

**Nru. 156**

7. 10. 80

**MALTA****KAMRA TAD-DEPUTATI****HOUSE OF REPRESENTATIVES**

ABBOZZ ta' Ligi mressaq mill-Onorevoli Joseph Brincat, M.P., Ministru tal-Gustizzja, Artijiet, Djar u Affarijiet tal-Parlament u moqri għall-Ewwel darba fis-Seduta tas-6 ta' Ottubru, 1980.

A BILL introduced by the Honourable Joseph Brincat, M.P., Minister of Justice, Lands, Housing and Parliamentary Affairs and read the First time at the Sitting of the 6th October, 1980.

ATT biex ihassar l-Ordinanza ta' l-1943 dwar il-Hsarat tal-Gwerra, u biex jipprovdli għal hwejjeg li huma konsegwenzjali jew incidental għal dan jew li huma konnessi miegħu.

AN ACT to repeal the War Damage Ordinance, 1943, and to make provision for matters consequential or incidental thereto or connected therewith.

**C. MIFSUD***Skrivan tal-Kamra tad-Deputati***C. MIFSUD***Clerk to the House of Representatives*

## ABBOZZ TA' LIĠI

### msejjah

*ATT biex iħassar l-Ordinanza ta' l-1943 dwar il-Ħsarat tal-Gwerra, u biex jipprovdi għal iħwejjeġ li huma konsegwenzjali jew incidentali għal dan jew li huma konnessi miegħu.*

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

Titolu fil-qosor.

1. Dan l-Att jista' jissejjah l-Att ta' l-1980 li jħassar l-Ordinanza dwar il-Ħsarat tal-Gwerra.

Tifsir.

2. F'dan l-Att, kemm-il darba r-rabta tal-kliem ma teħtieġ xort' oħra —

“jum stabbilit” tfisser il-jum hekk stabbilit mill-Ministru b'avviż fil-Gazzetta, u jistgħu jiġu hekk stabbiliti jiem differenti għal disposizzjonijiet differenti jew għal għanijiet differenti ta' dan l-Att;

“Kummissjoni” tfisser il-Kummissjoni għall-Ħsarat tal-Gwerra maħtura skond l-artikolu 3 ta' l-Ordinanza;

“Ministru” tfisser il-Ministru responsabbli għall-ġustizzja, li jaġixxi wara konsultazzjoni mal-Ministru responsabbli għall-finanzi;

Ord. Nru. III  
ta' l-1943

“Ordinanza” tfisser l-Ordinanza ta' l-1943 dwar il-Ħsarat tal-Gwerra;

“Segretarju” tfisser il-persuna li għal dak iż-żmien hi maħtura taht l-Ordinanza bħala Segretarju tal-Kummissjoni.

Depożiti biex  
jithallsu  
talbiet li  
għadhom  
quddiem  
il-Kummissjoni.

3. (1) Kemm jista' jkun malajr wara li jibda jseħħ dan l-Att, is-Segretarju għandu, fil-kariga tiegħu bħala Segretarju, jiddepożita fil-Prim'Awia tal-Qorti Ċivili dawk is-somom ta' flus li skond ir-registri tal-Kummissjoni u l-esperjenza tagħha ta' l-imghoddi jkun biżżejjed biex tithallas kull waħda mid-diversi talbiet li jkun għadhom pendenti quddiem il-Kummissjoni minnufih qabel id-data tal-bidu fis-seħħ ta' dan l-Att u li ma kienux preskritti f'dik id-data.

(2) Dak id-depożitu għandu jsir b'ċedoli ta' depożitu separati għal kull waħda mill-imsemmija talbiet; u minkejja kull liġi oħra, id-disposizzjonijiet li ġejjin ta' dan is-subartikolu għandu jkollhom effett dwar dawk iċ-ċedoli:

(a) meta min ikun għamel it-talba oriġinarjament, jew xi wieheh minnhom, ikun mejjet jew ikun ittrasferixxa jew xort'oħra ddispona mill-jeddijiet tiegħu taħt l-Ordinanza, jew meta għal xi raġuni oħra s-Segretarju hekk jidhirlu spedjenti li jaġixxi, kull depożitu magħmul taħt dan is-subartikolu jista' jsir favur xi wieheh jew iktar mill-werrieta jew mis-suċċessuri ta' min ikun għamel it-talba oriġinarjament, jew xi aventi kawża tiegħu, bħala rappreżentant tal-persuni kollha li jkollhom interess fil-flus hekk depożitati;

(b) in-nuqqas li tidher fiċ-ċedola ta' depożitu xi persuna waħda jew iktar milli jkollhom interess f'xi parti tal-flus depożitati taħt dan l-artikolu ma jinvalidax jew xort'oħra jolqot it-tħaddim ta' xi ċedola bħal dik; iżda il-jeddijiet ta' kull persuna bħal dik għandhom, minkejja dak in-nuqqas, jibqgħu mingħajr preġudizzju;

(c) ċedola ta' depożitu magħmula taħt dan l-artikolu tiġi notifikata biss lill-persuni li jkunu msemmija fiċ-ċedola ta' depożitu u li jkunu ordinarjament residenti f'Malta fil-jum li fih iċ-ċedola tiġi preżentata fil-qorti; u jekk fi żmien tliet xhur minn dak il-jum iċ-ċedola ma tkunx tista' tiġi notifikata lil xi waħda mill-imsemmija persuni, jew għax tkun nieqsa jew għal xi raġuni oħra, dik il-persuna għandha, għall-finijiet ta' dan l-artikolu, titqies li ma kenitx ordinarjament residenti f'Malta;

(3) Meta jkunu saru d-depożiti kollha, is-Segretarju għandu jittratta bil-kotba, bir-registri, bil-karti u bid-dokumenti l-oħra li jkunu proprjetà tal-Kummissjoni jew li jkunu miżmuma minnha jew f'isimha, b'dak il-mod li l-Ministru jista' jordna.

4. Bla ħsara għal kull haġa li saret jew li naqset milli ssir skond il-liġi bis-saħħa tagħha, u bla ħsara għad-disposizzjonijiet l-oħra ta' dan l-Att, l-Ordinanza ta' l-1943 dwar il-Ħsarat tal-Gwerra hi b'dan imħassra, b'seħħ mill-jum stabbilit.

Thassir ta'  
l-Ordinanza.

5. (1) Minkejja it-thassir ta' l-Ordinanza il-flejjes kollha depożitati fil-qorti taħt l-artikolu 3 ta' dan l-Att, jibqgħu li għandhom jithallsu lill-persuni li, kieku ma kienx dak it-thassir, kien ikollhom dritt għalihom jew għal xi parti minnhom; iżda il-ħlasijiet kollha tagħhom ikunu regolati biss bid-disposizzjonijiet ta' dan l-Att u jkunu dovuti skond id-disposizzjonijiet ta' dan l-Att.

Depożiti  
fil-qorti.

(2) Dwar kull flejjes depożitati kif intqal qabel, id-disposizzjonijiet li ġejjin ta' dan is-subartikolu għandu minkejja kull liġi oħra, ikollhom effett:

(a) is-somom kollha għandhom jithallsu jew xort'oħra jsir dwarhom mir-Registatur tal-Qrati Superjuri biss skond direttivi mogħtija mill-Ministru kif imwassla bil-mezz ta' nota ppreżentata fir-Registru tal-Qrati Superjuri mill-Avukat Generali jew f'ismu;

(b) fl-għoti ta' kull direttiva taħt il-paragrafu (a) ta' dan is-subartikolu l-Ministru għandu:

(i) fil-każijiet kollha, iqis il-jeddijiet ta' kull persuna li fil-fehma tiegħu jkollha interess f'xi parti tad-depożitu bħallikieku l-Ordinanza ma tkunx giet imħassra;

(ii) dwar xi talba li jkollha x'taqsam ma' xoghlijiet li ma jkunux tlestew fid-data tal-prezentata tač-čedola tad-depožitu relattiva, ježerčita dawk il-funzjonijiet u jinforza dawk il-ħtigiet li setgħu jiġu ežerčitati jew setgħu jiġu nfurzati mill-Kummissjoni li kieku l-Ordinanza kienet għadha fis-seħħ u dwar kull talba jiżgura li ebda ħlas ma jsir li ma kienx ikun seta' jsir mill-Kummissjoni kieku l-Ordinanza baqgħet fis-seħħ; u

(iii) meta xi somma, kieku ma tħassritx l-Ordinanza, kienet tkun dovuta lill-Kummissjoni minn xi persuna li jkollha jedd għal xi parti tad-depožitu, inaqqs minn dik is-somma kull flejjes li jkollhom jithallsu minn dak id-depožitu.

(3) Meta jagħlaq il-perijodu applikabbli għall-każ kif provdut fis-subartikolu (4) ta' dan l-artikolu, kull bilanč li jibqa' ma tħallasx jew xort'oħra ma sar xejn minnu, minn kull somma depożitata taħt dan l-artikolu, għandha tintilef favur il-Gvern u għandha tithallas mir-Registatur tal-Qrati Superjuri fil-Fond Konsolidat skond direttivi mogħtija mill-Ministru bil-mezz ta' nota depożitata fir-Registru tal-Qrati Superjuri mill-Avukat Ġenerali jew f'ismu.

(4) Il-perijodi msemmija fis-subartikolu (3) ta' dan l-artikolu huma:

(a) meta l-ħlas ikun dovut dwar xoghlijiet li jkunu tlestew qabel il-jum stabbilit, sentejn wara dak il-jum;

(b) meta l-ħlas ikun dovut għal xoghlijiet li jkunu ma tlestewx jew li ma jkunux inbdew qabel il-jum stabbilit —

(i) sitt xhur wara l-jum stabbilit, jekk ix-xoghlijiet ma jinbdewx u ma jitkomplewx b'heffa jew jekk ikunu nbdew ma jitkomplewx b'heffa qabel ma jagħlaq dak il-perijodu;

(ii) sentejn mill-jum stabbilit jekk ix-xoghlijiet jinbdew u jitkomplewx b'heffa jew hekk jitkomplewx kif intqal qabel:

Iżda jekk, wara li jkunu nbdew u tkomplewx jew tkomplewx kif intqal qabel, ix-xoghlijiet ma jitkomplewx jew ma jitkomplewx bid-diligenza xierqa, il-perijodu msemmi fis-subartikolu (3) ta' dan l-artikolu jkun il-perijodu li jispičča fil-jum čertifikat bil-firma tal-Ministru bħala l-jum li fih ix-xoghlijiet ma tkomplewx jew ma tkomplewx b'diligenza xierqa.

(5) Minkejja kull ħaġa li tinsab fid-disposizzjonijiet ta' qabel ta' dan l-artikolu —

(a) jekk meta jgħaddu sentejn wara l-jum stabbilit kien ikun dovut ħlas kieku ma kienx hemm id-disposizzjonijiet tas-sub-paragrafu (ii) tal-paragrafu (b) tas-subartikolu (3) ta' dan l-artikolu, u l-Ministru jkun sodisfatt li x-xoghlijiet li dwarhom dak il-ħlas kien ikun hekk dovut kienu tlestew qabel ma jkun għadda l-imsemmi perijodu, hu jista', jekk jidhirlu ġust li hekk jagixxi, jordna li l-ħlas isir daqsliekieku l-perijodu ma jkunx għadda;

(b) meta l-Ministru jkun sodisfatt li xi ammont depożitat taħt l-artikolu (3) ta' dan l-Att ma jkunx biżżejjed biex tithallas it-talba li dwarha jkun sar id-depožitu, hu jista' jordna lir-Registatur biex iħallas minn kull bilanč li jkun għadu ma tħallasx jew li xort'oħra ma jkun għadu sar xejn dwaru taħt dan l-artikolu dik is-somma jew is-somma li jidhirlu meħtieġa biex tithallas l-imsemmija talba.

Kummissjoni jew kienu eżerċitabbli minnha għandhom, b'seħħ mill-jum stabbilit, ikunu dovuti lil jew vestiti fil-Ministru u jkunu eżerċitabbli minnu bl-istess mod, kemm jista' jkun, daqslikieku hu kien il-Kummissjoni u l-Ordinanza ma tkunx giet imħassra.

7. (1) Ebda persuna ma tista' tagħmel xi talba taħt l-Ordinanza jew xort'oħra dwar ħsara tal-gwerra kif imfisser fl-Ordinanza hliet kif provdut f'dan l-Att u sa dak il-limitu.

Ebda talba jew azzjoni oħra hliet kif provdut fl-Att.

(2) Ma tista' tittiehed ebda azzjoni kontra l-Ministru jew kontra r-Registratur tal-Qrati Superjuri dwar xi haġa li tkun saret jew li tkun naqset milli ssir minnhom taħt dan l-Att.

### Għanijiet u Raġunijiet

L-Għan ta' dan l-Abbozz huwa li jxojli l-Kummissjoni dwar Ħsarat tal-Gwerra u fl-istess ħin li jagħti żmien xieraq lil dawk il-persuni li għad għandhom dritt li jieħdu kumpens taħt l-Ordinanza ta' l-1943 dwar Ħsarat tal-Gwerra li jirċievu dak il-kumpens kemm-il darba jispiċċaw il-proċeduri u x-xogħlijiet kollha meħtieġa fiż-żmien stabbilit bl-Abbozz.

Il-Gvern għandu ħsieb ukoll li jagħmel użu minn dan l-Abbozz u minn setgħat oħra mogħtija lilu b'ligijiet oħra, b'mod partikolari l-Ordinanza dwar l-Akkwist ta' Artijiet għal Skopijiet Pubbliċi, Kap. 136, li jneħhi, kemm jista' jkun, il-kruhat li jibqgħu minkejja li qed jingħata iktar żmien sabiex is-sidien ta' proprjetà li tkun garrbet ħsara bil-gwerra jagħmlu x-xogħlijiet meħtieġa.

**A BILL**

**entitled**

*AN ACT to repeal the War Damage Ordinance, 1943, and to make provision for matters consequential or incidental thereto or connected therewith.*

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. This Act may be cited as the War Damage (Repeal) Act, 1980.

Interpretation.

2. In this Act, unless the context otherwise requires —

“appointed day” means the day appointed as such by the Minister by notice in the Gazette, and different days may be so appointed for different provisions or different purposes of this Act;

“Commission” means the War Damage Commission set up in accordance with section 3 of the Ordinance;

“Minister” means the Minister responsible for justice, acting after consultation with the Minister responsible for finance;

“Ordinance” means the War Damage Ordinance, 1943;

“Secretary” means the person for the time being appointed under the Ordinance as Secretary to the Commission.

Ord. No. III  
of 1943.

Deposits to  
meet claims  
pending before  
the Commission.

3. (1) As soon as practicable after the coming into force of this Act, the Secretary shall, in his capacity as Secretary, lodge in the First Hall of the Civil Court such sums of money as according to the records and past experience of the Commission will be sufficient to meet each of the several claims pending before the Commission immediately before the date of the coming into force of this Act and which were not, on that date, barred by prescription.

(2) Such lodgement shall be made by separate schedules of deposit for each of the claims aforesaid; and with respect to such schedules the following provisions of this subsection shall, notwithstanding any other law, have effect:

(a) where the original claimant, or any of the original claimants, is dead or has assigned or otherwise disposed of his rights under the Ordinance, or where for any other reason the Secretary deems it expedient so to act, any lodgement made under this section may be made in favour of any one or more of the heirs or successors of the original claimant, or other person claiming under him, in representation of all persons having an interest in the moneys so lodged;

(b) the omission from the schedule of deposit of any one or more persons having an interest in any part of the moneys lodged under this section shall not invalidate or otherwise affect the operation of any such lodgement; but the rights of any such person shall, notwithstanding such omission, remain unprejudiced;

(c) a schedule of deposit made under this section shall be served only on persons who are named in the schedule of deposit and who are ordinarily resident in Malta on the day the schedule is filed in court; and if within three months from such day the schedule cannot be served on any of the persons aforesaid, either by reason of absence or for any other reason, such person shall, for the purposes of this section, be treated as if he were not ordinarily resident in Malta.

(3) When all lodgements have been made, the Secretary shall deal with the books, records, papers and other documents belonging to or held by or on behalf of the Commission, in such manner as the Minister may direct.

4. Without prejudice to anything lawfully done or omitted to be done thereunder, and subject to the other provisions of this Act, the War Damage Ordinance, 1943, is hereby repealed with effect from the appointed day.

Repeal of the Ordinance.

5. (1) Notwithstanding the repeal of the Ordinance all moneys lodged in court under section 3 of this Act, shall remain payable to the persons who, but for such repeal, would have been entitled thereto or to any part thereof; but all payments thereof shall be governed exclusively by the provision of this Act and shall be due subject to the provisions of this Act.

Court deposits.

(2) With respect to any moneys lodged as aforesaid, the following provisions of this subsection shall notwithstanding any other law, have effect:

(a) all sums shall be paid or otherwise dealt with by the Registrar of the Superior Courts only in accordance with directions given by the Minister and signified by means of a note filed in the Registry of the Superior Courts by or on behalf of the Attorney General;

(b) in giving any direction under paragraph (a) of this subsection the Minister shall:

(i) in all cases, take into account the rights of any person who appears to him to have an interest in any part of the deposit as if the Ordinance had not been repealed;

(ii) with respect to any claim relating to works which are not completed on the date of the filing of the relative schedule

of deposit, exercise such functions and enforce such requirements as could have been exercised or enforced by the Commission if the Ordinance had still been in force and with respect to any claim ensure that no payment is made which could not have lawfully been made by the Commission if the Ordinance had still been in force; and

(iii) where any sum would, but for the repeal of the Ordinance, have been due to the Commission by any person entitled to any part of the deposit, deduct such sum from any moneys due to be paid out of such deposit.

(3) On the expiration of the period applicable to the case as provided in subsection (4) of this section, any balances remaining unpaid, or otherwise disposed of, out of any sums lodged under this section, shall be forfeited in favour of the Government and shall be paid by the Registrar of the Superior Courts into the Consolidated Fund in accordance with directives given by the Minister by means of a note filed in the Registry of the Superior Courts by and on behalf of the Attorney General.

(4) The periods referred to in subsection (3) of this section are:

(a) where payment is due for works completed before the appointed day, two years after that day;

(b) where payment is due for works not completed or not undertaken before the appointed day —

(i) six months after the appointed day, if the works are not undertaken and continued in earnest or if already undertaken they are not continued in earnest within that period;

(ii) two years from the appointed day if the works are undertaken and continued in earnest or so continued as aforesaid:

Provided that if, having been undertaken and continued or continued as aforesaid, the works are discontinued or not continued with due diligence, the period referred to in subsection (3) of this section shall be the period ending on the day certified by the Minister under his hand to be the day on which the works were discontinued or not continued with due diligence.

(5) Notwithstanding anything contained in the foregoing provisions of this section —

(a) if on the expiration of two years after the appointed day payment would, but for the provisions of sub-paragraph (ii) of paragraph (b) of subsection (3) of this section have been due, and the Minister is satisfied that the works in respect of which such payment would have been so due were completed before the expiration of the period aforesaid, he may, if he deems it equitable so to act, direct the payment to be made as if the period had not expired;

(b) where the Minister is satisfied that any amount deposited under section 3 of this Act is not sufficient to meet the claim in respect of which such deposit is made, he may direct the Registrar to pay out of any balance remaining unpaid or otherwise disposed of under this section such sum or sums as he may deem necessary to meet the claim aforesaid.

Rights of the  
Commission.

6. Notwithstanding the repeal of the Ordinance, all debts and other rights which immediately before the appointed day were due or

pertained to or were exercisable by the Commission shall, with effect from the appointed day, become due or vest in and be exercisable by the Minister in the same manner, as far as practicable, as if he were the Commission and the Ordinance had not been repealed.

7. (1) No person shall have any claim under the Ordinance or otherwise in respect of war damage as defined by the Ordinance except as and to the extent provided by this Act.

No claim or other action except as provided in the Act.

(2) No action shall lie against the Minister or against the Registrar of the Superior Courts in respect of anything done or omitted to be done by them under this Act.

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### Objects and Reasons

The Object of the Bill is to wind up the War Damage Commission and at the same time give a reasonable time to those persons to whom compensation is still due under the War Damage Ordinance, 1943, to receive such compensation provided they complete all necessary procedures and works within the time set by the Bill.

The Government further intends to make use of this Bill and of other powers conferred on it by other Laws, in particular the Land Requisition (Public Purposes) Ordinance, Cap. 136, to remove, as far as practical, the eyesores that will remain notwithstanding the further extension that is being given to owners of war-damaged property to carry out the necessary works.