

MALTA

ATT Nru. XXXVII ta' l-1989

ACT No. XXXVII of 1989

ATT maħruġ b'ligi mill-Parlament ta' Malta.

AN ACT enacted by the Parliament of Malta.

ATT biex jemenda l-Att dwar id-Djar (Kap. 125).

AN ACT to amend the Housing Act (Cap. 125).

Naghti l-kunsens tieghi.

(L.S.)

ĊENSU TABONE
President

12 ta' Diċembru, 1989

ATT Nru. XXXVII ta' l-1989

ATT biex jemenda l-Att dwar id-Djar (Kap. 125)

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. Dan l-Att jista' jissejjah l-Att ta' l-1989 li jemenda l-Att dwar id-Djar u għandu jinqara u jiftiehem haġa waħda ma' l-Att dwar id-Djar hawnhekk aktar 'il quddiem imsejjah "l-Att prinċipali".

Titolu
fil-qosor.
Kap. 125.

2. L-artikolu 2 ta' l-Att prinċipali għandu jiġi emendat kif ġej:—

Emenda ta'
l-artikolu 2
ta' l-Att
prinċipali.

(a) minflok it-tifsira ta' "bini" għandha tidhol din id-definizzjoni li ġejja:—

“ “bini” tfisser dar jew bini ieħor, jew ishma minnhom, li jintużaw jew jistgħu jintużaw għal għanijiet residenzjali, u jinkludi kull art jew ġnien li jagħmlu sehem shiħ, jew li huma magħluqin f'dik id-dar jew f'dak il-bini ieħor; iżda ma tinkludix fond li jista' jifisser bħala ħanut skond l-artikolu 2 ta' l-Ordinanza li tirregola t-Tiġdid tal-Kiri ta' Bini;”;

Kap. 69.

(b) minnufih wara t-tifsira ta' "bini" għandha tidhol din it-tifsira li ġejja:—

“ “Direttur għall-Akkomodazzjoni Soċjali” jew “Direttur” tfisser l-uffiċjal pubbliku mahtur mill-Prim Ministru sabiex ikun Direttur għall-Akkomodazzjoni Soċjali għall-finijiet ta' dan l-Att;”;

u

(ċ) it-tifsira ta' "Segretarju" għandha tithassar.

Sostituzzjoni
tal-kelma
"Segretarju"
kull fejn
tidher fl-Att.

3. Hlief kif provdut fid-dispożizzjonijiet li ġejjin ta' dan l-Att, kull fejn tidher il-kelma "Segretarju" fl-Att prinċipali, għandha tidhol minflokha l-kelma "Direttur".

Sostituzzjoni
ta' l-artikolu
3 ta' l-Att
prinċipali.

4. Minflok l-artikolu 3 ta' l-Att prinċipali għandu-jidhol dan li ġej:—

"Setgħa ta'
hrug ta'
rekwiżizzjo-
nijiet,
effetti u
twettiq.

3. (1) Jekk id-Direttur għall-Akkomodazzjoni Soċjali jidhirlu li hu mehtieg jew xieraq li jagħmel hekk fl-interess pubbliku, iżda biss bil-għan biex jipprovi lin-nies lok fejn wiehed jista' jgħammar jew biex jiżgura t-tqassim xieraq ta' dawk il-postijiet fejn wiehed jista' jgħammar, huwa jista' johroġ rekwiżizzjoni għal kull bini, u jista' jagħti struzzjonijiet li jidhirlu li huma mehtieġa jew xierqa sabiex ir-rekwiżizzjoni tista' jkollha effett u tkun tista' ssehħ.

(2) Ordni ta' rekwiżizzjoni li jsir skond is-subartikolu (1) ta' dan l-artikolu għandu jiġi notifikat lil min ikollu jedd għall-okkupazzjoni immedjata tal-bini rekwiżizzjonat, jew l-aġent jew rappreżentant tiegħu, u meta l-bini jkun qiegħed jinkera lil inkwilin, jew qiegħed għandu b'titolu ta' enfitewsi li jiskadi mhux iktar tard minn hames snin minn meta jinhareġ l-ordni, dan l-ordni għandu jiġi wkoll notifikat lis-sid jew lill-padrin dirett, skond il-każ, jew lill-aġent jew rappreżentant tagħhom:

Iżda meta t-titolu għal bini kif imsemmi qabel, jew għal min għandu jedd jokkupah, ikun jappartjeni lil iktar minn persuna waħda, in-notifika ta' l-ordni ta' rekwiżizzjoni li ssir lil persuna waħda minn dawk kollha għandu jkollha sehħ għar-rigward tat-titolu miżmum in komun ma' l-oħrajn. daqslikieku l-ordni kienet giet ukoll notifikata lil dawk il-persuni l-oħrajn kollha.

(3) Meta, sakemm tkun twettqet diligenza xierqa, min ikollu jiġi notifikat b'ordni ta' rekwiżizzjoni, jew l-aġent jew ir-rappreżentant tiegħu, ma jkunx jinstab, jew jekk jinstab jirrifjuta li jaċċetta l-ordni, l-ordni ta' rekwiżizzjoni għandha titqies li tkun giet notifikata sew lil dik il-persuna u lil dawk il-persuni l-oħrajn li kienu jitqiesu li ġew notifikati bl-ordni li kieku din giet notifikata lil dik il-persuna, jekk jingħata avviż ta' l-ordni fil-Gazzetta tal-Gvern u f'mhux anqas minn tlett gurnali oħrajn ta' kuljum ippubblikati f'Malta.

(4) Ordni ta' rekwiżizzjoni li jsir u jiġi notifikat skond id-dispożizzjonijiet ta' dan l-artikolu għandu jopera u jkollu effett shiħ kontra kulhadd u jibqa' hekk operattiv u effettiv sakemm il-bini jiġi derekwiżizzjonat.

(5) Kull uffiċjal tal-Pulizija mhux taħt ir-rank ta' surgent jista, fuq istruzzjonijiet tad-Direttur, jiehu dawk il-passi u

jinqeda b'dik il-forza li jidhirlu mehtieġa skond ma jixraq biex jiżgura li qeghdin jitwettqu l-ordnijiet mogħtija lil persuna skond id-dispożizzjonijiet ta' dan l-artikolu jew ta' l-artikolu 9 ta' dan l-Att li bis-saħħa tagħhom ikun intalab li jċedi l-pussess ta' bini:

Iżda d-Direttur m'għandux jagħti dawn l-istruzzjonijiet kif imsemmija qabel hliet f'każijiet li għandhom x'jaqsmu ma' rikostruzzjoni jew pjanifikazzjoni mill-ġdid, jew evakwazzjoni f'għadd kbir, jew f'każ ta' okkupazzjoni mhix awtorizzata, jew f'każijiet oħra li d-Direttur ikun jidhirlu li huma urġenti, u sakemm dawn ikunu ġustifikati b'mod raġonevoli f'soċjetà demokratika.

(6) Meta bini li jkun ġie rekwizizzjonat taħt dan l-artikolu jitbattal u jkun jappartjeni b'titolu assolut jew b'enfi-tewsi lil min jagħti prova għas-sodisfazzjon tad-Direttur li għandu hsieb li jiehu pussess tal-bini sabiex hemm jistabbilixxi r-residenza ordinarja tiegħu jew dik ta' xi hadd mit-tfal tiegħu, id-Direttur għandu jalloka l-bini lil dik il-persuna, jew lil xi hadd mit-tfal tiegħu kif imsemmi qabel, skond il-htieġa tal-każ; u jekk dik ir-residenza ordinarja tiġi fil-fatt hekk stabbilita fi żmien sitt xhur minn meta ssir l-allokazzjoni, jew minn dak iż-żmien aktar tard li d-Direttur jista' għal raġuni valida jippermetti, u tkompli għal perjodu ta' mhux anqas minn sentejn, id-Direttur għandu, jekk hekk jintalab jagħmel, jidderikwizizzjona l-bini.

(7) Meta jkun ingħata ordni ta' rekwizizzjoni, u r-rekwizizzjonat jipprova b'sodisfazzjoni tad-Direttur illi huwa ma jistax isib trasport għall-ġarr ta' l-għamara jew hwejjeġ oħra li jinsabu fil-bini rekwizizzjonat, jew lok ieħor fejn jahżinhom, ikun dmir tad-Direttur li jipprovdi dak il-mezz tal-ġarr u lok għall-ħażna ta' l-għamara jew hwejjeġ oħra alternattiv kif ikun mehtieġ, mingħajr hsara għad-dispożizzjonijiet tas-subartikolu (9) ta' dan l-artikolu.

(8) Meta xi ordni ta' rekwizizzjoni ma jiġix obdu-t jew meta wara t-twettiq ta' kull diliġenza xierqa, hadd ma jinstab li għandu l-jedd dirett li jgħammar fil-bini rekwizizzjonat, jew il-prokuratur tiegħu jew min jidher għalih, id-Direttur jista' jagħti dawk l-ordnijiet li jidhirlu xierqa għall-ġarr u ħażna ta' l-għamara jew hwejjeġ li jinstabu fil-bini:

Iżda qabel ma jsir dan il-ġarr għandu jsir inventarju ta' l-għamara jew hwejjeġ imsemmija qabel li għandu jkun iffirmit mid-Direttur jew rappreżentant tiegħu quddiem uffiċjal tal-Pulizija mhux taħt ir-rank ta' surġent, li għandu jżid ukoll il-firma tiegħu f'dak l-inventarju.

(9) F'kull każ meta l-ġarr jew il-lok għall-ħażna ta' l-għamara jew hwejjeġ huwa pprovdut mid-Direttur skond

dan l-artikolu, din l-ghamara jew hwejjeġ ghandhom, matul il-ġarr u hażna jibqgħu b'sogru ta' sidhom waħdu u, għal dak li hu hażna l-ispejjeż tiegħu wkoll; u ebda hlas ma jkun misthoqq dwar xi nuqqas fihom jew hsara li tiġrilhom jekk jiġi ppruvat illi dak in-nuqqas jew dik il-hsara ma kenitx ġrat minhabba traskuraġni tad-Direttur jew nies li kienu jaqduh.

(10) Filwaqt li bini jkun f'idejn id-Direttur bis-saħħa ta' dan l-Att, il-bini jista' jintuża biss għall-finijiet imsemmija fis-subartikolu (1) ta' dan l-artikolu, iżda, hliet kif imsemmi qabel, id-Direttur, sa fejn jidhirlu li jkun meħtieġ jew xieraq dwar it-teħid ta' pussess jew użu tal-bini bis-saħħa ta' dan l-Att, jista' jagħmel, jew jawtorizza lill-persuni li jużaw il-bini biex jagħmlu, dwar il-bini, kull haġa illi kull persuna li għandha nteress bla tirżin fil-bini kien ikollha l-jedd li tagħmel bis-saħħa ta' dak l-interess."

Emenda ta' l-artikolu 4 ta' l-Att prinċipali.

5. L-artikolu 4 ta' l-Att prinċipali għandu jiġi emendat biż-żieda, minnufih wara s-subartikolu (2) tiegħu, ta' dan is-subartikolu ġdid li ġej:—

“(3) Kull min xjentement jagħti xi nformazzjoni taht id-dispożizzjonijiet preċedenti ta' dan l-artikolu li tkun qarrieqa jew skorretta f'xi fatt partikolari tagħha, ikun haṭi ta' reat skond dan l-Att u jehel, meta jinstab haṭi, multa ta' mhux inqas minn mitt lira iżda mhux iżjed minn hames mitt lira jew priġunerija għal żmien ta' mhux anqas minn hmistax-il jum u mhux iżjed minn tliet xhur, jew għal dik il-multa u priġunerija flimkien.”.

Sostituzzjoni ta' l-artikolu 9 ta' l-Att prinċipali.

6. Minflok l-artikolu 9 ta' l-Att prinċipali għandu jidhol dan li ġej:—

9. Meta persuna tkun qegħda f'bini rekwizizzjonat taht dan l-Att, id-Direttur jista', ukoll jekk dik il-persuna thallas kumpens talli tkun qegħda hemmhekk, jordnalha li titlaq minn dak il-bini u thalli f'idejh dak il-bini f'dak iż-żmien li d-Direttur jista' jistabbilixxi, jekk huwa jidhirlu li dik il-persuna ma tkunx qegħda tuża l-bini għal għanijiet residenzjali, jew tkun sid ta' jew għandha jew li b'mod ieħor pprovduta b'bini ieħor li tista' tuża b'haṭa residenza tagħha u tal-familja tagħha, jew jekk ikun hekk raġonevolment meħtieġ li wieħed jaġixxi b'dan il-mod fl-interess tad-difiża, sigurtà pubblika, ordni pubbliku jew saħħa pubblika.”.

Emenda ta' l-artikolu 14 ta' l-Att prinċipali.

7. L-artikolu 14 ta' l-Att prinċipali għandu jiġi emendat billi jiddaħhal, minnufih wara l-paragrafu (ċ) tiegħu, dan il-paragrafu ġdid li ġej:—

“(d) sabiex jistabbilixxi d-drittijiet relattivi għall-hażna u sabiex jipprovdni għat-teħid lura ta', jew xi jsir minn, għamara jew oġġetti, magħdud il-bejgħ tagħhom, li jkunu tnehhew minn bini rekwizizzjonat skond dan l-Att.”.

8. L-artikolu 16 ta' l-Att prinċipali għandu jiġi emendat bis-sostituzzjoni tal-kliem "ordni ta' rekwizizzjoni jew avviz" minflok il-kelma "avviz".

Emenda ta' l-artikolu 16 ta' l-Att prinċipali.

9. L-artikolu 17 ta' l-Att prinċipali għandu jiġi emendat bis-sostituzzjoni tal-kliem u figuri "fis-subartikoli (1) u (2) ta' l-artikolu 4 ta' dan l-Att" minflok il-kliem u figuri "fl-artikolu 4 ta' dan l-Att".

Emenda ta' l-artikolu 17 ta' l-Att prinċipali.

10. Id-dispożizzjonijiet ta' l-Att prinċipali, kif fis-sehħ qabel il-bidu fis-sehħ ta' dan l-Att, għandhom minkejja d-dispożizzjonijiet ta' dan l-Att, jibqgħu fis-sehħ għar-rigward ta' kull ordni ta' rekwizizzjoni fis-sehħ minnufih qabel il-bidu fis-sehħ ta' dan l-Att, li bih bini jkun rekwizizzjonat għal xi għan li ma jkunx l-għan biex jipprovdi lin-nies lok fejn wiehed jista' jgħammar jew biex jiżgura t-tqassim xieraq ta' dawk il-postijiet fejn wiehed jista' jgħammar, b'dana li kull riferenza għas-Segretarju fl-Att prinċipali, kif hekk fis-sehħ, għandha titqies bhala riferenza għad-Direttur.

Mghoddi mill-Kamra tad-Deputati fis-Seduta Nru. 315 ta' l-4 ta' Diċembru, 1989.

LAWRENCE GONZI
Speaker

P. MUSCAT TERRIBILE
Skrivan tal-Kamra tad-Deputati

I assent.

(L.S.)

CENSU TABONE
President

12th December, 1989

ACT No. XXXVII of 1989

AN ACT further to amend the Housing Act, Cap. 125.

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.

1. (1) This Act may be cited as the Housing (Amendment) Act, 1989, and shall be read and construed as one with the Housing Act, hereinafter referred to as “the principal Act”.

Amendment
of section
2 of the
principal
Act.

2. Section 2 of the Principal Act shall be amended as follows:—

(a) for the definition of “building” there shall be substituted the following definition:

“ “building” means a house or other building, or part thereof, used or capable of use for residential purposes, and includes any land or garden forming an integral part, or enclosed within the precincts, of such a house or other building; but does not include a tenement falling within the definition of shop under section 2 of the Reletting of Urban Property (Regulation) Ordinance;”;

Cap. 69.

(b) Immediately after the definition of “building” there shall be inserted the following definition:

“ “Director of Social Housing” or “Director” means the public officer appointed by the Prime Minister to be the Director of Social Housing for the purposes of this Act;”;

(c) the definition of “Secretary” shall be deleted.

Substitution
of the word
“Secretary”
wherever it
appears in the
Act.

3. Except as provided in the following provisions of this Act, wherever in the principal Act the word “Secretary” appears, there shall be substituted therefore the word “Director”.

4. For section 3 of the Principal Act there shall be substituted the following:

Substitution
of Section 3
of the
principal
Act.

"Power to
requisition,
effects and
enforcement.

3. (1) If it appears to the Director of Social Housing to be necessary or expedient so to do in the public interest, but only for the purpose of providing living accommodation to persons or of ensuring a fair distribution of such living accommodation, he may requisition any building, and may give such directions as appear to him to be necessary or expedient in order that the requisition may be put into effect and complied with.

(2) A requisition order made under subsection (1) of this section shall be served on the person entitled to the immediate occupation of the building requisitioned, or his agent or representative, and where the building, is held by the occupant on lease, or on a temporary emphyteusis expiring not later than five years from the date of the order, it shall also be served on the landlord or the direct owner, as the case may be, or their agent or representative:

Provided that where a title to any building as aforesaid, or to its occupancy, belongs to more than one person, service of the requisition order on any one of such persons shall, in respect of the title held in common with others, have effect as if it had been served also on all such other persons.

(3) Where, after the exercise of due diligence, any person on whom a requisition order is to be served, or his agent or representative, cannot be found, or if found refuses to accept the order, the requisition order shall be deemed to have been validly served on such person, and on such other persons as would have been deemed to be served with the order had it been served on such persons, if notice of the order is given in the Government Gazette and in not less than three daily newspapers published in Malta.

(4) A requisition order made and served in accordance with the provisions of this section shall operate and have full effect against all persons and shall remain so operative and effective until the building is derequisitioned.

(5) Any police officer not below the rank of sergeant may, on instructions from the director, take such steps and use such force as appear to him to be reasonably necessary for securing compliance with directions given to any person under the provisions of this section or of section 9 of this Act requiring him to give up possession of the building:

Provided that the Director shall not give such instructions as aforesaid except in cases connected with recon-

struction or with replanning, or with mass evacuation, or in the case of unauthorized occupation, or in other cases which the Director deems urgent, and except so far as they are reasonably justifiable in a democratic society.

(6) Where a building requisitioned under this section is vacated and belongs in absolute ownership or on emphyteusis to a person who proves to the satisfaction of the Director that he intends to take possession of the building to establish therein his ordinary residence or that of any of his children, the Director shall allocate the building to such person, or any of his children aforesaid, as the case may require; and if such ordinary residence is in fact so established within six months from the date of the allocation, or such later date as the Director may for a good reason allow, and continues for a period of not less than two years, the Director shall, if he is so requested, derequisition the building.

(7) Where a requisition order has been made, and the requisitionee shows to the satisfaction of the Director that he is unable to procure transport for the removal of, or alternative storage place for, the furniture or other articles existing in the building requisitioned, it shall be the duty of the Director to provide such means of transport and alternative storage place as may be required, without prejudice to the provisions contained in subsection (9) of this section.

(8) Where any requisition order is not complied with, or where, after the exercise of due diligence, no person having the right of immediate occupation of the building requisitioned, or his agent or representative, can be found, the Director may give such orders as he may think fit for the removal and storage of the furniture or articles existing in the building:

Provided that before such removal an inventory of the furniture or articles aforesaid shall be made and signed by the Director or his representative in the presence of a police officer not below the rank of sergeant, who shall also affix his signature to the inventory.

(9) In every case where the transport or storage place of furniture or articles is provided by the Director under this section, such furniture or articles shall, during transport and storage, remain at the sole risk of the owner thereof and, in respect of storage, likewise at his charge; and no compensation shall be payable in respect of any deficiency therein or damage thereto if it is proved that such deficiency or damage was not caused by negligence on the part of the Director or persons acting on his instructions.

(10) While a building is in the possession of the Director by virtue of this Act, the building may be used only for the purposes set out in subsection (1) of this section, but, save

as aforesaid, the Director, so far as it appears to him to be necessary or expedient in connection with the taking of possession or use of the building in pursuance of this Act, may do, or authorise persons using the building to do, in relation to the building, anything which any person having an unrestricted interest in the building would be entitled to do by virtue of that interest.”.

5. Section 4 of the principal Act shall be amended by the addition, immediately after subsection (2) thereof, of the following new subsection:—

Amendment
of section
4 of the
principal
Act.

“(3) Whosoever knowingly gives any information under the foregoing provisions of this section which is false or incorrect in any material particular shall be guilty of an offence under this Act and shall be liable, on conviction, to a fine (*multa*) of not less than one hundred liri but not exceeding five hundred liri or to imprisonment for a period of not less than fifteen days and not exceeding three months, or to both such fine and imprisonment.”.

6. For section 9 of the principal Act there shall be substituted the following:

Substitution
of section
9 of the
principal Act.

“Power of
Director
to order
occupant of
requisitioned
building
to quit
the same.

9. Where a person has been accommodated in a building requisitioned under this Act, the Director may, even though such person pays compensation in respect of such accommodation, order him to quit such building and to surrender the same to the Director within such time as the Director may determine, if he is of opinion that such person is not making use of the building for residential purposes, or is the owner of or has or who is otherwise provided with another building which he can use as his and his family’s residence, or if it is reasonably required so to act in the interests of defence, public safety, public order or public health.”.

7. Section 14 of the principal Act shall be amended by the insertion, immediately after paragraph (c) thereof, of the following new paragraph:

Amendment
of section 14 of
the principal Act.

“(d) for fixing storage fees and for providing for the retrieval or disposition of furniture or articles, including the sale thereof, removed from a building requisitioned under this Act:”.

8. Section 16 of the principal Act shall be amended by the substitution of the words “a requisition order or a notice” for the words “a notice”.

Amendment
of section 16 of
the principal Act.

Amendment
of section 17 of
the principal Act.

9. Section 17 of the principal Act shall be amended by the substitution of the words and figures "in subsections (1) and (2) of section 4 of this Act" for the words and figure "in section 4 of this Act".

10. The provisions of the principal Act, as in force before the coming into force of this Act, shall notwithstanding the provisions of this Act, remain in force as regards any requisition order which is in force immediately before the coming into force of this Act, by means of which a building is requisitioned for any purpose which is not the purpose to provide living accommodation to persons or for ensuring a fair distribution of living accommodation, in such manner that any reference to the Secretary in the principal Act, as such in force, shall be deemed as a reference to the Director.

Passed by the House of Representatives at Sitting No. 315 of the 4th December, 1989.

LAWRENCE GONZI
Speaker

P. MUSCAT TERRIBILE
Clerk to the House of Representatives