

Suppliment tal-Gazzetta tal-Gvern ta' Malta, Nru. 19,990, 11 ta' Mejju, 2018
Taqsimha C

Nru. 42

11. 05. 2018

MALTA

KAMRA TAD-DEPUTATI

HOUSE OF REPRESENTATIVES

ABBOZZ ta' Liġi mressaq mill-Onorevoli Owen Bonnici, M.P., Ministru għall-Ġustizzja, Kultura u Gvern Lokali, u moqri għall-Ewwel darba fis-Seduta tal-10 ta' April, 2018.

A BILL introduced by the Honourable Owen Bonnici, M.P., Minister for Justice, Culture and Local Government, and read the First time at the Sitting of the 10th April, 2018.

ATT sabiex jemenda l-Ordinanza li Tnehhi l-Kontroll tad-Djar, Kap. 158.

ANACT to amend the Housing (Decontrol) Ordinance, Cap. 158.

RAYMOND SCICLUNA
Skrivan tal-Kamra tad-Deputati

RAYMOND SCICLUNA
Clerk of the House of Representatives

ABBOZZ TA' LIĠI msejjah

ATT sabiex jemenda l-Ordinanza li Tneħhi l-Kontroll tad-Djar, Kap. 158.

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

1. It-titolu fil-qosor ta' dan l-Att huwa l-Att tal-2018 li jemenda l-Ordinanza li Tneħhi l-Kontroll tad-Djar u dan l-Att għandu jinqara u jinftiehem haġa waħda mal-Ordinanza li Tneħhi l-Kontroll tad-Djar, hawn iżjed 'l quddiem imsejha " l-Ordinanza". Titolu fil-qosor.

2. Fil-proviso tat-tifsira "kerrej" fl-artikolu 2 tal-Ordinanza il-kliem "tal-artikoli 5 u 12" għandhom jiġu sostitwiti bil-kliem "tal-artikoli 5, 12, 12A u 12B". Emenda tal-artikolu 2 tal-Ordinanza.

3. Minnufih wara l-artikolu 12A tal-Ordinanza, għandu jizdied l-artikolu ġdid li ġej: Żjieda tal-artikolu 12B fl-Ordinanza.

"Okkupazzjoni ta' djar ta' abitazzjoni taht titolu ta' kera stabbilit abbażi tal-artikoli 5, 12 jew 12A tal-Ordinanza.

12B. (1) Meta persuna tkun qed tokkupa dar ta' abitazzjoni taht titolu ta' kera stabbilit abbażi ta' titolu preċedenti ta' enfitewsi jew sub-enfitewsi li jkun beda qabel l-1 ta' Ġunju 1995 permezz tal-applikazzjoni tal-artikoli 5, 12 jew 12A, il-kundizzjonijiet li ġejjin għandhom, kemm-il darba jkunu inkonsistenti mad-dispożizzjonijiet tal-imsemmija artikoli tal-Ordinanza, japplikaw fir-rigward ta' dik il-kera, mill-10 ta' April 2018 minkejja d-dispożizzjonijiet tal-imsemmija artikoli tal-Ordinanza jew ta' xi liġi oħra.

(2) Il-proprjetarju għandu jkollu l-jedd jippreżenta rikors quddiem il-Bord li jirregola l-Kera fejn jitlob li l-kera tiġi riveduta għal ammont li ma jeċċedix it-tnejn fil-mija fis-sena, tal-valur liberu u frank tas-suq miftuħ tad-dar ta' abitazzjoni fl-1 ta' Jannar tas-sena li matulha jiġi ppreżentat ir-rikors u sabiex jiġu stabbiliti kundizzjonijiet godda fir-rigward tal-kera.

(3) Il-proċedura applikabbli għas-smiġħ ta' rikorsi quddiem il-Bord li jirregola l-Kera, għandha tapplika għas-smiġħ ta' rikors magħmul taht is-subartikolu (1):

Izda li:

(i) l-Awtorità tad-Djar għandha tiġi nnotifikata bir-rikors u għandu jkollha d-dritt li tipparteċipa bis-sħiħ bħala *amicus curiae* fil-proċedimenti; u

(ii) il-kerrej u sid il-kera għandhom dejjem ikunu intitolati għall-benefiċċju tal-għajjnuna legali fi proċedimenti ppreżentati skont dan l-artikolu jekk ma jkunux impjegati *full-time* bi qligħ; u

(iii) fl-istadju inizjali tal-proċedimenti l-Bord għandu jwettaq it-test tal-mezzi tal-kerrej, li għandu jkun ibbażat fuq it-test tal-mezzi stabbilit fir-Regolamenti dwar it-Tkomplija tal-Kirja (Kriterji ta' Test tal-Mezzi), maħruġa taht l-artikoli 1531F u 1622A tal-Kodiċi Ċivili u kwalunkwe regolamenti li jistgħu minn żmien għal żmien jissostitwixxuhom. It-test tal-mezzi għandu jkun ibbażat fuq id-dhul tal-kerrej bejn l-1 ta' Jannar u l-31 ta' Diċembru tas-sena li tippreċiedi s-sena li fiha jkunu nbdew il-proċedimenti u fuq l-kapital tal-kerrej fil-31 ta' Diċembru tal-imsemmija sena. It-test tal-mezzi għandu jitmexxa b'referenza partikolari, *inter alia*, għar-regolamenti 4 sa 8 tal-imsemmija regolamenti li għandhom japplikaw *mutatis mutandis*.

L.S. 16.11.

Kap. 16.

(4) Meta l-kerrej ma jissodisfax il-kriterji tad-dhul u tal-kapital tat-test tal-mezzi, il-Bord għandu, wara li jkun sema' kwalunkwe evidenza u sottomissjonijiet imressqa mill-partijiet, jagħti deċiżjoni li tippermetti lil kerrej żmien ta' hames snin sabiex il-fond jiġi vvakat. Il-kumpens pagabbli lil proprjetarju għall-okkupazzjoni tal-Bord matul l-imsemmi perijodu għandu jammonta għad-doppju tal-kirja li kienet tkun pagabbli skont l-artikoli 5, 12 jew 12A.

(5) Meta l-kerrej jissodisfa l-kriterji tad-dhul u tal-kapital tat-test tal-mezzi, il-Bord għandu jipproċedi skont is-subartikoli segwenti.

(6) Meta jistabbilixxi l-kirja pagabbli skont is-subartikolu (1), il-Bord għandu jqis il-mezzi u l-età tal-kerrej u kwalunkwe piż sproporzjonat li huwa partikolari għal sid il-kera u jista' jistabbilixxi li kwalunkwe żjieda fil-kera għandha tkun gradwali. Il-Bord, wara li jkun sema' lil partijiet sommarjament u eżamina kwalunkwe evidenza li huwa jqis rilevanti, jista' wkoll jordna l-hlas ta' żjieda fl-ammont tal-kera waqt il-pendenza tas-smiġħ ta' rikors preżentat skont is-subartikolu (1).

(7) Meta jiġi stabbilit ammont tal-kera skont is-subartikolu (1), dik il-kera għandha tapplika fir-rigward tal-kera tad-dar ta' abitazzjoni, sakemm il-kera ma tkunx giet preċedentement terminata, għal perijodu ta' sitt snin, li warajh għandha tkun suġġetta għar-reviżjoni skont is-subartikolu (1), sakemm ma jintlaħaqx ftehim bejn il-partijiet.

(8) (a) Meta jkun hemm bdil materjali fiċ-ċirkostanzi waqt il-kontinwazzjoni ta' kera stabbilita skont l-artikolu 5, 12 jew 12A, il-proprjetarju għandu jkollu l-jedd jippreżenta rikors quddiem il-Bord fejn jitlob li l-kundizzjonijiet tal-kirja jiġu rreveduti minhabba l-piż sproporzjonat li jkunu qed jikkawżalu.

(b) Il-proprjetarju jista' wkoll jitlob li l-kirja tiġi xolta jekk ikun jista' jipprova permezz ta' evidenza inekwivoka li l-kerrej hija persuna li ma tinhtiegħ il-protezzjoni soċjali provduta fl-artikoli 5, 12 jew 12A u f'dan l-artikolu:

Iżda li:

(i) id-dispożizzjonijiet tal-paragrafu (a) ta' dan is-subartikolu m'għandhomx japplikaw jekk is-smiġh ta' rikors taħt is-subartikolu (1) ikun pendent jew gie determinat għal anqas minn tliet snin;

(ii) il-kerrej dejjem għandu jitqies li huwa persuna li ma tinhtieġx il-protezzjoni soċjali provduta fl-artikoli 5, 12 jew 12A u f'dan l-artikolu jekk l-Awtorità tad-Djar jew sid il-kera joffru akkomodazzjoni alternattiva li hija addattata għal-kerrej u jiggarrantixxi d-disponibbiltà ta' tali akkomodazzjoni lill-kerrej għallinqas għal għaxar snin, għal kera li ma teċċedix dik li kienet tkun pagabbli mill-kerrej li kieku l-kerrej kompla l-kera taħt l-artikoli 5, 12 jew 12A.

Kap. 16.

(9) (a) Kull persuna li jkollha dritt li tkun rikonoxxuta bħala kerrej skont il-proviso tat-tifsira "kerrej" fl-artikolu 2 għandha, sakemm din il-persuna ma tkunx persuna li hemm referenza għaliha fil-paragrafu (a) tal-imsemmija tifsira, takkwista biss id-dritt li tokkupa d-dar ta' abitazzjoni għal perijodu ta' ħames snin illi mal-iskadenza tiegħu għandha tivvaka l-imsemmija dar ta' abitazzjoni. Il-kumpans għall-okkupazzjoni tad-dar ta' abitazzjoni pagabbli lis-sid matul l-imsemmi perijodu għandu, ħlief bejn l-okkupant ikun jissodisfax il-kriterji ta' dħul u ta' kapital tat-test tal-mezzi msemmi fil-paragrafu (iii) tas-subartikolu (3) jkun daqs id-doppju tal-kera li kienet tkun pagabbli skont l-artikoli 5, 12 jew 12A.

(b) Kull tilwima dwar jekk l-okkupant ikunx jissodisfa l-kriterji tat-test tal-mezzi jista' jiġi riferut minn kull waħda mill-partijiet lill-Bord permezz ta' rikors u d-dispożizzjonijiet tas-subartikolu (3) għandhom japplikaw.

Kap. 16.

(10) Id-dispożizzjonijiet tal-artikolu 1555A tal-Kodiċi Ċivili għandhom japplikaw fir-rigward ta' kwalunkwe kirja li daħlet fis-seħħ bis-saħħa tal-artikoli 5, 12 jew 12A jew ta' dan l-artikolu.

(11) Id-dispożizzjonijiet ta' dan l-artikolu għandhom ukoll japplikaw fil-każijiet kollha fejn kwalunkwe enfitewsi, subenfitewsi jew kirja fir-rigward ta' dar ta' abitazzjoni regolata taħt l-artikoli 5, 12 jew 12A tkun skadjet minhabba deċiżjoni tal-qorti msejsa fuq in-nuqqas ta' proporzjonalità bejn il-valur tal-proprjetà u l-ammont li għalih huwa intitolat sid il-kera u l-persuna li kienet l-enfitewta, is-subenfitewta jew il-kerrej għadha tokkupa d-dar bħala r-residenza ordinarja tagħha fl-10 ta' April 2018. F'dawn il-każijiet is-sid ma jistax jipproċedi biex jitlob l-iżgumbrament tal-okkupant mingħajr ma jagħmel użu minn qabel tad-dispożizzjonijiet ta' dan l-artikolu."

4. L-artikolu 1531J tal-Kodiċi Ċivili għandu jiġi enumerat mill-ġdid bħala s-subartikolu (1) tiegħu u minnufih wara għandhom jizdedu s-subartikoli ġodda li ġejjin:

Emenda
konsegwenzjali
għall-Kodiċi
Ċivili.
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"(2) Id-dispożizzjonijiet ta' dan is-subartikolu u tas-subartikoli li ġejjin ta' dan l-artikolu għandhom, minkejja kwalunkwe liġi oħra, japplikaw dwar l-okkupazzjoni ta' fond taħt titolu ta' kera minn każin meta l-kundizzjonijiet li ġejjin ikunu sodisfatti meta:

(i) il-każin ikun jikkonsisti minn każin tal-banda li fl-1 ta' Jannar 2018 jkun ilu jeżisti mill-inqas ħamsin (50) sena;

(ii) il-każin tal-banda msemmi fl-1 ta' Jannar 2018 kien ilu jokkupa l-fond bħala l-kwartieri prinċipali tiegħu taħt titolu ta' kera jew ċens jew taħt kombinazzjoni tat-tnejn għal perjodu ta' mill-inqas ħamsin (50) sena;

(iii) il-każin tal-banda jkun għadu jokkupa l-fond u dak il-fond ikun l-uniku fond tiegħu, ħlief għal imħazen jew fondi simili, fl-1 ta' Mejju 2018; u

(iv) l-iżgumbrament tal-każin tal-banda ikun ordnat minn sentenza finali mogħtija mill-Bord tal-Kera jew minn xi Qorti għal raġuni li ma tkunx in-nuqqas ta' ħlas ta' kera dovuta.

(3) Fil-każ fejn il-kundizzjonijiet kollha elenkati fis-subartikolu (2) huma sodisfatti, il-każin għandu jkun intitolat, li jkompli jokkupa l-fond taħt titolu ta' kera taħt il-kundizzjonijiet li ġejjin:

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(i) għal kera li tammonta għal għaxar (10) darbiet l-ammont ta' kera pagabbli għall-okkupazzjoni qabel is-sentenza finali tal-Bord tal-Kera jew tal-Qorti li tkun ordnat l-iżgumbrament;

L.S. 16.13.

(ii) il-kera imsemmija fis-subparagrafu (i) m'għandhiex tkun miżjuda skont id-dispożizzjonijiet tar-regolament 2 tar-Regolamenti dwar il-Kundizzjonijiet tal-Kirjiet ta' Każini iżda l-ammont dovut lis-sid skont id-dispożizzjonijiet tar-regolament 3 tar-regolamenti msemmija għandu jibqa' dovut flimkien mal-kera;

(iii) il-kera dovuta skont is-subparagrafu (i) m'għandhiex tkun inqas minn hamest elef euro (€5,000) fis-sena jew tkun tammonta għal aktar minn wieħed (1) fil-mija tal-valur tal-fond fl-1 ta' Jannar 2018.

(4) Is-sid tal fond li għalih japplikaw is-subartikoli (2) u (3) jkollu l-jedd li jagħmel rikors fil-Bord tal-Kera biex jikkontesta it-tweqqi ta' kwalunkwe kundizzjonijiet kif jipprovdi is-subartikolu (2) jew li jitlob varjazzjoni fil-kundizzjonijiet tal-kera biex tagħmel tajjeb għal kull sitwazzjoni ta' sproporzjonalità manifesta li tista' tirriżulta mill-applikazzjoni tas-subartikoli (2) u (3), filwaqt li jitqiesu l-funzjonijiet soċjali u kulturali mwettqa mill-kazin tal-banda.

(5) F'kwalunkwe proċeduri għall-iżgumbrament ta' każin tal-banda minhabba alterazzjonijiet strutturali meta l-fond li minnu jintalab l-iżgumbrament ikun jikkonsisti fil-kwartieri prinċipali tal-każin il-Bord tal-Kera jew il-Qorti m'għandhiex tordna l-iżgumbrament tal-każin tal-banda meta l-alterazzjonijiet strutturali jkunu jikkonsistu minn xogħlijiet li jkunu relatati ma' attivitajiet filarmoniċi jew soċjali tal-każin tal-banda, u fejn ix-xogħlijiet ikunu miljoramenti tal-fond u l-każin tal-banda jipprovdi garanzija li fl-opinjoni tal-Bord tal-Kera jew tal-Qorti tkun biżżejjed biex tħalli s-sid jirrestawra l-fond għall-kundizzjoni li kien fiha qabel fi-tmiem il-kirja u biex tagħmel tajjeb għal kwalunkwe telf li jsir waqt l-eżekuzzjoni tax-xogħlijiet meħtieġa:

Iżda l-ammont tal-garanzija msemmija f'dan is-subartikolu għandu jkun iffissat abbażi tal-prezzijiet li jkunu kurrenti fiż-żmien meta tinghata s-sentenza miżjuda b'għaxra fil-mija."

Għanijiet u Raġunijiet

L-għanijiet u r-raġunijiet ta' dan l-Abbozz huma sabiex jindirizzaw il-problemi rigward d-dritt tal-proprjeta' indikati minn ċerti deċiżjonijiet mogħtija mill-Qorti Kostituzzjonali u mill-Qorti Ewropea tad-Drittijiet tal-Bniedem, bil-għan li jinstab bilanċ bejn id-drittijiet tal-proprjetarju ta' dar residenzjali u tal-kerrej li jkun fi htieġa ta' protezzjoni.

L-Abbozz jinkludi wkoll emenda għall-Kodiċi Ċivili li l-għan tagħha hu r-rikonoxximent tal-kontribuzzjoni tal-każini tal-banda lil kultura u l-identità soċjali ta' Malta u l-protezzjoni tal-każini msemmija minn żgumbrament mill-kwartieri prinċipali tagħhom taht ċerti ċirkostanzi.

L-emendi proposti f'kull każ jipprovdu għal kumpens lis-sid u jagħtuh ukoll il-jedd li jikkontesta sitwazzjonijiet ta' sproporzjonalità.

C 656

**A BILL
entitled**

An Act to amend the Housing (Decontrol) Ordinance, Cap. 158.

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.

Cap. 158

1. The short title of this Act is Housing (Decontrol) Ordinance Amendment Act, 2018 and this Act shall be read and construed as one with the Housing (Decontrol) Ordinance, hereinafter referred to as "the Ordinance".

Amendment of article 2 of the Ordinance.

2. In the proviso to the definition "tenant" in article 2 of the Ordinance the words "articles 5 and 12" shall be substituted by the words "articles 5, 12, 12A and 12B".

Adds new article 12B to the Ordinance.

3. Immediately after article 12A of the Ordinance, there shall be added the following new article:

"Occupation of dwelling houses under title of lease created in terms of articles 5, 12 or 12A of the Ordinance.

12B. (1) Where a person is in occupation of a dwelling house under title of lease created by virtue of a previous title of emphyteusis or sub-emphyteusis which commenced before the 1st June 1995 through the application of article 5, 12, or 12A the following conditions shall, insofar as they are inconsistent with the provisions of the said articles of this Ordinance apply in respect of such lease as from, the 10th April 2018 notwithstanding the provisions of the said articles of the Ordinance or of any other law.

(2) The owner shall be entitled to file an application before the Rent Regulation Board demanding that the rent be revised to an amount not exceeding two percent per annum of the open market freehold value of the dwelling house on the 1st January of the year during which the application is filed and that new conditions be established in respect of the lease.

(3) The procedure applicable to the hearing of applications before the Rent Regulation Board shall apply to the hearing of an application made under sub-article (1):

Provided that:

(i) the Housing Authority shall be notified with the application and shall have a right to fully participate as *amicus curiae* in the proceedings; and

(ii) the tenant and the landlord shall always be entitled to the benefit of legal aid in proceedings filed in terms of this article if they are not in full time gainful employment; and

(iii) at the initial stage of the proceedings the Board shall conduct a means test of the tenant which shall be based on the means test provided for in the Continuation of Tenancies (Means Testing Criteria) Regulations issued under articles 1531F and 1622A of the Civil Code or any regulations from time to time replacing them. The means test shall be based on the income of the tenant between the 1st January and the 31st December of the year preceding the year when the proceedings are commenced and the capital of the tenant on the 31st December of the said year. The means test shall be conducted with particular reference, *inter alia*, to regulations 4 to 8 of the said regulations which shall apply *mutatis mutandis*.

S.L. 16.11

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(4) Where the tenant does not meet the income and capital criteria of the means test the Board shall, after hearing any evidence and submissions produced by the parties, give judgement allowing the tenant a period of five years to vacate the premises. The compensation for occupation of the premises payable to the owner during the said period shall amount to double the rent which would have been payable in terms of articles 5, 12 or 12A.

(5) Where the tenant meets the income and capital criteria of the means test the Board shall proceed according to the following sub-articles.

(6) In establishing the amount of rent payable in accordance with sub-article (1) the Board shall give due account to the means and age of the tenant and to any disproportionate burden particular to the landlord and it may determine that any increase in rent shall be gradual. The Board, after briefly hearing the parties and examining any evidence which it considers relevant, may also order that an increased amount of rent be paid whilst the hearing of an application filed in terms of sub-article (1) is pending.

(7) Where an amount of rent is established in terms of sub-article (1) that rent shall apply in respect of the lease of the dwelling house, unless the lease is previously terminated, for a period of six years, after which it shall be subject to being revised in accordance with sub-article (1) unless an agreement is reached between the parties.

(8) (a) Upon the happening of a material change in circumstances during the continuance of a lease established in accordance with article 5, 12 or 12A the owner shall be entitled to file an application before the Board demanding that the conditions of the lease be revised on account of their causing a disproportionate burden upon him.

(b) The owner may also demand the dissolution of the lease if he can prove through unequivocal evidence that the tenant is not a person in need of the social protection provided by articles 5, 12 or 12A and by this article:

Provided that:

(i) the provisions of paragraph (a) of this sub-article shall not apply where the hearing of an application under sub-article (1) is pending or has been determined for less than three years;

(ii) the tenant shall always be deemed to be a person not in need of the social protection provided by articles 5, 12, 12A and by this article if the Housing Authority or the landlord offer alternative accommodation suitable to the tenant and guarantees the availability of such accommodation to the tenant for at least ten years for a rent which is not in excess of that which would have been payable by the tenant had the tenant continued the lease under articles 5, 12 or 12A.

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(9) (a) Any person who has a right to be recognised as a tenant in terms of the proviso to the definition "tenant" in article 2 shall, unless the said is a person referred to in paragraph (a) of the said definition, only acquire a right to occupy the dwelling house for a period of five years upon the expiration of which he shall vacate the said dwelling house. The compensation for occupation of the dwelling house payable to the owner during the said period shall, unless the occupier meets the income and capital criteria of the means test referred to in paragraph (iii) of sub-article (3) amount to double the rent which would have been payable in terms of articles 5, 12 or 12A.

(b) Any dispute as to whether the occupier meets the criteria of the means test may be referred by either party to the Bord by application and the provisions of sub-article (3) shall apply.

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(10) The provisions of article 1555A of the Civil Code shall apply in respect of any lease which came into effect by virtue of articles 5, 12, 12A or this article.

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(11) The provisions of this article shall also apply in all cases where any emphyteusis, sub-emphyteusis or tenancy in respect of a dwelling house regulated under articles 5, 12, or 12A has lapsed due to a court judgment based on the lack of proportionality between the value of the property and the amount receivable by the landlord and the person who was the emphyteuta or the sub-emphyteuta or the tenant still occupies the house as his ordinary residence on the 10th April 2018. In such cases it shall not be lawful for the owner to proceed to request the eviction of the occupier without first availing himself of the provisions of this article."

Consequential amendment to the Civil Code. Cap. 16.

4. Article 1531J of the Civil Code shall be re-numbered as sub-article (1) thereof and immediately thereafter there shall be added the following new sub-articles:

"(2) The provisions of this sub-article and of the following sub-articles shall, notwithstanding any other law, apply in respect of the occupation of premises under title of lease by a club where all the following conditions are satisfied:

(i) where the club consists of a band club which on the 1st January 2018 has been in existence for at least fifty (50) years;

(ii) where the said band club has on the 1st January 2018 occupied the same premises as its principal quarters under a title of lease or emphyteusis or under a combination of both for a period of at least fifty (50) years;

(iii) where the band club is still in occupation of the premises on the 1st May 2018; and

(iv) where the eviction of the band club has been ordered by a final judgement of the Rent Board or of a Court for a reason other than the failure to pay rent due.

(3) Where all the conditions listed in sub-article (2) are satisfied, the club shall be entitled to continue occupying the premises under a title of lease under the following conditions:

(i) for a rent which shall amount to ten (10) times the amount of rent payable for the occupation of the said premises prior to the final judgement of the Rent Board or of the Court ordering eviction;

(ii) the rent referred to in sub-paragraph (i) shall not be further increased in terms of regulation 2 of the Conditions Regulating the Leases of Clubs Regulations but the amount due to the owner in terms of regulation 3 of the said regulations shall still be due in addition to the rent; S.L. 16.13.

(iii) the rent due in terms of sub-paragraph (i) shall not be less than five thousand euro (€5,000) *per annum* or amount to more than one (1) percent of the value of the premises on the 1st January 2018.

(4) The owner of premises to which sub-articles (2) and (3) apply shall be entitled to apply to the Rent Board to contest the fulfilment of any condition provided for in sub-article (2) or to demand a variation in the conditions of the lease in order to make good for any situation of manifest disproportionality which may result from the application of sub-articles (2) and (3), due account being taken of the social and cultural functions performed by the band club.

(5) In any proceedings for the eviction of a band club on account of any structural alterations to a leased premises which consists of the principal quarters of the club the Rent Board or the Court shall not order the eviction of the Band club when the structural alterations consist of works which are related to the philharmonic or social activities of the band club, and where the works consist of improvements to the premises and the Band Club produces a guarantee which in the opinion of the Rent Board or of the Court is sufficient to enable the owner to restore the premises to their previous state at the termination of the lease and to make good for any loss incurred during the execution of the necessary works:

Provided that the amount of a guarantee referred to in this sub-article shall be fixed on the basis of prices which are current at the time of the judgement increased by ten (10) percent."

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Objects and Reasons

The objects and reasons of this Bill are to address the problems concerning the right to property which were pointed out in certain decisions of the Constitutional Court and of the European Court of Human Rights with the purpose of finding a balance between the rights of the owner of a dwelling house and those of the tenant in need of protection.

The Bill also includes an amendment to the Civil Code which aims at recognising the contribution made by band clubs to culture and to the social identity of Malta and to protect such clubs against eviction from their principal quarters in certain circumstances.

In all cases the proposed amendments provide for compensation to the owner and grant the owner the right to contest situations of disproportionality.