(g) save as otherwise provided by law, the proceedings before the Tribunal shall be open to the public;

(h) the Tribunal shall indicate, with sufficient clarity, the grounds on which it basis its decisions. It shall not be necessary for the tribunal to deal with every plea raised, provided that where a plea would, if accepted, be decisive for the outcome of the appeal, such a plea shall require a specific and express consideration.

Power of the  
Prime Minister  
to make  
regulations.

**10.** (1) The Prime Minister may make regulations to implement and to give better effect to the provisions of this Act and may, without prejudice to the generality of the foregoing:

(a) establish the date of entry into force of any provision of this Act;

(b) set out the procedure before the Tribunal;

(c) set out the procedure in appeals from the decisions of the Tribunal;

(d) establish the forms that are to be used in proceedings before the Tribunal;

(e) establish the forms that are to be used in proceedings in appeals from the decisions of the Tribunal;

(f) establish rates and tariffs relating to proceedings before the Tribunal;

(g) establish the fees that may be due to the Registry of the Tribunal;

(h) set out the duties of the Secretary to the Tribunal;

Cap. 12.

(i) establish which provisions of the Code of Organization and Civil Procedure, if any, not mentioned in this Act, are to apply to the procedure before the Tribunal;



(j) prescribe anything that may or is to be prescribed in accordance with this Act;

(k) make such amendments, alterations, deletions, repeals, corrections, changes and modifications to any laws or subsidiary legislation for the purpose of bringing such primary law or subsidiary law in conformity with the provisions of this Act.

### PART III

#### Proceedings before the Tribunal related to Decisions taken by the Planning Authority

**11.** (1) Subject to the provisions of the Development Jurisdiction.  
Planning Act, 2015, the Tribunal shall have jurisdiction to:

(a) hear and determine all appeals made by the applicant from a decision taken following an application:

(i) for a development permission;

(ii) for a permission under a development notification order;

(iii) for a permission under a regularisation process;

(iv) for a change in alignment under a planning control application;

(v) for a permission for a project of common interest (PCI);

(vi) for registration by the Registration Board;

(b) hear and determine all appeals made by the applicant from a decision taken following a request for screening of a proposed development, whereby in same decision:

(i) additional submissions, studies, assessments and documentation are requested; and, or

(ii) fees and, or contributions are required to be paid to the Authority before the submission, on the submission or during the processing of the application and the applicant does not agree with the amount of the fees

and, or contributions;

(c) hear and determine all appeals made by any person:

(i) aggrieved by a notice issued under the provisions of Part IX of the Development Planning Act, 2015;

(ii) aggrieved by a decision in relation to scheduling and conservation orders;

(iii) aggrieved by a decision on a request for modification or revocation of permission;

(d) hear and determine all appeals made by any person or institution or any department or agency of Government, having a direct interest and aggrieved by any decision, ruling or direction in relation to Building Regulations and Building Control Regulations, even where such a decision does not emanate from a development application process;

(e) hear and determine all appeals made by an interested third party who had submitted written representations as established by the Planning Authority in terms of article 71(6) of the Development Planning Act, 2015:

(i) from a decision on an application for development permission;

(ii) from a decision on a planning control application relating to a change in alignment;

(iii) from a decision on scheduling and conservation orders:

Provided that the Attorney General on behalf of the Government and any department, agency, authority or other body corporate wholly owned by the Government, not being an external consultee, shall always be deemed for all intents and purposes of law to be an interested third party notwithstanding that no written representations have been submitted:

Provided that an Environmental NGO shall always be deemed for all intents and purposes of the law to be a registered interested person or party, provided that the appeal is related to an Environmental Impact Assessment or an IPPC permit:

Provided further that the Authority shall not be construed as an interested third party for the purposes of this paragraph;

(f) hear and determine all appeals made by external consultees from a decision taken following an application:

(i) for a development permission;

(ii) for a change in alignment following a planning control application;

(iii) for a permission for projects of common interest (PCI):

Provided that such an appeal may only be lodged by an external consultee which had lodged its recommendation to the Planning Authority and in its recommendation it had either indicated that the application may be approved subject to those conditions indicated by the external consultee, or that the application is objectionable for reasons indicated by the external consultee;

(g) hear and determine requests for suspension in terms of article 33;

(h) exercise such functions as are assigned to it under the provisions of this Act.

(2) The Prime Minister may order that any other decision of the Planning Authority shall be subject to the jurisdiction of the Tribunal.

**12.** The provisions of articles 21, 22 and 23 of the Code of Organization and Civil Procedure shall apply to all proceedings before the Tribunal. Proceedings. Cap. 12.

**13.** (1) Unless otherwise provided under any provision of this Act, an appeal shall be lodged before the Tribunal within thirty days from date of publication of the decision in a local newspaper by the Authority: Timeframes for lodging of appeals.

Provided that appeals from decisions which do not need to be published shall be lodged before the Tribunal within thirty days from date of notification of the decision.

L.N. 514 of  
2010.

(2) If an appeal has been lodged with the Tribunal by any party other than the applicant in accordance with the provisions of article 77(3) of the Development Planning Act, 2015, and the applicant submits a request for reconsideration in accordance with the provisions of the Development Planning (Procedure for Applications and their Determination) Regulations, 2010, the proceedings before the Tribunal shall be suspended until the request for the reconsideration has been determined and a copy of the decision has been submitted to the Tribunal by the Planning Authority, and any time periods established under the provisions of this Act in relation to the proceedings before the Tribunal shall commence from the date of receipt by the Tribunal of the decision on the request for reconsideration:

Provided that any party other than the applicant who had lodged his appeal as above-stated, shall within a period of thirty days from notification of the decision on the request for reconsideration, amend his appeal or make further submissions to the Tribunal, if he deems it necessary.

(3) Any person who feels aggrieved by a notice served on him may lodge an appeal against it before the Tribunal within fifteen days from the service of the notice or within fifteen days from the publication of the said notice on a local newspaper, should the Authority deem fit to make such a publication.

Proceedings to  
be conducted in  
a timely manner.

**14.** All appeal proceedings before the Tribunal shall be conducted in a timely manner, without undue delay, and shall not be prohibitively expensive.

Contents of  
application for  
appeal.

**15.** An appeal from a decision of the Authority shall be in the form of an application, and shall:

(a) make reference to the Authority's decision appealed from;

(b) distinctly state the heads of the decision complained of under different headings, together with reasons under each heading for which the appeal is entered;

(c) state specifically the manner in which it is desired that the decision be varied under each heading; and

(d) also include all documentation which is relevant for the grounds of appeal.

**16.** An appeal from an enforcement notice or other notice shall also include a copy of the enforcement notice or other notice being appealed from.

Appeal from an enforcement notice or other notice.

**17.** (1) All parties to an appeal shall, if they require witnesses, together with the appeal or any reply to an appeal, indicate the names and addresses of the witnesses they intend to produce in evidence, and state in respect of each one of them the facts they intend to establish through their evidence.

Indication of witnesses in the application for appeal.

(2) The Tribunal shall be empowered to summon witnesses and administer the oath to any person appearing before it.

**18.** The parties to the appeal may be represented by an agent before the Tribunal.

Representation.

**19.** Subject to the provisions of article 33 of the Development Planning Act, 2015, all parties to an appeal may submit a request to the Tribunal to view the Authority files at any time before the sitting of the Tribunal.

Request to view Authority files.

**20.** A copy of the appeal application and the ancillary documentation shall forthwith be communicated to the Authority within five working days from when the Secretary has allocated the case to be heard by a specific panel. The Authority shall file its reply within twenty days of service upon it. The reply shall, in all cases, be limited to the reasons for refusal or the conditions imposed by the Authority. The Authority shall produce any documentation it deems necessary unless contained in the relative Authority file or files. The Authority's reply and all documentation shall forthwith be communicated to the appellant.

Notification of application for appeal to the Authority.

**21.** A registered third party in terms of article 71(6) of the Development Planning Act, 2015, shall be informed by the Tribunal that an appeal has been filed and he may request the Secretary of the Tribunal to register him as an interested third party in such an appeal, within five working days from such notification. Such an interested third party shall have a right to address the Tribunal and may be requested by the parties to the appeal to give evidence in the appeal proceedings. Unless the Tribunal decides otherwise, such an interested third party may be present during all sittings of the Tribunal. However he may not attend site inspections where the Tribunal enters upon the property of the appellant, if the appellant objects to the presence of such an interested third party entering upon his property. Such an interested third party shall have a right to be given a copy of the Tribunal's decision with regard to those appeal proceedings for which he has been registered with the Secretary of the Tribunal:

Notification of application for appeal to registered third parties.

L.N. 514 of 2010.

Provided that the above procedure is also applicable to those external consultees who made their recommendations in terms of regulation 7 of the Development Planning (Procedure for Applications and their Determination) Regulations, 2010, which external consultees will however have the right to attend site inspections.

Appeals by registered interested third parties.

**22.** (1) When an appeal has been lodged by an interested third party in terms of this Act, such a person need not prove that he has an interest in that appeal in terms of the doctrine of juridical interest, which doctrine shall not apply to such proceedings, but such a person shall submit reasoned grounds based on environmental and, or planning considerations to justify his appeal.

(2) The provisions of article 21 shall *mutatis mutandis* apply in favour of the applicant:

Provided that when such an appeal is lodged, the applicant shall be informed by the Tribunal that an appeal has been filed and he may participate in such proceedings.

First hearing of the appeal.

**23.** (1) The Tribunal shall, within two months from the lodging of the appeal application, except in the instances where the appeal is accompanied by a request for suspension of the execution of a permission, appoint the day and hour and hold the first hearing for the parties to appear before it, in order to show cause why the claims, pleas and witnesses contained in their respective application and reply should be allowed. The Tribunal shall, on the same day and at the hour appointed for the first hearing of the appeal, decide which witnesses, listed in the application for appeal and reply to the appeal, it deems relevant for the purpose of giving evidence:

L.N. 514 of 2010.

Provided that where there is no request for a suspension of the execution of the development as provided in the articles hereunder, advance notice of not less than fourteen days, in such manner as the Tribunal may deem appropriate, shall be given of the first hearing of the Tribunal to the parties, and the interested third parties who registered their interest during the processing of the application before the Authority, and the external consultees who made their recommendations in terms of the Development Planning (Procedure for Applications and their Determination) Regulations, 2010:

Provided further that in cases of urgency the said time limit of fourteen days may be abridged by order of the Tribunal, if the Tribunal is satisfied that the party requesting urgency has given a valid reason in writing thereof.

(2) Where the appeal is accompanied by a request for suspension of the execution of a permission, the Tribunal shall notify the parties, hold its first hearing and decide the request within the time-frame stipulated in article 33(2).

**24.** On the date and time established after the first hearing, the appellant and the Authority shall appear before the Tribunal and produce such evidence as the Tribunal may have directed.

Mode of procedure before the Tribunal.

**25.** When from the same decision more than one appeal is lodged by different persons and entities entitled to lodge an appeal in terms of this Act, the Tribunal shall endeavour to ensure that all appeals are heard concurrently and moreover shall endeavour to deliver all its decisions concurrently.

Multiple appeals from same decision.

**26.** All parties may require the production of witnesses not indicated in the appeal or reply to the appeal whose evidence might be required in view of evidence given or produced by other witnesses. Such witnesses shall be authorised to give evidence, provided that prior approval of the Tribunal is obtained, which approval lies within the sole discretion of the Tribunal.

Undeclared witnesses.

**27.** After the production of evidence is concluded, the Tribunal shall give the appellant and the Authority an opportunity to make their final submissions:

Final submissions.

Provided that when the applicant is not the appellant, the applicant shall also have a right to make final submissions.

**28.** The Tribunal may postpone any hearing of the appeal if it is satisfied that any of the parties was prevented from appearing before it owing to proven illness or absence from Malta or other similar reasonable cause.

Postponement of hearing.

**29.** Should a witness duly notified by a summons signed by the Chairperson of the Tribunal fail without just cause to appear before the Tribunal, such person shall be fined by the Tribunal a fine (*multa*) of not less than two hundred euro (€200) and not more than five thousand euro (€5,000).

Failure of witness to appear.

**30.** (1) The Tribunal may require any department or agency of the Government to provide the Tribunal with such information as the Tribunal may deem necessary for the proper execution of its functions.

Experts.

(2) The appointment of experts shall be regulated by the following provisions:

(a) the Tribunal may appoint an expert or more than one

expert to draw up a report on any matter which the Tribunal deems relevant to the appeal;

(b) where the parties to an appeal agree on the submission of a name of an expert, the Tribunal shall appoint the expert agreed upon by the parties;

(c) where the parties fail to agree upon the appointment of an expert, the Tribunal shall appoint an expert of its own choice.

(3) In the Tribunal's decree appointing an expert, the Tribunal shall:

(a) state the object of the appointment;

(b) fix the day and time when the expert is to conduct an inspection *in faciem loci* where necessary;

(c) give directions for the guidance of the expert in the execution of his task, where necessary;

(d) establish a date by which the expert should draw up a report;

(e) state which party is to bear the expenses of such an expert.

(4) The Tribunal may, at any time, order the expert to return the records of the appeal that are in his possession. In case of non-compliance with the Tribunal's order, the expert shall, without prejudice to any other proceedings which may be instituted against him, be guilty of contempt of the Tribunal's order.

(5) The Tribunal may order the expert to attend the hearings of the appeal and to place to the witnesses any questions he may deem necessary or relevant to enable him to draw up his report.

(6) The expert shall be served with a copy of all the documentation contained in the appeal file.

(7) An expert may be challenged by any of the parties to an appeal on good cause being shown to the Tribunal, as stated in the Code of Organisation and Civil Procedure.

(8) The report of the expert shall indicate the enquiries carried out by the expert and his findings together with the grounds for such findings.



(9) The rules applicable to referees in the Code of Organisation and Civil Procedure shall *mutatis mutandis* apply to experts appointed by the Tribunal. Cap. 12.

**31.** The Tribunal shall have the power to confirm, revoke or alter the decision appealed from and give such directions as it may deem appropriate: Power to confirm, revoke or alter decisions.

Provided that the Tribunal may, according to circumstances, and before confirming, revoking or altering the decision, request the applicant to submit fresh documents and plans, in which case the Tribunal shall give reasons for such a request, provided that the substance of the matter as presented before the Authority shall not change. The Tribunal, where it deems that the substance of the matter as presented before the Authority shall change, may give such directions as it may deem appropriate in the circumstances with respect to the respective claims by redirecting the documents and plans to be decided upon again by the Authority.

**32.** In the absence of any rules on any matter, the Tribunal may regulate its own procedure. Tribunal may regulate its own procedure.

#### PART IV

##### Decisions of the Tribunal related to Decisions taken by the Planning Authority

**33.** (1) The Tribunal may, at the request of the appellant, which request may only be made by an application lodged concurrently with the application for the appeal, suspend through a partial decision, in whole or in part, the execution of any permit, pending a decision being delivered by the said Tribunal, under those terms, conditions and other measures as it may deem fit: Suspension of development.

Provided that the Tribunal may not grant a suspension of the execution of a permit in relation to an application, for a development which, in the opinion of the Minister responsible for the Planning Authority, is of strategic significance or of national interest, related to any obligation ensuing from a European Union Act, affects national security or affects the interests of the Government and, or other governments. This proviso is not applicable to applications relating to development or installations which are subjected to an Environmental Impact Assessment and, or Integrated Pollution Prevention and Control (IPPC) matters.

(2) The Tribunal shall hold its first hearing and shall deliver a decision with respect to the suspension or otherwise of the permit, within thirty days from the receipt of the application.

(3) The Tribunal shall not suspend the execution of such a permit unless it is satisfied, after hearing all the parties, that unless the execution of the permit is suspended the prejudice that would be caused would be disproportionate when compared with the prejudice caused by the staying of the actual execution of the permit. It shall also not suspend the execution of such a permit if it is satisfied, after hearing all the parties, that the development may be easily removed or reversed or that the request is frivolous or vexatious.

(4) The Tribunal shall give reasons justifying its decision to suspend the execution of the permit or otherwise.

(5) The Tribunal shall not suspend the execution of such a permit for more than:

(a) three months from the date of the first hearing of the appeal before the Tribunal in the case of an application not being one described in paragraph (b);

(b) one month from the date of the first hearing of the appeal before the Tribunal, in the case of an application subjected to an Environmental Impact Assessment and, or to an IPPC permit, which in the opinion of the Minister responsible for the Planning Authority is of strategic significance or of national interest, related to any obligation ensuing from a European Union Act, affects national security or affects the interests of the Government and, or of other governments.

(6) The suspension order shall be deemed to have elapsed *ipso jure* after the lapse of the periods indicated in sub-article (5).

Decision on the merits when a request for suspension has been upheld.

**34.** The Tribunal shall, whenever the execution of a permit has been suspended, grant its final decision on the merits of the appeal:

(a) within three months from the date of the first hearing of the appeal;

(b) within one month from the date of the first hearing of the appeal in the case of an application subjected to an Environmental Impact Assessment and, or to an IPPC permit which in the opinion of the Minister is of strategic significance or of national interest, related to any obligation ensuing from a European Union Act, affects national security or affects the interests of the Government and, or of other governments.

**35.** The Tribunal shall:

Decisions on the merits when no request for suspension has been made or upheld.

(a) whenever a request for suspension of the execution of a permit has not been made, grant its final decision on the merits of the appeal within one year from the first hearing of the appeal which period may be extended only once by a further period of six months in exceptional cases, in the interests of justice;

(b) whenever a request for suspension of the execution of a permit has not been upheld, grant its final decision on the merits of the appeal within one year from the partial decision, which period may be extended once by a further period of six months in exceptional cases in the interests of justice;

(c) in relation to appeals from fast track applications, grant its final decision on the merits of the appeal within three months from the first hearing of the appeal:

Provided that in the event that the original period is extended as above stated, no evidence or submissions shall be lodged during the extension period:

Provided further that in the event that a final decision is not granted within the time-frames above indicated, the appeal shall be assigned by the secretary to another panel.

**36.** (1) On any appeal by any person who feels aggrieved by any stop or enforcement notice served on him in terms of article 97, 98 and 99 of the Development Planning Act, 2015, the Tribunal:

Appeals from enforcement notices.

(a) if satisfied that a permission was granted under the Development Planning Act, 2015, or under any other law which preceded the Development Planning Act, 2015, regulating the activity in question or building permits, for the activity or the development to which the notice relates, or that no such permission was required in respect thereof, as the case may be, and that the conditions subject to which such permission was granted have been complied with, shall quash the notice to which the appeal relates or such part thereof in respect of which the Tribunal is satisfied as aforesaid;

(b) in any other case, shall dismiss the appeal:

Provided that the Tribunal shall order the Planning Authority to modify the notice accordingly if it considers that not all the listed illegalities in the detailed description contained in the notice are illegal or that some illegalities have been removed.

(2) If before an appeal is lodged or during the pendency of an appeal, the appellant or any other person submits to the Planning Authority an application for a development permission regarding the activity and, or development mentioned in the notice, the Tribunal shall dismiss the appeal if it is satisfied that the said application is intended to regularise the activity or development mentioned in the notice.

(3) Where an appeal is dismissed as provided in sub-article (2), the provisions of article 97(8) of the Development Planning Act, 2015, shall apply.

(4) The Tribunal may correct any defect or error in the enforcement notice, which might otherwise even render it invalid, provided that the appellant shall be given sufficient time to prepare and put forward his case.

(5) The Tribunal shall, in relation to appeals from enforcement notices grant its final decision on the merits of the appeal within one year from the first hearing, which period may be extended only once by a further period of six months in exceptional cases, in the interests of justice:

Provided that in the event that the original period is extended as above stated, no evidence or submissions shall be lodged during the extension period.

Provided that in the event that a final decision is not granted within the time-frames above indicated, the appeal shall be assigned by the Secretary to another panel.

Appeals from scheduling and conservation orders.

**37.** (1) On any appeal by any person who feels aggrieved by any decision of the Executive Council whereby a scheduling order and, or a conservation order has been issued in terms of article 57(11) of the Development Planning Act, 2015, the Tribunal shall either revoke, modify or confirm the order.

(2) When the Tribunal decides to deschedule a property or to downgrade the protection afforded to a scheduled property, the Tribunal shall seek the endorsement of the Minister responsible for the Planning Authority and the period for lodging an appeal from the Tribunal's decision to the Court of Appeal shall commence to run from the date on which the Tribunal would have informed the appellant accordingly of the Minister's endorsement.

Provisions applicable to all decisions.

**38.** (1) The decisions of the Tribunal shall be binding on the Authority, external consultees, registered interested third parties and any other person and, or entity affected by the decision, if they are

supported by the opinion of two of its members, and the dissenting member, if any, may express his opinion separately.

(2) All decisions of the Tribunal shall be delivered in public and shall be published as soon as practicable after the sitting at which they are given.

**39.** The decisions of the Tribunal shall be final and no appeal shall lie therefrom, except on a point of law decided by the Tribunal or on any matter relating to an alleged breach of the right of a fair hearing before the Tribunal.

Appeals from decisions of the Tribunal.

**40.** The Tribunal shall indicate, with sufficient clarity, the grounds on which it bases its decisions.

Tribunal to indicate the grounds of its decision.

**41.** Although it shall not be necessary for the Tribunal in its decision to deal with every point raised in argument, a submission that would, if accepted, be decisive for the outcome of the case, shall require a specific and express consideration.

Specific and express considerations.

**42.** The Tribunal may deem an appeal as abandoned if the appellant shows no interest in the appeal submitted by him. Failure of the appellant to appear before the Tribunal on two consecutive sittings without good cause shall be deemed to signify that the appellant has no interest in the appeal.

Appeals deemed to be abandoned.

**43.** The Tribunal may impose a fine of two thousand and five hundred euro (€2,500) on the appellant in such cases where it declares an appeal to be frivolous or vexatious and in such cases the Tribunal's decision shall be final without any redress before the Court of Appeal (Inferior Jurisdiction).

Frivolous or vexatious appeals.

**44.** The Tribunal may impose such fees as it deems proper on the party making a request for the carrying out of site inspections. Should the Tribunal decide to hold such inspection on its own motion, such inspection shall be at the charge of the appellant.

Fees for site inspections.

**45.** (1) If the Tribunal decides to grant a permit, or to modify a decision taken by the Authority, it may impose a penalty, the payment of fees and contributions and, or other conditions, which the Tribunal shall deem appropriate. The funds accrued from such penalties, fees and contributions shall be collected and administered by the Authority.

Penalties, fees and contributions.

(2) The Authority shall issue the permission or comply with the decision of the Tribunal within one month from the Tribunal's decision, or, if in the Tribunal's decision a condition has been imposed or a penalty, payment of a fee or contribution is imposed,

within one month from compliance by the appellant with such condition or payment of such penalty, fee or contribution imposed by the Tribunal in its decision.

Power of Tribunal to order or permit amendment of written pleadings.

**46.** (1) The Tribunal may, at any stage of the proceedings, at the request of any of the parties, until the decision is delivered, after hearing the parties where necessary, order the substitution of any act or permit any written pleading to be amended, either by adding or striking out the name of any party and substituting another name therefor, or by correcting any mistake in the name or in the character of the parties, or by correcting any other mistake or by causing other submission of fact or of law to be added even by separate note, provided that no such substitution or amendment shall affect the substance either of the action or of the defence on the merits of the case.

(2) Any administrative omission or mistake in an act may, until the Tribunal shall have delivered its decision, be remedied by the Tribunal of its own motion.

(3) The Tribunal may, upon the application of any of the parties to be served on the other appellate parties, amend at any time, by a decree, any error of calculation incurred in the decision.

(4) The Tribunal shall not be debarred from correcting any error in the wording of the decision, or from altering any expression which is equivocal, or which may be construed differently from that evidently intended by the Tribunal, provided that an application is made to that effect within twenty days from the date when the decision is published, and in such case, the time allowed by this Act for entering an appeal before the Court of Appeal (Inferior Jurisdiction) from any decision so amended, shall commence to run from the date of the notification of the decree given on the demand for the amendment.

## PART V

### Proceedings before the Tribunal related to decisions taken by the Malta Environment Authority

Appeal to the Tribunal in accordance with the provisions of the Environment Protection Act.

**47.** (1) Any aggrieved party may appeal to the Tribunal in accordance with the provisions of the Environment Protection Act, 2015, and any regulations made thereunder.

(2) An appeal to the Tribunal may be filed on any ground including:

(a) that a material error as to the facts has been made;

(b) that there was a material procedural error;

(c) that an error of law has been made;

(d) that there was some material illegality, unreasonableness, ineffective or insufficient consideration of adverse effects, or lack of proportionality.

(3) The effect of a decision to which an appeal relates shall not, except where the Tribunal or the Court of Appeal, as the case may be, so orders, be suspended in consequence of the bringing of the appeal:

Provided that in the case of an appeal from the approval or partial approval of a potentially irreversible action or an action that may potentially be of significant damage to the environment, the approval may be suspended by the Tribunal pending a final decision by the Tribunal if the said Tribunal deems that this would be in the interest of avoiding any likely significant or irreversible effects or implications on the environment or for similarly justified reasons.

(4) The right of appeal to the Tribunal shall be competent to any party aggrieved by the decision without the need to prove its interest in the matter.

(5) The provisions relating to the publication and communication of applications, submissions and decisions by the Authority shall apply *mutatis mutandis* to the decision of the Tribunal, over and above the procedures set out in this article.

(6) In order to further the effectiveness of the provisions of this article, the Authority shall ensure that practical information is made available to the public on access to the relevant procedures.

(7) All parties involved in the appeal may file a request before the Tribunal to see the acts of the Authority at any time before the sitting of the Tribunal.

(8) The provisions of articles 12, 13, 14, 15, 16, 17, 18, 20, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 39, 40, 41, 42, 43, 44, 45 u 46 shall apply *mutatis mutandis* to the appeals filed under this Part of this Act, and all references to the Authority in such articles shall be construed as a reference to the Malta Environment Authority.

**48.** (1) When appeals are filed by any person who feels aggrieved by a stop order or compliance order served on him in accordance with article 76 of the Environment Protection Act, 2015, the Tribunal:

Appeals from stop orders and compliance orders.

(a) if satisfied that a permit was granted under the Environment Protection Act, 2015, or under any other law which was in force before the Environment Protection Act, 2015, and which regulated the activity in question, for the activity to which the order relates, or that no authorisation was required in respect thereof, as the case may be, and that the conditions subject to which such authorisation was granted have been complied with, shall quash the order to which the appeal relates or such part thereof in respect of which the Tribunal is satisfied as aforesaid;

(b) in any other case, shall dismiss the appeal:

Provided that the Tribunal shall direct the Malta Environment Authority to modify the order if it considers that not all of the illegalities listed in the detailed description in the order are illegal or if some of the illegalities have been removed.

(2) If before an appeal is lodged or during the pendency of such appeal, the appellant or any other person submits to the Malta Environment Authority an application for an authorisation regarding the activity mentioned in the order, the Tribunal shall dismiss the appeal if it is satisfied that the said application is intended to regularise the activity mentioned in the order.

(3) Where an appeal is dismissed in accordance with sub-article (2), the provisions of article 76(12) of the Environment Protection Act, 2015, shall apply.

(4) The Tribunal may correct any defect or error in the stop order even if had it not been for the correction such would render it invalid, provided that the appellant shall be given sufficient time to prepare and put forward his case.

(5) The Tribunal, in respect of appeals from stop orders, shall give its final decision on the merits of the appeal within one year from the date of the first hearing which period may be extended only once for a period of six months in exceptional cases in the interest of justice:

Provided that if the original period is extended as declared above, no evidence or submissions shall be put forth within the period of extension:

Provided further that if a final decision is not delivered within the deadlines indicated above, the appeal shall be assigned by the Secretary to another panel.



**49.** (1) When an appeal is filed by any person who feels aggrieved by a decision of the Authority, in accordance with the provisions of article 69 of the Environment Protection Act, 2015, the Tribunal shall revoke or modify the order, or dismiss the appeal.

Appeals from decisions regarding protection and conservation orders.

(2) Where the Tribunal decides to remove the designation of protection from a protected area or reduce the level of protection afforded to an area that has been designated as protected, the Tribunal shall request the approval of the Minister responsible for the Malta Environment Authority and the period for the lodging of an appeal from the decision of the Tribunal to the Court of Appeal shall continue to run from the date in which the Tribunal informed the appellant with the approval of the Minister.

## PART VI

### Appeals from decisions of the Tribunal

**50.** Saving the provisions of article 39, an appeal by the appellant or any of the appellate parties from decisions of the Tribunal shall lie to the Court of Appeal constituted in terms of article 41(6) of the Code of Organization and Civil Procedure, on points of law.

Appeals from decisions of the Tribunal.

Cap. 12.

**51.** An appeal from a partial decision of the Tribunal in terms of article 33 may only be filed together with an appeal from the final decision of the Tribunal.

Appeals from partial decisions of the Tribunal.

**52.** An appeal to the Court of Appeal (Inferior Jurisdiction) shall be submitted within twenty days from when the decision of the Tribunal is delivered in public and such an appeal shall be regulated by the rules of court made under article 29 of the Code of Organisation and Civil Procedure.

Time-frame for appeals from decisions of the Tribunal.

Cap. 12.

**53.** Appeal proceedings before the Court of Appeal (Inferior Jurisdiction) pursuant to article 49 shall be concluded in a timely manner. Legal and judicial costs and fees in the said proceedings shall be taxed in accordance with paragraph (7) of item 3 of Tariff A and with paragraph (b) of item 15 Tariff E in Schedule A to the Code of Organization and Civil Procedure.

Legal and judicial costs and fees.

Cap. 12.

**54.** The legal and judicial representation of the Tribunal shall vest in the Secretary of the Tribunal or in such other person as the Prime Minister may determine for any specific case or class of cases.

Legal and judicial representation

**55.** The Tribunal established under the provisions of this Act shall perform and succeed all the functions, assets, rights, liabilities and obligations of the Environment and Planning Review Tribunal respectively established under the provisions of the Environment and

Saving.

Cap. 504.

Development Planning Act.

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### **Objects and Reasons**

The object of this Bill is establish a tribunal for the purpose of reviewing decisions of the Planning Authority and of the Malta Environment Authority, to provide for the manner in which proceedings of the tribunal are to be conducted, and to provide for appeals from decisions of the tribunal.