

## **Nru. 18**

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### **MALTA**

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**KAMRA TAD-DEPUTATI**

**HOUSE OF REPRESENTATIVES**

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**ABBOZZ ta' Ligi mressaq mill-Onorevoli Tonio Borg, M.P., Ministru ta' l-Intern, u moqri ghall-Ewwel darba fis-Seduta tat-18 ta' Jannar, 1999.**

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**A BILL introduced by the Honourable Tonio Borg, M.P., Minister for Home Affairs, and read the First time at the Sitting of the 18th January, 1999.**

**ATT biex jemenda l-Att dwar it-Trasferiment ta' Artijiet tal-Gvern, Kap. 268.**

**AN ACT to amend the Disposal of Government Land Act, Cap. 268.**

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

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

## ABBOZZ TA' LIĠI msejjah

*ATT biex jemenda l-Att dwar it-Trasferiment ta' Artijiet tal-Gvern, Kap. 268.*

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

1. Dan l-Att jista' jissejjah l-Att ta' l-1999 li jemenda l-Att dwar it-Trasferiment ta' Artijiet tal-Gvern, u għandu jinqara u jiftiehem haġa waħda ma' l-Att dwar it-Trasferiment ta' Artijiet tal-Gvern, hawnhekk iżjed 'il quddiem imsejjah "l-Att prinċipali".

Titolu fil-qosor.

Kap. 268.

2. Minflok it-tifsira ta' "trasferiment" fl-artikolu 2 ta' l-Att prinċipali għandu jidhol dan li ġej:

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

““trasferiment” tfisser it-trasferiment jew l-ghoti ta' xi art bi kwalunkwe titolu jkun li jkun, maghduda, iżda bla hsara għall-generalita` ta' dak li ntqal qabel:-

(a) kull kirja jew *encroachment* jew jedd iehor ta' użu kif ukoll l-ghoti ta' kull jedd reali jew personali f'xi art jew fuqha;

(b) it-tigdid ta' kull jedd reali jew personali f'xi art jew fuqha, sew jekk taċitu jew espress b'pattijiet u b'kondizzjonijiet godda (b'dan illi żieda fil-kera, fiċ-ċens jew fil-kumpens għall-użu m'għandhiex titqies bhala kondizzjoni ġdida), iżda inkluż kull tigdid ta' kull jedd reali jew personali f'xi art jew fuqha, oriġinarjament magħmul b'mod konformi

ma' rizzoluzzjoni speċjali tal-Kamra tad-Deputati, ukoll meta dan isir bl-istess pattijiet u kondizzjonijiet;

(ċ) kull bidla ta' kull kondizzjoni inkluża fit-trasferiment ta' xi art li ma tkunx art trasferita mill-Awtorità tad-Djar jew mill-Gvern ghal finijiet ta' abitazzjoni, sakemm l-art tibqa' sugġetta għall-kondizzjoni li tintuża ghal finijiet ta' abitazzjoni, jew art li tiġi trasferita minn Kunsill Lokali mwaqqaf taht l-Att ta' l-1993 dwar Kunsilli Lokali:

Att XV ta' l-1993.

Iżda t-trasferiment ta' art li tkun giet akkwistata b'titolu li jkun taht id-dispożizzjonijiet ta' l-Ordinanza dwar l-Akkwist ta' Artijiet ghal Skopijiet Pubbliċi, meta dik l-art ma tkunx ghadha mehtieġa ghal skop pubbliku, lill-persuna li dik l-art tkun giet hekk akkwistata minghandha, jew lill-eredi fit-titolu tagħha, m'għandux jikkostitwixxi trasferiment għall-finijiet ta' dan l-Att meta t-trasferiment lura jsir għall-korrispettiv (inklużi danni) mhallas mill-Gvern ma' l-akkwist flimkien mal-imghax bir-rata ta' hamsa fil-mija fis-sena mid-data tal-pagament sad-data tat-trasferiment lura lil dawk il-persuni meta dik l-art tkun giet akkwistata mill-Gvern b'titolu ta' pussess assolut, u meta l-art tkun qeghda ghand il-Gvern b'titolu ta' Dominju Pubbliku jew ta' Pussess u Użu, it-trasferiment lura jkun sugġett biss għall-waqfien tal-pagament ta' kull sena tal-kera ta' ri-konoxximent jew tal-kera ta' akkwist relattiv skond il-kaz.”.

Kap. 88.

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

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

“Art tal-Gvern titneħha skond dan l-Att.

3. (1) Ebda art li tkun proprjetà tal-Gvern jew li hi amministrata minnu ma tista' tiġi trasferita kemm-il darba dak it-trasferiment ma jsirx skond xi wahda mid-dispożizzjonijiet li ġejjin, jiġifieri -

(a) wara sejha ghal offerti imxandra fil-Gazzetta dwar il-proprjetà li tkun se tiġi trasferita; jew

(b) skond *policy* applikabbli għall-art li jkun hemm il-hsieb li tiġi ttrasferita u approvata b' rizzoluzzjoni tal-Kamra tad-Deputati li tkun fis-seħh fil-waqt tat-trasferiment; jew

(ċ) skond rizzoluzzjoni speċjali tal-Kamra tad-Deputati li tkun fis-seħh fil-waqt tat-trasferiment; jew

(d) lil enti morali imwaqqaf b'liġi għall-ghanijiet ta' xi funzjoni ta' dak il-korp:

Izda kull art trasferita lil enti morali, minbarra l-Awtorità tad-Djar jew xi Kunsill Lokali mwaqqaf taht l-Att ta' l-1993 dwar Kunsilli Lokali skond dan is-subparagrafu (maghdud trasferiment li jsirlu minn enti morali iehor kif awtorizzat b'dan il-proviso) ma tistax minghajr l-approvazzjoni tal-Kamra tad-Deputati moghtija b'rizoluzzjoni, jew skond dan is-subartikolu, tiġi trasferita minn ebda enti morali, minbarra l-Awtorità tad-Djar jew xi Kunsill Lokali kif hawn aktar qabel imsemmi, hlief favur il-Gvern jew xi enti morali iehor imwaqqaf b'ligi; jew

(e) skond xi ligi ohra li ghal dak iż-żmien tkun fis-sehh.

(2) Rizoluzzjoni tal-Kamra tad-Deputati mgħoddija għall-finijiet tas-subartikolu (1) tibqa' fis-sehh -

(i) jekk tittiehed għall-finijiet tal-paragrafu (b) tieghu, għal żmien tlett snin mid-data li tghaddi; u

(ii) jekk tittiehed għall-finijiet tal-paragrafu (ċ) jew tal-paragrafu (d) tieghu, għal żmien sena mill-ġurnata li fiha tghaddi:

izda kull rizoluzzjoni bhal dik tista' tiġgedded b'rizoluzzjoni jew b'rizoluzzjonijiet ohra li jsiru wara għal perijodu iehor jew għal perijodi ohra ta' tlett snin jew ta' sena rispettivament jew għal dak il-perijodu l-iehor, li ma jkunx ta' iżjed minn tlett snin jew ta' sena rispettivament, li jista' jiġi speċifikat fir-risoluzzjoni.

(3) Trasferiment ta' art li għaliha japplika s-subartikolu (1), li jsir skond id-dispożizzjonijiet ta' dan l-artikolu ma jkun jehtieg ebda awtorità jew sanzjoni ohra.

(4) Qabel jinghata avviż ta' mozzjoni li tkun proposta ta' rizoluzzjoni bhal dik imsemmija fil-paragrafu (ċ) tas-subartikolu (1) ta' dan l-artikolu lill-*Speaker*, il-Ministru responsabbli għall-Artijiet għandu jara li dik il-mozzjoni għandha tintbagħat quddiem il-Kumitat tal-Kontijiet dwar l-Uffiċċju Nazzjonali tal-Verifika taht it-Taqsima IV tat-Tieni Skeda li tinsab ma' l-Att ta' l-1997 dwar l-Awditur Generali u l-Uffiċċju Nazzjonali tal-Verifika, u ebda avviż ta' mozzjoni kif imsemmi hawn aktar qabel ma jkun jista' jinghata qabel ma dak il-kumitat ikun għamel diskussjoni dwar il-mozzjoni u rrapporta dwarha lill-Kamra.

(5) Mhux aktar tard minn hmistax-il ġurnata wara li l-Ministru responsabbli għall-Artijiet ikun ġieghel li avviż kif hemm imsemmi fis-subartikolu (4) ta' dan l-artikolu għandu jintbagħat lill-Kumitat tal-Kontijiet dwar l-Uffiċċju Nazzjonali tal-Verifika, dan għandu jiltaqa' sabiex jiddiskuti l-abbozz ta' l-att jew ta' l-iskrittura jew ta' l-avviż, skond il-każ, u dan għandu mhux aktar tard minn xahar wara li l-imsemmi abbozz ta' att jew ta' skrittura jew ta' avviż, skond il-każ, ikun intbagħat lilu, jagħmel rapport dwaru lill-Kamra:

Izda fejn dak il-Kumitat ma jagħmilx rapport lill-Kamra, b'mod definittiv, fi żmien l-imsemmi perjodu ta' xahar, il-Ministru jista' jipproċedi billi jagħti avviż lill-*Speaker* li jipproponi riżoluzzjoni kif imsemmija fis-subartikolu (1) ta' dan l-artikolu.

(6) Meta r-rapport tal-Kumitat tal-Kontijiet dwar l-Uffiċċju Nazzjonali tal-Verifika fuq xi mozzjoni jkun wiehed unanimu, il-Kamra għandha tghaddi biex tivvota fuq dik il-mozzjoni u fuq kull emenda li tiġi proposta f'dak ir-rapport mingħajr ebda dibattitu.”.

4. L-artikolu 6 ta' l-Att ta' l-1997 dwar l-Awditur Ġenerali u l-Uffiċċju Nazzjonali tal-Verifika għandu jiġi emendat kif ġej:-

(a) id-dispożizzjoni kif inhi għandha tiġi enumerata mill-ġdid bħala s-subartikolu (1) ta' l-artikolu; u

(b) minnufih wara s-subartikolu (1) tiegħu kif enumerat mill-ġdid għandu jiżdied dan is-subartikolu li ġej:-

“(2) Il-Kumitat tal-Kontijiet dwar l-Uffiċċju Nazzjonali tal-Verifika mwaqqaf taht it-Taqsima IV tat-Tieni Skeda li tinsab ma' dan l-Att għandu jkollu s-setgħat u l-funzjonijiet stabbiliti fl-imsemmija Tieni Skeda kif ukoll dawk is-setgħat u funzjonijiet ohra kollha li jistgħu jiġu lilu assenjati b'kull liġi ohra li tkun.”.

5. (1) Kull riżoluzzjoni magħmula skond il-paragrafu (b), (ċ) jew (d) tas-subartikolu (1) ta' l-artikolu 3 ta' l-Att prinċipali kif fis-sehh qabel id-dhul fis-sehh ta' dan l-Att, sew jekk oriġinali jew imġedda għal xi perijodu, għandha tibqa' ssehh jew għandha titqies bħala li baqghet issehh, skond il-każ, bhallikieku dawk ir-riżoluzzjonijiet saru

Emenda  
konsegwenzjali  
għall-Att ta'  
l-1997 dwar l-  
Awditur Ġenerali u  
l-Uffiċċju  
Nazzjonali  
tal-Verifika.  
Att XVI ta' l-1997.

Dispożizzjonijiet  
transitorji.

skond is-subartikolu (1) ta' l-artikolu 3 ta' l-Att prinċipali kif emendat b'dan l-Att, u dawn ghandhom jibqghu isehhu jew jitqiesu li baqghu isehhu, skond il-każ, daqslikienu kienu saru skond l-imsemmi subartikolu (1) ta' l-artikolu 3 ta' l-Att prinċipali kif emendat b'dan l-Att, u kull trasferiment magħmul skond xi riżoluzzjoni bhal dik, sew jekk originali sew jekk imġedded għal xi perijodu, ikun wiehed validu.

(2) Id-dispożizzjonijiet ta' l-Att prinċipali ma ghandhomx japplikaw, u ghandhom jitqiesu li qatt ma applikaw, fir-rigward ta' trasferimenti magħmula mill-Uffiċċju Kongunt bejn it-23 ta' Lulju, 1997, u l-31 ta' Lulju, 1998.

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### **Ghanijiet u Raġunijiet**

L-ghan ta' l-Abbozz hu sabiex iżid il-kontroll li ghandha l-Kamra tad-Deputati, u sabiex hekk toktor it-trasparenza f'dak li hu t-trasferiment ta' art tal-Gvern. L-Abbozz jipprovdi wkoll għat-trasferiment lura lis-sidien originali ta' art li tkun ġiet akkwistata taht l-Ordinanza dwar l-Akkwist ta' Artijiet għal Skopijiet Pubbliċi, meta din ma tkunx aktar mehtieġa għal skopijiet pubbliċi.

**A BILL  
entitled**

*AN ACT to amend the Disposal of Government Land Act, Cap. 268.*

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

Short title.

1. This Act may be cited as the Disposal of Government Land (Amendment) Act, 1999, and shall be read and construed as one with the Disposal of Government Land Act, hereinafter referred to as "the principal Act".

Cap. 268.

Amendment of  
section 2 of the  
principal Act.

2. For the definition of "disposal" in section 2 of the principal Act, there shall be substituted the following:

"disposal" means the transfer or grant of any land under any title whatsoever, including, but without prejudice to the generality of the aforesaid:-

(a) any lease or encroachment or other right of use as well as any grant of any real or personal right in or over any land;

(b) a renewal of any real or personal right in or over any land, whether tacit or expressed on new terms and conditions (provided that an increase in rent, ground rent or compensation for use shall not be deemed to be a new condition), but including a renewal of any real or personal right in or over any land originally made in pursuance of a

special resolution of the House of Representatives, even when made on the same terms and conditions;

(c) any change of any condition included in the disposal of any land other than land disposed of by the Housing Authority or by the Government for housing purposes, as long as the land remains subject to the condition that it be used for housing purposes, or land disposed of by a Local Council established under the Local Councils Act, 1993;

Act XV of 1993.

Provided that the transfer of any land acquired under any title under the provisions of the Land Acquisition (Public Purposes) Ordinance, where such land is no longer required for a public purpose, to the person from whom such land was so acquired, or to his successors in title, shall not constitute a disposal for the purposes of this Act where the transfer back is made for the consideration (including damages) paid by the Government on the acquisition together with interests at five per centum per annum from the date of the payment up to the date of the transfer back to such persons where such land was acquired by the Government under absolute ownership, and where the land is held by Government on Public Tenure or Possession and Use, the transfer back is made subject only to the cessation of the annual payment of the relative recognition rent or acquisition rent as the case may be.”

Cap.88.

3. For section 3 of the principal Act, there shall be substituted the following:

Substitution of section 3 of the principal Act.

“Government land to be disposed of in terms of this Act.

3. (1) No land which belongs to or is administered by the Government shall be disposed of unless such disposal is made in accordance with one of the following provisions, that is to say -

(a) after a call for tenders published in the Gazette in respect of the property proposed to be disposed of; or

(b) in accordance with a policy applicable to the land proposed to be disposed of and approved by a resolution of the House of Representatives which is in force at the time of the disposal; or

(c) in accordance with a special resolution of the House of Representatives which is in force at the time of the disposal; or

(d) to a body corporate established by law for the purposes of any function of such body:



Provided that any land disposed of to a body corporate, other than the Housing Authority, under this subparagraph (including a disposal made to it by another body corporate as authorised by this proviso) shall not without the approval of the House of Representatives expressed in a resolution, or in accordance with this subsection, be disposed of by any body corporate, other than the Housing Authority, except in favour of the Government or of another body corporate established by law; or

(e) in accordance with any other law for the time being in force.

(2) A resolution of the House of Representatives passed for the purposes of subsection (1) shall continue in force -

(i) if taken for the purposes of paragraph (b) thereof, for a period of three years from the date it is passed; and

(ii) if taken for the purposes of paragraph (c) or paragraph (d) thereof, for a period of one year from the day it is passed;

but any such resolution may be renewed by a subsequent resolution or resolutions for a further period or for further periods of three years or one year respectively or for such other period, being of not more than three years or one year respectively, as may be specified in the resolution.

(3) A disposal of land to which subsection (1) applies, made in accordance with the provisions of this section shall not require any further authority or sanction.

(4) Before notice of a motion proposing a resolution as is referred to in paragraph (c) of sub-section (1) of this section, is given to the Speaker, the Minister responsible for Lands shall cause such motion to be referred to the National Audit Office Accounts Committee established under Part IV of the Second Schedule to the Auditor General and National Audit Office Act 1997, and no notice of a motion as aforesaid may be given before the said committee shall have discussed the motion and reported thereon to the House.

(5) Not later than fifteen days after the Minister responsible for Lands shall have caused a notice as is referred to in sub-section (4) hereof to be referred to it, the National Audit Office Accounts Committee shall meet to discuss the draft deed or writing or notice, as the case may be, and shall not later than one month after the said draft deed or writing or notice, as the case may be, has been referred to it, report thereon to the House:

Provided that where the said Committee fails to report to the House in a final manner within the said period of one month, the Minister may proceed to give notice to the Speaker proposing a resolution as is referred to in subsection (1) of this section.

(6) Where the report of the National Audit Office Accounts Committee on a motion is unanimous, the House shall proceed to vote on such motion and on any amendments proposed in the said report without debate.”.

4. Section 6 of the Auditor General and National Audit Office Act 1997 shall be amended as follows:

Consequential amendment to the Auditor General and National Audit Office. Act XVI of 1997.

(a) The present provision shall be renumbered as sub-section (1) thereof; and

(b) immediately after sub-section (1) thereof as renumbered there shall be added the following sub-section:

“(2) The National Audit Office Accounts Committee established under Part IV of the Second Schedule to this Act shall have the powers and functions as set out in the said Second Schedule as well as such other powers and functions as may be assigned to it by any other law.”.

5. (1) Any resolution made in accordance with paragraph (b), (c) or (d) of subsection (1) of section 3 of the principal Act as in force before the coming into force of this Act, whether original or renewed for any period, shall continue in force or shall be deemed to have remained in force, as the case may be, as if such resolutions were made in accordance with subsection (1) of section 3 of the principal Act as amended by this Act, and shall continue in force or be deemed to have remained in force, as the case may be, as if they had been made under the said subsection (1) of section 3 of the principal Act as amended by this Act. And any transfer made in accordance with any such resolution, whether original or renewed for any period, shall be valid.

Transitory provisions.

(2) The provisions of the principal Act shall not apply, and shall be deemed to have never applied, to transfers made by the Joint Office between the 23rd July, 1997, and the 31st July, 1998.

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### **Objects and Reasons**

The main object of the Bill is to further increase the control of the House of Representatives, and thus transparency, in connection with disposals of Government land. The bill also provides for the transfer back to the original owners of land acquired under the Land Acquisition (Public Purposes) Ordinance where this is no longer required for public purposes.