

**ABBOZZ TA' LIĠI**  
**msejjah**

*ATT biex jemenda l-Ordinanza dwar l-Akkwist ta' l-Artijiet għal Skopijiet Pubbliċi, Kap. 88.*

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:-

1. It-titolu fil-qosor ta' dan l-Att huwa l-Att ta' l-2009 li jemenda l-Ordinanza dwar l-Akkwist ta' Artijiet għal Skopijiet Pubbliċi, u dan l-Att għandu jinqara u jinftiehem haġa waħda mal-Ordinanza dwar l-Akkwist ta' Artijiet għal Skopijiet Pubbliċi hawn iżjed 'il quddiem imsejha "l-Ordinanza prinċipali".

Titolu fil-qosor.  
Kap. 88.

2. L-artikolu 2 tal-Ordinanza prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 2 tal-Ordinanza prinċipali.

(a) minnufih wara t-tifsira "awtorità kompetenti" għandha tizzied it-tifsira ġdida li ġejja:

" "bini storiku" tfisser art li :

Kap. 356.

(a) hija skedata skont l-artikolu 46 tal-Att dwar l-Ippjanar ta' l-Iżvilupp; jew

- Kap. 445. (b) tikkostitwixxi proprjetà kulturali għall-finijiet tal-Att dwar il-Patrimonju Kulturali hliet proprjetà kulturali tat-tip imsemmija fl-artikolu 52 tal-imsemmi Att; jew
- L.S. 445.01 (ċ) hija inkluża fl-eleku tal-bini, artijiet u fdalijiet li jkollhom importanza ġeoloġika, arkeoloġika, antikwarja jew artistika fl-iSkeda tar-Regolamenti dwar il-Protezzjoni ta' l-Antikitajiet; jew
- (d) hija bini li fl-opinjoni tal-Ministru, wara konsultazzjoni mal-Ministru responsabbli għat-turiżmu u l-Ministru responsabbli għall-patrimonju kulturali, hija ta' tali sinifikat storiku jew kulturali li tiġi meqjusa bħala desiderabbli li l-bini jiġi akkwistat għal skopijiet pubbliċi biex jinżamm jew jittejjeb l-ambjent kulturali f'Malta jew is-servizzi tat-turiżmu li jingħataw f'Malta; jew
- (e) hija fl-opinjoni tal-Ministru, wara konsultazzjoni mal-Ministru responsabbli għall-patrimonju kulturali, marbuta sew mal-avvenimenti ta' importanza storika kbira li ikkontribwixxew għall-memorja nazzjonali jew għall-iżvilupp tal-identità storika nazzjonali li jkun meqjus desiderabbli li l-bini jiġi akkwistat għal skopijiet pubbliċi biex tiġi ppreservata l-memorja nazzjonali jew l-identità storika nazzjonali;" u

(b) fit-tifsira "skop pubbliku" minnufih wara l-kliem "jew ma' jew għall-ippjantar ta' l-ibliet jew ma' jew għar-rikostruzzjoni jew" għandhom jiżdedu l-kliem "għaż-żieda fl-impiegi, jew għat-tkattir fit-turiżmu, jew għall-promozzjoni tal-kultura, jew għall-preservazzjoni tal-identità nazzjonali u storika, jew għall-harsien ekonomiku tal-Istat jew".

**3.** Fl-artikolu 3 tal-Ordinanza prinċipali minflok il-kliem "hija meħtieġa għal skop pubbliku." għandhom jidhlu l-kliem:

"hija meħtieġa għal skop pubbliku:

Iżda:

(a) meta l-art li għaliha tirreferi dik id-dikjarazzjoni tkun meħtieġa għal skopijiet pubbliċi minhabba fil-fatt li jkun bini storiku, dik id-dikjarazzjoni għandha ssemmi dak il-fatt; u

(b) bini storiku b'sid privat u li jkun miżmum fi stat tajjeb u li l-pubbliku għandu aċċess għalih, kemm bi hlas jew b'mod ieħor, fuq bażi regolari mis-sidien jew l-amministraturi tiegħu għal finijiet edukattivi, kulturali jew turistiċi m'għandux jiġi akkwistat bhala bini storiku taht din l-Ordinanza."

4. L-artikolu 6 tal-Ordinanza prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 6 tal-Ordinanza prinċipali.

(a) l-artikolu preżenti għandu jiġi enumerat mill-ġdid bhala s-subartikolu (1) tiegħu, u fis-subartikolu msemmi minflok il-kliem "Hadd ma' jista' jitlob prova oħra ta' l-iskop pubbliku" għandhom jidhlu l-kliem "Bla ħsara għad-disposizzjonijiet tas-subartikolu (2) hadd m'għandu jitlob prova ta' l-iskop pubbliku"; u

(b) minnufih wara s-subartikolu (1) tiegħu, għandu jiżdied is-subartikolu ġdid li ġej:

Kap. 12.

"(2) Kull persuna li għandha interess fl-art li dwarha tkun saret dikjarazzjoni mill-President kif imsemmi fis-subartikolu (1), tista' tikkontesta l-iskopijiet pubbliċi ta' dik id-dikjarazzjoni quddiem il-Bord ta' Arbitraġġ dwar Artijiet permezz ta' rikors pprezentat fir-reġistru tal-imsemmi Bord fi żmien għoxrin gurnata mill-pubblikazzjoni ta' dik id-dikjarazzjoni u d-disposizzjonijiet tal-Kodiċi ta' Organizzazzjoni u Proċedura Civili li japplikaw għas-smiġħ tal-kawżi quddiem il-Prim'Awla tal-Qorti Civili, inklużi d-disposizzjonijiet li jirrigwardaw appelli minn dawk id-deċiżjonijiet, għandhom japplikaw *mutatis mutandis* għad-deċiżjoni dwar l-imsemmi rikors:

Iżda l-preżentata ta' rikors skont dan is-subartikolu m'għandhiex tfixxkel l-issoktar tal-proċeduri ta' esproprijazzjoni jew l-għemil ta' kull haġa li tista' ssir fuq dik l-art skont din l-Ordinanza, f'dak iż-żmien meta r-rikors ikun għad irid jiġi deċiż, bla ħsara għad-dritt tar-rikorrent li jingħata kumpens f'każ illi d-dikjarazzjoni tal-President tinstab li tkun mingħajr skop pubbliku."

Emenda tal-artikolu 18 tal-Ordinanza prinċipali.

**5.** Fis-subartikolu (1) ta' l-artikolu 18 tal-Ordinanza prinċipali, minflok il-kliem "Art titqies li tkun art għall-bini" għandhom jidhlu l-kliem "Art, hlief bini storiku, għandha titqies li tkun art għall-bini".

Emenda tal-artikolu 22 tal-Ordinanza prinċipali.

**6.** Minnufih wara l-paragrafu (a) tas-subartikolu (11) tal-artikolu 22 tal-Ordinanza prinċipali għandu jidhol il-paragrafu ġdid li ġej:

"(aa) f'każ ta' bini storiku l-valur tiegħu għandu jiġi kkalkulat bħala l-ogħla minn dawn li ġejjin:

(i) il-valur sħiħ tal-bini storiku jekk mibjugħ fis-suq miftuħ bil-kondizzjoni li l-użu li jista' jsir minnu jkun limitat għal finijiet edukattivi, turistiċi jew kulturali u minnu għandu jitnaqqas l-ammont meħtieġ biex il-bini storiku jiġi restawrat skont linji gwida internazzjonali aċċettati u *standards* ta' artiġjanat u prattika sabiex jingiebu xieraq għal dak l-użu edukattiv, turistiku jew kulturali; jew

Kap. 158.

(ii) meta il-bini storiku kien oriġinarjament tal-Gvern u imbagħad ġie trasferit mill-Gvern, billi jiġi aġġornat l-ammont li bih ġie akkwistat il-bini storiku mingħand il-Gvern skont l-indiċi ta' inflazzjoni ppubblikat fl-iSkeda tal-Ordinanza li Tneħhi l-Kontroll tad-Djar mid-data tal-imsemmi akkwistat sad-data tad-dikjarazzjoni tal-President ta' Malta magħmula skont l-artikolu 3 u jiżdied miegħu l-imghax fuq l-ammont kif aġġornat bir-rata annwali ta' hamsa fil-mija mid-data meta l-imsemmi bini storiku ġie akkwistat mingħand il-Gvern sad-data tal-imsemmija dikjarazzjoni tal-President ta' Malta flimkien mal-valur ta' kull miljorament li jkun sar għal dak il-bini mis-sid bejn l-imsemmija dati, bid-deprezzament applikabbli skont *standards tal-accountancy* stabbiliti:

Iżda biex jiġi kalkolat il-kumpens skont dan is-subparagrafu:

kap. 158.

1. meta l-bini storiku kien oriġinarjament tal-Gvern u ġie trasferit mill-Gvern u l-imsemmi trasferiment seħħ tletin sena jew aktar qabel id-data tad-dikjarazzjoni tal-President ta' Malta fir-rigward ta' dak il-bini storiku, l-ammont li jirriżulta wara li l-valur tal-bini bbażat fuq il-prezz imħallas lill-Gvern fir-rigward tat-trasferiment jiġi aġġornat sad-data tal-imsemmija dikjarazzjoni tal-President ta' Malta skont l-indiċi ta' inflazzjoni ppubblikat fl-iSkeda tal-Ordinanza li Tneħhi l-Kontroll tad-Djar għandu jiġi mmultiplikat bi hmistax;

Cap. 158.

2. meta l-bini storiku kien oriġinarjament tal-Gvern u ġie trasferit mill-Gvern u l-imsemmi trasferiment seħħ inqas minn tletin sena iżda iktar minn għoxrin sena qabel d-data tad-dikjarazzjoni tal-President ta' Malta fir-rigward ta' dak il-bini storiku, l-ammont li jirriżulta wara li l-valur tal-bini jiġi aġġornat sad-data tal-imsemmija dikjarazzjoni tal-President ta' Malta skont l-indiċi ta' inflazzjoni ppubblikat fl-iSkeda tal-Ordinanza li Tneħhi l-Kontroll tad-Djar għandu jiġi mmultiplikata b'għaxra;

Kap. 158.

3. meta l-bini storiku kien oriġinarjament tal-Gvern u ġie trasferit mill-Gvern u l-imsemmi trasferiment seħħ iktar minn għaxar snin iżda inqas minn għoxrin sena qabel id-data tad-dikjarazzjoni tal-President ta' Malta fir-rigward ta' dak il-bini storiku, l-ammont li jirriżulta wara li l-valur tal-bini jiġi aġġornat sad-data tal-imsemmija dikjarazzjoni tal-President ta' Malta skont l-indiċi ta' inflazzjoni ppubblikat fl-iSkeda tal-Ordinanza li Tneħhi l-Kontroll tad-Djar għandu jiġi mmultiplikata b'hamsa;

4. meta japplikaw il-paragrafi ta' qabel ta' dan il-proviso, l-imghax li għandu jithallas skont il-paragrafu (ii) għandu jithallas biss fuq l-ammont kif aġġornat skont l-imsemmi paragrafu; jew

Kap. 364.

(iii) meta l-bini storiku ma kienx oriġinarjament tal-Gvern, l-ammont stabbilit bhala l-valur tal-bini mill-persuna li tkun sid-il bini fiż-żmien tal-pubblikazzjoni tad-dikjarazzjoni tal-President ta' Malta f'dikjarazzjoni fir-rigward tat-trasferiment *causa mortis* tal-proprjetà pprezentata skont l-Att dwar it-Taxxa fuq id-Dokumenti u Trasferimenti aġġornata skont id-disposizzjonijiet tal-paragrafu (ii), inkluż il-proviso tiegħu, li għandu japplika *mutatis mutandis*:

Iżda meta sehem indiviż jew ishma indiviżi biss ta' bini storiku ġew hekk iddikjarati fir-rigward ta' trasferiment *causa mortis*, il-valur tal-bini kollu għall-finijiet ta' dan is-subparagrafu (iii) għandu jkun ibbażat fuq projezzjoni tal-valur dikjarat fir-rigward tal-imsemmi sehem jew l-imsemmija ishma li ssir medja tagħhom flimkien b'dak il-mod li jkopri mija fil-mija tal-valur tal-bini miżjud b'għaxra fil-mija.

Minkejja id-disposizzjonijiet ta' dan il-paragrafu meta l-valur tal-bini storiku, kif ikkalkolat skont is-subparagrafi (i), (ii) jew (iii) jirriżulta f'ammont oġhla mill-valur fis-suq miftuħ tal-imsemmi bini fiż-żmien tal-pubblikazzjoni tad-dikjarazzjoni tal-President ta' Malta fir-rigward tal-bini storiku, il-valur tal-bini storiku m'għandux jaqbeż l-imsemmi valur fis-suq miftuħ."

7. Fis-subartikolu (4) tal-artikolu 23 tal-Ordinanza prinċipali, minnufih wara l-kliem "lista ta' Arkitetti u Inġinieri Ċivili", għandhom jiżdedu l-kliem "sabiex jassistu l-Bord fil-valutazzjoni tal-art u f'affarijiet tekniċi oħra. L-imsemmija lista ta' Arkitetti u Inġinieri Ċivili għandhom jiġu maħtura".

Emenda tal-artikolu 23 tal-Ordinanza prinċipali.

8. Fis-subartikolu (3) tal-artikolu 24 tal-Ordinanza prinċipali, minflok il-kelma "sentejn" għandhom jidhlu l-kliem "tliet snin".

Emenda tal-artikolu 24 tal-Ordinanza prinċipali.

9. L-artikolu 25 tal-Ordinanza prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 25 tal-Ordinanza prinċipali.

(a) fis-subartikolu (3) tiegħu, minnufih wara l-kliem "kif iċ-*chairman* jista' jordna.", għandhom jiżdiedu l-kliem "Ir-rapport għandu ikun aċċessibbli għall-partijiet li għandhom jingħataw l-opportunità li jressqu mistoqsijiet dwaru lill-membri tal-lista u li jikkumentaw fuqu lill-Bord.";

(b) minnufih wara s-subartikolu (3) tiegħu, għandu jiżdied is-subartikolu ġdid li ġej:

"(3A) Meta r-rapport imsemmi fis-subartikolu (3) jkun jikkonsisti f' valutazzjoni, ir-rapport għandu jsemmi:

(a) id-data tal-valutazzjoni;

(b) id-data li saret riferenza għaliha meta ġiet valutata l-proprjetà;

(ċ) l-istat li jiġi kkalkulat li l-proprjetà kienet fih fid-data li saret riferenza għaliha meta ġiet valutata l-proprjetà;

(d) l-użu li kien qed isir mill-proprjetà fid-data li saret riferenza għaliha meta ġiet valutata l-proprjetà, inkluża l-informazzjoni dwar jekk il-proprjetà kenitx fl-istess żmien sugġetta għal drittijiet ta' terzi bħal ma huma enfitewsi, użu, użufrutt jew kera;

(e) l-operazzjonijiet paragonabbli, jekk ikun hemm, li l-proprjetà tkun ġiet valutata b'riferenza għalihom.

Il-membri tal-lista għandhom jagħmlu l-aħjar li jistgħu biex jivvalutaw il-proprjetà fuq bazi ta' riferenza għal operazzjonijiet paragonabbli."

(ċ) fis-subartikolu (4) tiegħu minnufih wara l-kliem "meta dak il-każ ikun qieghed jinstema' mill-Bord" għandhom jiżdiedu l-kliem "kif huwa jqis xieraq jew";

(d) is-subartikolu (5) tiegħu għandu jiġi sostitwit bis-subartikolu li ġej:

"(5) Iċ-*Chairman* għandu jiddeċiedi l-kwistjoni huwa stess wara li jkun ikkunsidra b'mod xieraq ir-rapporti taż-żewġ membri tal-lista u kull att ieħor rilevanti pprezentat jew sottomissjonijiet magħmula."; u

(e) fis-subartikolu (7) tieghu, il-kliem "minn punt ta' dritt" għandhom jithassru.

**10.** Fil-paragrafu (iv) tal-proviso tas-subartikolu (1) tal-artikolu 27 tal-Ordinanza prinċipali, minflok il-kliem "li jkunu ġiebu dawk ix-xogħlijiet.", għandhom jidhlu l-kliem "li jkunu ġiebu dawk ix-xogħlijiet;", u minnufih ara għandu jiżdied il-paragrafu ġdid li ġej:

Emenda tal-artikolu 27 tal-Ordinanza prinċipali.

"(v) il-kumpens fir-rigward ta' bini storiku għandu jiġi stmat skont l-artikolu 22(11)(aa)."

**11.** L-artikolu 21 tal-Att dwar it-Tiġdid ta' Kiri ta' Raba' għandu jiġi emendat kif ġej:

Emenda konsegwenzjali għall-artikolu 21 tal-Att dwar it-Tiġdid ta' Kiri tar-Raba'. Kap. 199.

(a) fis-subartikolu (2) tieghu, minflok il-kliem "Hadd ma jista' jitlob prova oħra ta' l-iskop pubbliku", għandhom jidhlu l-kliem "Bla hsara għad-disposizzjonijiet tas-subartikolu (2A), hadd ma jista' jitlob prova oħra ta' l-iskop pubbliku"; u

(b) minnufih wara s-subartikolu (2) tieghu, għandu jiżdied is-subartikolu ġdid li ġej:

"(2A) Kull persuna illi għandha interess f'xi art li fir-rigward tagħha saret dikjarazzjoni tal-President ta' Malta kif imsemmi fis-subartikolu (1) tista' tikkontesta l-iskop pubbliku tal-imsemmija dikjarazzjoni quddiem il-Bord ta' Arbitraġġ dwar Artijiet permezz ta' rikors ipprezentat fir-registru tal-imsemmi Bord fi żmien għoxrin ġurnata mill-pubblikazzjoni ta' dik id-dikjarazzjoni u d-disposizzjonijiet tal-Kodiċi ta' Organizzazzjoni u Proċedura Civili li japplikaw għas-smiġh tal-kawzi quddiem il-Prim'Awla tal-Qorti Ċivili, inklużi id-disposizzjonijiet li jirrigwardaw appelli minn dawk id-deċiżjonijiet, għandhom, *mutatis mutandis*, japplikaw għad-deċiżjoni dwar l-imsemmi rikors:

Kap. 12.

Iżda l-prezentata ta' rikors skont dan is-subartikolu m'għandhiex, tfixkel l-iżgumbrament ta' kull persuna mill-art jew milli ssir kwalunkwe haġa li tista' ssir fuq dik l-art mis-sid tagħha skont il-liġi, f'dak iż-żmien meta r-rikors ikun għad irid jiġi deċiż, bla hsara għad-dritt tar-rikorrent li jinghata kumpens f'każ illi d-dikjarazzjoni tal-President ta' Malta tinstab li tkun mingħajr skop pubbliku."

### **Għanijiet u Raġunijiet**

L-għanijiet u r-raġunijiet ta' dan l-Abbozz huma li jemendaw l-Ordinanza sabiex jiġi stabbilit mekkanizmu speċifiku għall-akkwist pubbliku ta' bini storiku mill-pubbliku bil-għan li jissalvagwardja u jippreserva l-identità storika u kulturali ta' Malta u l-implimentazzjoni ta' emendi oħra tal-Ordinanza, *inter alia*, għall-għan li jiġu mharsa s-sentenzi tal-Qorti Kostituzzjonali.

**A BILL  
entitled**

*AN ACT to amend the Land Acquisition (Public Purposes) Ordinance, Cap 88.*

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:-

**1.** The short title of this Act is the Land Acquisition (Public Purposes) Ordinance (Amendment) Act, 2009, and this Act shall be read and construed as one with the Land Acquisition (Public Purposes) Ordinance, hereinafter referred to as "the principal Ordinance".

Short title and commencement

Cap. 88.

**2.** Article 2 of the principal Ordinance shall be amended as follows:

Amendment of article 2 of the principal Ordinance.

(a) immediately after the definition "dwelling house" there shall be added the following new definition:

" "historical building" means land which:

(a) is scheduled in accordance with article 46 of the Development Planning Act; or

Cap. 356.

- Cap. 445. (b) constitutes cultural property for the purposes of the Cultural Heritage Act other than cultural property of the type referred to in article 52 of the said Act; or
- S.L. 445.01 (c) is included in the list of buildings, sites and remains having a geological, archeological, antiquarian or artistic importance in the Schedule to the Protection of Antiquities Regulations; or
- (d) is a building which in the opinion of the Minister, after having consulted the Minister responsible for tourism and the Minister responsible for cultural heritage, is of such historical or cultural significance as to render it desirable to acquire the building for the public purpose of maintaining or augmenting the cultural environment in Malta or the tourism services provided in Malta; or
- (e) is in the opinion of the Minister, after having consulted the Minister responsible for cultural heritage, so closely connected to events of major historical importance which have significantly contributed to the national memory or to the development of the national historical identity as to render it desirable to acquire the building for the public purpose of preserving the national memory or the national historical identity;"; and

(b) in the definition "public purpose" immediately after the words "or with or to town-planning or reconstruction or" there shall be added the words "the generation of employment, the furtherance of tourism, the promotion of culture, the preservation of the national or historical identity, or the economic well being of the State or".

Amendment of article 3 of the principal Ordinance.

**3.** In article 3 of the principal Ordinance for the words "be required for a public purpose." there shall be substituted the following:

"be required for a public purpose:

Provided that:

(a) when land to which the said declaration refers is required for a public purpose on account of the fact that it is a historical building, the said declaration shall state the said fact; and

(b) a historical building that is privately owned and kept in a good state of maintenance and to which access to the public, whether against payment or otherwise, is granted on a regular basis by its owners or administrators for educational, cultural or touristic purposes shall not be acquired as a historical building under this Ordinance."

4. Article 6 of the principal Ordinance shall be amended as follows:

Amendment of article 6 of the principal Ordinance.

(a) the present article shall be re-numbered as sub-article (1) thereof and in the said sub-article, for the words "No person shall require any proof of the public purpose" there shall be substituted the words "Without prejudice to the provisions of sub-article (2), no person shall require any proof of the public purpose"; and

(b) immediately after the sub-article (1) thereof, there shall be added the following new sub-article:

"(2) Any person who has an interest in land, in respect of which a declaration of the President as is referred to in sub-article (1) is made, may contest the public purpose of the said declaration before the Land Arbitration Board by means of an application to be filed in the registry of the said Board within twenty days from the publication of the said declaration and the provisions of the Code of Organisation and Civil Procedure applicable to the hearing of causes before the Civil Court, First Hall, including the provisions regarding appeals from such decisions, shall, *mutatis, mutandis*, apply to the determination of the said application:

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Provided that the filing of an application in terms of this sub-article shall not hinder the continuance of the expropriation proceedings or the doing of anything that may be done in respect of the land as provided in this Ordinance during the time when the application is still not determined, without prejudice to the right of the applicant to seek compensation in the event that the declaration of the President is found to be without public purpose."

Amendment of article 18 of the principal Ordinance.

**5.** In sub-article (1) of article 18 of the principal Ordinance, for the words "Land shall be deemed to be a building site" there shall be substituted the words "Land, other than a historical building, shall be deemed to be a building site".

Amendment of article 22 of the principal Ordinance.

**6.** Immediately after paragraph (a) of sub-article (11) of article 22 of the principal Ordinance, there shall be added the following new paragraph:

"(aa) in the case of a historical building the value thereof shall be calculated as the higher of the following:

(i) the full value of the historical building if sold on the open market subject to the condition that the use that can be made thereof shall be limited to use for educational, touristic or cultural purposes less the amount required for the historical building to be restored in accordance with internationally accepted guidelines and standards of craftsmanship and practice for the purpose of rendering it suitable for such educational, touristic or cultural use; or

Cap. 158.

(ii) where the historical building was originally Government-owned and transferred by Government, by updating the amount for which the said historical building was acquired from the Government according to the index of inflation published in the Schedule to the Housing (Decontrol) Ordinance from the date of the said acquisition until the date of the declaration of the President of Malta made in terms of article 3 and adding thereto interest on the amount as updated at the rate of five per cent *per annum* from the date when the said historical building was acquired from the Government until the date of the said declaration of the President of Malta, plus the value of any improvements made to the building by the owner between the said dates, depreciated according to established accountancy standards:

Provided that in calculating the compensation in accordance with this sub-paragraph:

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1. where the historical building was originally Government-owned and transferred by Government and the said transfer took place thirty years or more before the date of the declaration of the President of Malta in respect thereof, the amount resulting after the value of the building based on the price paid to Government in respect of the transfer is updated until the date of the said declaration by the President of Malta in accordance with the index of inflation published in the Schedule to the Housing (Decontrol) Ordinance shall be multiplied by fifteen;

2. where the historical building was originally Government-owned and transferred by Government and the said transfer took place less than thirty years but more than twenty years before the date of the declaration of the President of Malta in respect thereof, the amount resulting after the value of the building is updated until the date of the said declaration by the President of Malta in accordance with the index of inflation published in the Schedule to the Housing (Decontrol) Ordinance shall be multiplied by ten;

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3. where the historical building was originally Government-owned and transferred by Government and the said transfer took place more than ten but less than twenty years before the date of the declaration of the President of Malta in respect thereof, the amount resulting after the value of the building is updated until the date of the said declaration by the President of Malta in accordance with the index of inflation published in the Schedule to the Housing (Decontrol) Ordinance shall be multiplied by five;

Cap. 158.

4. where the foregoing paragraphs of this proviso apply, the interest payable according to sub-paragraph (ii) shall only be payable on the amount as updated according to the said sub-paragraph; or

Cap. 364.

(iii) where the historical building was not originally Government-owned, the amount established as the value of the building by the person who is the owner of the building at the time of publication of the declaration of the President of Malta in a declaration in respect of the transfer *causa mortis* of the property filed in accordance with the Duty on Documents and Transfers Act, updated in accordance with the provisions of sub-paragraph (ii), including the proviso thereto, which shall apply *mutatis mutandis*:

Provided that where only an undivided portion or undivided portions of a historical building have been so declared in respect of a transfer *causa mortis*, the value of the whole building for the purposes of this sub-paragraph (iii) shall be based on the projection of the value declared in respect of the said portion or portions averaged out together in such a manner as to cover one hundred per cent of the value of the building increased by ten per cent.

Notwithstanding the other provisions of this paragraph, where the value of a historical building as calculated in accordance with sub-paragraphs (i), (ii) or (iii) shall result in an amount that is higher than the open market value of the said building at the time of publication of the declaration of the President of Malta in respect thereof, the value of the historical building shall not exceed the said open market value."

**7.** In sub-article (4) of article 23 of the principal Ordinance, immediately after the words "a Panel of Architects and Civil Engineers", there shall be added the words "for the purpose of assisting the Board in the valuation of land and in other technical matters. The said Panel of Architects and Civil Engineers shall be appointed".

Amendment of article 23 of the principal Ordinance.

**8.** In sub-article (3) of article 24 of the principal Ordinance, for the words "two years" there shall be substituted the words "three years".

Amendment of article 24 of the principal Ordinance.

9. Article 25 of the principal Ordinance shall be amended as follows:

(a) in sub-article (3) thereof, immediately after the words "as the Chairman may direct.", there shall be added the words "The report shall be accessible to the parties who shall be granted the opportunity to put questions thereon to the members of the Panel and to comment thereon to the Board.";

(b) immediately after sub-article (3) thereof, there shall be added the following new sub-article:

"(3A) When the report referred to in sub-article (3) consists of a valuation it shall state:

(a) the date of the valuation;

(b) the date with reference to which the property was valued;

(c) the state which it is calculated that the property was in on the date with reference to which the property was valued;

(d) the use which was being made of the property on the date with reference to which it was valued, including information as to whether the property was at the said time subject to rights of third parties such as emphyteusis, use, usufruct or lease;

(e) the comparable transactions, if any, with reference to which the property was valued.

The members of the Panel shall employ their best efforts to value the property on the basis of reference to comparable transactions."

(c) in sub-article (4) thereof, immediately after the words "when that case is being considered by the Board" there shall be added the words "as he may deem appropriate or";

(d) sub-article (5) thereof shall be substituted by the following sub-article:

"(5) The Chairman shall decide the matter himself after giving due consideration to the reports of the two members of the Panel and any other relevant acts presented or submissions made."; and

(e) in sub-article (7) thereof, the words "on a point of law" shall be deleted.

**10.** In paragraph (iv) of the proviso to sub-article (1) of article 27 of the principal Ordinance, for the words "from any such works.", there shall be substituted the words "from any such works;", and immediately thereafter there shall be added the following new paragraph:

Amendment of article 27 of the principal Ordinance.

"(v) compensation in respect of a historical building shall be assessed in accordance with article 22(11)(aa).".

**11.** Article 21 of the Agricultural Leases (Reletting) Act shall be amended as follows:

Consequential amendment to Article 21 of the Agricultural Leases (Reletting) Act. Cap. 199.

(a) in sub-article (2) thereof, for the words "No person shall require any proof of the public purpose", there shall be substituted the words "Without prejudice to the provisions of sub-article (2A), no person shall require any proof of the public purpose"; and

(b) immediately after sub-article (2) thereof, there shall be added the following new sub-article:

"(2A) Any person who has an interest in land in respect of which a declaration of the President of Malta as is referred to in sub-article (1) is made may contest the public purpose of the said declaration before the Land Arbitration Board by means of an application to be filed in the registry of the said Board within twenty days from the publication of the said declaration and the provisions of the Code of Organisation and Civil Procedure applicable to the hearing of causes before the Civil Court, First Hall, including the provisions regarding appeals from such decisions, shall, *mutatis, mutandis*, apply to the determination of the said application:

Cap. 12.

Provided that the filing of an application in terms of this sub-article shall not hinder the eviction of any person from the land or the doing of anything that may be done in respect of the land by its owner according to law during the time when the application is still not determined, without prejudice to the right of the applicant to seek compensation in the event that the declaration of the President of Malta is found to be without public purpose."

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### **Objects and Reasons**

The objects and reasons of this Bill are the amendment of the Ordinance for the purpose of providing a specific mechanism for the acquisition into public ownership of historical buildings for the purpose of safeguarding and preserving the historical and the cultural identity of Malta and the implementation of other amendments to the Ordinance, *inter alia* for the purpose of complying with judgements of the Constitutional Court.