

Naghti l-kunsens tieghi.

(L.S.)

GUIDO DE MARCO
President

12 ta' Lulju, 2002

ATT Nru. XI ta' l-2002

ATT dwar l-amministrazzjoni ta' artijiet

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

1. It-titolu ta' dan l-Att huwa Att ta' l-2002 dwar l-Amministrazzjoni ta' Artijiet, u għandu jibda jsehh f'dik id-data li l-Ministru responsabbli għall-Artijiet jista' jistabbilixxi b'Ordni fil-Gazzetta.

Titolu fil-qosor u bidu fis-sehh.

2. Għall-iskop ta' dan l-Att, kemm-il darba r-rabta tal-kliem ma tehtiegħ xort'ohra, il-kelma "art" tinkludi kull haġa immobbli kif ukoll kull dritt reali fuq l-immobbli.

Tifsir.

3. Bla hsara għall-provvedimenti l-oħra ta' dan l-Att, b'effett mill-bidu fis-sehh ta' dan l-Att, kull art li tappartjeni lill-fondazzjonijiet u amministrazzjonijiet, amministrati mill-Gvern separatament mill-amministrazzjoni ta' art oħra li tappartjeni lill-Gvern, qed tiġi vestita fil-Gvern u l-Gvern għandu jittratta u jamministra dik l-art li qed tiġi hekk vestita bis-sahha ta' dan l-Att bl-istess mod bħal kull art oħra li tappartjeni lill-Gvern bi proprjetà assoluta u jista' jnehhi dik l-art skond hekk, u b'effett minn dak il-bidu fis-sehh kull passiv ta' jew li jsir dovut f'dak li għandu x'jaqsam ma' dik l-amministrazzjoni jsir passiv tal-Gvern jew lill-Gvern ikun addebitat lill-Fond Konsolidat mingħajr approprjazzjoni oħra barra dan l-Att.

Art li tiġi vestita fil-Gvern.

Effett fuq l-enfitewsi eċċ.

4. Minghajr preġudizzju għal xi konsolidazzjoni tad-dirett dominju ma' l-utili dominju li ssir meta l-art tiġi vestita kif provdut fl-artikolu 3 ta' dan l-Att, id-disposizzjonijiet ta' dak l-artikolu ma jolqtu ebda enfitewsi jew kirja mogħtija dwar dik l-art jew xi servitù li għalih xi art bħal dik tista' tkun sugġetta, u kull enfitewsi jew kirja bħal dawk għandhom, għall-finijiet kollha, jitqiesu li nġhataw mill-Gvern u għandu jsir minnhom skond hekk.

Obbligazzjonijiet marbutin ma' art li tiġi vestita fil-Gvern.

5. B'effett mill-bidu fis-sehh ta' dan l-Att, kull piż jew gravami li għalih xi art bħal dik imsemmija fl-artikolu 3 ta' dan l-Att tista', qabel il-bidu fis-sehh ta' dan l-Att, tkun sugġetta, u kull hlas iehor jew ghemil iehor li, qabel l-imsemmija data, ikun dovut dwar xi attiv bħal dak, għandu, bis-sahha ta' dan l-Att, jieqaf milli jkun piż jew gravami fuq, jew hlas jew ghemil dovut dwar xi art bħal dik, u kull somma jew oġġett jew ghemil iehor li, kieku ma kienx għad-disposizzjonijiet ta' dan l-artikolu, kienu jkunu dovuti li jithallsu jew li jsiru minnufih qabel il-bidu fis-sehh ta' l-Att, għandhom, minn dak il-bidu fis-sehh, ikunu dovuti li jithallsu jew li jsiru mill-Gvern, u kull hlas hekk dovut ikun addebitat lill-Fond Konsolidat minghajr approprjazzjoni oħra barra dan l-Att.

Talbiet.

6. (1) Kull min jivvanta dritt ta' kumpens dwar l-art li tkun qegħda tiġi vestita fil-Gvern kif imsemmi f'dan l-Att ikollu dritt li jaċċedi, permezz ta' citazzjoni li ssir kontra l-Gvern fil-Prim'Awla tal-Qorti Civili, sabiex jiġi stabbilit l-interess tiegħu f'dik l-art jew fuqha u l-ammont ta' kull kumpens li jista' jkollu jedd għalih u għall-hlas ta' dak il-kumpens.

(2) Jista' jsir appell fil-Qorti ta' l-Appell minn kull deċiżjoni tal-Prim'Awla tal-Qorti Civili.

(3) Ma tista' tiġi pprezentata ebda azzjoni taht dan l-artikolu wara l-iskadenza ta' sitt xhur minn meta dan l-Att jibda jsehh.

(4) Id-disposizzjonijiet kollha tal-Ftehim inkorporat fl-Att dwar Proprjetà ta' Entijiet Ekklesjastiki, għandhom japplikaw dwar kull art li minnufih qabel il-bidu fis-sehh ta' dan l-Att kienet tappartjeni lil xi fondazzjoni jew amministrazzjoni li fir-rigward tagħha japplika dan l-Att u li, kieku ma kienx għall-Ftehim fuq imsemmi, xi enti ekklesjastiku jkun jista' jivvanta xi dritt għall-kumpens dwarha, u l-Uffiċċju Kongunt u l-Kumitat ta' Kontroll imwaqqfa bl-istess Ftehim għandhom ikomplu jkollhom dwar l-art imsemmija f'dan is-subartikolu l-istess funzjonijiet bħalma għandhom dwar kull art oħra msemmija fil-ftehim jew li dwarha jkun japplika dak il-Ftehim.

7. (1) L-Ordinanza dwar l-Akkwist ta' Artijiet ghal Skopijiet Pubbliċi, (hawnhekk izjed 'il quddiem f'dan l-artikolu msejha "l-Ordinanza") ghandha tiġi emendata kif ġej:

Emenda ta' l-Ordinanza dwar l-Akkwist ta' Artijiet ghal Skopijiet Pubbliċi, Kap. 88.

(a) fl-artikolu 9 ta' l-Ordinanza, minflok il-kliem "fuq it-tabella ta' l-avviżi tal-Ghassa tal-Pulizija jew kif jahbat, ta' kull Ghassa tal-Pulizija tal-belt jew rahal fejn, jew li fil-limiti taghha jew tiegħu, l-art tinsab." ghandhom jidhlu l-kliem "fuq tabella ta' l-avviżi fl-uffiċċju tal-Kunsill Lokali tal-lokalità fejn tinsab l-art.";

(b) l-artikolu 12 ta' l-Ordinanza ghandu jiġi emendat kif ġej:

(i) is-subartikolu (1) tiegħu ghandu jithassar u s-subartikoli (2) u (3) ghandhom jiġu enumerati mill-ġdid bhala s-subartikoli (1) u (2) rispettivament; u

(ii) minnufih wara s-subartikolu (2) tiegħu kif enumerat mill-ġdid, ghandu jidied dan is subartikolu ġdid li ġej:

"(3) Mghax sempliċi bir-rata ta' hamsa fil-mija fis-sena ghandu jibda ghaddej ta' kuljum favur kull min ghandu jedd ghal kumpens dwar xi art miksuba bix-xiri assolut taghha taht din l-Ordinanza, mid-data tad-dikjarazzjoni tal-President sad-data meta l-kumpens jithallas jew jiġi depożitat skond ma hemm fl-artikolu 22 ta' din l-Ordinanza. L-imghax ghandu jghaddi fuq l-ammont ta' kumpens kif ikun stabbilit skond din l-Ordinanza.";

(ċ) minflok l-artikolu 22 ta' l-Ordinanza, ghandu jidhol dan li ġej:

"Procedura.

22. (1) Jekk l-awtorità kompetenti u s-sid jiftiehem fuq l-ammont ta' kumpens dwar xi art, il Bord, fuq rikors ta' wahda mill-partijiet, jagħmel ordni li bih jagħti esekuzzjoni ghal dak il-ftehim:

Izda l-ammont ta' kera ta' akkwist jew kera ta' għarfien, skond il-każ, ikun stabbilit skond id-disposizzjonijiet rilevanti ta' l-artikolu 27.

(2) Meta l-art tkun se tiġi akkwistata bix-xiri assolut taghha (inkluż l-akkwist bil-bdil minn pussess u użu jew dominju pubbliku għal proprjetà assoluta), id-dikjarazzjoni mill-President mahruġa għall-finijiet ta' l-

artikolu 3 ta' din l-Ordinanza, ghandha tiddikjara x'ikun l-ammont ta' kumpens li l-awtorità kompetenti tkun lesta li thallas ghal dik l-art li d-dikjarazzjoni tkun tirreferi ghalha. Id-Dikjarazzjoni ghandu jkollha flimkien maghha stima maghmula minn perit arkitett u meta jkun hemm wahda, pjanta ta' l-art deskritta fid-Dikjarazzjoni.

(3) Fi zmien hmistax-il gurnata mill-pubblikazzjoni tad-Dikjarazzjoni tal-President kif inhi msemmija fis-subartikolu (2) ta' dan l-artikolu fil-Gazzetta, il-Gvern ghandu jiddepozita f'kont bankarju li jirrendi l-imghax (li jkun jiggerantixxi dak l-inqas imghax fis-sena li l-Ministru responsabbli ghall-artijiet jista' b'regolament taht dan is-subartikolu jippreskrivi) ammont ta' flus li jkun daqs l-ammont ta' kumpens offrut fid-dikjarazzjoni tal-President. Dik is-somma ghandha tkun tista' tingibed liberament flimkien ma' kull imghax li jingema' fuqha mill-persuna jew il-persuni li jkollhom jedd ghal dak il-kumpens hekk kif dawn igibu prova tal-jedd li jkollhom ghaldaqstant, b'mod sodisfaçenti ghall-awtorità kompetenti.

(4) L-awtorità kompetenti ghandha tesprimi jekk tkunx qieghda taççetta jew le l-prova li dawk il-persuni jgibu kif imsemmi fis-subartikolu li jiçi minnufih qabel dan, permezz ta' att gudiżzarju fi zmien xahrejn minn meta tkun giet ipprezentata dik il-prova.

(5) L-ammont depożitat kif provdut fis-subartikolu (3) flimkien ma' kull imghax li jghaddi fuq jista' jiçi žbankat kif provdut fl-imsemmi subartikolu sew jekk is-somma depożitata bhala kumpens tkun jew ma tkunx giet aççettata bhala l-ammont ta' kumpens dovut, u l-gbid ta' dawk l-imghaxijiet mid-depożitu ma ghandux jippreğudika l-jedd li persuna jkollha li tmexxi skond din l-Ordinanza ghall-fini li jiçi stabbilit kull kumpens iehor li jista' jiçi mhallas lilha skond din l-Ordinanza.

(6) Meta l-persuna li jkollha jedd ghall-kumpens ma taççettax li l-ammont depożitat ikun wiehed adegwat, dik il-persuna tista' taghmel rikors quddiem il-Bord sabiex jiçi stabbilit x'ikun il-kumpens skond id-dispożizzjonijiet ta' din l-Ordinanza. Dak ir-rikors ghandu, taht piena ta' nullità, jindika l-kumpens li fil-fehma tar-rikorrent ikun dovut.

(7) Dak ir-rikors ghandu jiçi pprezentat fir-Registru tal-Bord fi zmien wiehed u ghoxrin gurnata min-

notifika ta' l-att ġudizzjarju mill-awtorità kompetenti fejn tiġi aċċettata dik il-prova skond is-subartikolu (4) ta' dan l-artikolu. Il-Bord għandu jistabbilixxi dak il-kumpens u għandu jagħti kull ordni u direttiva meħtieġa skond din l-Ordinanza.

(8) Hekk kif issir id-Dikjarazzjoni mill-President skond din l-Ordinanza li xi art għandha tkun akkwistata bix-xiri assolut tagħha, il-proprjetà assoluta ta' dik l-art li dwarha tkun tirreferixxi d-dikjarazzjoni għandha titqies li tkun area ta' registrazzjoni għall-finijiet ta' l-Att dwar ir-Registrazzjoni ta' Artijiet u l-proprjetà assoluta ta' dik l-art għandha bis-sahha ta' din l-Ordinanza u minghajr ebda assikurazzjoni jew formalità oħra, tkun trasferita lejn u tkun akkwistata mill-awtorità kompetenti libera u franka minn kull piż, ipoteka jew privileġġ u bil-pertinenzi kollha tagħha, u l-awtorità kompetenti għandha tara li dik l-art tiġi registrata fir-Registru ta' l-Artijiet f'isimha skond l-Att dwar ir-Registrazzjoni ta' l-Artijiet, u dana fi żmien tliet xhur mill-hruġ tad-Dikjarazzjoni tal-President.

(9) Id-dritt li jiġi rtirat il-kumpens depożitat skond is-subartikolu (3) u għal kull kumpens ieħor li jista' jkun dovut taht din l-Ordinanza (hawnhekk iżjed 'il quddiem imsejha "id-drittijiet ta' kumpens") għandu jitqies bħala dritt immobbli minhabba l-ħaġa li jirreferi għaliha u jkun jista' jiġi trasferit skond dan. Kull piż, ipoteka jew privileġġ li qabel l-akkwist ta' l-art mill-awtorità kompetenti kienu jaggravaw ma' dik l-art, għandhom jibqgħu hekk jaggravaw lid-drittijiet ta' kumpens bl-istess gradwazzjoni u preferenza li kellhom fuq l-art.

(10) Meta jkun ġie stabbilit il-kumpens li jithallas dwar art li tkun ġiet akkwistata bix-xiri assolut tagħha, sew jekk bi ftehim sew b'deċizzjoni tal-Bord, kull somma dovuta bħala kumpens iktar minn kull somma ddepożitata skond dan l-artikolu flimkien ma' l-imghaxijiet fuqha skond l-artikolu 12(3) ta' din l-Ordinanza, għandha tithallas lill-persuna li jkollha jedd għal dik is-somma mill-awtorità kompetenti mhux aktar tard minn tliet xhur mid-data meta dak il-kumpens ikun ġie stabbilit kif hawn qabel imsemmi.

(11) Il-kumpens dovut għall-akkwist b'xiri assolut ta' xi art, u s-somma li għandha tiġi ddepożitata skond dan l-artikolu għandha tkun:

(a) f'kazijiet li ma jkunux dawk li jaqghu taht il-paragrafi (b) u (c) ta' dan is-subartikolu, dak il-kumpens li jiġi stabbilit skond id-disposizzjonijiet ta' din l-Ordinanza wara li jitqies il-valur fid-data tal-pubblikazzjoni tad-Dikjarazzjoni mill-President fil-Gazzetta;

(b) fil-każ ta' bdil minn pussess u użu f'xiri assolut somma li tasal ghalha billi tiġi kapitalizzata bir-rata ta' wiehed fil-mija tal-kera ta' akkwist fis-sena li tkun dovuta taht id-disposizzjonijiet ta' din l-Ordinanza;

(c) fil-każ ta' bdil minn dominju pubbliku f'xiri assolut somma li tasal ghalha billi tiġi kapitalizzata bir-rata ta' wiehed punt erbgħa fil-mija tal-kera ta' għarfien fis-sena li tkun dovuta taht id-disposizzjonijiet ta' din l-Ordinanza.

Kap. 358.

(12) Proprietà regolata mill-Att dwar Proprietà ta' Entijiet Ekklesjastici, għandha minkejja kull disposizzjoni ta' din l-Ordinanza tkompli tkun regolata bid-disposizzjonijiet ta' l-imsemmi Att, u l-proceduri u l-kriterji hemm fih stabbiliti sabiex jiġi determinat x'ikun il-kumpens u l-hlas tiegħu għandu jkun japplika skond dan.”;

(d) l-artikolu 27 għandu jiġi emendat kif ġej:

(i) fil-paragrafu (i) tal-proviso għas-subartikolu (1) tiegħu minflok il-kliem “ta' l-avviz għall-ftehim” u “ta' l-avviz għal ftehim” għandhom f'kull każ jidhru l-kliem “tad-Dikjarazzjoni mill-President”;

(ii) fil-paragrafu (ii) tal-proviso għas-subartikolu (1) tiegħu, minflok il-kliem “in-notifika ta' l-avviz għall-ftehim” kull fejn dawn jinsabu għandhom jidhru l-kliem “il-pubblikazzjoni tad-Dikjarazzjoni mill-President”;

(iii) fis-subartikolu (19) tiegħu, minflok il-kliem minn “u li f'kull każ għandha l-ewwelnett” sal-kliem “supplementari li johroġ wara” għandhom jidhru l-kliem “u f'kull każ fl-ewwel lok l-ammont li l-awtorità kompetenti tkun qed toffri għall-għanijiet ta' dan is-subartikolu għandu jkun inkluż fid-Dikjarazzjoni mill-President flimkien mad-dikjarazzjoni dwar l-ammont ta' kumpens imsemmi fl-artikolu 22(2) ta' din l-Ordinanza”;

(e) l-artikolu 31 ta' l-Ordinanza ghandu jiġi emendat kif ġej:

(i) il-kliem "jekk għal raġunijiet speċjali ma jidhirlux li mhux xieraq li jagħmel hekk" kull fejn dawn jinsabu fis-subartikoli (1) u (2) tiegħu, għandhom jithassru;

(ii) fis-subartikolu (2) tiegħu minflok il-kliem "Meta sid ikun għamel kontrofferta bil-miktub li jaċċetta somma determinata" għandhom jidhlu l-kliem "Meta sid ma jaċċettax l-offerta ta' l-awtorità kompetenti u jitlob li s-somma dovuta bhala kumpens għandha tkun oghla filwaqt li jindika dik is-somma";

(iii) is-subartikolu (3) tiegħu ghandu jiġi enumerat mill-ġdid bhala s-subartikolu (4) tiegħu; u

(iv) minnufih wara s-subartikolu (2) tiegħu ghandu jidhol dan is-subartikolu (3) ġdid li ġej:

"(3) Meta sid ma jaċċettax l-offerta ta' l-awtorità kompetenti u jvanta li l-ammont dovut bhala kumpens ghandu jkun oghla, u jindika dik is-somma, kemm jekk din tithallas perjodikament jew bhala somma f'daqqa, bhala kumpens, u jkun ikkonforma ruhu mad-disposizzjonijiet ta' l-artikoli 9 u 12 ta' din l-Ordinanza, u s-somma mogħtija tkun iktar minn dik offruta mill-awtorità kompetenti imma inqas minn dik mitluba mis-sid, allura l-ispejjez għandhom jiġu sofferti mill-partijiet fi proporzjon li d-differenza fl-ammont offrut mill-awtorità kompetenti u dak hekk stabbilit mill-Bord ikollhom għad-differenza fl-ammont mitlub mis-sid u l-ammont stabbilit mill-Bord.";

(f) fl-artikolu 33 ta' l-Ordinanza, minflok il-kliem "avviz għall-ftehim" għandhom jidhlu l-kliem "xi avviz"; u

(g) l-Iskeda li tinsab ma' l-Ordinanza għandha tiġi emendata kif ġej:

(i) f'dik il-parti tagħha intitolata "DIKJARAZZJONI TAL-PRESIDENT TA' MALTA" minnufih wara l-ewwel paragrafu ghandu jidhol dan il-paragrafu ġdid li ġej:

"Il-kerata ta' kumpens / għarfien / kerata ta' akkwist offrut hu ta' Lm _____ / Lm _____ fis-sena skond

l-istima li hawn ma' din id-dikjarazzjoni kif din saret mill-perit arkitett _____”;

(ii) il-parti intitolata “AVVIŻ GHALL-FTEHIM” ghandha tithassar.

Disposizzjonijiet
transitorji.

2 (a) Ghar-rigward ta' art li tkun sugġetta ghal dikjarazzjoni mill-President qabel id-dhul fis-sehh ta' dan l-artikolu, jew art li qabel id-dhul fis-sehh ta' dan l-artikolu kienet ittiehdet mill-Gvern imma ma tkun inharġet ebda dikjarazzjoni mill-President ghar-rigward taghha qabel id-dhul fis-sehh ta' dan l-artikolu ghandu jkun japplika l-artikolu 12(3) ta' l-Ordinanza kif emendat b'dan l-artikolu, b'dan li l-imghax li jinsab hemm indikat ghandu jibda ghaddej mid-data minn meta l-Gvern jiehu pussess sad-data meta jithallas il-kumpens ghaliha jew dan jiġi depożitat skond il-kaz:

Izda l-imghaxijiet kif hawn qabel imsemmija ghandhom jiġu kkalkolati fuq il-valur ta' l-art fid-data tad-Dikjarazzjoni mill-President, jew inkella meta ma tkun inharġet ebda Dikjarazzjoni bhal dik qabel ma dan l-artikolu jiġi fis-sehh, fid-data ta' tehid ta' pussess mill-Gvern ta' l-art inkwistjoni.

(b) (i) Il-President jista' dwar kull art li tkun sugġetta ghal Dikjarazzjoni mahruġa qabel id-dhul fis-sehh ta' dan l-artikolu johroġ Dikjarazzjoni ġdida fejn jiġi dikjarat x'ikun l-ammont ta' kumpens li l-awtorità kompetenti tkun lesta li thallas ghal dik l-art li d-dikjarazzjoni tkun tirreferi ghaliha. Dik id-dikjarazzjoni ghandu jkollha flimkien maghha stima li ssir minn perit arkitett u meta jkun hemm disponibbli pjanta ta' l-art deskritta fid-Dikjarazzjoni:

Izda meta tiġi mahruġa dik id-Dikjarazzjoni l-ġdida l-kumpens ghandu jiġi stabbilit abbażi tal-valur ta' dik l-art fid-data meta jkun gie notifikat xi avviż ghall-ftehim dwar dik l-art, u fejn ebda avviż ghall-ftehim ma jkun gie hekk notifikat, fid-data tal-hruġ tad-Dikjarazzjoni l-ġdida mill-President.

(ii) Ghall-fini li jiġi stabbilit jekk l-art ghandhiex tkun stmata bhala art ghall-bini, raba' jew art rurali jew art moxa ghall-finijiet ta' dan is-subartikolu, id-data rilevanti tkun id-data meta tkun harget id-dikjarazzjoni originali mill-President qabel id-dhul fis-sehh ta' dan l-artikolu.

(iii) Kull Dikjarazzjoni ġdida mahruġa bis-sahha ta' dan il-paragrafu ghandha, bla hsara ghad-disposizzjonijiet ta' dan is-subartikolu, tkun meqjusa bhala Dikjarazzjoni mahruġa taht id-

disposizzjonijiet ta' l-artikolu 22 ta' l-Ordinanza kif emendat b'dan l-artikolu, u ghalha ghandhom japplikaw id-disposizzjonijiet tas-subartikoli (3) sa (12) ta' l-artikolu 22 ta' l-Ordinanza kif hekk emendat.

(ċ) L-artikolu 31 ta' l-Ordinanza kif emendat b'dan l-artikolu, ghandu japplika ghal procedimenti dwar xi Dikjarazzjoni li tkun inharġet anki qabel id-data tad-dhul fis-sehh ta' dan l-artikolu.

Mghoddi mill-Kamra tad-Deputati fis-Seduta Nru. 764 tat-2 ta' Lulju, 2002.

ANTON TABONE
Speaker

RICHARD J. CAUCHI
Skrivan tal-Kamra tad-Deputati

I assent.

(L.S.)

GUIDO DE MARCO
President

12th July, 2002

ACT No. XI of 2002

AN ACT to provide for the administration of lands

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:—

Short title and commencement.

1. The title of this Act is the Administration of Lands Act, 2002 and shall come into force on such date as the Minister responsible for Lands may by Order in the Gazette establish.

Interpretation.

2. For the purpose of this Act unless the context otherwise requires the term “land” includes all immovable things as well as all real rights over immovables.

Vesting of land.

3. Subject to the other provisions of this Act, with effect from the coming into force of this Act, all lands belonging to foundations and administrations, administered by the Government separate from the administration of other land belonging to the Government shall vest in the Government and the Government shall deal with and administer the land so vested in it in virtue of this Act in the same manner as other land belonging to the Government in absolute property and may dispose of such land accordingly and with effect from such commencement all liabilities of or due in connection with such administration shall become liabilities of or due to the Government by virtue of this Act and any payment so due to be made by the Government shall be a charge on the Consolidated Fund without further appropriation other than this Act.

4. Without prejudice to any consolidation of the directum dominium with the utile dominium happening on the vesting of the land as provided in article 3 of this Act, the provisions of that article shall not affect any emphyteusis or lease granted in respect of such land or any easement to which such land may be subject, and any such emphyteusis or lease shall for all purposes, be deemed to have been granted by the Government and be treated accordingly.

Effect on
emphyteusis etc.

5. With effect from the commencement of this Act, any burthen or charge to which any of the land referred in article 3 of this Act may, before the commencement of this Act, be subject to, and any other payment or performance that may, before the date aforesaid, be due in respect of any such assets, shall by virtue of this Act, cease to be such a burthen or charge on, or a payment or performance due in respect of any such land and any sum or other thing or act which but for the provisions of this article would have been due to be paid immediately before the commencement of this Act, shall as from such commencement, be due to be paid or made by the Government, and any payment so due shall be a charge on the Consolidated Fund without any further appropriation other than this Act.

Obligations tied
to land vested
in Government.

6. (1) Any person claiming a right of compensation in connection with the vesting of the land referred to in this Act in the Government shall have a right of access, by writ of summons against the Government, in the Civil Court, First Hall for the determination of his interest in or right over the land and the amount of any compensation to which he may be entitled and for the payment of such compensation.

Claims.

(2) An appeal shall lie to the Court of Appeal from the decision of the Civil Court First Hall.

(3) No action under this article may be filed after the lapse of six months after the coming into force of this Act.

(4) All the provisions of the Agreement incorporated in the Ecclesiastical Entities (Properties) Act shall apply with regard to any land which immediately prior to the coming into force of this Act belonged to any foundation or administration in whose regard this Act applies and which, had it not been for the Agreement mentioned above, an ecclesiastical entity could claim any right of compensation therefor, and the Joint Office and the Control Committee established by the said Agreement shall continue to have in respect of the land mentioned in this subarticle the same functions as they have with respect to any other land mentioned in or to which the said Agreement applies.

7. (1) The Land Acquisition (Public Purposes) Ordinance, (hereinafter in this article referred to as "the Ordinance") shall be amended as follows:

(a) in article 9 thereof for the words "on the notice board of the Police Station or as the case may be, of each Police Station of the town or village where or within the limits of which the land is situated", there shall be substituted the words "on the notice board of the office of the Local Council of the locality where the land is situated";

(b) article 12 thereof shall be amended as follows:

(i) subarticle (1) thereof shall be deleted and subarticles (2) and (3) shall be renumbered as subarticles (1) and (2) respectively; and

(ii) immediately after subarticle (2) thereof as renumbered, there shall be added the following new subarticle:

"(3) Simple interest at the rate of five per centum per annum shall accrue on a daily basis in favour of any person having a right to compensation in respect of any land acquired by the absolute purchase thereof under this Ordinance, from the date of the Declaration of the President up to the date when the compensation is paid or deposited in accordance with article 22 of this Ordinance. The interest due shall accrue on the amount of compensation as established in accordance with this Ordinance.";

(c) for article 22 thereof, there shall be substituted the following:

"Procedure. 22. (1) If the competent authority and the owner agree as to the amount of compensation for any land, the Board, on the application of any one of the parties, shall make an order carrying the agreement into effect:

Provided that the amount of acquisition rent or recognition in rent, as the case may be, shall be determined in terms of the relevant provisions of article 27.

(2) Where the land is to be acquired by the absolute purchase thereof (including the acquisition by conversion from possession and use or public tenure into

absolute ownership), the President's Declaration issued for the purposes of article 3 of this Ordinance, shall state the amount of compensation which the competent authority is willing to pay for the land to which the declaration refers. The Declaration shall have attached with it a valuation drawn up by an architect and where available a site plan of the land described in the Declaration.

(3) Within fifteen working days from the publication of the President's Declaration as is referred to in subarticle (2) hereof in the Gazette the Government shall deposit in an interest bearing bank account (which will guarantee a minimum of interest per annum as the Minister responsible for lands may by regulation under this subarticle prescribe) a sum equal to the amount of compensation offered in the President's Declaration. Such sum shall be freely withdrawn together with any interests accrued thereon by the person or persons entitled to such compensation upon evidence to the entitlement thereto, in a manner satisfactory to the competent authority.

(4) The competent authority shall signify its acceptance or otherwise of the evidence submitted by the persons referred to in the immediately preceding subarticle, by means of a judicial act within two months from the submission of such evidence.

(5) The amount deposited as provided in subarticle (3) together with any interests accruing thereon may be withdrawn as provided in the said subarticle whether or not the sum deposited as compensation has been accepted as the amount of compensation due, and the withdrawal of such deposit interests shall not prejudice the right competent to any person to take action according to this Ordinance for the purpose of determining any further compensation that may be payable to him in accordance with this Ordinance.

(6) Where the person entitled to compensation does not accept that the amount deposited is adequate, such person may apply to the Board for the determination of the compensation in accordance with the provisions of this Ordinance. Such application shall, on pain of nullity, state the compensation that in the opinion of the applicant is due.

(7) Such application shall be filed in the Registry of the Board within twenty one days from the notification of

the judicial act by the competent authority accepting proof of evidence in accordance with subarticle (4) of this article. The Board shall determine such compensation and shall give all necessary orders and directives in accordance with this Ordinance.

(8) Upon the making of a Declaration by the President in accordance with this Ordinance that any land is to be acquired by the absolute purchase thereof, the absolute ownership of the land to which the declaration refers shall be deemed to be a registration area for the purposes of the Land Registry Act and the absolute ownership thereof shall by virtue of this Ordinance and without any further assurance or formality, be transferred to and be acquired by the competent authority free and unencumbered from any charge, hypothec or privilege and with all the appurtenances thereof, and the competent authority shall cause such land to be registered in the Land Registry in its name in accordance with the Land Registry Act within three months from the issue of the Declaration of the President.

(9) The right to withdraw the compensation deposited in accordance with subarticle (3) and to any further compensation that may be due under this Ordinance (hereinafter referred to as "the compensation rights") shall be deemed to be an immovable right by reason of the object to which it refers and shall be transferable accordingly. Any charge, hypothec or privilege which prior to the acquisition of the land by the competent authority attached to such land, shall continue to attach to the compensation rights with the same ranking and priority as it attached to the land.

(10) Where the compensation payable in respect of land acquired by the absolute purchase thereof is determined, whether by agreement or by decision of the Board, any sum due as compensation over and above any sum deposited in accordance with this article together with interests thereon in accordance with article 12 (3) of this Ordinance, shall be paid to the person entitled thereto by the competent authority not later than three months from the date on which such compensation was determined as aforesaid.

(11) The compensation due for the acquisition by absolute purchase of any land, and the sum to be deposited in accordance with this article shall be:

(a) in cases other than those falling under paragraphs (b) and (c) hereof, such compensation as is established in accordance with the provisions of this Ordinance regard being had to the value at the date of publication of the Declaration by the President in the Gazette;

(b) in the case of conversion from possession and use into absolute purchase a sum arrived at by the capitalisation at the rate of one per centum of the annual acquisition rent due under the provisions of this Ordinance;

(c) in the case of conversion from public tenure into absolute purchase a sum arrived by the capitalisation at the rate of one point four per centum of the annual recognition rent due under the provisions of this Ordinance.

(12) Property regulated by the Ecclesiastical Entities (Property) Act, shall notwithstanding any provision of this Ordinance continue to be governed by the provisions of the said Act, and the procedures and criteria therein established for the determination of compensation and the payment thereof shall apply accordingly.”; Cap. 358.

(d) article 27 thereof shall be amended as follows:

(i) in paragraph (i) of the proviso to subarticle (1) thereof, for the words “notice to treat” wherever they occur there shall be substituted the words “President’s Declaration”;

(ii) in paragraph (ii) of the provision to subarticle (1) thereof, for the words “service of the notice to treat”, wherever they occur, there shall be substituted the words “publication of the President’s Declaration”;

(iii) in subarticle (19) thereof, for the words from “and in every case in the first instance” to the words “of a subsequent notice to treat” there shall be substituted the words “and in every case in the first instance the amount which the competent authority is offering for the purposes of this subarticle shall be included in the President’s Declaration together with the statement as to the amount of compensation referred to in article 22 (2) of this Ordinance”;

(e) article 31 thereof shall be amended as follows:

(i) the words “unless for special reasons they think proper not to do so” wherever they appear in subarticles (1) and (2) thereof, shall be deleted;

(ii) in subarticle (2) thereof for the words “Where an owner has made a counter-offer in writing to accept any particular sum” there shall be substituted the words “Where an owner does not accept the offer of the competent authority and claims that the amount due as compensation should be higher indicating such sum”;

(iii) subarticle (3) thereof, shall be renumbered as subarticle (4) thereof; and

(iv) immediately after subarticle (2) thereof there shall be inserted the following new subarticle (3):

“(3) Where an owner does not accept the offer of the competent authority and claims that the amount due as compensation should be higher, indicating such sum, whether payable periodically or as a lump sum, as compensation, and has complied with the provisions of articles 9 and 12 of this Ordinance, and the sum awarded is more than that offered by the competent authority but less than that claimed by the owner, then all costs shall be borne by the parties in proportion that the difference in the amount offered by the competent authority and that determined by the Board has to the difference in the amount claimed by the owner and the amount determined by the Board.”;

(f) in article 33 thereof, for the words “notice to treat” there shall be substituted the words “any notification”; and

(g) the Schedule thereto shall be amended as follows:

(i) in the part thereof entitled “DECLARATION BY THE PRESIDENT OF MALTA” immediately after the first paragraph, there shall be inserted the following new paragraph:

“The compensation / recognition rent / acquisition rent offered is Lm _____ / Lm _____ per annum as

per valuation herein attached drawn up by architect

(ii) the part entitled "NOTICE TO TREAT" shall be deleted.

Transitory provisions.

2(a) With respect to land subject to a declaration by the President before the coming into force of this article, or land which before the coming into force of this article was taken over by Government but no declaration was issued by the President in respect thereof prior to the coming into force of this article, article 12 (3) of the Ordinance as amended by this article shall apply, so however that interest as therein indicated shall accrue from the date of taking over by the Government up to the date when compensation therefor is paid or deposited as the case may be:

Provided that the interests as aforesaid shall be calculated on the value of the land on the date of the President's Declaration or where no such Declaration was issued prior to the coming into force of this article on the date of taking over by Government of the land in question.

(b) (i) The President may in relation to any land subject of a Declaration issued before the coming into force of this article issue a fresh Declaration wherein shall be stated the amount of compensation which the competent authority is willing to pay for the land to which the Declaration refers. The said Declaration shall have attached with it a valuation drawn up by an architect and where available a site plan of the land described in the Declaration:

Provided that when such fresh Declaration is issued the compensation shall be determined on the basis of the value of such land on the date of the service of any notice to treat in respect of such land, and where no such notice to treat has been so served, on the date of the issue of the fresh Declaration by the President.

(ii) For the purpose of determining whether land is to be valued as a building site, agricultural or rural land or waste land for the purposes of this subarticle the relevant date shall be the date when the original Declaration was issued by the President before the coming into force of this article.

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(iii) Any fresh Declaration issued in virtue of this paragraph shall, subject to the provisions of this subarticle, as a Declaration issued under the provisions of article 22 of the Ordinance as amended by this article, and thereupon the provisions of subarticles (3) to (12) of article 22 of the Ordinance as so amended shall apply.

(c) Article 31 of the Ordinance as amended by this article, shall apply to any proceedings relating to any Declaration even if issued prior to the date of the coming into force of this article.”.

Passed by the House of Representatives at Sitting No. 764 of 2nd July, 2002.

ANTON TABONE
Speaker

RICHARD J. CAUCHI
Clerk to the House of Representatives