



BCA CIRCULAR 1/25

Updated Procedures for Declarations Under Regulation 4 Clearance from the Building and Construction Authority.

The Building and Construction Authority (BCA) is pleased to announce the continuation of our collaborative efforts with Kamra tal-Periti (KTP) to enhance and streamline our procedures.

As part of our ongoing improvements, we would like to inform you of an important change in procedure for dealing with declarations under regulation 4. Once the Perit receives approval from the Planning Authority (PA) for works that do not fall within the scope of SL 623.06.

- **Submission of Documents:** The Perit is required to send an email to the BCA on regulation4.bca@bca.org.mt (this email address shall not be used for any other reasons), attaching the digital responsibility summary form and a copy of the relevant insurance policy for the approved works. The email request should strictly follow the template (Declaration – not under the scope of Reg. 4 of SL 623.06) which can be downloaded from the Authority's website found in the 'Application info' webpage. The Permit number and the address are to be included in the subject line of the email. Bank Guarantee in favour of the BCA and issued in the name of the developer in terms of SL623.08, the value of which is indicated by the Planning Authority in its decision notice (if applicable). Original bank guarantee to be deposited to the BCA office.
- **Automatic Clearance to Start Works:** Upon receipt of the email and attached documents, the BCA will send an automatic email response to the Perit. This email will serve as official clearance to commence the approved works.
- **Documentation:** The Perit is obliged to upload the BCA's clearance email as a PDF file in the method statement section of the portal e-Apps within 24 hours from receipt.
- **Completion Certificate:** Once all works are ready, the AIC must submit a covering letter that all works are complete.

We believe that these updated procedures will contribute to a more efficient and effective process, ensuring safety and compliance in the handling of works which do not fall within the scope of SL 623.06.

This procedure will start as from next Wednesday 14th May 2025. On the other hand, a short transition period should apply, where all submitted Reg. 4 applications through e-apps up to the 18th May, should be processed as per current procedure.

GUIDELINES FOR THE INTERPRETATION AND APPLICATION OF REGULATION 4 OF S.L. 623.06

To ensure consistency in the interpretation and application of Regulation 4 of S.L. 623.06, the following guidelines have been established. These aim to provide clarity to Periti when determining whether specific works fall under the scope of this regulation.

1. Scope of Regulation 4

A declaration under regulation 4 as is currently being adopted by the BCA applies exclusively to any works that:

- **Do not fall within the scope of SL 623.06**

For the avoidance of doubt, if the approved works consist of any of the below instances, a declaration under regulation 4 is not acceptable.

- (a) **excavation**, that in its affected zone includes third party property;
 - (b) the **demolition** or removal of any existing structure, or roof or structure abutting with, or immediately adjacent to, or underlying or overlying any property belonging to or occupied by third parties or toothing work with existing buildings; or
 - (c) the **building** of additional storeys or load-bearing walls or structures over any property belonging to or occupied by third parties; or
 - (d) the **construction** of new buildings or additional storeys adjacent to existing third-party property.
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2. Works That Are Not Covered by Regulation 4

The following types of work do **not** fall under Regulation 4 and require compliance with the full provisions of SL 623.06:

(a) Excavation Works

As implied in regulation 4 of SL 623.06, any excavation works that in its affected zone includes third party property require compliance with the full provisions of SL 623.06.

Additional guidance:

✗ It is be noted that in this case, third party property shall be deemed as referring to any type of property such as built structures, land / vacant plots, agricultural land and any other type of immovable property. Therefore if the proposed works involve any excavation with third party structures, third party land or other third party immovable property, a declaration under regulation 4 is unacceptable.

✗ It is thus implied that in the case of agricultural land, whenever a shared rubble wall falls within the affected zone of excavation, a declaration under regulation 4 is unacceptable.

(b) Demolition Works

As implied in regulation 4, the **demolition** or removal of any existing structure, or roof or structure abutting with, or immediately adjacent to, or underlying or overlying any property belonging to or occupied by third parties or toothing work with existing buildings require compliance with the full provisions of SL 623.06.

Additional guidance:

✗ It is to be noted that any alterations including for instance the opening of apertures and / or removal of walls (load-bearing and/or non-load bearing walls) adjacent to, or underlying or overlying any third party property fall within the scope of SL 623.06. Therefore when the approved works include demolition including alterations as explained above, a declaration under regulation 4 is unacceptable.

✗ It is also to be noted that in this case, third parties include anyone who is not the owner. Therefore, when the adjacent, overlying and/or underlying properties are owned by the applicant but are occupied by any other person, a declaration under regulation 4 is unacceptable. Third parties include anyone who is not the owner.

(c) Building Works

Whenever the approved works constitute the **building** of additional storeys or load-bearing walls or structures over any property belonging to or occupied by third parties, compliance with the full provisions of SL 623.06 is also required.

Additional guidance:

✗ It is to be noted that in this case, third parties include anyone who is not the owner. Therefore, when the proposed works include the building of additional storeys or load-bearing walls or structures over any property owned by the applicant but are occupied by any other person, a declaration under regulation 4 is unacceptable.

(d) Construction of New Buildings or Additional Storeys

Whenever the approved works include the construction of new buildings or additional storeys adjacent to existing third-party property, compliance with the full provisions of

SL 623.06 is also required and therefore a declaration under regulation 4 is unacceptable.

Additional guidance:

✗ This refers to cases where third party properties are adjacent to the construction site. In this case, when the construction works are adjacent to third party properties, a declaration under regulation 4 is unacceptable.

✗ When the approved works entail the construction using a separate skin, it shall still be considered as 'adjacent' to third party properties, and therefore a declaration under regulation 4 is unacceptable.

✗ It is to be noted that third parties include anyone who is not the owner. Therefore, when the proposed works include the construction of new building or additional storeys adjacent to any property owned by the same applicant but are occupied by any other person, a declaration under regulation 4 is unacceptable.

3. Submission Requirements for Regulation 4 Declarations

When submitting a declaration under Regulation 4, Periti must ensure that:

✓ The works **clearly fall outside** the scope of S.L. 623.06. If in doubt, Periti should **seek prior guidance**.

✓ The request must include:

- **Signed declaration** under Regulation 4 (official BCA form).
- **Digital responsibility summary form**.
- **Insurance cover declaration** in accordance with S.L. 623.11.
- If applicable, **a Bank Guarantee** in favour of the BCA and issued in the name of the developer in terms of SL623.08, the value of which is indicated by the Planning Authority in its decision notice. The original bank guarantee is to be deposited at the Authority's head office.

✓ Upon submission, an **automatic acceptance** will be issued, allowing works to proceed.

✓ Periti **must upload the acceptance letter** to eAPPS **within 24 hours**.

4. Authority's Right to Review and Reject Declarations

The Authority reserves the right to:

- **Request additional documentation** if the submitted declaration does not provide sufficient clarity.
 - **Reject the declaration** if it is deemed that the works fall within the scope of SL 623.06.
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5. Compliance and Enforcement

Periti remain fully responsible for ensuring that the declared works align with Regulation 4. Any misinterpretation or incorrect declaration may lead to enforcement action, including the issuance of stop-work notices or other legal measures in accordance with Cap 623 and its subsidiary legislation.

By following these guidelines, Periti can ensure that their declarations under Regulation 4 are in line with the Authority's expectations, reducing delays and ensuring compliance with all applicable regulations.

Building and Construction Authority