

Department of Contracts  
Notre Dame Ravelin  
FLORIANA

To Permanent Secretaries  
Directors General  
Directors  
Heads of Public Sector Organisations

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## **PROJECT SUPERVISOR FOR HEALTH AND SAFETY MATTERS IN PUBLIC CONTRACTS - CONSTRUCTION SITES**

The Health and Safety at Work Regulations S.L. 646.27, established through Legal Notice 52 of 2025, determine Minimum Health and Safety Requirements for Work at Construction Sites. The Department of Contracts and the Occupational Health and Safety Authority (OHSA) encourage Contracting Authorities<sup>1</sup>/Entities<sup>2</sup>, specifically officers responsible for Public Procurement, to read and familiarise themselves with the Health and Safety at Work Regulations S.L. 646.27 which may be downloaded from the Ministry responsible for Justice<sup>3</sup> website: <https://legislation.mt/eli/sl/646.27/eng>.

Accordingly, Contracting Authorities/Entities are notified that, when drafting Public Procurement/Concession Public Calls (irrespective of the Estimated Value) involving an element of Construction Works<sup>4</sup>, it is their responsibility to comply with the Health and Safety at Work Act (Chapter 646 of the Laws of Malta<sup>5</sup>) and its Subsidiary Legislations, especially the Health and Safety (H&S) legislative requirements for Work at Construction Sites, as established in S.L. 646.27. Accordingly, the requirements of a 'Project Supervisor for Health and Safety Matters' Services, within the context of a Public Procurement/Concession Procedure shall reflect the provisions of S.L. 646.27.

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<sup>1</sup> Contracting Authorities in S.L. 601.03, S.L. 601.05 and in S.L. 601.12 is defined as the 'State, regional or local authorities, bodies governed by public law or associations formed by one or more such authorities or one or more such bodies governed by public law'. Contracting Authorities in S.L. 601.09 is defined as per S.L. 601.03 with the additional inclusion of ... 'other than those authorities, bodies or associations which pursue one of the activities referred to in Schedule 4 and award a concession for the pursuit of one of those activities'. Contracting Authority in S.L. 601.08 is defined as 'one of the government entities specified in the Schedule' ie Central Procurement Supplies Unit and the Civil Protection Department.

<sup>2</sup> Contracting Entities in S.L. 601.05 are entities which: (a) are contracting authorities or public undertakings and which pursue one of the activities referred to in regulations 8 to 14; (b) when they are not contracting authorities or public undertakings, have as one of their activities any of the activities referred to in regulations 7 to 13, or any combination thereof and operate on the basis of special or exclusive rights granted by a competent authority.

<sup>3</sup> Currently the Ministry responsible for Justice is the Ministry for Justice and Reform of the Construction Sector.

<sup>4</sup> Works Procurement/Concession Procedures covered by the Public Procurement Regulations S.L. 601.03, the Public Procurement of Entities operating in the Water, Energy, Transport and Postal Services Sectors Regulations S.L. 601.05, the Concession Contracts Regulations S.L. 601.09, the Procurement of Property Regulations S.L. 601.12 and the Emergency Procurement Regulations S.L. 601.08.

<sup>5</sup> Chapter 646 of the Laws of Malta was enacted through Act XXXIII of 2024, whereby the latter repealed Chapter 424 (Occupational Health and Safety Authority Act) of the Laws of Malta.

Public Contracts having an element of Construction Works (*Vide Schedule I of S.L. 646.27: Non-Exhaustive List of Building and Civil Engineering Works*), commencing after the 7<sup>th</sup> of September 2025, or already underway but extending after this Date, shall comply with the new Health and Safety at Work Regulations S.L. 646.27.

*Procurement Policy Note #28 (dated 18 August 2018) titled ‘Occupational Health and Safety Legislative requirements in respect of Works Tenders including Construction’ is being repealed and superseded by this Circular.*

### **Project Supervisor for Health and Safety Matters**

Pursuant to Regulation 3(4) of S.L. 646.27, work related to a Public Contract Project which includes an element of Construction Works ‘*shall not commence or progress unless a project supervisor for health and safety matters is validly appointed by the client<sup>6</sup>*’. In line with Regulation 3(8) of S.L. 646.27, failure to appoint the said Project Supervisor before the commencement or continuation of works constitutes an offence under the Health and Safety at Work Act.

Regulation 3(1) of S.L. 646.27 states that it ‘*shall be the duty of a client [or client representative] to appoint, in respect of a project... a project supervisor for health and safety matters, and any such appointment may be terminated, changed or renewed provided that another project supervisor for health and safety matters is appointed to carry out such duties throughout the duration of the project*’.

For avoidance of doubt, it is being clarified that the obligation to appoint a ‘Project Supervisor for Health and Safety Matters’ is solely and strictly vested in the Contracting Authorities/Entities, whereby the said appointment shall be undertaken directly by the Contracting Authorities/Entities themselves (in their capacity as ‘Clients’ or ‘Clients’ Representatives) without the possibility of delegation to other parties including the Awardee of a Public Contract, in one’s capacity as a Contractor. The said Project Supervisor shall always answer and report directly to the Contracting Authority/Entity.

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<sup>6</sup> In terms of Regulation 9 of S.L. 646.27, a Client may appoint in respect of every Project a Client Representative who shall retain overall responsibility, on the client’s behalf, for carrying out the duties as well as obligations imposed by S.L. 646.27 on the Client, *mutatis mutandis*.

The appointment of a Project Supervisor for Health and Safety matters shall invariably be officially communicated to the OHSA.

It shall be noted that in case of Demise or Termination of the appointment of the said Project Supervisor, any work related to a Public Contract Project which includes Construction Work shall not progress unless a new Project Supervisor for Health and Safety matters is validly appointed by the Client<sup>7</sup> (or Client Representative) and OHSA notified of new appointment.

Furthermore, the said **Project Supervisor shall be listed on the Competent Person Register<sup>8</sup> for Health and Safety Practitioners**, administered by the Occupational Health and Safety Authority. To promote Transparency and Accountability, OHSA published and maintains the Register on its website. In fact, the latest version of the Competent Person Register may be viewed and downloaded from OHSA's website: [Legal & Policy / Competent Persons | OHSA](#)<sup>9</sup>. It is recommended to always consult the latest version of the Competent Person Register, in view of any updates deemed necessary.

#### Appointment of a Project Supervisor for Health and Safety Matters

If the services of a Project Supervisor for Health and Safety Matters are engaged through a Procurement Call, Contracting Authorities/Entities are being notified that, in adherence to the provisions of S.L. 646.27, a Standalone Procurement Call for such Project Supervisors shall be drafted and published.

It is imperative that the appointed Project Supervisor be independent (and thus shall not be appointed by, nor be answerable to) from any Contractor/Employer/Self-Employed (or one's direct Sub-Contractors or any other Sub-Contractors further down the Sub-Contracting Chain) responsible for any relevant Works at the Construction Site/s being developed. Such a requirement is applicable at any stage of the Procurement/Concession Public Contract in relation to a Construction Work Project, as otherwise, a Conflict-of-Interest situation shall inevitably be created. In the eventuality that such occurs, the 'Project Supervisor for Health and Safety Matters' might not necessarily carry out all their tasks meticulously, diligently and in their entirety.

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<sup>7</sup> Regulations 3(5), 3(6) and 3(7) of S.L. 646.27 provide additional obligations on the Client and/or Project Supervisor, as applicable.

<sup>8</sup> The Competent Person Register, established and regulated by Administrative Instrument No. 1 of 2025 ensures adherence to legal obligations as outlined in Chapter 646 of the Laws of Malta, specifically Article 17 of the Health and Safety at Work Act.

<sup>9</sup> [Competent-Persons-Register-20251006.pdf](#) – This List is regularly updated, thus, it is best to review [Legal & Policy / Competent Persons | OHSA](#)

Should the said Project Supervisor be appointed by the Contractor of a Public Contract, it means that the Project Supervisor for Health and Safety Matters is not appointed in terms of the law. Accordingly, such circumstances could give rise to legal repercussions in the future.

In the context of a Procurement/Concession Public Contract, Contracting Authorities/Entities are being notified that any Contractual Clauses, Terms and Conditions as well as any Technical Specifications/Terms of Reference Requirements intended to transfer the obligation of Contracting Authorities/Entities to appoint a Project Supervisor for Health and Safety Matters are deemed illegal in terms of S.L. 646.27.

If such a transfer were to take place, any adverse effects and/or legal consequences arising from such situations shall be to the detriment of Contracting Authorities/Entities as the beneficiaries and implementing bodies of Public Contracts, as well as to the actual Health and Safety of people on the Construction Site.

### **Additional Information**

For additional information and guidance on Health and Safety Matters, Requirements and Measures, Contracting Authorities/Entities may visit the OHSA website: <https://www.ohsa.mt/>.

### **Contact**

Contracting Authorities/Entities may submit any queries in relation to the generic content of this Circular to the Department of Contracts' Customer Care Service on [info.contracts@gov.mt](mailto:info.contracts@gov.mt) or by calling on +356 2378 1001.

However, regarding specific queries vis-à-vis the Health and Safety at Work Regulations S.L. 646.27 as well as any H&S Requirements (including any applicable Technical Specifications and/or Terms of Reference vis-a-vis H&S Project Supervisors) and other technical difficulties, Contracting Authorities/Entities are to contact the Occupational Health and Safety Authority on [ohsa@ohsa.mt](mailto:ohsa@ohsa.mt) or by calling on +138.

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