

Subsidiary Legislation made under ss.42 and 337.

Building Works (Hoardings and Fences) Rules 1994

LN.1994/065

		<i>Commencement</i>	1.8.1994
Amending enactments	Relevant current provisions		Commencement date
LN. 1994/120	r. 11(1)		1.8.1994
1997/102	r. 11(1)(a), (b), (2)		9.10.1997
1999/015	r. 1, 3(7), (8), (9) (10), 12		18.2.1999
2011/079	rr. 4(1)(d) & (g), 4(1A)		9.6.2011

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Public Health

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ARRANGEMENT OF RULES

Rules

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SCHEDULE

Persons entitled to prior notification.

Title and commencement.

These Rules may be cited as the Building Works (Hoardings and Fences) Rules 1994 and shall come into effect on the 1st day of August, 1994.

Requirement for close board hoarding.

2. No person shall carry out works falling within section 42(1) of the Public Health Act without first erecting close board hoarding in accordance with the provisions of these Rules:

Provided that where such works are required to be carried out to deal with circumstances which, in the opinion of the Building Control Officer constitute an emergency—

- (a) the hoarding shall be erected as soon as is reasonably practical and in any case within two hours of the commencement of any works falling within section 42(1);
- (b) the hoarding shall, on erection, comply in all respects, with the provisions of these Rules;
- (c) an application shall be made in accordance, save for the requirement that it be made fifteen days in advance of the commencement of works falling within section 42(1), with these rules within twelve hours of the commencement of the works;
- (d) these Rules shall apply to such a hoarding from the time the application required in accordance with paragraph (c) is made.

Permission to erect a hoarding.

3. (1) No hoarding required to be erected in accordance with rule 2, shall be erected unless, an application having been made in accordance with sub-rule (2) permission to erect such a hoarding has been granted.

(2) An application to erect a hoarding required in accordance with rule 2, shall be made to the Building Control Officer no later than fifteen working days before the date on which it is intended the hoarding shall be erected:

Provided that in the case of emergency the proviso to that rule shall apply in respect of the requirement of fifteen working days notice.

(3) An application to erect a hoarding shall be made in the form prescribed in Schedule I to the Building Works (Hoardings) Regulations 1994.

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(4) Where an application made under sub-rule (2) is granted by the Building Control Officer and the fees specified in rule II have been paid, a notice shall be issued in the form prescribed in Schedule 2 to the Building Works (Hoardings and Fences) Regulations 1994, and such notice shall constitute permission for the erection of the hoarding.

(5) A notice issued under sub-rule (4) shall specify the date on which the hoarding may be erected and the date by which the hoarding shall have been removed.

(6) A notice issued under sub-rule (4) shall be displayed on the hoarding in respect of which it has been issued in accordance with rule 4(1)(g).

(7) When considering applications under sub-rule (2) in respect of hoardings, the Building Control Officer shall consider whether, in the circumstances, the erection of a fence would be more appropriate.

(8) Where in accordance with sub-rule (7), the Building Control Officer considers that the erection of a fence would be more appropriate, permission for the erection of a hoarding shall be refused and permission may be granted instead for the erection of a fence.

(9) When considering application under sub-rule (2) in respect of a fence, the Building Control Officer shall consider whether, in the circumstances, the erection of a hoarding would be more appropriate.

(10) Where in accordance with sub-rule (9), the Building Control Officer considers that the erection of a hoarding would be more appropriate, permission for the erection of a fence shall be refused and permission may be granted instead for the erection of a hoarding.

Construction and appearance of hoarding.

4. (1) A hoarding in respect of which a permission may be granted in accordance with rule 3, shall be—

- (a) close boarded of solid and uniform construction;
- (b) made of materials intended for the purpose which do not either by their nature or by the method of construction—
 - (i) present a hazard to the public; or
 - (ii) appear to the Building Control Officer unsuitable or the purpose;

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- (c) at least 2.5 metres in height or such other height as may be specified by the Building Control Officer;
- (d) painted white, or such other colour as the Building Control Officer considers appropriate, so as to be visible in poor lighting conditions and especially at night, with a 200mm wide line at a level approximately mid point of the hoarding; this line should normally be red but the Building Control Officer may permit company colours to be used;
- (e) adequate to contain the building works and exclude the public;
- (f) secured and constructed in a safe and secure manner;
- (g) devoid of all posters, bills or other material except advertising permitted under sub-rule (1A) and a copy of the notice giving permission for the erection of the hoarding displayed in a position which may easily be read by a member of the public standing outside the hoarding;
- (h) lit during the times and in the manner specified in the notice giving permission for the erection of the hoarding.

(1A) The Building Control Officer may, after considering a proposal by the person erecting the hoarding, permit advertising on the hoarding which shall be—

- (a) limited to 10% of the area of the hoarding; and
- (b) solely associated with promoting the development within or behind the hoarding.

(2) If, in the opinion of the Building Control Officer a hoarding in respect of which permission has been given under rule 3—

- (a) ceases to comply with the requirements of sub-rule (1); or
- (b) is not, in the opinion of the Building Control Officer, properly maintained in respect of either its appearance or its safety,

such permission may be withdrawn by the Building Control Officer in respect of that hoarding from the time that the officer shall serve notice, in writing, on the person to whom permission for the erection of the hoarding was granted or from such later date not being more than twenty-four hours later as may be specified in that notice.

Obstruction of pedestrian and vehicular access.

5(1) Where permission is granted under rule 3 in respect of a hoarding which obstructs the footpath, the person to whom that permission is granted, where so required by the terms of that permission, shall construct outside the hoarding and in accordance with any conditions imposed in that respect in the permission, a covered platform and hand rail to serve as a footway for pedestrians and shall, if so required, protect that platform and pedestrians using the platform against damage and injury—

- (a) from above from the building works;
- (b) from passing vehicular traffic,

and any such platform shall comply with the provisions of the Factories (Building) Regulations.

(2) Where permission is granted in respect of a hoarding which obstructs access to any property to which members of the public or occupiers of that property require access during the period for which the permission has been granted, the person to whom that permission has been granted shall construct or provide such safe means of access as is required as a condition of that permission.

(3) Where permission is granted in respect of a hoarding, which obstructs any public road or place, it shall be a condition of that permission that no works shall take place outside that hoarding and no materials or equipment connected with the works shall be positioned or deposited outside that hoarding.

(4) Where the Building Control Officer is of the opinion that the provisions of this rule are not being observed, he may issue a notice, in writing, to the person to whom permission in respect of that hoarding was granted under rule 3, requiring that person to comply with the provisions of this rule by the time specified in the notice, not being a time more than twelve hours after the time at which the notice was served on that person.

(5) In the event of the person on whom notice has been served under sub-rule (4), failing to comply with that notice, the Building Control Officer may withdraw the permission granted under rule 3 in respect of that hoarding.

Prior notification.

6. (1) No application made under rule 3, shall be granted unless the person making the application shows, to the satisfaction of the Building Control Officer, that—

- (a) he has notified the persons listed in Schedule 1 of—

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- (i) his intention to construct a hoarding;
- (ii) the precise location of that hoarding; and
- (iii) the method of construction of the hoarding;

and either—

- (b) those persons to whom notification is required, have no objection to the proposed hoarding; or
- (c) having received objections from the persons to whom notification is required, he has amended the location or the method of construction, as the case may be, to comply with the objections.

(2) Any person entitled to receive a notification in accordance with sub-rule (1), may require that the location or method of construction of the hoarding be amended such that it provides reasonable protection to any underground services falling in the area within the hoarding or on the line of the hoarding.

Rights of access.

7. (1) An authorised officer or agent of the Government or any of the persons listed in Schedule 1, may enter within an area bounded by a hoarding to which these rules apply for the purpose of inspecting, repairing, constructing, cleaning or maintaining any installation for which either the Government or such person has responsibility and which is, in whole or in part, within or on the line of or passes through or has a connection with, an area within the hoarding or on the line of the hoarding.

(2) All inspection covers of installations which are the property or responsibility of the Government or a person listed in Schedule 1 which are within or on the line of a hoarding to which these rules apply, shall, at all times, be kept free of obstruction and accessible for the purpose of inspection and carrying out of any work.

(3) Where the Building Control Officer is of the opinion that the provisions of this rule are not being observed, he may issue a notice, in writing, to the person to whom permission in respect of that hoarding was granted under rule 3, requiring that person to comply with the provisions of the rule by the time specified in the notice, being a time not more than twelve hours after the time at which the notice was served on that person.

(4) In the event that a person on whom notice has been served under sub-rule (3), fails to comply with that notice, the Building Control Officer may withdraw the permission in respect of that hoarding.

Obstruction to road drainage.

8. (1) No hoarding to which these rules apply, shall obstruct road drainage.

(2) Where the Building Control Officer is of the opinion that the provisions of this rule are not being observed, he may issue a notice, in writing, to the person to whom permission in respect of that hoarding was granted under rule 3, requiring that person to comply with the provisions of this rule by the time specified in the notice, being a time not later than twelve hours after the time at which the notice was served on that person.

(3) In the event that a person, on whom notice has been served under sub-rule (2), fails to comply with that notice, the Building Control Officer may withdraw the permission in respect of that hoarding.

Obligation to remedy damage.

9. (1) Any damage to any installation falling within rule 7(1) or to the public highway, which occurs during the construction or demolition of a hoarding or during the time that hoarding is in place, shall be remedied to the satisfaction of the authorised officer or agent of the Government or a person falling within Schedule 1, as the case may be.

(2) Any damage of the kind referred to in sub-rule (1), shall be remedied within twenty four hours of notice, in writing, of that damage being served on the person to whom permission in respect of the hoarding was granted under rule 3.

Application for extension of time.

10. (1) Where an application for the erection of a hoarding has been granted in accordance with rule 3, the person by whom the application was made, may apply in the form prescribed in Schedule 3 to the Building Works (Hoardings and Fences) Regulations 1994, to defer the date by which the hoarding is required to have been removed.

(2) Where an application made under sub-rule (1) is granted, the notice issued under rule 3 (4), shall be amended to show the revised date, and that revised notice shall be displayed in accordance with rule 3 (6).

(3) Where an application is made under sub-rule (1), the application shall be accompanied by the fee specified in rule 11 in respect of each day by which the application seeks to defer the date by which the hoarding shall have been removed.

Fees.

11. (1) The fee payable in accordance with rules 3 (4) and 10(3), shall be—

- (a) £0.50 per linear metre of hoarding for each day of the period specified in the notice issued under rule 3(4) or the days by which the date for removal of the hoarding is deferred subject to a maximum of £5000; or
- (b) where no part of a street, court or public place is obstructed, £0.25 per linear metre for each day of the period specified in the notice issued under rule 3(4) or the days by which the date for removal of the hoarding is deferred, subject to a maximum of £5,000.

for each day of the period specified in the notice issued under rule 3 (4) or the days by which the date for removal of the hoarding is deferred:

Provided that where the works in respect of which the hoarding is erected are works undertaken by virtue of a building licence granted by the Government or a project of similar duration and size and designated for this purpose by the Minister with the responsibility for the environment, the fees payable in accordance with these Rules shall be that amount agreed by the Building Control Officer.

(2) Where any hoarding remains in place beyond the date or the deferred date by which the hoarding shall have been removed and without prejudice to any other provision of the Act, a penalty of £20 per day or part thereof for every day that the hoarding remains in place, shall be payable.

Application of these rules to fences.

12. Rules 2, 3, 4(1)(b), (c), (e), (f), (g) and (h), 4(2) and 5 to 11, shall apply to fences as they apply to hoardings.

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SCHEDULE

Rule 6

Persons entitled to prior notification.

The persons to whom prior notification is required are—

Commissioner of Police
City Electrical Engineer
Ministry for the Environment
Support Services Department
Department of Buildings and Works
Gibraltar Nynex Communications Limited
Lyonnaise Des Eaux (Gibraltar) Limited
Property Services Agency