

## MALTA

### **ATT Nru. XXIX ta' l-1997**

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

**ATT biex jirregola *Condominia*.**

### **ACT No. XXIX of 1997**

AN ACT enacted by the Parliament of Malta.

**AN ACT to regulate *Condominiums*.**

Naghti l-kunsens tiegħi.

(L.S.)

UGO MIFSUD BONNICI  
President

26 ta' Diċembru, 1997

**ATT Nru. XXIX ta' l-1997**

*ATT biex jirregola Condominia*

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-1997 dwar il-*Condominia*, u għandu jidhol fis-seħh f'dik id-data li l-Ministru responsabbli għall-gustizzja jista' jistabbilixxi permezz ta' avviż fil-Gazzetta u jistgħu jiġu hekk stabbiliti dati differenti għal dispożizzjonijiet u għanijiet differenti tiegħu. Titolu fil-qosor u bidu fis-seħh.

2. (1) *Condominium* huwa bini jew grupp ta' bini fejn il-proprjetà jew l-użu jew it-tgawdija tal-partijiet komuni tiegħu hija ta' żewġ persuni jew iżjed *pro indiviso* u l-proprjetà tad-diversi oqsma separati hija ta' l-istess żewġ persuni jew iżjed *pro diviso*: Tifsira ta' condominium.

Iżda żewġ fondi jew iżjed fejn fond wiehed jew iżjed minnhom ikun sovrastanti fond iehor, u fejn ikun hemm biss għadd ta' servitujiet tal-fondi fuq xulxin, u fejn il-katusi ta' l-ilma biss ikunu komuni, m'għandhomx jitqiesu bhala *condominium*.

(2) Ghall-finijiet ta' dan l-Att, *condominus* tfisser is-sid ta' qasam separat u tinkludi wkoll l-enfitewta jew l-użufuttwarju ta' l-istess qasam.

Il-partijiet ma jistghu jagħmlu ebda ftehim li jmur kontra ċerti dispożizzjonijiet.

3. Id-dispożizzjonijiet ta' l-artikolu 4, is-subartikoli (2) u (3) ta' l-artikolu 6, l-artikoli 7, 8 u 10, is-subartikolu (2) ta' l-artikolu 11, l-artikolu 15, is-subartikolu (2) ta' l-artikolu 16, u l-artikoli 17, 18, 20, 21, 22, 23, 24 u 26 għandhom jiġu osservati f'kull każ ta' *condominium* u kull ftehim li jmur kontrihom m'għandu jkollu ebda effett.

Ċerti dispożizzjonijiet tal-Kodiċi Ċivili ma japplikawx. Kap. 16.

4. Id-dispożizzjonijiet tat-Titolu V tat-Taqsima I tat-TIENI KTIEB tal-Kodiċi Ċivili m'għandhomx ikunu japplikaw għal proprjetà li tkun *pro indiviso* fil-partijiet komuni tal-*condominium*.

Partijiet komuni tal-*condominium*.

5. Kemm-il darba ma jirriżultax xort'ohra mit-titolu tas-sidien ta' l-oqsma separati, jew sakemm ma jkunx hemm qbil mod iehor bejn il-*condomini* b'att pubbliku, il-partijiet komuni ta' *condominium* huma dawn li ġejjin, ukoll jekk wiehed jew iżjed mill-*condomini* ma jagħmilx użu minnu:

(a) l-art li fuqha jkun mibni l-*condominium*, il-pedamenti, il-hitan ta' barra, inkluzi l-hitan diviżorji komuni mal-fondi ta' biswit, is-soqfa, ix-xaftijiet, it-taraġ, il-bibien ta' dhul komuni, intrati, trombi tat-taraġ, btiehi, ġonna, l-arja li tiġi fuq il-proprjetà kollha u b'mod ġenerali, kull parti ohra tal-proprjetà li għandha għan li tintuża b'mod komuni;

(b) il-partijiet li jintużaw bhala intrata u bhala kamra tal-ħasil komuni u l-partijiet li jintużaw bhala *porter's lodge*, għat-tagħmir ta' *central heating*, u għal kull faċilità ohra li għandha għan li tintuża b'mod komuni; u

(c) id-dwal, bjar, tankijiet, akwedotti, drenagġi, pajpijiet tal-katusi ta' l-ilma, kull stallazzjoni għall-ilma, gass, elettriku, tishin u servizzi ohra simili sa fejn daww l-istallazzjonijiet jaqsmu lejn il-proprjetà esklużiva ta' kull *condominus*, u kull opra, stallazzjoni u oġġett ta' kull għamla li tkun li għandhom għan li jintużaw b'mod jew għal benefiċċju komuni.

Drittijiet ta' *condomini*.

6. (1) Kemm-il darba ma jkunx hekk jirriżulta mit-titolu li jkollhom, l-ishma fil-partijiet komuni għandhom jitqiesu bhala li jkunu maqsumin b'mod indaq bejn is-sidien tad-diversi oqsma separati.

(2) *Condominus* ma jistax jirrinunzja għall-jeddijiet li jkollu fil-partijiet komuni.

(3) *Condominus* ma jistax jiddisponi mid-drittijiet tiegħu fil-partijiet komuni separatament mid-drittijiet tiegħu fil-partijiet li huwa jkollu b'mod separat *pro diviso*; lanqas ma jista' jiddisponi mid-drittijiet tiegħu fil-partijiet li huwa jkollu b'mod separat *pro diviso* separatament mid-drittijiet tiegħu fil-partijiet komuni.

7. Ebda sehem mid-drittijiet komuni ma jista' jiġi diviż jew imnehhi minghajr ma jkun hemm il-kunsens tal-*condomini* kollha. Il-partijiet komuni  
ma jinqasmux.

8. (1) Il-*condomini* jistgħu jipprovdu, permezz tal-vot tal-maġġoranza msemmi fis-subartikolu (7) ta' l-artikolu 22, għall-għemil ta' tibdil jew tiġdid fil-partijiet komuni li jkunu jikkonsistu f'benefikat jew jagħtu lok għal użu aktar komdu jew tgawdija ahjar tal-partijiet komuni. Tibdi'

(2) Minkejja l-generalità tas-subartikolu ta' qabel ta' dan l-artikolu, għandhom jitqiesu bhala tibdil jew tiġdid dawn li ġejjin:

- (a) it-twessigh tal-bieb ta' dhul komuni;
- (b) l-istallazzjoni ta' lift;
- (ċ) l-istallazzjoni ta' sistema ta' *hall-porter*;
- (d) il-bdil ta' bitha fi ġnien jew fi spazju ta' parkjar intern.

(3) M'għandux isir dan it-tibdil jew tiġdid li ġej fil-partijiet komuni kemm-il darba ma jkunx hemm il-kunsens unanimu tal-*condomini* kollha:

- (a) dak li jibdel l-estetika u d-dehra tal-*condominium*; jew
- (b) dak li jolqot b'mod sostanzjali l-użu jew it-tgawdija ta' xi parti komuni minn xi wiehed mill-*condomini*; jew
- (ċ) dak li jista' jippreġudika l-istabbiltà jew is-sigurezza tal-bini.

(4) Fejn l-arja fuq *condominium* tkun ta' sid wiehed u mhux tal-*condomini* l-oħra, hu jista' jekk jibni fuq dik l-arja jestendi l-partijiet komuni, a spejjeż tiegħu, biex jaqdu wkoll l-oqsma separati minnu mibnija fuq l-arja, u s-sehem tiegħu mill-ispejjeż li għandhom x'jaqsmu mal-partijiet komuni għandhom, sakemm il-partijiet ma jiftehmux mod iehor, jiġu ridistribwiti bejn is-sidien skond il-proporzjon li l-oqsma separati godda huma mill-oqsma separati kollha fil-*condominium*.

Spejjeż esagerati  
jew tibdil  
dekorattiv.

**9.** (1) Dawk il-*condomini* li ma jkunux bi hsiebhom jibbenefikaw minn dak it-tibdil jew tiġdid li jista' jaghti lok għal użu separat minn kull *condominus*, huma eżentati milli jikkontribwixxu għall-ispejjeż relattivi.

(2) Id-dispożizzjonijiet tas-subartikolu (1) ta' dan l-artikolu għandhom ikunu japplikaw biss għal dak it-tibdil jew tiġdid li, meta wiehed iqis il-kondizzjoni partikolari u l-prestiġju tal-*condominium*, ikun dekorattiv jew in-nefqa biex dan isir tkun waħda esagerata.

(3) Fil-każ imsemmi fis-subartikolu (1) ta' dan l-artikolu, dawk il-*condomini* jew l-*aventi causa* partikolari tagħhom fl-oqsma relattivi jistgħu madankollu f'kull waqt ikollhom sehem mill-benefiċċji li jirriżultaw bit-tibdil jew bit-tiġdid li jsir fil-partijiet komuni jekk huma jikkontribwixxu għall-ispejjeż li jsiru sabiex dawn l-opri jsiru u jinżammu fi stat ta' preservazzjoni tajba. Dik il-kontribuzzjoni għandha tkun ekwivalenti għal dak li dawk il-*condomini* kienu jhallsu għall-ispejjeż li jsiru sabiex dawk l-opri jsiru u jinżammu fi stat tajjeb ta' preservazzjoni, li kieku ddeċidew li jibbenefikaw minn dak it-tibdil jew tiġdid meta dawn ikunu saru originarjament. Dik il-kontribuzzjoni tithallas, *tramite* l-amministratur, lill-*condomini* l-oħra.

(4) Jekk żewġ-terzi mill-oqsma rappreżentati waqt laqgħa jiddeċiedu li jagħmlu xi tibdil li ma jkunx jaghti lok għal użu separat minn kull *condominus*, il-*condomini* kollha għandhom jikkontribwixxu għall-ispejjeż ta' dak it-tibdil kollu fi proporzjon għall-ishma tagħhom skond is-subartikolu (1) ta' l-artikolu 6.

Hsara kaġunata  
lill-partijiet komuni  
b'xoghlijiet li jsiru  
fil-partijiet mhux  
komuni.

**10.** Ebda *condominus* ma jista' jagħmel xoghlijiet fil-proprjetà individwali tiegħu li tista' tikkaġuna hsara fil-partijiet komuni.

Tqassim ta'  
l-ispejjeż.

**11.** (1) L-ispejjeż meħtieġa għall-preservazzjoni, manutenzjoni, tiswijiet ordinarji u straordinarji, għat-tgawdija tal-partijiet komuni, għall-ġhoti ta' servizzi fl-interess komuni u għal kull tibdil li jsir bi qbil tal-*condomini*, għandhom jinqasmu bejn il-*condomini* fi proporzjon għall-valur tal-proprjetà ta' kull *condominus*, salv dejjem kull ftehim kuntrarju.

(2) Meta l-ispejjeż isiru dwar xi haġa li sservi lill-*condomini* f'miżura mhux ugwali, l-ispejjeż jinqasmu fi proporzjon ta' l-użu li kull wiehed jista' jagħmel.

(3) Meta bini għandu diversi torġien, btiehi, bjuż jew hwejjeġ oħra li jkunu magħmula biex iservu xi parti waħda tal-bini intier, l-ispejjeż għall-manutenzjoni tagħhom ikunu a karigu tal-grupp tal-*condomini* li jistgħu jagħmlu użu minnhom.

(4) Sakemm ma jigix mod iehor miftiehem bejniethom, *condominus* ikollu dritt jitlob minghand inkwilin tal-qasam separat tieghu dik il-parti ta' l-ispejjez imsemmija fis-subartikolu (1) ta' dan l-artikolu li ghandhom x'jaqsmu ma' manutenzjoni li skond id-dispozizzjonijiet tal-Kodiċi Ċivili, huma a karigu ta' l-inkwilin.

(5) Meta *condominus* iqis li s-sehem tieghu ghar-rigward ta' dawk l-ispejjez ma jkunx wiehed gust fil-qies tal-valur tad-drittijiet li ghandu bhala wiehed mis-sidien tal-*condominium*, huwa jista' jirreferi l-kwestjoni ghall-arbitragg.

**12.** (1) Meta saqaf ikun parti komuni u jkun is-saqaf ta' sular t'isfel u l-paviment ta' sular ta' fuq ta' *condominium*, l-ispejjez li jsiru ghall-manutenzjoni u ghat-tiswijiet ordinarji u straordinarji ta' dak is-saqaf ghandhom isiru nofs mill-*condominus* tas-sular t'isfel u n-nofs l-iehor mill-*condominus* tas-sular ta' fuq.

Manutenzjoni  
u tiswija  
tas-soqfa.

(2) Il-*condominus* tas-sular ta' fuq ghandu jhallas l-ispejjez kollha li jkollhom x'jaqsmu mat-tqeghid tal-madum tal-paviment.

(3) Il-*condominus* tas-sular t'isfel ghandu jhallas l-ispejjez kollha li jkollhom x'jaqsmu mat-tizbigh u d-dekorazzjoni tas-saqaf kif ukoll ma' dawk is-sevizzi fuq is-saqaf li ghandhom x'jaqsmu mas-sular ta' isfel.

(4) Meta s-sular ta' fuq jew is-sular t'isfel ikun jaghmel parti mill-partijiet komuni, l-ispejjez imsemmija fis-subartikoli (2) u (3) ghar-rigward ta' dak is-sular li hu parti komuni ghandhom jithallsu mill-amministratur f'isem il-*condomini*.

**13.** Il-*condominus* li jkollu proprjeta assoluta u uzu assolut ta' parti mill-arja jew ta' l-arja kollha ta' fuq il-*condominium* jista' jibni strutturi godda, b'dan illi ma jkunx mizmum milli jaghmel dan mit-titolu tieghu li jkollu bhala proprjetarju u li dawk l-istrutturi ma jkunux jikkaġunaw xi hsara fl-istabbiltà tal-bini jew ma jkunux jolqtu t-tgawdija tad-drittijiet li l-*condomini* l-oħra jkollhom fil-*condominium*.

Bini ta' strutturi  
godda fl-arja ta' fuq  
il-*condominium*.

**14.** (1) Kemm-il darba l-*condomini* kollha ma jkunux jaqblu jew kemm-il darba ma jigix provdut xort'oħra fit-titolu, jekk *condominium* jinqered ghal kollox jew b'mod sostanzjali kull wiehed mill-*condomini* jista' jitlob il-bejgh bl-irkant tal-*condominium* kollu.

Qerda totali jew  
parzjali  
tal-*condominium*.

(2) Meta l-qerda ta' *condominium* ma tkunx wahda totali jew sostanzjali, fil-laqgħa ghandu jigi diskuss u deċiż dwar il-bini mill-ġdid tal-partijiet komuni.

(3) Kull *condominus* ikun marbut li jibni mill-ġdid il-qasam tiegħu, u li f'kull żmien jagħmel fih kull tiswija mehtieġa bil-ghan li jżommu f'kondizzjoni tajba.

(4) Id-dispożizzjonijiet tas-subartikoli (1), (2) u (3) ta' dan l-artikolu għandhom ikunu japplikaw minkejja kull dritt għad-danni li l-*condominus*, jew il-*condomini*, jista' jkollhom kontra *condominus* ieħor jew *condomini* oħrajn.

(5) Kull wiehed mill-*condomini* jkollu d-dritt li jżid fis-sehem ta' l-assigurazzjoni tiegħu għar-rigward ta' dik il-parti mill-*condominium* li huwa jkollu *pro diviso*.

(6) L-ispejjeż tal-bini mill-ġdid u ta' l-assigurazzjoni msemmija fis-subartikolu (2) ta' dan l-artikolu għandhom jithallsu mill-*condomini* bi proporzjon għall-ishma tagħhom fil-*condominium* skond is-subartikolu (1) ta' l-artikolu 6.

(7) Meta *condominus* iqis li s-sehem tiegħu dwar xi spejjeż kif stabbilit fis-subartikolu (7) ta' dan l-artikolu ma jkunx wiehed ġust fil-qies tal-valur tad-drittijiet li għandu bħala wiehed mis-sidien tal-*condominium*, huwa jista' jirreferi l-kwestjoni għall-arbitraġġ. Dak ir-riferiment għandu jkun regolat kif ġej:

(a) dak ir-riferiment għandu jsir mhux iktar tard minn tliet xhur mid-data meta jiġi mgharraf bl-ammont tas-sehem tiegħu;

(b) l-amministratur u l-*condomini* l-oħra għandhom jidhlu bħala parti fil-proċedimenti; u

(c) l-arbitru għandu jqis prinċipalment il-valur tal-jeddijiet tal-*condominus* li jkun qed jagħmel ir-riferiment ikollu bħala sid, bi proporzjon għall-valur tal-*condominium* kollu.

Hatra u tnehhija ta' amministratur.

15. (1) Meta jkun hemm iktar minn tliet *condomini*, il-laqgħa tal-*condomini* għandha tahtar amministratur. Jekk il-laqgħa ma tagħmilx dik il-hatra, il-kwestjoni għandha tiġi riferita għall-arbitraġġ minn *condominus* wiehed jew iktar u l-amministratur jinhatar mill-arbitru. Meta jkun hemm tliet *condomini* jew inqas, dawn jamministraw flimkien kemm-il darba ma jiftehmux xort'oħra.

(2) Kemm-il darba ma jiġix provdut xort'oħra fil-hatra tiegħu, l-amministratur għandu jibqa' fil-kariga għal żmien sentejn, b'dan illi huwa għandu jibqa' jżomm il-kariga sakemm jinhatar amministratur ieħor skond is-subartikolu (1) ta' dan l-artikolu.

(3) Meta l-amministratur ikollu hsieb li jirriżenja mill-kariga tieghu qabel ma jghaddi ż-żmien imsemmi fil-hatra tieghu, huwa ghandu jlaqqa' l-membri biex jiddiskutu dwar il-hatra ta' amministratur ġdid. Jekk matul dik il-laqgħa ma jintlahaq ebda ftehim dwar il-hatra ta' amministratur jew dik il-laqgħa ma ssirx, l-amministratur jista' jirreferi l-kwestjoni għall-arbitraġġ skond id-dispożizzjonijiet, *mutatis mutandis*, tas-subartikolu (1) ta' dan l-artikolu, u amministratur ġdid jiġi mahtur mill-arbitru.

(4) Minbarra l-każ li hemm provdut dwaru fil-paragrafu (a) tas-subartikolu (7) tal-artikolu 22, *condominus* wiehed jew iktar jista' jirreferi l-kwestjoni tar-revoka tal-hatra ta' amministratur għall-arbitraġġ billi jitlob dik ir-revoka minhabba f'li l-amministratur ma jkunx ippreżenta l-kontijiet tieghu, minhabba f'li jkun hemm suspetti raġonevoli ta' irregolaritajiet gravi min-naħa ta' l-amministratur jew minhabba li jkun hemm nuqqasijiet gravi mill-amministratur fit-twettiq ta' dmirijietu.

(5) Ir-Registratur ta' l-Artijiet għandu jżomm regjistru li jkun fih il-hatriet u l-bidliet kollha ta' amministraturi.

(6) L-amministratur għandu javża lill-imsemmi Registratur ta' l-Artijiet bil-hatra tieghu u b'kull bidla li tista' ssir wara fi żmien hmistax il-jum minn dik il-hatra jew bidla.

(7) Kull *condominus* jista' javża lill-Registratur ta' l-Artijiet bil-hatra, tnehhija jew bidla ta' l-amministratur.

(8) Ir-regjistru għandu jkun miftuħ għal kull min jixtieq jarah.

(9) Id-drittijiet li għandhom jithallsu lill-amministratur għandhom jiġu determinati mil-laqgħa tal-*condomini*.

**16.** (1) Il-funzjonijiet ta' l-amministratur għandhom jinkludu dan li ġej:

Funzjonijiet  
ta' l-amministratur.

(a) li jeseġwixxi d-deċiżjonijiet tal-laqgħa tal-*condomini* u li jiżgura l-osservanza tar-regoli li jirregolaw il-*condominium*;

(b) li jirregola l-użu tal-partijiet komuni u t-twettiq ta' servizzi fl-interess komuni, b'dak il-mod li l-*condomini* kollha żgur ikollhom kull benefiċċju possibbli;

(ċ) li jqassam l-ispejjeż skond is-subartikolu (1) ta' l-artikolu 11, li jiġbor il-kontribuzzjonijiet minghand il-*condomini* u, suġġett għall-approvazzjoni tal-laqgħa, li jistabbilixxi u jmexxi *floating fund* li l-*condomini* jikkontribwixxu s-sehem tagħhom fih;

(d) li jwettaq dawk l-atti li jistghu jenhtiegu għall-preservazzjoni u l-protezzjoni tal-partijiet komuni;

(e) li jipprezenta l-kontijiet tiegħu quddiem il-*condomini* f'dawk il-perjodi li dwarhom jista' jiġi deċiż fil-laqgħa jew hekk kif jista' jiġi stabbilit fir-regoli li jirregolaw il-*condominium*;

(f) li jitlob pretensjonijiet jew jircievi flejjes jew imghaxijiet;

(g) li jmexxi kif mehtieg bies ikun hemm fis-sehh assigurazzjoni adegwata tal-*condominium*; u

(h) li jwettaq kull haġa oħra li tkun anċillari jew li twassal għat-tmexxija sew tal-*condominium*.

(2) B'żieda mar-registru li jinżamm skond ma hemm fis-subartikolu (1) ta' l-artikolu 22, l-amministratur għandu jzomm registri oħra li jkun fihom:—

(a) il-minuti tal-laqgħat kollha;

(b) registrazzjoni dwar l-impustar ta' avvizi mibgħutin lill-*condomini* u lir-rappreżentanti tagħhom; u

(ċ) kopja ta' kull avviż, deċiżjoni u direttiva mwahhla man-*notice board* skond is-subartikolu (5) ta' l-artikolu 22 flimkien mad-dati relattivi ta' meta dawn ikunu twahhlu.

(3) Malli l-amministratur jintemmlu ż-żmien tal-ħatra tiegħu, huwa għandu jgħaddi dawk ir-registri lill-amministratur il-ġdid.

Rappreżentanza.

17. (1) Għar-rigward ta' kull haġa li jkollha x'taqsam mal-partijiet komuni tal-*condominium*, l-amministratur għandu r-rappreżentanza tal-*condomini* kollha kif ukoll il-kapaċità ġudizzjarja u legali li jharrek lill-*condomini* jew lil terzi u li jiġi mharrek.

(2) L-amministratur jista' jiġi mharrek dwar kull haġa li tkun tolqot il-partijiet komuni. Huwa għandu wkoll jiġi notifikat b'kull ordni magħmul minn xi awtorità dwar hwejjeġ li jolqtu l-partijiet komuni.

(3) Jekk iċ-ċitazzjoni, l-att ġudizzjarju jew ordni jolqtu xi haġa li għalkemm ikollha x'taqsam mal-*condominium* tkun tmur 'il hinn mill-funzjonijiet ta' amministratur, l-amministratur ikun marbut li jgħarraf b'dan lill-*condomini* mingħajr dewmien u li jlaqqagħhom biex jiddiskutu dik il-haġa.

(4) L-amministratur li ma jwettaqx dak id-dmir ikun responsabbli għad-danni.

**18.** (1) Meta jiġi deċiż f'laqgħa li tinbeda litigazzjoni jew li tiġi kontestata xi talba bil-qorti, *condominus* li ma jkunx jaqbel li jsir dan jista' javża n-nuqqas ta' kunsens tiegħu permezz ta' ittra uffiċjali li għandha tiġi notifikata lill-amministratur. L-ittra uffiċjali għandha tiġi ipprezentata fi żmien sitt ijiem mid-data meta l-avviż ta' dik id-deċiżjoni jkun twaħħal skond is-subartikolu (5) ta' l-artikolu 22.

Nuqqas ta' kunsens minn *condominus* dwar xi litigazzjoni.

(2) Il-*condominus* li juri nuqqas ta' kunsens ikollu d-dritt li jiġi indennizzat kontra kull spiża li jagħmel jew danni li jgarrab b'riżultat ta' dik il-litigazzjoni.

(3) Il-*condominus* li juri nuqqas ta' kunsens li jista' jkun kiseb xi benefiċċju mill-litigazzjoni li tkun giet deċiża favur il-*condomini*, ikun marbut jikkontribwixxi għall-ispejjeż tal-proċedimenti tal-litigazzjoni.

**19.** (1) Il-miżuri li jittiehdu mill-amministratur li jkunu jaqgħu fi hdan il-funzjonijiet tiegħu, ikunu jorbtu l-*condomini* kollha.

Miżuri li jittiehdu mill-amministratur.

(2) Jista' jsir appell lil-laqgħa minn kull *condominus* kontra xi miżura li tkun ittiehdet mill-amministratur.

(3) Id-dritt mogħti bis-subartikolu (2) ta' dan l-artikolu hu bla hsara għal kull dritt li jirreferi l-kwestjoni għall-arbitraġġ.

**20.** *Condominus* li jagħmel xi spejjeż mingħajr ma jkun gie awtorizzat bil-miktub biex jagħmel dawk l-ispejjeż mill-amministratur jew mill-laqgħa, ma jkollux dritt li jirċievi lura l-hlas ta' dawk l-ispejjeż, kemm-il darba dawn ma kenux spejjeż ta' xorta urġenti. F'każ fejn ma jkunx hemm qbil dwar jekk l-ispejjeż kenux ta' natura urġenti l-kwestjoni għandha tiġi riferita għall-arbitraġġ.

Spejjeż li jagħmel il-*condominus*.

**21.** B'żieda mal-funzjonijiet mogħtija bid-dispożizzjonijiet ta' qabel ta' dan l-Att, il-laqgħa tal-*condomini* li għandha titlaqqa' mill-anqas darba fis-sena għandu jkollha dawn il-funzjonijiet li ġejjin:

Funzjonijiet tal-laqgħa.

(a) li tahtar jew tikkonferma l-amministratur u tistabbilixxi x'għandha tkun ir-rimunerazzjoni li tista' tkun dovuta;

(b) li tapprova l-estimi tan-nefqa li għandha ssir matul is-sena;

(ċ) li tapprova l-kontijiet imhejjija mill-amministratur u tistabbilixxi kif għandhom jiġu utilizzati jew investiti xi assi residwi li jingemghu mit-tmexxija tal-partijiet komuni;

(d) li tapprova t-tweġġ ta' xi tiswijiet straordinarji u, jekk ikun mehtieġ, li tohloq fond speċjali għal dawk it-tiswijiet.

22. (1) L-amministratur għandu jzomm reġistru tal-*condomini* kollha flimkien mal-indirizz postali li jiġi indikat minn kull *condominus*.

(2) *Condominus* jista' jindika lill-amministratur l-isem u l-indirizz ta' rappreżentant li, meta ismu jinkiteb fir-reġistru tal-*condomini* msemmi fis-subartikolu (1) ta' dan l-artikolu, ikun il-persuna li lilha l-amministratur jinnotifika b'kull avviż.

(3) B'żieda mad-dispożizzjonijiet tas-subartikolu (5) ta' dan l-artikolu, kull avviż li l-amministratur għandu jagħti għandu jitqies li jkun ingħata b'mod validu jekk dak l-avviż jintbagħat bil-posta reġistrata lill-*condominus* jew lir-rappreżentant tiegħu msemmi fis-subartikolu ta' qabel dan fl-indirizz miktub fir-reġistru u dak l-avviż għandu, għall-għanijiet u finijiet tal-liġi, jitqies li jkun ġie notifikat tlett ijiem wara li jkun ġie impustat jekk l-indirizz ikun f'Malta u sebat ijiem wara li jkun ġie impustat jekk l-indirizz ikun barra minn Malta:

Iżda ma jkun mehtieġ ebda avviż fil-każ ta' *condominus* li ma jindikax l-indirizz postali tiegħu jew dak tar-rappreżentant tiegħu skond id-dispożizzjonijiet tas-subartikoli ta' qabel ta' dan l-artikolu:

Iżda wkoll, l-amministratur jista', minflok ma jibgħat dak l-avviż permezz ta' posta reġistrata, jibgħatu permezz ta' trasmissjoni *facsimile* jew b'kull mezz elettroniku ieħor, f'liema każ l-avviż jitqies li jkun ġie notifikat il-jum li jiġi wara dak meta jkun ġie hekk mibgħut.

(4) M'għandha ssir ebda laqgħa qabel ma jgħaddu sebat ijiem minn notifika ta' l-avviż skond is-subartikolu (3) ta' dan l-artikolu u mit-twahħil tal-avviż skond is-subartikolu (5) ta' dan l-artikolu.

(5) L-amministratur għandu jara li titwahħal *notice-board* f'parti komuni u prominenti tal-*condominium* u fuqha għandhom jitwahħlu l-avviżi tal-laqgħat kollha, id-deċiżjonijiet kollha li jittiehdu waqt dawk il-laqgħat kif ukoll kull deċiżjoni jew direttiva li l-amministratur jqis li tkun daqstant importanti li għandha tingieb għall-attenzjoni tal-*condomini*.

(6) Il-*quorum* ta' laqgħa jkun l-għadd ta' *condomini* li jirrapreżentaw żewġ terzi mill-oqsma. Jekk fi żmien nofs siegħa mill-hin stabbilit għal-laqgħa ma jkunx hemm *quorum* preżenti, il-laqgħa tibqa' agġornata għall-istess jum tal-gimgha ta' wara fl-istess hin u post jew għal xi jum ieħor u f'dak il-hin u post ieħor hekk kif l-amministratur

jista' jindika bil-quddiem fl-avviż li jkun qed isejjah il-laqgħa, u jekk fil-laqgħa aġġornata jibqa' ma jkunx hemm *quorum* fi żmien nofs siegħa mill-hin stabbilit, il-*condominus* jew *condomini* li jkun hemm preżenti jew li jkunu rappreżentati f'dik il-laqgħa għandhom huma nnifishom jagħmlu *quorum*.

(7) Dawk id-deċiżjonijiet li jolqtu:—

(a) it-tneħħija ta' l-amministratur; jew

(b) kull procediment ġudizzjarju dwar xi haġa li tkun tmur 'il hinn mill-funzjonijiet tal-amministratur; jew

(c) l-għemil ta' tiswijiet straordinarji; jew

(d) l-għemil ta' kull tibdil fil-partijiet komuni msemmija fis-subartikolu (1) ta' l-artikolu 8; jew

(e) l-approvazzjoni jew l-emenda tar-regoli msemmija fl-artikolu 24,

għandhom ikunu biss validi jekk dawn jiġu approvati minn għadd ta' *condomini* li jkunu jirrappreżentaw mhux inqas minn żewġ terzi mill-oqsma rappreżentati fil-laqgħa.

(8) Id-deċiżjonijiet l-oħra kollha jkunu validi jekk dawn jiġu approvati b'maġġoranza sempliċi tal-oqsma rappreżentati fil-laqgħa.

(9) Id-deċiżjonijiet li jittiehdu f'laqgħa skond dan l-artikolu jkunu jorbtu lill-*condomini* kollha.

(10) Meta qasam ikollu bħala sidien tiegħu iktar min *condominus* wiehed, dawk il-*condomini* li jkunu sidien tiegħu għandhom jindikaw lill-amministratur l-isem u l-indirizz ta' min ikun qed jirrappreżenta dak il-qasam fil-laqgħa. Dak ir-rappreżentant ikompli hekk jirrappreżenta lill-*condomini* li flimkien ikunu sidien ta' l-istess qasam sa dak iż-żmien li l-*condomini* jaqblu dwar is-sostituzzjoni tar-rappreżentant tagħhom u jgħarrfu b'dan lill-amministratur skond hekk.

(11) Fil-każ ta' nuqqas ta' ftehim dwar il-hatra jew is-sostituzzjoni ta' rappreżentant, *condominus* jista' jitlob permezz ta' rikors lill-Qorti Ċivili, Sekond'Awla, biex din tahtar kuratur ukoll jekk minn fost il-*condomini* nnifishom sabiex jirrappreżenta lill-*condomini* kollha li jkunu sidien ta' xi qasam partikolari f'*condominium* dwar dak kollu li jinsab regolat b'dan l-Att. Is-Sekond'Awla tal-Qorti Ċivili għandha tagħti seħħ lill-fehma tal-maġġoranza filwaqt li jitqies x'ikun

l-ghadd totali ta' *condomini* kemm-il darba ma jkunx hemm xi *condominus* dissidenti li juri b'sodisfazzjon tal-qorti li jkollu tassew raguni valida ghall-oġġezzjoni tiegħu. Ir-registratur għandu javża lill-amministratur dwar min ikun ir-rappreżentant mahtur billi jagħti l-partikolaritajiet imsemmija fis-subartikolu (10) ta' dan l-artikolu. Ma jkun hemm ebda jedd ta' appell dwar deċiżjoni ta' dik il-qorti.

(12) Bla hsara għar-relazzjoni interna ta' dawk li jkunu sidien flimkien ta' qasam wiehed, ir-rappreżentant mahtur taht is-subartikoli (10) u (11) ta' dan l-artikolu jkun responsabbli lejn l-amministratur għall-obbligazzjonijiet kollha tal-qasam.

(13) *Condominus* jista' jkun rappreżentat waqt laqgħa minn prokuratur li jkollu waqt il-laqgħa l-istess drittijiet u dmirijiet bhall-*condominus* li jkun qed jirrappreżenta. Il-hatra ta' prokuratur issir minn *condominus* permezz ta' skrittura.

(14) Il-laqgħa għandha tkun presjeduta mill-amministratur. Fin-nuqqas tiegħu, jista' jiġi deċiż fil-bidu tal-laqgħa li jkun hemm *condominus* li jippresjedi hu. Fil-każ ta' voti ndaqs, il-president tal-laqgħa jkollu *casting vote*:

Iżda meta l-amministratur ma jkunx *condominus*, huwa ma jkollu ebda vot oriġinali iżda biss *casting vote* fil-każ ta' voti ndaqs.

Oppozizzjoni  
għad-deċiżjonijiet  
tal-laqgħa.

**23.** (1) Meta *condominus* ma jkunx jaqbel ma' deċiżjoni tal-laqgħa minhabba f'li d-deċiżjoni tmur kontra l-liġi jew ir-regolamenti tal-*condominium* jew tkun irragonevoli jew oppressiva, huwa jista' jirreferi l-kwestjoni għall-arbitraġġ.

(2) Ir-riferenza ta' kwestjoni għall-arbitraġġ skond is-subartikolu (1) ta' dan l-artikolu għandha ssir mill-*condominus* dissidenti fi żmien 30 jum mid-data li d-deċiżjoni tal-laqgħa tkun għet lilu notifikata skond id-dispożizzjonijiet tas-subartikolu (3) ta' l-artikolu 22:

Iżda meta tkun tapplika l-ewwel proviso għas-subartikolu (3) ta' l-artikolu 22, il-perjodu ta' 30 jum għandu jibda jgħaddi mid-data meta d-deċiżjoni titwahhal man-*notice board* skond is-subartikolu (5) ta' l-imsemmi artikolu 22.

(3) Jekk l-arbitru jiddeċiedi favur il-*condominus* dissidenti, huwa jista' jannulla jew jemenda d-deċiżjoni.

Regolament  
tal-*condominium*.

**24.** (1) Jistgħu jintgħamlu regoli biex jirregolaw l-użu tal-partijiet komuni u t-tqassim tal-ispejjeż magħmula għar-rigward tal-partijiet komuni. Dawk ir-regoli jistgħu wkoll jinkludu regoli għaż-żamma tad-dekor tal-*condominium* u regoli li jolqtu t-tmexxija tiegħu.

(2) Kull *condominus* jista' jiehu l-inizjattiva biex ihejji r-regoli dwar il-*condominium* jew ir-reviżjoni ta' xi regoli eżistenti, liema regoli ghandhom jingiebu waqt laqgħa tal-*condomini* għall-approvazzjoni tagħhom skond is-subartikolu (3) ta' dan l-artikolu.

(3) Ir-regoli dwar il-*condominium* ghandhom jiġu approvati waqt laqgħa tal-*condomini* mill-maġġoranza tal-*condomini* stabbiliti fis-subartikolu (7) ta' l-artikolu 22 u ghandhom jiġu reġistrati mar-Reġistratur ta' l-Artijiet mill-amministratur jew, fir-nuqqas ta' amministratur, mill-*condomini* flimkien jew minn persuna delegata minnhom. Kull emenda li ssir f'dawk ir-regoli ghandha wkoll tiġi reġistrata kif imsemmi qabel.

(4) Ir-Reġistratur ta' l-Artijiet għandu jzomm u jirreġistra kull dokument li jkun meħtieġ li jiġi lill-konsenjat bil-ghan li jiġi reġistrat taht xi waħda mid-dispożizzjonijiet ta' dan l-Att.

(5) Persuna tista' –

(a) tispezzjona d-dokumenti miżmuma mir-Reġistratur ta' l-Artijiet; u

(b) titlob kopja jew estratt ta' dokument li jkun ġie konsenjat lir-Reġistratur ta' l-Artijiet.

(6) Meta jiġu reġistrati xi regoli dwar *condominium* jew emendi li jsiru għalihom skond is-subartikolu (3) ta' dan l-artikolu, ir-Reġistratur ta' l-Artijiet għandu jara li mingħajr dewmien tiġi pubblikata dikjarazzjoni fil-Gazzetta tal-Gvern li tkun turi d-data meta tkun saret ir-reġistrazzjoni.

(7) Kull *condominus* dissidenti jista' jikkontesta dawk ir-regoli jew xi parti minnhom għar-raġuni li dawn jkunu jmorru kontra l-ligi, jew li ma jkunux raġonevoli, jew li jkunu oppressivi, u jista' jirreferi l-kwestjoni ta' dik il-kontestazzjoni għall-arbitraġġ.

(8) Dawk ir-regoli m'għandhom b'ebda mod inaqqsu d-drittijiet tal-*condomini* li jgħorġu mit-titolu għall-proprjetà u minn kull ftehim li jkun sar b'mod validu, u f'ebda każ m'għandhom jidderogaw mid-dispożizzjonijiet tas-subartikolu (3) ta' l-artikolu 6 u ta' l-artikoli 7, 8, 15, 17, 18, 22 u 23.

Meta l-laqgħa ma tagħmilx jew ma tapprovax regoli.

25. Meta ma jkunux intgħamlu jew ġew approvati regoli skond l-artikolu 24, kull *condominus* jista' jipproponi regoli biex jirregolaw il-*condominium*, u jekk dawn ir-regoli ma jiġux approvati mill-*condomini* l-oħra, il-kwestjoni ta' l-adozzjoni ta' dawk ir-regoli għandha tigi riferita għall-arbitraġġ, u l-arbitru għandu jiddeċiedi dwar jekk dawk ir-regoli għandhomx jiġu adottati bi jew mingħajr emendi.

Arbitraġġ.

26. F'kuli tilwima li skond dan l-Att għandha jew tista' tigi riferita għall-arbitraġġ, il-partijiet fit-tilwima għandhom jitqiesu bhala li fteħmu li jieħdu l-kwestjoni f'arbitraġġ skond it-Taqsima IV ta' l-Att ta' l-1996 dwar l-Arbitraġġ, sabiex din tigi deċiża skond il-Liġi ta' Malta minn arbitru uniku li jinhatar miċ-*Chairman* taċ-Ċentru dwar l-Arbitraġġ ta' Malta.

Att II ta' l-1996.

Regoli speċjali għall-arbitraġġ taht dan l-Att.

27. Għall-finijiet ta' arbitraġġi msemija fl-artikolu 26 ta' dan l-Att:

(a) is-subartikolu (2) ta' l-artikolu 14 u s-subartikolu (7) ta' l-artikolu 15 ta' l-Att ta' l-1996 dwar l-Arbitraġġ, u kull dispożizzjoni ta' dak l-Att li tkun inkonsistenti mad-dispożizzjonijiet ta' dan l-Att, m'għandhomx ikunu japplikaw;

(b) iċ-Ċentru dwar l-Arbitraġġ ta' Malta mwaqqaf skond dak l-Att:

(i) għandu jahtar lista ta' arbitri domestiċi dwar materji relatati ma' dan l-Att, u l-arbitru uniku in konnessjoni ma kull arbitraġġ taht dan l-Att għandu jiġi mahtur, sakemm il-persuni kollha fuq il-lista ma jkunux ġew rikuzati, jew ma jkunux mod iehor astjenew, minn fost il-persuni f'dik il-lista; u

(ii) jista' jagħmel regoli ta' proċedura speċjali, li ma jkunux inkonsistenti mar-regoli ta' ġustizzja naturali, sabiex jirregola dawk l-arbitraġġi msemija fl-artikolu 26 ta' dan l-Att. Dawk ir-regoli jistgħu jkunu differenti minn xi jew kull dispożizzjoni tat-Taqsima IV ta' l-Att ta' l-1996 dwar l-Arbitraġġ.

28. Il-bejgh b'irkant ta' *condominium*, imsemmi fis-subartikolu (1) ta' l-artikolu 14 ta' dan l-Att ghandu jsir, sakemm il-*condomini* kollha ma jifthemux mod iehor, taht l-awtorità u bl-approvazzjoni ta' l-arbitru uniku mqabba kif imsemmi fl-artikolu 27, li ghandu jqis l-interessi ta' kulhadd u jara li hadd ma jigi ippreġudikat. Il-bejgh ghandu jsir, f'nuqqas ta' regoli ta' procedura speċjali kif maħsub fl-artikolu 27, skond kif jirregola l-arbitru.

Bejgh b'irkant.

29. Jekk matul is-smiegh ta' arbitraġġ jirriżulta lill-arbitru li r-riferiment ikun wiehed vessatorju, hu jista' jikkundanna lill-parti hekk hatja li thallas lill-partijiet l-oħra penali ta' mhux iżjed minn hamsin lira. L-istess penali tista' tigi imposta mill-arbitru fuq il-parti l-oħra meta l-azzjoni tieghu li tkun tat lok ghat-talba għall-arbitraġġ tkun vessatorja.

Arbitraġġi vessatorji.

30. Salv id-dispożizzjonijiet tat-Taqsima VI ta' l-Att ta' l-1996 dwar l-Arbitraġġ, f'dawk il-kwestjonijiet li skond dan l-Att jistgħu jiġu jew ghandhom jiġu riferiti għall-arbitraġġ, ebda qorti m'għandha tintervjeni jew tkun kompetenti hlief meta jiġi hekk provdut bl-imsemmi Att ta' l-1996 dwar l-Arbitraġġ.

Setgħat tal-Qorti.

31. (1) Id-dispożizzjonijiet ta' l-artikoli 2, 4, 5, 6 u 10 ta' dan l-Att ghandhom japplikaw ukoll għall-*condominia* li kienu jeżistu qabel il-bidu fis-seħh ta' dan l-Att.

Dispożizzjonijiet transitorji.

(2) Bla hsara għad-dispożizzjonijiet tas-subartikolu (1) ta' dan l-artikolu, id-dispożizzjonijiet ta' dan l-Att ghandhom japplikaw ukoll għal *condominia* li kienu jeżistu qabel il-bidu fis-seħh ta' dan l-Att kif provdut fis-subartikoli li ġejjin ta' dan l-artikolu.

(3) Bla hsara għas-subartikoli (5) u (6) ta' dan l-artikolu fejn f'*condominium* li kien jeżisti qabel id-dhul fis-seħh ta' l-Att ta' l-1995 li Jemenda l-Liġijiet dwar il-Kiri ta' Djar, u li fihom wiehed jew aktar mill-oqsma separati qabel il-bidu fis-seħh ta' dak l-Att kien sugġett għal kirja, id-dispożizzjonijiet ta' dan l-Att barra minn dawk imsemmija fis-subartikolu (1) ta' dan l-artikolu m'għandhomx japplikaw għal *condominium* kollu sakemm tissussisti l-kirja jew sakemm is-sid u l-kerrej jew id-*dominus* u l-enfitewta skond il-każ ta' kull qasam separat ma

Att XXXI ta' l-1995.

jiftehmux mod iehor b'att pubbliku li ghandu jiġi reġistrat fir-Registru Pubbliku jew fir-Registru ta' l-Art skond il-każ, fejn jiġu regolati r-relazzjonijiet bejn is-sid u l-kerrej, jew id-*dominus* u l-enfitewta skond il-każ:

Iżda kull ftehim li jirregola r-relazzjonijiet bejn is-sid u l-kerrej, jew id-*dominus* u l-enfitewta, skond il-każ, li jkun intlaħaq wara d-dhul fis-seħh ta' l-Att ta' l-1995 li Jemenda l-Liġijiet dwar il-Kiri ta' Djar, u qabel il-bidu fis-seħh ta' dan l-Att, ghandu jibqa' fis-seħh ukoll jekk dak il-ftehim ma kienx sar b'att pubbliku kif inghad u f'każ bhal dak id-dispożizzjonijiet ta' dan l-Att ikunu japplikaw għall-*condominium*.

(4) Għall-finijiet tas-subartikoli (3) u (5) ta' dan l-artikolu kirja tfisser kirja jew enfitewsi temporanja għal wiehed u għoxrin sena jew anqas, iżda ma tinkludix enfitewsi temporanja għal wiehed u għoxrin sena jew anqas li hi prorogabbli għal aktar minn wiehed u għoxrin sena.

(5) Bla ħsara għas-subartikolu (6) ta' dan l-artikolu, fil-każ ta' *condominia* li kienu jeżistu qabel il-bidu fis-seħh ta' dan l-Att u li fih il-kirjiet li għalihom ikunu sugġetti l-oqsmas ikunu kirjiet godda jew enfitewsi godda li saru wara d-dhul fis-seħh ta' l-Att ta' l-1995 li Jemenda l-Liġijiet dwar il-Kiri ta' Djar (kif definiti fid-dispożizzjonijiet applikabbli ta' dak l-Att), id-dispożizzjonijiet ta' dan l-Att għandhom japplikaw, u l-obbligi u d-drittijiet tal-*condominus* f'dan l-Att jorbtu u jiġu eżerċitati minn sid il-kera jew mill-enfitewta, sakemm ma jiġix miftiehem jew ma jkunx miftiehem mod iehor mis-sid il-kera u l-kerrej, jew id-*dominus* u l-enfitewta, b'att pubbliku li ghandu jiġi reġistrat fir-Registru Pubbliku jew fir-Registru ta' l-Artijiet skond il-każ:

Iżda kull ftehim li jirregola r-relazzjonijiet bejn is-sid u l-kerrej, jew id-*dominus* u l-enfitewta, skond il-każ, dwar l-obbligi u d-drittijiet tal-*condominus*, li jkun intlaħaq wara d-dhul fis-seħh ta' l-Att ta' l-1995 li Jemenda l-Liġijiet dwar il-Kiri ta' Djar, u qabel il-bidu fis-seħh ta' dan l-Att, ghandu jibqa' fis-seħh ukoll jekk dak il-ftehim ma kienx sar b'att pubbliku kif inghad.

(6) Id-dispożizzjonijiet ta' dan l-Att m'għandhomx japplikaw għal *condominia* li xi oqsmas separati fihom huma proprjetà tal-Gvern sakemm il-Ministru responsabbli għad-djar ma jagħmilx Ordni fil-Gazzetta fejn jgħid li ghandu japplika u Ordni bhal dak jista' jipprovdi dwar *condominia* partikolari jew kategoriji ta'

*condominia* partikolari kif ukoll ghar-relazzjonijiet bejn il-Gvern bhala sid il-kera u l-kerrejja:

Izda xejn f'dan is-subartikolu ma għandu jiftiehem li jaghti s-setgħa lill-Ministru li jagħmel xi Ordni li jkollu bhala effett li jemenda xi wahda mid-dispożizzjonijiet ta' dan l-Att.

32. Il-Ministru responsabbli għall-ġustizzja jista' jagħmel regolamenti għat-twettiq sew tad-dispożizzjonijiet ta' dan l-Att. Setgħa tal-Ministru li jagħmel regolamenti.

Mgħoddi mill-Kamra tad-Deputati fis-Seduta Nru. 166 tat-12 ta' Diċembru, 1997.

MYRIAM SPITERI DEBONO  
*Speaker*

RICHARD J. CAUCHI  
*Skrivan tal-Kamra tad-Deputati*

I assent.

(L.S.)

UGO MIFSUD BONNICI  
President

26th December, 1997

**ACT No. XXIX of 1997**

*AN ACT to regulate Condominiums*

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title and commencement.

1. This Act may be cited as the Condominium Act, 1997 and shall come into force on such date as the Minister responsible for justice may by notice in the Gazette establish and different dates may be so established for different provisions and purposes thereof.

Definition of condominium.

2. (1) Condominium is a building or group of buildings where the ownership or the use or the enjoyment of the common parts thereof is vested *pro indiviso* in two or more persons and the ownership of the various separate units in the building or group of buildings is vested *pro diviso* in the same two or more persons:

Provided that two or more tenements one or more of which overlies another and where there only exists a number of servitudes of the tenements over each other, and only the drains are owned in common, shall not be considered to be a condominium.

(2) For the purposes of this Act, a condominus means the owner of a separate unit and includes the emphyteuta or the usufructuary of such unit.

3. The provisions of section 4, subsections (2) and (3) of section 6, sections 7, 8 and 10, subsection (2) of section 11, section 15, subsection (2) of section 16, and sections 17, 18, 20, 21, 22, 23, 24 and 26 shall be observed in all cases of condominium and any agreement contrary thereto shall be without effect.

Parties may not make agreements contrary to certain provisions.

4. The provisions of Title V of Part I of BOOK SECOND of the Civil Code shall not apply to property held *pro indiviso* in the common parts of the condominium.

Non-applicability of certain provisions of the Civil Code. Cap. 16.

5. Unless otherwise resulting from the title of the owners of the separate units, or unless it is otherwise agreed by the condomini by a public deed, the common parts of a condominium are the following, even if one or more of the condomini do not make use thereof:

Common parts of a condominium.

(a) the land on which the condominium is constructed, the foundations, the external walls, including the common dividing walls with neighbouring tenements, the roofs, the shafts, the stairs, the entrance doors, the lobbies, corridors, the stairwells, the courtyards, the gardens, the airspace above the whole property and in general, all the other parts of the property which are intended for the common use;

(b) the parts used as a reception and as a common washroom and the parts used as a porter's lodge, for the central heating equipment, and for all other facilities intended for the common use; and

(c) lifts, wells, cisterns, aqueducts, sewers, drainage pipes, all installations for water, gas, electricity, heating and similar services up to where the said installations branch off to the exclusive property of each condominus, and works, installations and objects of whatever type intended for the common use or benefit.

6. (1) Unless otherwise resulting from the title, the shares in the common part shall be presumed to be divided equally between the owners of the various separate units.

Rights of condomini.

(2) A condominus cannot renounce to his rights in the common parts.

(3) A condominus cannot dispose of his rights in the common parts separately from his rights in the parts held separately *pro diviso*; nor may he dispose of his rights in the parts held separately *pro diviso* separately from his rights in the common parts.

Indivisibility of common parts.

7. No portion of the common rights may be divided or disposed of without the consent of all the condomini.

Alterations.

8. (1) The condomini may by the vote of the majority mentioned in subsection (7) of section 22 provide for the making of alterations to or innovations in the common parts which bring about an improvement or the more comfortable use or the better enjoyment of the common parts.

(2) Without prejudice to the generality of the preceding subsection of this section, the following shall be deemed to be alterations or innovations:

- (a) the widening of the entrance door;
- (b) the installation of a lift;
- (c) the installation of a hall-porter system;
- (d) the conversion of a yard into a garden or into an internal parking space.

(3) The following alterations or innovations to the common parts shall not take effect unless with the unanimous consent of all the condomini:

- (a) those which change the aesthetics and decor of the condominium; or
- (b) those which seriously affect the use or enjoyment of any common part by any of the condomini; or
- (c) those which may prejudice the stability or the security of the building.

(4) Where the airspace over a condominium is owned by one owner separately from the other condomini, he may if he builds over that airspace, extend the common parts, at his expense, to serve also the separate units constructed by him on the airspace, and his share of the expenses relating to the common parts shall, unless it is otherwise agreed, be redistributed between the owners according to the proportion that the new units are of all the separate units in the condominium.

Excessively onerous costs or decorative alterations.

9. (1) The condomini who do not intend to benefit from the alterations or innovations which are susceptible of separate use by each condominus are exempt from contributing to their costs.

(2) The provisions of subsection (1) of this section shall only apply to alterations or innovations which, having regard to the particular condition and the prestige of the condominium are decorative or where their costs are excessively onerous.

(3) In the case mentioned in subsection (1) of this section, such condomini or their particular successors in the relative units may however at any time participate in the benefits brought about by the alterations or innovations to the common parts if they contribute to the costs incurred for the execution and preservation of the said works. Such contribution shall be equivalent to what such condomini would have paid for the execution and preservation of the said works had they decided to benefit from the alterations or innovations when these were originally made. Such contribution shall be paid, through the administrator to the other condomini.

(4) If two-thirds of the units represented during a meeting decide to make alterations which are not susceptible of separate use by each condominus, all the condomini shall contribute to the costs of the said alterations in proportion to their shares in terms of subsection (1) of section 6.

**10.** No condominus may execute in his individual property works which may cause damage to the common parts.

Damage caused to common parts by works undertaken in the non-common parts.

**11.** (1) The costs necessary for the preservation, maintenance, ordinary and extraordinary repairs, for the enjoyment of the common parts, for the rendering of services in the common interest and for the alterations agreed upon by the condomini are to be divided between the condomini in proportion to the value of the property of each condominus, saving always any contrary agreement.

Apportionment of costs.

(2) Where the expenses are made with respect to anything that serves the condomini in an unequal measure, the expenses shall be apportioned in proportion to the use that each one can make.

(3) Where in a building there are various staircases, yards, roofs or other things destined to serve any one part of the whole building, the expenses for their maintenance shall be to the charge of that group of condomini that can make use of them.

(4) Unless it is otherwise agreed between them, a condominus shall have a right to demand from the tenant of his separate unit such part of the expenses referred to in subsection (1) of this section that relates to maintenance that in accordance with the provisions of the Civil Code, are at the charge of the tenant.

(5) Any condominus who feels that his share in respect of such expenses is not fair considering the value of his ownership rights in the condominium may refer the matter to arbitration.

Maintenance and repairs of ceilings.

**12.** (1) Where a ceiling is a common part and is the ceiling of a lower storey and the floor of a higher storey of a condominium, the costs incurred for the maintenance and ordinary and extraordinary repairs of such ceiling shall be borne as to one-half by the condominus of the lower storey and as to the other half by the condominus of the higher storey.

(2) The condominus of the higher storey shall bear all the costs connected with the laying of the paving of the floor.

(3) The condominus of the lower storey shall bear the costs for the painting and the decoration of the ceiling as well as for any services above the roof relating to the lower storey.

(4) Where the higher storey or the lower storey forms part of the common parts, the costs referred to in subsections (2) and (3) in respect of the storey which is a common part, shall be borne by the administrator on behalf of the condomini.

Construction of new structures on the air space above the condominium.

**13.** The condominus who has the exclusive ownership and the exclusive use of a part or the whole of the air space of the condominium may construct new structures, provided that he is not restricted from doing so in terms of his title of ownership and that such structures do not cause any damage to the stability of the building or do not affect the enjoyment by the other condomini of their rights in the condominium.

Total or partial destruction of the condominium.

**14.** (1) Unless otherwise agreed to by all the condomini or unless it is otherwise provided in the title, if a condominium is completely or substantially destroyed, any condominus may request the licitation of the entire condominium.

(2) In the case of a destruction, not being a complete or substantial one, of the condominium, the meeting shall discuss and decide on the reconstruction of the common parts.

(3) Each condominus shall be bound to reconstruct his unit, and to effect, at all times, any necessary repairs therein to maintain it in good condition.

(4) The provisions of subsections (1), (2) and (3) of this section shall apply without prejudice to any right for damages which the condominus, or the condomini, may have against another condominus or other condomini.

(5) Each condominus shall have the right to make additional insurance in respect of the part of the condominium held *pro diviso* by him.

(6) The expenses for the reconstruction and for insurance referred to in subsection (2) of this section shall be borne by the condomini in proportion to their shares in the condominium in terms of subsection (1) of section 6.

(7) Any condominus who feels that his share in respect of the expenses as determined in subsection (7) of this section is not fair considering the value of his ownership rights in the condominium may refer the matter to arbitration. Such referral shall be regulated as follows:—

(a) such referral shall be made not later than three months from the date when he is informed of the amount of his share;

(b) the administrator and the other condomini shall be made party to the proceedings; and

(c) the arbitrator shall take into consideration principally the value of the ownership rights of the condominus making the referral as a proportion to the value of the whole condominium.

15. (1) When there are more than three condomini, the meeting of the condomini shall appoint an administrator. If the meeting does not make such an appointment, the matter shall be referred to arbitration by one or more of the condomini and the administrator shall be appointed by the arbitrator. Where there are three or less condomini they shall, unless they otherwise agree, administer jointly.

Appointment and  
removal of  
administrator.

(2) Unless otherwise provided for in his appointment, the administrator shall hold office for a period of two years, provided that he shall continue in office until another administrator is appointed in terms of subsection (1) of this section.

(3) Where the administrator intends to resign his office before the expiration of the period mentioned in his appointment, he shall call a meeting to discuss the appointment of a new administrator. If during such meeting no agreement is reached as to the appointment of an administrator or such meeting is not held, the administrator may refer the matter to arbitration in accordance with the provisions, *mutatis mutandis*, of subsection (1) of this section, and a new administrator shall be appointed by the arbitrator.

(4) Apart from the case provided for in paragraph (a) of subsection (7) of section 22, any one or more of the condomini may refer the matter of the revocation of the appointment of an administrator to arbitration requesting such revocation on the grounds that the administrator has not rendered his accounts, on the grounds that there are reasonable suspicions of serious irregularities on the part of the administrator or on the grounds that there are serious failures by the administrator in the performance of his duties.

(5) The Land Registrar shall keep a register of all appointments and charges of administrators.

(6) The administrator shall notify the said Land Registrar of his appointment and eventual change within fifteen days from such appointment or change.

(7) Any condominus may notify the Land Registrar of any appointment, removal or change of the administrator.

(8) The register shall be accessible to any person wishing to see it.

(9) The fees due to the administrator shall be determined by the meeting of the condomini.

Functions of the administrator.

**16.** (1) The functions of the administrator shall include the following:

(a) to execute the decisions of the meeting of the condomini and to ensure the observance of the rules regulating the condominium;

(b) to regulate the use of the common parts and the performance of services in the common interest, in such a way that all the condomini are assured the maximum benefit possible;

(c) to apportion the costs in terms of subsection (1) of section 11, to collect the contributions from the condomini and, subject to the approval of the meeting, to set up and maintain a floating fund to which the condomini shall contribute their share;

(d) to perform such acts as are necessary for the preservation and protection of the common parts;

(e) to render accounts to the condomini at such intervals as the meeting shall decide or as may be established in the rules regulating the condominium;

(f) to claim or receive monies or interest;

(g) to take the necessary steps to have in force an adequate insurance of the condominium; and

(h) to perform such other acts which are ancillary or conducive to the proper management of the condominium.

(2) In addition to the register kept in terms of subsection (1) of section 22, the administrator shall keep registers containing:—

(a) the minutes of all the meetings;

(b) a record of the posting of notices sent to the condomini and their representatives; and

(c) a copy of all notices, decisions and directives affixed on the notice board in terms of subsection (5) of section 22 with the relative dates of their affixing.

(3) On termination of his appointment, the administrator shall hand over the said registers to the new administrator.

**17.** (1) In matters relating to the common parts of the condominium, the administrator has the representation of all the condomini and has also the judicial and legal capacity to sue the condomini or third parties and to be sued. Representation.

(2) The administrator may be sued with regard to any matter concerning the common parts. He shall also be served with any order made by any authority on matters which concern the common parts.

(3) If the writ of summons, judicial act or order relates to a matter which though related to the condominium goes beyond the functions of an administrator, the administrator shall be bound to inform without delay the condomini and to convene a meeting to discuss the matter.

(4) The administrator who does not fulfil such duty shall be responsible in damages.

**18.** (1) When the meeting decides to institute litigation or to oppose any judicial demand, any dissentient condominus may notify his dissent by means of a judicial letter to be served on the administrator. The judicial letter shall be filed within six days form the date on which the notice of such decision is affixed in terms of subsection (5) of section 22. Dissent of a condominus with regard to litigation.

(2) The dissentient condominium shall have the right to be indemnified against costs incurred or damages suffered as a result of such litigation.

(3) The dissentient condominium who may have derived a benefit from the litigation which was decided in the condomini's favour, shall be bound to contribute to the expenses of the litigation proceedings.

Measures taken by the administrator.

**19.** (1) The measures taken by the administrator which fall within his functions bind all the condomini.

(2) Any condominium may appeal to the meeting against any measure taken by the administrator.

(3) The right granted under subsection (2) of this section is without prejudice to any right to refer the matter to arbitration.

Costs incurred by a condominium.

**20.** A condominium who incurs costs without having been authorised in writing to incur those costs by the administrator or by the meeting does not have a right to be reimbursed for the said costs, unless they were of an urgent nature. Where no agreement is reached on whether the costs were of an urgent nature the matter shall be referred to arbitration.

Functions of the meeting.

**21.** In addition to the functions conferred by the preceding provisions of this Act, the meeting of the condomini which is to be held at least once annually shall have the following functions:

(a) to appoint or to confirm the administrator and to determine any remuneration that may be due;

(b) to approve the estimates of expenditure to be incurred during the year;

(c) to approve the accounts prepared by the administrator and to determine how any residual assets accruing from the management of the common parts shall be utilised or invested;

(d) to approve the execution of extraordinary repairs and, if need be, to create a special fund for such repairs.

Procedure concerning general meetings.

**22.** (1) The administrator shall keep a register of all the condomini with the postal address as indicated by each condominium.

(2) A condominium may indicate to the administrator the name and address of a representative who, on being entered into the

register of the condomini mentioned in subsection (1) of this section, shall be the person to whom any notice is to be served by the administrator.

(3) In addition to the provisions of subsection (5) of this section, any notice which the administrator is bound to give shall be presumed to have been validly given if such notice is sent by registered mail to the condominus, or his representative mentioned in the preceding subsections of this section, at the address shown in the register and such notice shall, for all interests and purposes of law, be considered to have been served three days after posting if the address is in Malta and seven days after posting if the address is overseas:

Provided that no notice shall be required in respect of a condominus who does not indicate his postal address so that of his representative according to the provisions of the preceding subsections of this section:

Provided further that the administrator may, instead of sending the said notice by registered mail, send it by facsimile transmission or by any other electronic means in which case the notice shall be considered to have been served the day after it has been so transmitted.

(4) No meeting shall be held before the expiry of seven days from the service of the notice in terms of subsection (3) of this section and from the affixing of the notice in terms of subsection (5) of this section.

(5) The administrator shall ensure that a notice board is fixed in a prominent common part of the condominium and shall affix on such board the notices of all meetings, all the decisions taken during the said meetings as well as any decision or directive which he deems to be of such importance that requires that they be brought to the notice of the condomini.

(6) The quorum for a meeting shall be a number of condomini representing two-thirds of the units. If within half an hour from the time appointed for the meeting a quorum is not present, it shall stand adjourned to the same day in the next week at the same time and place or to such other day and at such other time and place as the administrator may indicate beforehand in the notice convening the meeting; and if at the adjourned meeting a quorum is not present within half an hour from the appointed time the condominus or condomini present or represented in that meeting shall be a quorum.

(7) Decisions which concern:—

(a) the removal of the administrator; or

(b) any judicial proceedings the subject-matter of which falls outside the functions of the administrator; or

(c) the undertaking of extraordinary repairs; or

(d) the making of alterations to the common parts mentioned in subsection (1) of section 8; or

(e) the approval or amendment of the rules mentioned in section 24,

shall be valid if approved by a number of condomini representing not less than two-thirds of the units represented during the meeting.

(8) All other decisions shall be valid if approved by a simple majority of the units represented during the meeting.

(9) Decisions taken at a meeting in terms of this section shall be binding on all the condomini.

(10) Where a unit is owned by more than one condominus, the condomini owning that unit shall indicate to the administrator the name and address of the person who shall represent that unit during a meeting. Such representative shall continue to represent the condomini jointly owning the same unit until such time as the condomini agree to substitute the representative and inform the administrator accordingly.

(11) In the case of disagreement with regard to the appointment or substitution of a representative, any condominus may by application request the Civil Court, Second Hall, to appoint a curator even from among the condomini themselves to represent all the condomini owning a particular unit in a condominium with regard to all matters regulated by this Act. The Civil Court, Second Hall, shall give effect to the opinion of the majority regard being had to the total number of condomini unless any dissentient condominus shows to the satisfaction of the court that he has good ground for his objection. The registrar shall notify the administrator of the appointed representative giving the particulars mentioned in subsection (10) of this section. No appeal shall lie from the decision of the said court.

(12) Without prejudice to the internal relationship of the co-owners of a unit, the representative appointed under subsections (10) and (11) of this section shall be responsible towards the administrator for all the obligations of the unit.

(13) A condominus may be represented during a meeting by a proxy who during the meeting shall have the same rights and obligations as the condominus represented by him. The condominus shall appoint a proxy by means of a written instrument.

(14) The meeting shall be chaired by the administrator. In his absence, any condominus as decided at the beginning of the meeting shall chair the meeting. The chairman of the meeting shall have, in the case of a tie, a casting vote:

Provided that if the administrator is not a condominus, he shall have no original vote but only a casting vote in the case of a tie.

**23.** (1) Any condominus who disagrees with a decision of the meeting on the grounds that the decision is contrary to law or to the regulations of the condominium or is unreasonable or oppressive may refer the matter to arbitration. Impugning the decisions of the meeting.

(2) The reference of a matter to arbitration in accordance with subsection (1) of this section shall be made by the dissentient condominus within 30 days from the date the decision of the meeting is notified to him in accordance with the provisions of subsection (3) of section 22:

Provided that where the first proviso to subsection (3) of section 22 applies, the period of thirty days shall commence to run from the date the decision is affixed on the notice board in terms of subsection (5) of the said section 22.

(3) If the arbitrator finds for the dissentient condominus, he may annul or amend the decision.

**24.** (1) A set of rules may be drawn up to regulate the use of the common parts and the apportionment of the expenses incurred in connection with the common parts. The rules may also include rules for the preservation of the condominium's decor and those concerning its administration. Regulation of condominium.

(2) Each condominus may take the initiative to prepare the rules concerning the condominium or for the revision of any existing rules, which rules shall be submitted to a meeting of the condomini for their approval in accordance with subsection (3) of this section.

(3) The rules concerning condominium shall be approved during a meeting of the condomini by the majority of the condomini established in subsection (7) of section 22 and shall be registered with

the Land Registrar by the administrator or, where there is no administrator, by the condomini jointly or by a person delegated by them. Any amendments made to such rules shall also be registered as aforesaid.

(4) The Land Registrar shall retain and register any document which is required to be delivered to him for the purpose of registration under any of the provisions of this Act.

(5) Any person may –

- (a) inspect the documents kept by the Land Registrar;
- and
- (b) require a copy or extract of any document delivered to the Land Registrar.

(6) Where any rules concerning a condominium or amendments made thereto are registered in terms of subsection (3) of this section, the Land Registrar shall cause without delay a statement to be published in the Government Gazette showing the date at which the registration was made.

(7) Any dissentient condominus may challenge the said rules or part thereof on the grounds that they are contrary to law, or unreasonable, or oppressive, and may refer the matter of such challenge to arbitration.

(8) These rules shall in no way decrease the rights of the condomini emanating from the title of ownership and from any agreement validly entered into, and in no case shall they derogate from the provisions of subsection (3) of section 6 and of sections 7, 8, 15, 17, 18, 22 and 23.

Where no rules are made or approved by the meeting.

**25.** Where no rules have been made or approved in terms of section 24, any condominus may propose a set of rules to regulate the condominium and if the same are not accepted by the other condomini, the matter of the adoption of such rules shall be referred to arbitration, and the arbitrator shall determine whether such rules shall be adopted with or without amendment.

Arbitration.

**26.** In any dispute that in accordance with this Act is to be or may be referred to arbitration, the parties to the dispute shall be deemed to have agreed to submit the matter to arbitration in accordance with Part IV of the Arbitration Act, 1996, to be determined in accordance with Maltese Law by a sole arbitrator to be appointed by the Chairman of the Malta Arbitration Centre.

Act II of 1996.

27. For the purpose of arbitrations referred to in section 26 of this Act:

Special rules governing arbitrations under this Act.

(a) subsection (2) of section 14 and subsection (7) of section 15 of the Arbitration Act, 1996, and any provision of the said Act inconsistent with the provisions of this Act, shall not apply;

(b) the Malta Arbitration Centre set up in accordance with the said Act:

(i) shall appoint a domestic arbitration panel on matters related to this Act, and the sole arbitrator in connection with any arbitration under this Act shall, unless all the members of the panel are successfully challenged or have otherwise withdrawn, be appointed from among the members of the said panel; and

(ii) may make special rules of procedure, not inconsistent with the rules of natural justice, to govern arbitrations referred to in section 26 of this Act. Such rules may depart from any or all of the provisions of Part IV of the Arbitration Act, 1996.

28. The licitation of a condominium, referred to in subsection (1) of section 14 of this Act, shall, unless the condomini do not otherwise agree, be conducted under the authority and with the approval of a sole arbitrator appointed as provided in section 27, who must take into consideration the interests of all concerned and see that no one is prejudiced. The sale shall, in the absence of special rules of procedure as envisaged in section 27, be regulated by the arbitrator.

Licitation.

29. If during the hearing of any arbitration the arbitrator finds that the referral is vexatious, he may order the offending party to pay to the other parties a penalty not exceeding fifty liri. The same penalty may be imposed by the arbitrator on the other party where the action that has given rise to the application is vexatious.

Vexatious arbitrations.

30. Saving the provisions of Part VI of the Arbitration Act, 1996, in matters which in accordance with this Act may be or are to be referred to arbitration, no court shall intervene or have jurisdiction except where so provided by the said Arbitration Act, 1996.

Powers of the Court.

31. (1) The provisions of sections 2, 4, 5, 6 and 10 of this Act shall apply also to condominiums existing before the coming into force of this Act.

Transitory provisions.

(2) Without prejudice to the provisions of subsection (1) of this section, the provisions of this Act shall apply also to condominiums existing before the coming into force of this Act as provided in the following subsections of this section.

(3) Without prejudice to the provisions of subsections (5) and (6) of this section, where in a condominium existing before the coming into force of the Housing Laws Amendment Act, 1995 and in which one or more of the separate units was before the coming into force of that Act subject to a lease, the provisions of this Act, other than the provisions referred to in subsection (1) of this section shall not apply to the whole condominium for as long as the lease subsists or until the landlord and the tenant or the dominus and the emphyteuta as the case may be, do not otherwise agree by a public deed, to be registered in the Public Registry or the Land Registry as the case may be, wherein the relationship between the landlord and the tenant, or the dominus and the emphyteuta, as the case may be, are regulated:

Provided that any agreement regulating the relationship between the landlord and tenant, or the dominus and the emphyteuta, as the case may be, entered into after the coming into force of the Housing Laws Amendment Act, 1995 and before the coming into force of this Act shall continue to have effect even if such agreement was not made by a public deed as aforesaid and in such a case the provisions of this Act shall apply to the condominium.

(4) For the purpose of subsections (3) and (5) of this section, a lease means a letting or a temporary emphyteusis for a period of twenty one years or less, but does not include an emphyteusis of twenty one years or less which is extendible to more than twenty one years.

(5) Without prejudice to the provisions of subsection (6) of this section, in the case of condominiums existing before the coming into force of this Act and in which the lease to which the separate units were subject were new lettings or new emphyteusis entered into after the coming into force of the Housing Laws Amendment Act, 1995 (as defined in the applicable provisions of that Act), the provisions of this Act shall apply and the obligations and rights of a condominium in this Act shall be incumbent on and shall be exercisable by the landlord or the emphyteuta, unless it is not otherwise agreed by the landlord and the tenant or the dominus and the emphyteuta, by a public deed which is to be registered in the Public Registry or the Land Registry as the case may be:

Provided that any agreement regulating the relationship between the landlord and the tenant or the dominus and the emphyteuta,

as the case may be, with respect to the obligations and rights of a condominus, entered into after the coming into force of the Housing Laws Amendment Act, 1995 and before the coming into force of this Act shall continue to have affect even if such agreement was not made by a public deed as aforesaid.

(6) The provisions of this Act shall not apply to condominia where any of the separate units are Government property, until the Minister responsible for housing makes an Order stating that they shall be so applicable, and such an Order may provide for particular condominia or categories of condominia and also for the relations between the Government as a landlord and the tenants:

Provided that nothing in this subsection shall be understood as authorising the Minister to make an Order having the effect of amending any of the provisions of this Act.

**32.** The Minister responsible for justice may make regulations for the better carrying out of the provisions of this Act.

Power of Minister  
to make regulations.

Passed by the House of Representatives at Sitting No. 166 of the 12th December, 1997.

MYRIAM SPITERI DEBONO  
*Speaker*

RICHARD J. CAUCHI  
*Clerk to the House of Representatives*