

MALTA

ATT Nru. X ta' l-1983

ATT maħruġ b'liġi mill-Parlament ta' Malta.

ATT biex jipprovdi biex jiġu vestiti fil-Gvern ċerti jeddijiet immobbli akkwistati minn xi Knisja jew Istituzzjoni oħra Pija jew Reliġjuża skond il-liġi tal-preskrizzjoni jew skond kondizzjoni biex dik il-proprjetà tintuża għal għan partikolari u biex jirregola legati Piji, xi piżijiet Piji, donazzjonijiet, fondazzjonijiet jew depożiti għaċ-ċelebrazzjoni ta' Quddies.

Act No. X of 1983

AN ACT enacted by the Parliament of Malta.

AN ACT to make provision for the vesting in the Government of certain rights over immovable property acquired by any Church or other Pious or Religious Institution pursuant to the law of prescription or under a condition to use such property for a particular purpose and to regulate certain Pious legacies, Pious burthens, donations, foundations or trusts for the celebration of Masses.

Nagħti l-kunsens tiegħi.

(L.S.)

AGATHA BARBARA
President

1 ta' Lulju, 1983

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

Titolu fil-qosor
u bidu fis-sehħ.

1. (1) Dan l-Att jista' jissejjah l-Att ta' l-1983 dwar id-Devoluzzjoni ta' Ċerta Proprjetà ta' Knejjes.

(2) Dan l-Att għandu jibda jsehħ f'dik id-data li l-Ministru responsabbli għall-artijiet jista' jstabbilixxi b'avviż fil-Gazzetta u dati differenti jistgħu jiġu hekk stabbiliti għal dispożizzjonijiet differenti jew għal għanijiet differenti ta' dan l-Att.

Jeddijiet fuq
proprjetà
immobbli
akkwistati minn
Entità
Ekklesjastika
bi preskrizzjoni
huma vestiti
fil-Gvern.

Kap. 23

2. (1) Kull jedd fi jew fuq xi proprjetà immobbli vestit f'xi Knisja jew Istituzzjoni oħra Pija jew Reliġjuża fil-jum li fih jibda jsehħ dan l-Att, li jkun jedd akkwistat minn dik il-Knisja jew Istituzzjoni oħra Pija jew Reliġjuża, hawnhekk iżjed 'il quddiem imsejha "Entitajiet Ekklesjastiċi" skond id-dispożizzjonijiet tat-Titlu XXV tat-Taqsima II tat-Tieni Ktieb tal-Kodiċi Ċivili dwar il-Preskrizzjoni, jew skond xi liġi oħra bhala li kienet fis-sehħ fiż-żmien ta' dak l-akkwist qabel il-promulgazzjoni ta' dak il-Kodiċi, għandu, bis-saħħa ta' dan l-Att, jiġi vestit fil-Gvern b'effett mill-bidu fis-sehħ ta' dan l-Att:

Iżda dan l-artikolu m'għandux japplika għal xi proprjetà immobbli maħsuba għal servizz bhala knisja jew kappella u li tkun hekk użata fid-data tal-bidu fis-sehħ ta' dan l-Att:

Iżda wkoll dan l-artikolu għandu wkoll japplika meta l-jedd hekk akkwistat mill-Entitajiet Ekklesjastiċi jkun ġie trasferit lil xi persuna wara s-16 ta' Ġunju, 1983; u għall-finijiet ta' dan l-artikolu dak it-trasferiment jitqies li ma jkunx sar.

(2) Id-dispożizzjonijiet tas-subartikolu (1) ta' dan l-artikolu għandhom japplikaw ukoll għal kull jedd li jibqa' lil xi Entità Ekklesjastika miżmum minn dik l-Entità f'xi trasferiment, magħmul qabel il-bidu fis-sehħ ta' dan l-Att, fuq xi proprjetà akkwistata minn dik l-Entità skond id-dispożizzjonijiet tal-liġi msemmija fl-imsemmi subartikolu.

(3) Għall-finijiet tas-subartikolu (2) ta' dan l-artikolu, il-frażi "jedd li jibqa'" tinkludi d-drittijiet kollha tad-*directum dominus* jew tas-*sub-directum dominus* f'kuntratt ta' enfitewsi jew sub-enfitewsi.

3. Il-proprjetà immobbli li għaliha jirreferi l-artikolu 2 ta' dan l-Att u/jew kull prezz, rikavat jew dhul li jinkiseb minnha, jintużaw biss għal għanijiet ta' edukazzjoni.

Destinazzjoni tal-proprjetà vestita fil-Gvern.

4. (1) Kull persuna li minnufih qabel il-bidu fis-sehħ ta' dan l-Att kienet responsabbli għall-amministrazzjoni ta' xi proprjetà immobbli li għaliha japplika l-artikolu 2 ta' dan l-Att, jew li wara l-bidu fis-sehħ ta' dan l-Att, kellha *de facto* il-kontroll fuq, jew l-amministrazzjoni ta', proprjetà bhal dik, għandha, fi żmien xahrejn mill-bidu fis-sehħ ta' dan l-Att, tikkonsenja lill-Kummissarju ta' l-Artijiet, fuq il-formula li l-Ministru responsabbli għall-artijiet hawnhekk iżjed 'il quddiem im-sejjaħ "il-Ministru", jista' jippreskrivi b'regolamenti, dikjarazzjoni li jkun fiha:

Tagħrif li għandu jinghata lill-Kummissarju ta' l-Artijiet.

(a) dik id-deskrizzjoni tal-proprjetà u kull tagħrif ieħor li jwassal biex tiġi identifikata, kif jista' jiġi preskritt, u

(b) indikazzjoni taż-żmien li matulu dik il-proprjetà kienet hekk akkwistata.

(2) Kull persuna li b'rieda jew b'negligenza tonqos li tikkonsenja lill-Kummissarju ta' l-Artijiet id-dikjarazzjoni msemmija fis-subartikolu (1) ta' dan l-artikolu fiż-żmien imsemmi fih, jew tikkonsenja dikjarazzjoni li tkun falza f'xi haġa materjali, tkun haġta ta' reat kontra dan l-Att, u tehel meta tinstab haġta multa ta' mhux iżjed minn Lm5,000 u l-Qorti tista' tordna l-konfiska ta' kull somma ta' flus li tista' tkun dovuta skond id-dispożizzjonijiet ta' dan l-Att dwar il-proprjetà li għaliha jirreferi r-reat.

Pieni.

5. (1) Kull persuna li jkollha l-amministrazzjoni ta', jew taħt il-pussess jew il-kontroll tagħha, xi proprjetà immobbli mniżżla fl-Iskeda li tinsab ma' dan l-Att, għandha, fi żmien xahrejn mid-data tal-bidu fis-sehħ ta' dan l-Att, tagħmel u tikkonsenja lill-Kummissarju ta' l-Artijiet inventarju ta' l-għamara u l-attreżzi kollha li jkunu jeżistu fil-proprjetà kif ukoll kull haġa mgħaqqda mal-proprjetà li jkunu jeżistu fil-proprjetà fid-data tal-bidu fis-sehħ ta' dan l-Att.

Għamara li jkun hemm fi proprjetà tal-Gvern qabel il-bidu fis-sehħ ta' dan l-Att.

(2) L-għamara u l-attreżzi li jkunu jeżistu fil-proprjetà kif ukoll kull haġa mgħaqqda mal-proprjetà mniżżla fl-Iskeda li tinsab ma' dan l-Att fid-data tal-bidu fis-sehħ ta' dan l-Att għandhom jitqiesu li huma proprjetà tal-Gvern.

(3) Kull persuna li b'rieda jew b'negligenza —

(a) tonqos li tikkonsenja lill-Kummissarju ta' l-Artijiet l-inventarju msemmi fis-subartikolu (1) ta' dan l-artikolu fiż-żmien fih imsemmi, jew

(b) tagħti deskrizzjoni falza ta' xi oġġett jew partita inkluża f'dak l-inventarju, jew

(c) thalli barra minn dak l-inventarju xi oġġett jew partita li kellha tiġi inkluża fih,

tkun hatja ta' reat kontra dan l-Att, u tehel meta tinsab hatja multa ta' mhux iżjed minn Lm5,000.

(4) F'dan l-artikolu, il-frazi "għamara" tinkludi kwadri, statwi, kollezzjonijiet ta' kotba jew dokumenti oħra, utensili u paramenti sagri u kull oġġett ta' metall prezzjuż.

Quddies għal ruh
il-mejtin.

6. (1) Kull dispożizzjoni *inter vivos* jew *causa mortis* li ssir wara l-bidu fis-sehħ ta' dan l-Att li biha kera, imghax jew frottijiet oħra ċivili li jinkisbu minn xi proprjetà mobbli jew immobbli għandhom jintużaw għaċ-ċelebrazzjoni ta' quddies għal ruh il-mejtin (kemm jekk xi jedd ieħor fi jew fuq proprjetà bħal dik ikun gie trasferit kif ukoll jekk le) jew li biha piż għal dan l-għan jiġi mpost fuq dik il-proprjetà jew fuq id-detenturi tagħha jew fuq il-persuni li jkollhom interess fiha, u li fiha jiġi provdut li dik id-dispożizzjoni tibqa' fis-sehħ għal żmien iktar minn hamsa u għoxrin sena jew li d-dispożizzjonijiet tas-subartikoli (2), (3) u (4) ta' dan l-artikolu ma jkunux japplikaw, tkun nulla safejn dik id-dispożizzjoni tkun ser issehħ għal iktar minn hamsa u għoxrin sena jew safejn id-dispożizzjonijiet tas-subartikoli (2), (3) u (4) ta' dan l-artikolu ma għandhomx ikunu applikabbli, skond il-każ.

(2) Kull persuna li tagħmel dispożizzjoni għall-finijiet imsem-mija fis-subartikolu (1) ta' dan l-artikolu jew is-suċċessur legittimu tagħha, għandu, mhux iktar tard minn sitt xhur wara li jgħaddu għaxar snin mill-bidu fis-sehħ ta' xi dispożizzjoni bħal dik ikollu jedd li jagħzel bil-mezz ta' nota ipprezentata fil-Prim'Awla tal-Qorti Ċivili:

(i) li dik id-dispożizzjoni tkompli ssehħ għal perijodu ieħor, li, flimkien mal-perijodu li jkun għadda sad-data tal-prezentata tan-nota, ma jkunx iżjed minn hamsa u għoxrin sena; jew

(ii) li dik id-dispożizzjoni ma tkomplex issehħ u li kull jedd fi jew fuq il-proprjetà jew il-jedd li tirċievi l-kerja, l-imghaxijiet jew il-frottijiet oħra ċivili, li għalihom tapplika dik id-dispożizzjoni, skond il-każ, jiġu vestiti fiha; jew

(iii) li dik id-dispożizzjoni ma tkomplex issehħ u li kull jedd fi jew fuq il-proprjetà, jew il-jedd li tirċievi l-kerja, l-imghaxijiet jew il-frottijiet oħra ċivili li għalihom tapplika dik id-dispożizzjoni, skond il-każ, jiġu vestiti fil-Gvern u malli jsir dan dik il-proprjetà jew kull prezz jew rikavat li jinkiseb minnha jew kull kerja, imghaxijiet jew frottijiet oħra ċivili bħal dawn, skond il-każ, għandhom jintużaw mill-Gvern biss għall-għanijiet imsemmija fl-artikolu 3 ta' dan l-Att.

(3) Meta xi persuna li jkollha jedd tippreżenta nota kif im-semmi fis-subartikolu (2) ta' dan l-artikolu tonqos, fiż-żmien imsemmi fih, li tippreżenta dik in-nota, hi titqies li tkun għażlet li għandhom japplikaw id-dispożizzjonijiet tal-paragrafu (iii) ta' l-imsemmi sub-artikolu.

(4) Meta jkun hemm żewġ suċċessuri legittimi jew iktar tal-persuna li tkun għamlet dispożizzjoni għall-finijiet imsemmija fis-sub-artikolu (1) ta' dan l-artikolu, kull wieħed minn dawk is-suċċessuri jkollu d-dritt li jagħmel in-nota msemmija fis-subartikolu (2) ta' dan l-artikolu dwar is-schem li dwaru hu jkun suċċessur.

(5) Id-dispożizzjonijiet tas-subartikoli (1) sa (4) ta' dan l-artikolu għandhom japplikaw, *mutatis mutandis* għal kull dispożizzjoni msemmija fis-subartikolu (1) ta' dan l-artikolu magħmula qabel il-bidu fis-sehħ ta' dan l-Att; u fejn, mal-bidu fis-sehħ ta' dan l-Att, xi dispożizzjoni bħal dik tkun fis-sehħ —

(a) għal perijodu ta' iżjed minn għaxar snin iżda għal inqas minn hamsa u għoxrin sena, in-nota msemmija fis-subartikolu (2) ta' dan l-artikolu għandha tiġi pprezentata mhux iktar tard minn sitt xhur wara l-bidu fis-sehħ ta' dan l-Att; u

(b) meta d-dispożizzjoni tkun ilha fis-sehħ għal perijodu ta' aktar minn hamsa u għoxrin sena, in-nota msemmija fis-subartikolu (2) ta' dan l-artikolu għandha tiġi pprezentata mhux iktar tard minn sitt xhur wara l-bidu fis-sehħ ta' dan l-Att, u għandha tindika biss jekk il-persuna li tkun qed tagħmilha tagħzilx li l-jedd li tir-
 cioè il-kerja, l-imghaxijiet jew frottijiet oħra civili jiġux vestiti fiha jew fil-Gvern.

(6) Meta, skond id-dispożizzjonijiet tas-subartikolu (5) ta' dan l-artikolu xi persuna tagħzel id-dispożizzjoni li hemm fil-paragrafu (ii) tas-subartikolu (2) ta' dan l-artikolu, il-kumpens imħallas mill-Gvern taht id-dispożizzjonijiet tal-paragrafu (f) tas-subartikolu (3) ta' l-artikolu 8 ta' dan l-Att dwar il-waqfien jew il-limitazzjoni tad-dispożizzjoni li dwarha dik l-għażla tapplika, għandu jinghata lura lill-Gvern minn dik il-persuna.

7. Meta xi proprjetà jew jedd fuq proprjetà trasferit lil xi Entità Ekklesjastika għall-finijiet imsemmija fis-subartikolu (1) ta' l-artikolu 6 ta' dan l-Att, sew qabel jew wara l-bidu fis-sehħ ta' dan l-Att, ikun ġie trasferit sew qabel jew wara l-bidu fis-sehħ ta' dan l-Att minn dik l-Entità Ekklesjastika, il-jeddijiet tal-persuni msemmija f'dak l-artikolu jkunu jistgħu jiġu eżerċitati dwar il-prezz jew ir-rikavat tat-trasferiment minn dik l-Entità Ekklesjastika u/jew dwar l-imghaxijiet jew frottijiet oħra civili li jinkisbu mill-prezz jew mir-rikavat ta' dak it-trasferiment,

Id-dispożizzjo-
 nijiet ta'
 l-artikolu 6
 japplikaw għal
 rikovat minn
 proprjetà trasfe-
 rita minn
 Entità
 Ekklesjastika.

8. (1) Kull persuna li tippretendi li għandha jedd li tir-
 cioè kumpens minhabba li hi kellha l-pussess ta', jew interess fi, jew jedd fuq, xi proprjetà li għaliha japplikaw id-dispożizzjonijiet ta' l-artikoli 2, 6 u 7 ta' dan l-Att, u li dik il-proprjetà, interess jew jedd ikun ittiehed il-pussess tiegħu b'mod obligatorju jew ikun ġie akkwistat taht id-dispo-
 zizzjonijiet ta' dan l-Att, tista' tibda l-proċedimenti sabiex tistabbilixxi l-interessi tagħha fi jew id-dritt tagħha fuq il-proprjeta u l-ammont ta' kumpens li hi tista', skond id-dispożizzjonijiet ta' dan l-Att, ikollha jedd għalih u sabiex tikseb il-ħlas ta' dak il-kumpens; u kull deċiżjoni dwar xi proċedimenti bħal dawk tkun sugġetta għal appell lill-Qorti ta' l-Appell skond id-dispożizzjonijiet tal-Kodiċi ta' Organizzazzjoni u Proċedura civili.

Kumpens.

(2) Sabiex jiġi stabbilit il-kumpens (jekk ikun hemm) li għan-
 du jithallas taht dan l-artikolu dwar proprjetà, interess jew jedd milqut bid-dispożizzjonijiet ta' l-artikoli 2, 6 u 7 ta' dan l-Att il-każ għandu jiġi trattat bħala każ speċjali fejn il-Parlament jidhirlu xieraq, fl-interess naz-
 zjonali, li jistabbilixxi l-kriterji li għandhom jitharsu, magħduda l-fatturi u ċ-ċirkostanzi l-oħra li għandhom jitqiesu, għal dak l-għan.

(3) Il-kriterji li għandhom jitharsu, magħduda l-fatturi u ċ-
 ċirkostanzi l-oħra li għandhom jitqiesu biex jiġi stabbilit il-kumpens li jista' jkollu jithallas minhabba xi dispożizzjoni ta' dan l-artikolu u l-arti-
 koli 2, 6 u 7 ta' dan l-Att, għandhom ikunu dawn li ġejjin:—

(a) ix-xogħol ta' kull Knisja hu essenzjalment wieħed spirit-
 wali u bħala tali hu għal kollox aljen minn u ma għandux x'jaqsam
 ma' xi għan materjali jew venali;

(b) l-użu li għalih il-proprjetà jew il-jeddijiet jistgħu jitqiegh-
 du mill-Gvern skond l-obbligi tiegħu li johorġu mid-dispożizzjoni-
 jiet ta' dan l-Att hu ristrett fl-interess nazzjonali, għat-tkattir ta'
 l-edukazzjoni b'xejn għal kulhadd;

(c) l-applikazzjoni ta' l-artikolu 2 ta' dan l-Att hija ristretta għal jeddijiet u interessi akkwistati bi preskrizzjoni; u għalkemm dan il-mod ta' akkwist hu rikonoxxut mil-Liġi wkoll f'każijiet fejn tkun nieqsa l-*bona fide* dan ma għandu qatt ikun mod li bih l-Entità Ekklesjastika għandha takkwista jedd, għaliex dan il-mod ta' akkwist imur kontra t-tagħlim u l-prinċipji imħaddna minn dik l-Entità u jedd ma għandu qatt jiġi akkwistat mingħand il-persuna li għandha dritt għalih mingħajr il-kunsens tagħha;

(d) meta jitqies il-fatt li l-mod ta' akkwist bi preskrizzjoni li bih xi Entità Ekklesjastika tiġi vestita bil-pussess ta', interess fi, jew jedd fuq, il-proprjetà milquta b'dan l-Att ma kienx neċessarjament ifisser l-għoti ta' xi konsiderazzjoni minn xi Entità bħal dik u li ebda kumpens ma kellu iithallas lill-persuna mcaħħda minn dik il-proprjetà iew jedd minħabba biss li dik kienet akkwistata mill-imsemmija Entità, il-kumpens li għandu iithallas ma għandu f'ebda każ ikun iżjed mill-valur fi flus tal-konsiderazzjoni mogħtija mill-Entità Ekklesjastika jew il-valur tal-proprjetà jew il-jedd korrenti fiż-żmien ta' l-akkwist, skond liema minnhom ikun l-akbar, mil-liema valur għandu jitnaqqas:

(i) il-valur ta' kull benefiċċju li iinkiseb mill-proprjetà jew mill-jedd matul iż-żmien li fih dik il-proprjetà jew il-jedd kien vestit fl-Entità Ekklesjastika;

(ii) l-ispiża li trid issir biex il-proprjetà tiġi restawrata fi stat tajjeb ta' tiswija:

Iżda l-ammont ta' kull kumpens dwar xi benefikati li isiru fil-proprjetà mill-Entità Ekklesjastika għandhom iitoiesu li tnaċew mal-valur tat-teawdija ta' dawk il-benefikati mill-imsemmija Entità matul kull żmien qabel il-bidu fis-seħħ ta' dan l-Att;

(e) il-flejjes li iidhlu mill-proprjetà milquta bl-artikoli 6 u 7 ta' dan l-Att kienu destinati biex jiġu wżati mill-Entitajiet Ekklesjastiċi għall-benefiċċju ta' haddiehor, u għalhekk dawk l-Entitajiet ma garrbux xi telf minħabba d-dispożizzjonijiet ta' dan l-Att li iisvestuhom mill-pussess ta' dawk il-flejjes; u l-Gvern m'għandu ebda qlieoħ finanzjarju minħabba l-bdil li dan l-Att jaqsmel fl-awtoritajiet iew persuni responsabbli għall-użu ta' dawk il-flejjes u fl-għanijiet li għalihom dawk il-flejjes jiġu wżati;

(f) għall-waqqien iew għal-limitazzjoni ta' xi dispożizzjoni li għaliha iirreferu l-artikoli 6 u 7 ta' dan l-Att, kull kumpens li għandu iithallas għandu ikun daqs l-ammont ta' parti wahda minn tnax tal-kera, imeħax, frottijiet ċivili oħra jew xi somma oħra wżata fis-sena fiċ-ċelebrazzjoni ta' Quddies minnufih qabel il-bidu fis-seħħ ta' dan l-Att;

Iżda jekk it-total ta' l-ammonti li jkollhom jithallsu skond id-dispożizzjonijiet ta' dan is-subartikolu għall-proprjetà, jeddijiet iew interessi kollha milquta bid-dispożizzjonijiet ta' l-artikoli 2, 6 u 7 ta' dan l-Att ikun inqas minn Lm50,000 għandha tithallas is-somma ta' Lm50,000.

(4) Jekk, qabel ma jgħaddu tliet xhur mill-bidu fis-seħħ ta' dan l-Att, ebda persuna kif imsemmi fis-subartikolu (1) ta' dan l-artikolu ma tkun bdiet azzjoni quddiem il-Prim'Awla tal-Qorti Ċivili għal dikjarazzjoni li s-somma li għandha tithallas għall-proprjetà, jeddijiet jew interessi milquta bid-dispożizzjonijiet ta' l-artikoli 2, 6 u 7 ta' dan l-Att skond is-subartikolu (3) ta' dan l-artikolu għandha, skond il-kriterji, fatturi u ċirkostanzi oħra hemmhekk imsemmija, tiġi stabbilita f'ammont ikbar minn Lm50,000 u sabiex jiġi stabbilit dak l-ammont mill-Qorti, is-somma ta' Lm50,000 għandha titqies li hi s-somma li għandha tithallas skond id-dispożizzjonijiet ta' l-imsemmi subartikolu;

Iżda ebda azzjoni taħt dan is-subartikolu ma tkun ammissibbli kemm-il darba, flimkien maċ-ċitazzjoni, ma jiġux ippreżentati fil-Qorti d-dokumenti kollha b'sustenn tat-talbiet.

(5) L-ammont totali stabbilit skond id-dispożizzjonijiet tas-subartikoli (3) u (4) ta' dan l-artikolu għandu jiġi depożitat f'Bank f'Malta għall-kreditu ta' l-Arċisqof Metropolita ta' Malta għan-nom ta' kull Entità Ekklesjastika jew persuna, ikun x'ikun it-twemmin jew id-denominazzjoni tagħha, li jkollha jedd skond dan l-artikolu u l-artikoli 2, 6 u 7 ta' dan l-Att għal sehem mill-ammont hekk depożitat.

Dak id-depożitu għandu jsir fi żmien ġimgħatejn mill-egħluq taż-żmien imsemmi fis-subartikolu (4) ta' dan l-artikolu jew mid-data meta d-deċiżjoni dwar l-azzjoni msemmija fiha tkun saret finali, skond il-każ; u dak l-ammont għandu mbagħad jitqassam bejn id-diversi persuni li l-jeddijiet tagħhom ikunu ġew milquta mid-dispożizzjonijiet ta' l-artikoli 2, 6 u 7 ta' dan l-Att fil-proporzjon ta' l-interess tagħhom. Dak it-tqassim għandu jsir skond dawk id-direttivi li l-Arċisqof Metropolita ta' Malta jista' jagħti:

Iżda jekk ma jingħataw ebda direttivi bħal dawk mill-Arċisqof Metropolita ta' Malta fi żmien tliet xhur mid-data tad-depożitu msemmi f'dan l-artikolu, jew jekk, fi żmien tliet xhur mid-data ta' dawk id-direttivi, ma jintlahaqx ftehim mill-persuni kollha li għandhom jedd taħt dan l-Att għal sehem mill-ammont hekk depożitat dwar il-mod kif għandu jsir it-tqassim jew dwar l-ammont li għandu jithallas lil kull wieħed skond dawk id-direttivi, il-mod tat-tqassim u l-ammont li għandu jithallas lil kull waħda minn dawk il-persuni għandu jiġi deċiż mill-Prim'Awla tal-Qorti Ċivili.

9. (1) B'effett mill-bidu fis-sehħ ta' dan l-Att, meta, f'xi att *inter vivos* fejn xi jedd fi jew fuq xi proprjetà immobbli jkun vestit f'xi Entità Ekklesjastika u f'dak l-att ikun hemm imposta kondizzjoni li biha l-proprjetà għandha tintuża għal għan jew b'mod imfisser jew mifhum fl-att, u, fis-17 ta' Gunju, 1983, il-proprjetà ma tkunx, għal xi raġuni tkun li tkun, użata għall-għan jew bil-mod kif provdut f'dak l-att, allura, bis-saħħa ta' dan l-Att u b'effett mill-bidu fis-sehħ tiegħu, il-jedd fi jew fuq il-proprjetà vestita fl-Entità Ekklesjastika bis-saħħa ta' l-imsemmi att jiġi vestit fil-Gvern u malli jsir dan kull jedd ta' l-Entità Ekklesjastika fi jew fuq dik il-proprjetà jintemm.

Jiġu vestiti fil-Gvern jeddijiet fuq proprjetà li, fil-bidu fis-sehħ ta' dan l-Att, ma tkunx użata mill-Entità Ekklesjastika għall-għan destinat għaliha.

(2) Ebda haġa li tinsab fis-subartikolu (1) ta' dan l-artikolu ma għandha titqies li tagħti lill-Entità Ekklesjastika xi jedd kontra l-Gvern li dik l-Entità ma kienx ikollha taħt l-att imsemmi f'dak is-subartikolu kontra l-parti li kienet vestit il-jedd fi jew fuq il-proprjetà immobbli f'dik l-Entità, kieku dik il-parti, minhabba l-fatt li l-Entità Ekklesjastika ma tkunx ħarset il-kondizzjoni fl-imsemmi att, eżerċitat il-jedd tagħha li titlob ix-xoljiment tal-jeddijiet u l-obbligi li għalihom jirreferi l-att u r-reversjoni tal-proprjetà li għaliha japplika dak l-att.

(3) Jekk l-Entità Ekklesjastika tippretendi li għandha jedd li tirċievi kumpens mingħand il-Gvern minhabba li kellha l-pussess ta', jew interess fi, jew jedd fuq, xi proprjetà li għaliha japplikaw id-dispożizzjonijiet ta' dan l-artikolu, u li dik il-proprjetà, interess jew jedd ikun ittiegħed il-pussess tiegħu b'mod obligatorju jew ikun ġie akkwistat taħt id-dispożizzjonijiet ta' dan l-artikolu, dik l-Entità Ekklesjastika tista' tibda proċedimenti quddiem il-Prim'Awla tal-Qorti Ċivili sabiex tistabilixxi l-interessi tagħha fi jew id-dritt tagħha fuq il-proprjetà u l-ammont ta' kumpens li hi tista', skond id-dispożizzjonijiet ta' dan l-artikolu, ikollha jedd għalih u sabiex tikseb il-hlas ta' dak il-kumpens; u kull deċiżjoni dwar xi proċedimenti bħal dawk tkun sugġetta għal appell lill-Qorti ta' l-Appell skond id-dispożizzjonijiet tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili.

(4) Sabiex jiġi stabbilit il-kumpens (jekk ikun hemm) li għandu jithallas taht dan l-artikolu dwar proprjetà, interess jew jedd milqut bid-dispożizzjonijiet tiegħu, dan il-każ għandu jiġi trattat bħala każ speċjali fejn il-Parlament jidhirlu xieraq, fl-interess nazzjonali, li jistabbilixxi l-kriterji li għandhom jitharsu, magħduda l-fatturi u ċ-ċirkostanzi l-oħra li għandhom jitqiesu, għal dak il-għan.

(5) Il-kriterji li għandhom jitharsu, magħduda l-fatturi u ċ-ċirkostanzi l-oħra li għandhom jitqiesu biex jiġi stabbilit il-kumpens li jista' jkollu jithallas minhabba xi dispożizzjoni ta' dan l-artikolu, għandhom ikunu dawn li ġejjin:—

(a) mal-bidu fis-sehħ ta' dan l-Att l-Entità Ekklesjastika ma kenitx qed tuża l-proprjetà milquta bid-dispożizzjonijiet ta' dan l-artikolu għall-għan u bil-mod imfisser jew mifhum fl-att li jvesti dik l-Entità bil-jedd tagħha fi jew fuq dik il-proprjetà;

(b) l-ammont tal-kumpens ma għandu f'ebda każ ikun iktar minn:—

(i) l-ammont li dik l-Entità Ekklesjastika kienet tkun intitolata għalih taht id-dispożizzjonijiet ta' xi liġi bħala danni, jew xort'oħra, li kieku x-xoljiment tal-jeddijiet u l-obbligi li għalihom jirreferi l-att li jvesti l-Entità bil-jedd u r-reversjoni tal-proprjetà li jkunu saru minhabba azzjoni għal dak ix-xoljiment li tkun ittiegħet mill-parti li timponi l-kondizzjoni dwar l-użu tal-proprjetà li tiffirma l-oġġett ta' dawk il-jeddijiet jew obbligi f'dak l-att; jew

(ii) (meta l-proprjetà milquta b'dan l-artikolu tkun bini), l-ammont ta' parti waħda minn tnax tal-valur annwali tal-keras tal-proprjetà li l-jedd fiha jew fuqha kien vestit fl-Entità Ekklesjastika qabel il-bidu fis-sehħ ta' dan l-Att stabbilit skond il-kriterji speċifikati fl-Ordinanza ta' l-1944 li Trażżan il-Kera fuq Djar għal "dar qadima" kif imfisser f'dik l-Ordinanza,

skond liema jkun l-ikbar, u minn dak l-ammont għandu jitnaqqas —

(i) il-valur ta' kull beneficiċċju li jinkiseb mill-proprjetà matul iż-żmien li fih dik il-proprjetà kienet użata minn, jew kienet taht il-kontroll ta', l-Entità Ekklesjastika;

(ii) l-ispiza li trid issir biex il-proprjetà tiġi restawrata fi stat tajjeb ta' tiswija;

Iżda f'ebda każ ma għandu dak il-kumpens li jithallas lil xi Entità jkun inqas minn Lm1,000.

(c) Id-dispożizzjonijiet ta' dan l-artikolu ma jolqtux il-jeddijiet u l-obbligi tal-parti li tvesti lill-Entità Ekklesjastika bil-jedd fi jew fuq il-proprjetà immobbli li għaliha japplika l-att imsemmi fis-subartikolu (1) ta' dan l-artikolu, li joħroġu mid-dispożizzjonijiet li jinsabu f'dak l-att hekk iżda li dawk il-jeddijiet u obbligi għandhom, mal-bidu fis-sehħ ta' dan l-Att, ikunu effettivi daqstant mal-Gvern bl-istess mod u sa l-istess limitu kif kienu effettivi ma' l-Entità Ekklesjastika minnufih qabel il-bidu fis-sehħ ta' dan l-Att:

Iżda ebda haġa f'dan l-artikolu ma għandha tiftiehem li teħles lil xi Entità Ekklesjastika minn xi responsabbiltà li tkun dahlet fiha dik l-Entità qabel il-bidu fis-sehħ ta' dan l-Att.

10. Il-Ministru jkollu s-setgħa li jagħmel regolamenti kif jidhirlu xieraq sabiex jitwettqu aħjar kull waħda mid-dispożizzjonijiet u kull wieħed mill-għanijiet ta' dan l-Att, u bla ħsara għall-generalità ta' dak li ntqal qabel, dawk ir-regolamenti jistgħu b'mod partikolari jippre-skrivu:

Ord. Nru. XVI
ta' l-1944

Setgħa tal-
Ministru li
jagħmel
regolamenti.

(a) il-mod li bih xi prospett jew taghrif ghandu jinghata u l-formoli li ghandhom jintuzaw fl-eghmil ta' dak il-prospett jew fl-ghoti ta' dak it-taghrif;

(b) kull haġa li ghandha jew li tista' tiġi preskritta jew provduta b'regolamenti taht dan l-Att.

11. B'effett mill-bidu fis-sehħ ta' dan l-Att, il-jedd ta' kull Entità Preskrizzjoni. Ekklesjastika li takkwista bi preskrizzjoni xi jedd fi jew fuq xi proprjetà immobbli jew li teċċepixxi l-benefiċċju tal-preskrizzjoni dwar proprjetà bħal dik skond id-dispożizzjonijiet tat-**Titlu XXV** tat-**Taqsim** II tat-**Tieni Ktieb** tal-**Kodiċi Ċivili** dwar il-preskrizzjoni, ghandu jispiċċa.

SKEDA

(Artikolu 5)

KAPPELLI U KNEJJES PROPRJETA' TAL-GVERN **Użati għal Servizzi Ekklesjastiċi Regolari Miftuħa għall-Pubbliku**

MALTA

Il-Kon-Katidral ta' San Ġwann, Valletta
 Il-Knisja tal-Madonna tal-Pilar, Valletta
 Il-Knisja ta' Santa Barbara, Valletta
 Il-Knisja tal-Ġiżwiti, Valletta
 Il-Knisja tal-Madonna tal-Vitorja, Valletta
 Il-Knisja ta' Santa Katerina ta' l-Italja, Valletta
 Il-Knisja ta' San Ġakbu, Valletta
 Il-Knisja tal-Madonna ta' Liesse, Valletta
 Il-Kappella ta' l-Annunzjata fil-Fawwara, limiti tas-Siġġiewi
 Il-Kappella tas-Salib, ir-Rabat
 Il-Kappella ta' l-Immakulata Kuncizzjoni ta' Wied Gerżuma, ir-Rabat
 Il-Kappella tal-Buskett, l-Imdina
 Il-Knisja ta' Sant'Oswaldu, l-Imtarfa
 Il-Knisja ta' San Silvestru, il-Mosta
 Il-Knisja ta' Sarria, il-Furjana
 Il-Kappella ta' San Kalċidonju, il-Furjana
 Il-Kappella ta' Sant'Andrea, San Ġiljan
 Il-Kappella ta' San Pietru, Baħar iċ-Ċagħaq, il-Għargħur

GHAWDEX U KEMMUNA

Il-Kappella ta' l-Annunzjata, limiti tar-Rabat
 Il-Kappella ta' Kemmuna, Kemmuna

Mgħoddi mill-Kamra tad-Deputati fis-Seduta Nru, 114 tad-29 ta' Ġunju, 1983.

DANIEL MICALLEF
Speaker

C. MIFSUD
Skrivan tal-Kamra tad-Deputati

I assent.

(L.S.)

AGATHA BARBARA
President

1st July, 1983

ACT No. X of 1983

AN ACT to make provision for the vesting in the Government of certain rights over immovable property acquired by any Church or other Pious or Religious Institution pursuant to the law of prescription or under a condition to use such property for a particular purpose and to regulate certain Pious legacies, Pious burthens, donations, foundations or trusts for the celebration of Masses.

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. (1) This Act may be cited as the Devolution of Certain Church Property Act, 1983.

(2) This Act shall come into force on such date as the Minister responsible for lands may by notice in the Gazette appoint and different dates may be so appointed for different provisions or for different purposes of this Act.

Rights over immovable property acquired by any Ecclesiastical Entity by prescription vested in Government.

Cap. 23

2. (1) Any right in or over any immovable property vested in any Church or other Pious or Religious Institution on the day of the coming into force of this Act, being a right acquired by such Church or other Pious or Religious Institution, hereinafter referred to as "Ecclesiastical Entities", in pursuance of the provisions of Title XXV of Part II of Book Second of the Civil Code relating to Prescription, or of any other such law in force at the time of such acquisition before the promulgation of that Code, shall, by virtue of this Act, vest in the Government with effect from the coming into force of this Act:

Provided that this section shall not apply to any immovable property destined for service as a church or chapel and so used on the date of the coming into force of this Act:

Provided further that this section shall also be applicable where the right so acquired by the Ecclesiastical Entities has been transferred to any person after the 16th day of June, 1983; and for the purposes of this section such transfer shall be deemed not to have been made.

(2) The provisions of subsection (1) of this section shall also apply to any residual right of any Ecclesiastical Entity retained by such Entity on any alienation, made before the coming into force of this Act, of any property acquired by such Entity in pursuance of the provisions of law mentioned in the said subsection.

(3) For the purposes of subsection (2) of this section, the term "residual right" includes all the rights of the *directum dominus* or *sub-directum dominus* in a contract of emphyteusis or sub-emphyteusis.

3. The immovable property to which section 2 of this Act refers and/or any price, proceeds or income deriving therefrom, shall be applied only to educational purposes.

Destination of property vested in Government.

4. (1) Any person who immediately before the coming into operation of this Act was responsible for the administration of any immovable property to which section 2 of this Act applies, or who, after the coming into operation of this Act, had the *de facto* control over, or administration of, such property, shall, within two months from the coming into force of this Act, deliver to the Commissioner of Land, on the form which the Minister responsible for lands, hereinafter referred to as "the Minister", may by regulations prescribe, a statement which shall contain:

Information to be tendered to Commissioner of Land.

(a) such description of the property and any other information which tends to identify it, as may be prescribed, and

(b) an indication of the period during which such property was so acquired.

(2) Any person who wilfully or negligently fails to deliver to the Commissioner of Land the statement referred to in subsection (1) of this section within the time therein mentioned, or shall deliver to him a statement which is false in any material particular, shall be guilty of an offence against this Act, and upon conviction shall be liable to a fine (*multa*) not exceeding Lm5,000, and the Court may order the forfeiture of any sum which may be due according to the provisions of this Act in respect of the property to which the offence relates.

Penalties.

5. (1) Any person having the administration of, or under his possession or control, any of the immovable property listed in the Schedule to this Act, shall, within two months from the date of the coming into force of this Act, draw up and deliver to the Commissioner of Land an inventory of all the furniture, fixtures and fittings existing in the property on the date of the coming into force of this Act.

Furniture existing in property owned by Government before the coming into force of this Act.

(2) The furniture, fixtures and fittings existing in the property listed in the Schedule to this Act on the date of the coming into force of this Act shall be presumed to be owned by the Government.

(3) Any person who wilfully or negligently —

(a) fails to deliver to the Commissioner of Land the inventory referred to in subsection (1) of this section within the time therein mentioned, or

(b) gives a false description of any article or item included in such inventory, or

(c) omits from such inventory any article or item which should have been included therein,

shall be guilty of an offence against this Act, and upon conviction shall be liable to a fine (*multa*) not exceeding Lm5,000.

(4) In this section, the expression "furniture" includes pictures, statues, collections of books or other documents, sacred vessels and vestments and any article of precious metal.

Masses for the
repose of souls.

6. (1) Any disposition *inter vivos* or *causa mortis* made after the coming into force of this Act whereby any rents, interests or other civil fruits derived from any movable or immovable property are to be employed in the celebration of masses for the repose of souls (whether any other right in or over such property is transferred or not) or whereby any burthen for any such purpose is imposed on such property or on the holders of, or on persons having an interest in, such property, and in which provision is made whereby such disposition shall be operative for a period of more than twenty-five years or whereby the provisions of subsections (2), (3) and (4) of this section shall not apply, shall be null to the extent that such disposition is to be operative for any period in excess of twenty-five years or whereby the provisions of subsections (2), (3) and (4) of this section are not to apply, as the case may be.

(2) Any person making a disposition for the purposes referred to in subsection (1) of this section or his lawful successor, shall, not later than six months after the lapse of ten years from the coming into force of any such disposition, be entitled to elect by means of a note filed in the First Hall of the Civil Court:

(i) that such a disposition shall continue to be operative for a further period, which, together with the period already lapsed on the date of filing of the note, shall not exceed twenty-five years; or

(ii) that such a disposition shall not continue to be operative and that any right in or over the property or the right to receive the rents, interests or other civil fruits to which such disposition applies, as the case may be, shall vest in him; or

(iii) that such a disposition shall not continue to be operative and that any right in or over the property or the right to receive the rents, interests or other civil fruits to which such disposition applies, as the case may be, shall vest in the Government and thereupon such property or any price or proceeds deriving therefrom or any such rents, interests or other civil fruits, as the case may be, shall be applied by the Government only to the purposes referred to in section 3 of this Act.

(3) Where any person entitled to file a note as is referred to in subsection (2) of this section fails, in the period therein mentioned, so to file such note, it shall be deemed that he has elected that the provisions of paragraph (iii) of the said subsection shall apply.

(4) Where there are two or more lawful successors of the person who made a disposition for the purposes referred to in subsection (1) of this section, each such successor shall be entitled to make the note referred to in subsection (2) of this section in relation to the share to which he succeeds.

(5) The provisions of subsections (1) to (4) of this section shall apply, *mutatis mutandis* to any disposition referred to in subsection (1) of this section made before the coming into force of this Act; and where, on the coming into force of this Act, any such disposition has been operative —

(a) for a period of more than ten years but less than twenty-five years, the note referred to in subsection (2) of this section shall be filed not later than six months after the coming into force of this Act; and

(b) where the disposition has been operative for a period of more than twenty-five years, the note referred to in subsection (2) of this section shall be filed not later than six months after the coming into force of this Act, and shall indicate only whether the person making it elects to have the right to receive the rents, interests or other civil fruits vested in him or the Government.

(6) Where, in accordance with the provisions of subsection (5) of this section any person elects for the option in paragraph (ii) of subsection (2) of this section, the compensation paid by the Government under the provisions of paragraph (f) of subsection (3) of section 8 of this Act relating to the cessation or limitation of the disposition in respect of which such option is exercised, shall be refunded to the Government by such person.

7. Where any property or right over property transferred to any Ecclesiastical Entity for the purposes referred to in subsection (1) of section 6 of this Act whether before or after the coming into force of this Act, has been transferred whether before or after the coming into force of this Act by such Ecclesiastical Entity, the rights of the persons referred to in that section shall be exercisable in relation to the price or proceeds of the transfer by such Ecclesiastical Entity and/or in relation to the interests or other civil fruits deriving from the price or proceeds of such transfer.

Provisions of section 6 to apply to proceeds from property transferred by Ecclesiastical Entity.

8. (1) Any person claiming to have a right to receive compensation on the ground that he had possession of or an interest in or a right over, any property to which the provisions of sections 2, 6 and 7 of this Act apply, and that such property, interest or right has been compulsorily taken possession of or acquired under the provisions of this Act, may institute proceedings before the First Hall of the Civil Court for the purposes of determining his interest in or right over the property and the amount of any compensation to which he may, in accordance with the provisions of this Act, be entitled and for the purpose of obtaining payment of that compensation; and any determination on any such proceedings shall be subject to appeal to the Court of Appeal in accordance with the provisions of the Code of Organization and Civil Procedure.

Compensation.

(2) For the purposes of the determination of the compensation (if any) payable under this section in respect of property, interest or right affected by the provisions of sections 2, 6 and 7 of this Act, this case shall be treated as a special case in which Parliament deems it appropriate, in the national interest, to establish the criteria to be followed, including the factors and other circumstances to be taken into account, for that purpose.

(3) The criteria to be followed, including the factors and other circumstances to be taken into account in the determination of any compensation that may be payable in consequence of the provisions of this section and of sections 2, 6 and 7 of this Act, shall be the following:

(a) the function of any Church is essentially a spiritual one and as such is totally alien and unrelated to any material or venal purpose;

(b) the use to which the property or rights can be put by the Government in pursuance of its obligations arising out of the provisions of this Act is restricted, in the national interest, to the furtherance of free education for all;

(c) the application of section 2 of this Act is restricted to rights and interests acquired by prescription; and although such

mode of acquisition is recognized by the law even in cases where good faith is absent, yet it should never be a mode whereby any Ecclesiastical Entity should acquire a right, because such mode of acquisition runs counter to the teachings and principles embraced by such Entity that a right should never be acquired from the person entitled to it without his consent;

(d) taking into account the fact that the mode of acquisition by prescription vesting any Ecclesiastical Entity with the possession of, interest in or right over, the property affected by this Act did not necessarily imply the giving of any consideration by any such Entity and that no compensation was payable to the person deprived of such property or right by reason only that the same was so acquired by the said Entity, the compensation payable shall in no case exceed the value in money of the consideration given by the Ecclesiastical Entity or the value of the property or right current at the time of the acquisition, whichever is the greater, from which value shall be deducted:

(i) the value of any benefit derived from the property or right during the time in which such property or right was vested in the Ecclesiastical Entity;

(ii) the expense to be incurred in the restoration of the property to a proper state of repair:

Provided that the amount of any compensation in relation to any improvements effected in the property by the Ecclesiastical Entity shall be deemed to have been set off by the value of the enjoyment of such improvement by the said Entity during any time before the coming into force of this Act;

(e) the monies derived from the property affected by sections 6 and 7 of this Act were destined to be employed by the Ecclesiastical Entities for the benefit of others, and therefore such Entities have not suffered any loss because of those provisions of this Act which divest them of the possession of such monies; and the Government stands to make no financial gain from the changes which this Act brings about in the authorities or persons responsible for the application of such monies and in the purposes to which such monies are applied;

(f) for the cessation or limitation of any disposition to which sections 6 and 7 of this Act refer, any compensation payable shall be equivalent to the amount of one-twelfth part of the annual rent, interest, other civil fruits or any other sum employed in the celebration of Masses immediately before the coming into force of this Act:

Provided that if the total of the amounts payable in accordance with the provisions of this subsection for all the property, rights or interests affected by the provisions of sections 2, 6 and 7 of this Act is less than Lm50,000, there shall be payable the sum of Lm50,000.

(4) If, before the lapse of three months from the coming into force of this Act, no person as is mentioned in subsection (1) of this section shall have introduced before the First Hall of the Civil Court an action for a declaration that the sum payable for all the property, rights or interests affected by the provisions of sections 2, 6 and 7 of this Act in accordance with subsection (3) of this section should, according to the criteria, factors and circumstances therein mentioned be established at an amount greater than Lm50,000, and for the determination of such

amount by the Court, the sum of Lm50,000 shall be deemed to be the sum payable in accordance with the provisions of the said subsection:

Provided that no action under this subsection shall be admissible unless, together with the writ there shall be filed in Court all the documents in support of the demands.

(5) The total amount established in accordance with the provisions of subsections (3) and (4) of this section shall be deposited in a Bank in Malta to the credit of the Metropolitan Archbishop of Malta on behalf of any Ecclesiastical Entity or person, of whatever creed or denomination, entitled according to this section and sections 2, 6 and 7 of this Act to a share of the amount so deposited.

Such deposit shall be made within two weeks from the lapse of the time indicated in subsection (4) of this section or from the date when the judgment in the action therein mentioned shall have become final, as the case may be; and such amount shall thereafter be distributed among the various persons whose rights have been affected by the provisions of sections 2, 6 and 7 of this Act in proportion to their interest. Such distribution shall be made in accordance with such directions as the Metropolitan Archbishop of Malta may give:

Provided that if no such directions are given by the Metropolitan Archbishop of Malta within three months from the date of the deposit mentioned in this section, or if, within three months from the date of such directions, agreement is not reached by all the persons entitled under this Act to a share of the amount so deposited as to the manner of distribution or the amount payable to each in accordance with such directions, the manner of distribution and the amount payable to each such person shall be determined by the First Hall of the Civil Court.

9. (1) With effect from the coming into force of this Act where, in any instrument *inter vivos* whereby any right in or over any immovable property is vested in any Ecclesiastical Entity and in such instrument a condition is imposed whereby the property is to be used for a purpose or in a manner expressed or implied in the instrument, and, on the 17th day of June, 1983, the property is not, for any reason whatsoever, used for the purpose or in the manner as is provided in such instrument, then, by virtue of this Act and with effect from its coming into force, the right in or over the property vested in the Ecclesiastical Entity by virtue of the said instrument shall vest in the Government and thereupon any right of the Ecclesiastical Entity in or over such property shall cease.

Vesting of Government with rights over property which, on the commencement of this Act, is not used by the Ecclesiastical Entity for the purpose destined for it.

(2) Nothing contained in subsection (1) of this section shall be deemed to confer on the Ecclesiastical Entity any right against the Government which such Entity would not have had under the instrument referred to in that subsection against the party vesting the right in or over the immovable property in such Entity, had such party, because of the fact that the Ecclesiastical Entity had not abided by the condition mentioned in the said instrument, exercised its right to claim the dissolution of the rights and obligations to which the instrument refers and the reversion of the property to which such instrument applies.

(3) If the Ecclesiastical Entity claims to have a right to receive compensation from the Government on the ground that it had

possession of or interest in or a right over, any property to which the provisions of this section apply, and that such property, interest or right has been compulsorily taken possession of or acquired under the provisions of this section, such Ecclesiastical Entity may institute proceedings before the First Hall of the Civil Court for the purposes of determining its interest in or right over the property and the amount of any compensation to which it may, in accordance with the provisions of this section, be entitled and for the purpose of obtaining payment of that compensation; and any determination on any such proceedings shall be subject to appeal to the Court of Appeal in accordance with the provisions of the Code of Organization and Civil Procedure.

(4) For the purposes of the determination of the compensation (if any) payable under this section in respect of property, interest or right affected by the provisions thereof, this case shall be treated as a special case in which Parliament deems it appropriate, in the national interest, to establish the criteria to be followed, including the factors and other circumstances to be taken into account, for that purpose.

(5) The criteria to be followed, including the factors and other circumstances to be taken into account in the determination of any compensation that may be payable in consequence of the provisions of this section, shall be the following:

(a) on the coming into force of this Act the Ecclesiastical Entity was not using the property affected by the provisions of this section for the purpose or in the manner expressed or implied in the instrument vesting such Entity with its right in or over such property;

(b) the amount of compensation shall in no case exceed:

(i) the amount which such Ecclesiastical Entity would have been allowed under the provisions of any law by way of damages or otherwise had a dissolution of the rights and obligations to which the instrument vesting the Entity with the right refers and the reversion of the property taken place in consequence of an action for such dissolution taken by the party imposing the condition regarding the use of the property forming the object of such rights or obligations in such instrument; or

(ii) (where the property affected by this section is a building), the amount of one-twelfth part of the annual rental value of the property the right in or over which was vested in the Ecclesiastical Entity before the coming into force of this Act established according to the criteria specified in the Rent Restriction (Dwelling Houses) Ordinance, 1944 for an "old house" as defined in that Ordinance,

Ord XVI of 1944

whichever is the greater, and from such amount there shall be deducted —

(i) the value of any benefit derived from the property during the time in which such property was used by, or was under the control of, the Ecclesiastical Entity;

(ii) the expense to be incurred in the restoration of the property to a proper state of repair;

Provided that in no case shall such compensation payable to any Entity be less than Lm1,000;

(c) The provisions of this section shall not affect the rights and obligations of the party vesting the Ecclesiastical Entity with the right in or over the immovable property to which the instrument referred to in subsection (1) of this section applies, arising out of the provisions contained in such instrument so however that such rights and obligations shall, on the coming into force of this Act, be operative with respect to the Government in the same manner and to the same extent as they were operative with respect to the Ecclesiastical Entity immediately before the coming into force of this Act:

Provided that nothing in this section shall be construed as freeing any Ecclesiastical Entity from any liability incurred by such Entity before the coming into force of this Act.

10. The Minister shall have power to make regulations as he thinks fit for the better carrying out of any of the provisions and purposes of this Act, and without prejudice to the generality of the foregoing, such regulations may in particular prescribe:

Power of
Minister to make
regulations.

(a) the manner in which any return or information shall be given and the forms to be used in making such return or the giving of such information;

(b) any matter which is to be or may be prescribed or provided for by regulations under this Act.

11. With effect from the coming into force of this Act, the right of any Ecclesiastical Entity to acquire by prescription any right in or over any immovable property or to plead the benefit of limitation in respect of such property in accordance with the provisions of Title XXV of Part II of Book Second of the Civil Code relating to prescription, shall cease.

Prescription.

SCHEDULE

(Section 5)

GOVERNMENT OWNED CHAPELS AND CHURCHES Used for regular Ecclesiastical services open to the public

MALTA

St John's Co-Cathedral, Valletta
 Our Lady of Pilar Church, Valletta
 Saint Barbara Church, Valletta
 Jesuits Church, Valletta
 Our Lady of Victories Church, Valletta
 St Catherine of Italy Church, Valletta
 St James Church, Valletta
 Our Lady of Liesse Church, Valletta
 Chapel of the Annunciation at Fawwara, limits of Siggiewi
 Chapel of Tas-Salib, Rabat
 Chapel of the Immaculate Conception at Wied Gerżuma, Rabat
 Buskett Chapel, Mdina

St Oswald Church, Mtarfa
Saint Silvester Church, Mosta
Sarrìa Church, Floriana
Chapel of St Calcedonius, Floriana
Chapel of St Andrews, St Julians
Chapel of St Peter, Baħar iċ-Ċagħaq, Ghargħur.

GOZO AND COMINO

Chapel of the Annunciation, limits of Victoria
Comino Chapel, Comino.

Passed by the House of Representatives at Sitting No. 114 of the 29th June, 1983.

DANIEL MICALLEF
Speaker

C. MIFSUD
Clerk to the House of Representatives