



MALTA

ATT Nru. XXIII ta' l-1979

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

ATT biex ikompli jemenda l-Ordinanza ta' l-1959 li Tnehhi l-Kontroll tad-Djar.

ACT No. XXIII of 1979

AN ACT enacted by the Parliament of Malta.

AN ACT further to amend the Housing (Decontrol) Ordinance, 1959.



Nagħti l-kunsens tiegħi.

Anton Kulltli
President

14 ta' Awissu, 1979

ATT Nru. XXIII ta' l-1979

ATT biex ikompli jemenda l-Ordinanza ta' l-1959 li Tnehhi l-Kontroll tad-Djar.

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:—

Titolu fil-qosor.

1. Dan l-Att jista' jissejjaħ l-Att ta' l-1979 li jemenda l-Ordinanza li Tnehhi l-Kontroll tad-Djar, u għandu jinqara u jfitehem haġa waħda ma' l-Ordinanza ta' l-1959 li Tnehhi l-Kontroll tad-Djar, hawnhekk iżjed 'il quddiem imsejha "il-ligi prinċipali".

Emenda ta' l-artikolu 2 tal-ligi prinċipali.

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

(a) minnufih wara t-tifsira ta' "miljoramenti" għandha tidhol it-tifsira ġdida li ġejja:

"“zieda fl-inflazzjoni” tfisser iż-zieda fl-inflazzjoni stabbi-lita bil-mod provdut fl-artikolu 10C ta' din l-Ordinanza;”;

(b) minnufih wara t-tifsira ta' "l-Ordinanzi dwar il-Kera" għandha tidhol it-tifsira ġdida li ġejja:

"“tiswijiet” tfisser dawk it-tiswijiet li sid il-kera għandu jagħmel għas-spejjeż tiegħu;”;

(ċ) fit-tifsira ta' "kerrej" għandu jiddied il-proviso li ġej, fit-tarf tagħha:

"Izda għall-finijiet ta' l-artikoli 5 u 10B ta' din l-Ordinanza, "kerrej" ma għandha tinkludi ebda waħda mill-persuni inkluzi taht il-paragrafu (b) jew (ċ) ta' din it-tifsira iżda għandha tinkludi, minflok, ulied, u hu jew oħt, il-kerrej li ma jkunux mizzewġa u li jkunu jirrisjedu mal-kerrej fi żmien mewtu jew mewtha u l-axxendent tal-kerrej li jkun hekk ighix mal-kerrej;”.

3. Minflok l-artikolu 5 tal-liġi prinċipali għandu jidhol dan li ġej:

Sostituzzjoni
ta' l-artikolu 5
tal-liġi
prinċipali.

"Postijiet
imnehhija
mill-
kontroll
u Ordi-
nanzi
dwar
il-Kera.

5. (1) Bla ħsara għad-disposizzjonijiet li ġejjin ta' dan l-artikolu u ta' l-artikolu 6 ta' din l-Ordinanza, id-disposizzjonijiet ta' l-Ordinanza dwar il-Kera ma għandhom jgħoddu għal ebda dar ta' abitazzjoni mnehhija mill-kontroll mill-gurnata li fiha d-dar tkun registrata skond id-disposizzjonijiet ta' l-artikolu 3 ta' din l-Ordinanza.

(2) Meta fit-tmiem ta' kirja ta' dar ta' abitazzjoni mnehhija mill-kontroll (sew jekk dak iż-żmien ikun skond il-ftehim, legali, skond l-użu jew xort'oħra) il-kerrej ikun ċittadin ta' Malta u jkun jokkupa d-dar bħala r-residenza ordinarja tiegħu, id-disposizzjonijiet tas-subartikolu (3) ta' dan l-artikolu għandu jkollhom effett u d-disposizzjonijiet ta' l-Ordinanza li tirregola t-Tiġdid tal-Kiri ta' Bini għandhom japplikaw ukoll iżda biss safejn dawn ma jkunux ikonsistenti ma' l-imsemmija disposizzjonijiet ta' dan l-artikolu.

(3) Id-disposizzjonijiet imsemmija fis-subartikolu (2) ta' dan l-artikolu huma:

(a) Ikun kontra l-liġi li sid il-kera ta' dar ta' abitazzjoni jirrifjuta li jgedded il-kirja flief f'xi waħda miċ-ċirkostanzi msemmija fil-paragrafu (b) ta' dan is-subartikolu, u jkun kontra l-liġi wkoll li dan jgħolli l-kera, jew jimponi kondizzjonijiet godda għat-tiġdid tal-kirja, flief kif provdut fil-paragrafi (ċ) u (d) ta' dan is-subartikolu;

(b) Sid il-kera jista' biss jirrifjuta li jgedded il-kirja, u jista' biss jieħu lura l-pussess tad-dar, meta tintemm il-kirja, jekk juri għas-sodisfazzjon tal-Bord, b'rikors biex jieħu lura l-pussess, li matul iż-żmien tal-kirja, il-kerrej kien naqas li jhallas il-kera dovut minnu għal żewġ skadenzi jew iktar fi żmien hmistax-il gurnata minn dak in-nhar li sid il-kera jkun talbu biex iħallas, jew għax ikun għamel ħafna ħsara fid-dar, jew għax xort'oħra jkun naqas milli jħares il-kondizzjonijiet tal-kirja jew l-obbligi tiegħu taħtha, jew għax ikun uza l-fond xort'oħra milli prinċipalment bħala r-residenza ordinarja tiegħu;

(ċ) Il-kera li għandu jithallas taħt l-istess kirja wara l-ewwel tiġdid tal-kirja li jsir bis-saħħa ta' dan is-subartikolu jista' jizdied minn sid il-kera, meta jsir dak it-tiġdid u wara t-tmiem ta' kull hmistax-il sena li tiġi wara sakemm il-kirja tibqa' favur l-istess kerrej, b'daqstant mill-kera li kien jithallas minnufih qabel dak it-tiġdid jew qabel ma jibda kull perijodu sussegwenti ta' hmistax-il sena, li jkun ammont li ma jeċċedix l-imsemmi kera, li jirrappreżenta bi proporzjon għal dak il-kera ż-żieda fl-inflazzjoni mis-sena li l-kera li għandu jizdied kien l-aħħar stabbilit.

(d) Meta, fid-data jew qabel id-data ta' xi tiġdid ta' kirja ta' dar ta' abitazzjoni, sid il-kera jippreżenta fir-Registru tal-Bord, ċertifikat, iffirmat minn arkitett u inġinier ċivili u li jkun aċċettat bħala jaqbel mal-fatti mill-kerrej jew ikun gie hekk dikjarat mill-Bord fuq rikors li jsir minn sid il-kera fejn jitlob dik id-dikjarazzjoni, li juri li d-dar tkun fi stat tajjeb ta' tiswija, it-tiswijiet kollha u l-manutenzjoni kollha għandhom minn hemm 'il quddiem, u sakemm tibqa' l-kirja favur l-istess kerrej, ikunu ir-responsabbiltà tal-kerrej.

(4) Id-disposizzjonijiet li ġejjin ta' dan is-subartikolu għandu jkollhom effett dwar il-kirjiet ta' djar ta' abitazzjoni mneħħija mill-kontroll meta l-kerrej ikun ċittadin ta' Malta. L-imsemmija disposizzjonijiet huma:

(a) Meta l-kirja ta' dar ta' abitazzjoni mneħħija mill-kontroll tkun ġiet imġedda kif provdut fis-subartikolu (3) ta' dan l-artikolu jew taħt is-subartikolu (3) ta' l-artikolu 10B ta' din l-Ordinanza, jew tkun saret taħt is-subartikolu (2) ta' l-imsemmi artikolu, ikun kontra l-liġi li sid il-kera ta' xi dar bħal dik jitlob mingħand xi ċittadin ta' Malta, taħt kirja li ssir wara, kera li jkun oghla mill-ammont li kien ikollu jithallas bħala kera kieku l-kerrej li favur tiegħu l-kirja tkun għall-ewwel darba hekk ġiet imġedda jew tkun hekk saret, baqa' l-kerrej ta' dik id-dar; u kull ammont akbar li jithallas ikun jista' jingabar lura mingħand sid il-kera;

(b) Ikun kontra l-liġi li sid il-kera jitlob il-ħlas ta' kera li jkun sugġett għal tibdil f'xi żmien qabel ma tintemm il-kirja, sew jekk it-tibdil ikun minhabba żieda sew jekk ikun minhabba tnaqqis f'dak il-kera; u meta l-kirja ta' dar ta' abitazzjoni mneħħija mill-kontroll issir sugġetta għal dak it-tibdil il-kera li għandu jithallas dwar dik il-kirja għandu, minkejja ftehim kuntrarju, ikun l-inqas rata li għandha tithallas għal xi parti taż-żmien tal-kirja, u kull ammont li jithallas żejjed jista' jingabar lura mingħand sid il-kera;

(c) Ikun kontra l-liġi li sid il-kera jimponi kondizzjoni li teħtieġ li t-tiswijiet ta' dar ta' abitazzjoni jkunu responsabbiltà tal-kerrej kemm-il darba l-kirja ma tkunx bil-miktub u ċertifikat kif imsemmi fil-paragrafu (d) tas-subartikolu (3) ta' dan l-artikolu ma jkunx anness ma' l-att tal-kirja;

(d) Meta d-dar ta' abitazzjoni tinkera bl-ghamara —

(i) jekk il-kirja ssir qabel il-21 ta' Ġunju, 1979, il-kerrej ikollu jedd, f'kull żmien li ma jkunx qabel sena wara l-imsemmija data, li jitlob li, b'effett mill-egħluq ta' sitt xhur wara d-data ta' dik it-talba, il-kirja tibqa' biss dwar il-bini u li hu jhallas biss dik il-parti tal-kera li tkun tirreferi għall-bini kif jista' jiġi miftiehem bejnu u bejn sid il-kera, jew jekk ma jkunx hemm ftehim bħal dak, kif il-Bord jista' jistabbilixxi fuq rikors li jsir minn xi wieħed minnhom;

(ii) jekk il-kirja ssir wara l-imsemmija data, il-kirja għandha tiddistingwi bejn il-parti tal-kera miftehma dwar id-dar u l-parti miftehma dwar l-ghamara u oġġetti oħra tad-dar; u l-kerrej ikollu jedd, f'kull żmien li ma jkunx qabel sena mid-data li fiha jkun għall-ewwel darba okkupa d-dar mikrija, jitlob ix-xoljiment tal-kirja ta' l-ghamara u ta' l-oġġetti l-oħra tad-dar, u b'effett minn meta jghaddu sitt xhur wara d-data tat-talba jkollu jedd għax-xoljiment ta' dik il-kirja u li jhallas biss il-kera miftiehem dwar id-dar;

(iii) meta kirja ssir bi ksur tas-sub-paragrafu (ii) ta' dan il-paragrafu, ebda kera jew kumpens ieħor ma jkollu jithallas lill-proprjetarju sa dak iż-żmien li d-disposizzjonijiet ta' dak is-sub-paragrafu jkunu mharsa; u kull somom li jithallsu bhala kera jew kumpens ieħor u li ma jkollhomx jithallsu kif intqal qabel ikunu jistgħu jingabru lura minghand sid il-kera;

(iv) il-jeddijiet mogħtija bid-disposizzjonijiet ta' qabel ta' dan il-paragrafu jkunu japplikaw ukoll, *mutatis mutandis*, dwar kull ftehim li jirreferi għal għamara jew oġġetti oħra tad-dar meta dak il-ftehim ikun hekk marbut mal-kirja ta' dar ta' abitazzjoni mneħħija mill-kontroll li għaliha japplika dan is-subartikolu li l-imsemmija kirja ma kenitx issir kieku ma sarx ukoll l-imsemmi ftehim.

(5) Bla ħsara għal kull ftehim li jkun sar qabel il-21 ta' Ġunju, 1979, u bla ħsara għall-jeddijiet li kerrej jista' jkollu dritt għalihom wara l-imsemmija data, id-disposizzjonijiet tas-subartikoli (2) u (3) ta' dan l-artikolu għandhom japplikaw ukoll għalkemm iż-żmien tal-kirja jkun għalaq qabel dik id-data jekk il-kerrej ikun għadu jokkupa d-dar bhala r-residenza ordinarja tiegħu f'dik id-data."

4. L-artikolu 7 tal-liġi prinċipali għandu jiġi emendat kif ġej:

(a) minnufih wara l-kliem "f'kull żmien matul il-perijodu ta' tliet snin li jibdew fil-gurnata stabbilita" għandhom jidhlu l-kliem "jew f'kull żmien wara l-20 ta' Ġunju, 1979"; u

(b) minflok il-kliem "li għaliha d-disposizzjonijiet" għandhom jidhlu l-kliem "li għaliha xi waħda mid-disposizzjonijiet".

Emenda ta' l-artikolu 7 tal-liġi prinċipali.

5. Minnufih wara l-artikolu 10 tal-liġi prinċipali għandhom jiżdiedu l-artikoli ġodda li ġejjin:

"Tiswijiet fi djar ta' abitazzjoni li ma jkunux imneħħija mill-kontroll.

10A. (1) Minkejja kull haġa li tinsab fl-Ordinanza dwar il-Kera, meta f'xi żmien wara l-20 ta' Ġunju, 1979, isiru tiswijiet minn sid il-kera f'dar ta' abitazzjoni li, ma tkunx giet registrata bhala dar ta' abitazzjoni mneħħija mill-kontroll, u dawk it-tiswijiet ikunu hekk saru bi ftehim bil-miktub mal-kerrej jew fuq ordni ta' qorti kompetenti, il-kera xieraq tad-dar ta' abitazzjoni għandu jiżdied b'ammont, li ma jkunx iżjed mill-imsemmi kera, li jikkorrispondi għal minn għaxra wieħed ta' kemm ikunu swew dawk it-tiswijiet.

(2) Minkejja kull liġi oħra, sid il-kera ta' dar ta' abitazzjoni li ma tkunx giet registrata bhala dar ta' abitazzjoni mneħħija mill-kontroll jista' jehles lilu nnifsu mill-obbligu li jagħmel it-tiswijiet fl-imsemmija dar billi jbiegħ id-dar lill-Gvern bi prezz li jkun daqs il-kapitalizzazzjoni tal-kera xieraq tad-dar bis-sitta fil-mija.

Żieda ta' artikoli ġodda 10A, 10B u 10C mal-liġi prinċipali.

Enfi-tewsi temporanja ta' djar ta' abitazzjoni.

10B. (1) Minkejja kull haġa li tinsab fil-Kodiċi Ċivili jew f'xi liġi oħra, id-disposizzjonijiet li ġejjin ta' dan l-artikolu għandu jkollhom effett dwar il-kuntratti kollha ta' enfi-tewsi temporanja li jkunu saru fi kwalunkwe żmien.

(2) Meta dar ta' abitazzjoni tkun ingħatat b'enfi-tewsi temporanja —

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(a) għal perijodu ta' mhux iżjed minn tletin sena, jekk il-kuntratt ikun sar qabel il-21 ta' Gunju, 1979, jew

(b) għal kull perijodu ieħor, jekk il-kuntratt ikun sar wara l-imsemmija data,

u fit-tmiem xi enfitewsi bħal dik l-enfitewta jkun ċittadin ta' Malta u jkun jokkupa d-dar bħala r-residenza ordinarja tiegħu, l-enfitewta jkollu jedd li jibqa' jokkupa d-dar b'kera mingħand il-padrin dirett —

(i) b'kera li jkun daqs iċ-ċens li kien jithallas minnufih qabel ma tkun għalqet l-enfitewsi, miżjud, fil-bidu tal-kirja tad-dar bis-saħħa ta' dan l-artikolu, wara t-tmiem ta' kull hmistax-il sena wara sakemm tibqa' l-kirja favur l-istess kerrej, b'daqstant miċ-ċens li kien jithallas minnufih qabel dak il-bidu jew il-bidu ta' kull perijodu sussegwenti ta' hmistax-il sena, li jkun ammont li ma jkunx iżjed minn dak iċ-ċens, li jirrappreżenta bi proporzjon għal dak iċ-ċens iż-żieda fl-inflazzjoni minn meta iċ-ċens li għandu jiżdied ikun gie stabbilit l-aħħar; u

(ii) taħt dawk il-kondizzjonijiet l-oħra li jistgħu jigu miftiehma bejniethom jew, jekk ma jkunx hemm ftehim, skond kif il-Bord jidhirlu xieraq.

(3) Meta fit-tmiem ta' enfitewsi kif imsemmi fil-paragrafu (a) jew (b) tas-subartikolu (2) ta' dan l-artikolu d-dar ta' abitazzjoni tkun sugġetta għal kirja, id-disposizzjonijiet ta' l-Ordinanza li tirregola t-Tigdid tal-Kiri ta' Bini, m'għandhomx japplikaw dwar kirja bħal dik:

Izda meta l-kerrej taħt l-imsemmija kirja jkun ċittadin ta' Malta u jkun jokkupa d-dar bħala r-residenza ordinarja tiegħu dan għandu, fit-tmiem ta' l-imsemmija kirja, jkollu il-jedd li jkompli jokkupa d-dar taħt kirja ġdida mingħand il-padrin dirett bl-istess kera u taħt l-istess kondizzjonijiet kif imsemmija fil-paragrafi (i) u (ii) tas-subartikolu (2) ta' dan l-artikolu dwar l-enfitewta.

(4) Meta taghlaq enfitewsi temporanja ta' dar ta' abitazzjoni okkupata minn ċittadin ta' Malta bħala r-residenza ordinarja tiegħu fi żmien dak l-egħluq, li ma tkunx enfitewsi msemmija fil-paragrafi (a) jew (b) tas-subartikolu (2) ta' dan l-artikolu, l-enfitewta jkollu l-jedd jikkonverti l-enfitewsi f'waħda perpetwa taħt l-istess kondizzjonijiet ta' enfitewsi temporanja barra minn dawk li jkunu jirreferu għaž-żmien u għaċ-ċens. Iċ-ċens li jkollu jithallas b'effett mill-konversjoni ta' l-enfitewsi f'waħda perpetwa u sakemm jgħaddu hmistax-il sena minn dik id-data jkun daqs sitt darbiet iċ-ċens li kien jithallas minnufih qabel dik il-konversjoni, u wara dan għandu jiżdied kull hmistax-il sena b'daqstant miċ-ċens kurrenti, li jkun ammont li ma jkunx iżjed minn dak iċ-ċens, li jirrappreżenta bi proporzjon miegħu iż-żieda fl-inflazzjoni minn meta l-imsemmi ċens ikun gie stabbilit l-aħħar.

(5) Jekk l-enfitewta ma jeżerċitax il-jedd mogħti lilu bis-subartikolu (4) ta' dan l-artikolu fi żmien sitt xhur mid-data li dak il-jedd ikun eżerċitabbli, dak il-jedd għandu, bil-modifiki meħtieġa, jgħaddi għand minn ikun qed jokkupa d-dar li jkollu jedd jitlob, bl-eskluzjoni ta' l-enfitewta, li d-dar

ta' abitazzjoni tinghata lillu mill-proprjetarju b'enfitewsi perpetwa taht l-istess kondizzjonijiet li kienu jigu applikati kieku l-enfitewta kien ikkonverta l-enfitewsi f'wahda perpetwa.

(6) Meta l-enfitewta jew min ikun qed jokkupa d-dar ikollu jedd jikkonverti enfitewsi temporanja f'wahda perpetwa taht is-subartikolu (4) jew (5) ta' dan l-artikolu, dan jista' jitlob li jsir kuntratt nutarili f'dan is-sens, u l-padrin di-rett jew il-proprjetarju ghandu jilqa' dik it-talba.

(7) Meta d-data tat-tmiem ta' l-enfitewsi tkun data qabel il-21 ta' Gunju, 1979, id-disposizzjonijiet ta' qabel ta' dan l-artikolu ghandhom japplikaw biss jekk l-enfitewta jew il-kerrej, skond il-każ, ikun ghadu jokkupa d-dar bhala r-residenza ordinarja tieghu f'dik id-data u ma japplikawx jekk ikun hekk qed jokkupa d-dar skond ftehim li jkun ghamel wara li tkun intemmet l-enfitewsi.

(8) Meta, fil-każ ta' enfitewsi msemija fil-paragrafu (a) tas-subartikolu (2) ta' dan l-artikolu u li taghlaq wara l-21 ta' Gunju, 1979, l-enfitewta jew il-kerrej li jkun jokkupa d-dar bhala residenza ordinarja tieghu meta taghlaq l-enfitewsi jkun persuna differenti minn dik li tkun tokkupa d-dar bhala residenza ordinarja taghha fil-21 ta' Gunju, 1979, id-disposizzjonijiet tas-subartikolu (2) jew (3) ta' dan l-artikolu, skond il-każ, ghandhom japplikaw biss —

(a) jekk —

(i) il-persuna li tkun tokkupa d-dar fid-data msemija kompliet tokkupa d-dar bhala residenza ordinarja taghha sakemm mietet; u

(ii) il-persuna li tkun tokkupa d-dar bhala residenza ordinarja taghha fl-eghluq tal-enfitewsi kienet tirrisjedi mal-enfitewta fi żmien mewtu u kellha f'dak iż-żmien il-kwalifiki l-oħra kollha biex tigi meqjusa bhala kerrej għall-finijiet ta' dan l-artikolu; jew

(b) jekk —

(i) il-persuna li tkun qed tokkupa d-dar bhala residenza ordinarja taghha fl-imsemmija data tkun kisbet it-titolu li bih kienet hekk tokkupa d-dar minghand l-enfitewta li jkun jokkupa d-dar bhala residenza ordinarja tieghu ma' l-eghluq ta' l-enfitewsi jew, jekk l-enfitewta li minghandu jkun inkiseb l-imsemmi titolu jmut qabel l-eghluq ta' l-enfitewsi, minghand l-enfitewta li l-werriet tieghu jkun jokkupa d-dar bhala residenza ordinarja tieghu ma' l-eghluq ta' l-enfitewsi; u

(ii) sa l-eghluq ta' l-enfitewsi, ebda persuna barra mill-persuna fuq imsemmija u mill-imsemmi enfitewta, jew il-werriet tieghu, u membri tal-familja taghhom li jkunu jghixu maghhom, ma kienet okkupata id-dar b'xi mod ikun li jkun; u

(iii) mhux iktar tard mit-30 ta' Settembru, 1979, jinghata avviż bil-miktub lill-Awtorità tad-Djar dwar it-titolu li tahtu tkun okkupata d-dar fil-21 ta' Gunju, 1979, li jghid ix-xorta ta' dak it-titolu, għal kemm żmien ikun mistenni jdum u l-isem tal-persuna li tkun tokkupa d-dar taht dak it-titolu,

(9) Għall-finijiet ta' dan l-artikolu, enfitewsi tfisser l-enfitewsi originali, iżda jekk meta jagħlaq dak l-enfitewsi, id-dar ta' abitazzjoni tkun miżmuma b'sub-enfitewsi —

(a) il-jeddijiet mogħtija b'dan l-artikolu lill-enfitewta jkunu jistgħu jiġu eżerċitati mill-aħħar sub-enfitewta u, bla ħsara għall-jeddijiet mogħtija lill-okkupant bis-subartikolu (5) ta' dan l-artikolu, minnu biss;

(b) il-padrin dirett tfisser biss il-persuna li jkollha jedd tirċievi ċ-ċens originali;

(c) iċ-ċens tfisser biss iċ-ċens originali:

Iżda meta ċ-ċens li jkun jithallas mill-aħħar sub-enfitewta jkun iżjed minn sitt darbiet iċ-ċens originali, is-subartikolu (4) ta' dan l-artikolu għandu jkollu effett daqslikieku minflok il-kliem "jkun daqs sitt darbiet iċ-ċens" kien hemm sostitwiti l-kliem "jkun daqs is-sub-ċens".

(10) Jekk meta tagħlaq enfitewsi temporanja li għaliha japplika s-subartikolu (2) jew (3) ta' dan l-artikolu, id-dar ta' abitazzjoni tkun okkupata minn persuna b'titolu ta' użufrutt jew abitazzjoni, il-jedd li dik id-dar ta' abitazzjoni tibqa' okkupata mogħti b'dawk is-subartikoli jew bis-subartikolu (7) ta' dan l-artikolu jista' jibqa' jiġi eżerċitat minkejja dawk id-disposizzjonijiet, minn dak l-okkupant daqslikieku kien l-enfitewta jew il-kerrej tad-dar ta' abitazzjoni, skond il-kaz.

(11) Meta enfitewsi temporanja tiġi konvertita f'waħda perpetwa taħt is-subartikolu (4) ta' dan l-artikolu, id-dar ta' abitazzjoni tibqa' suġġetta għall-jeddijiet li jkollhom terzi persuni dwar dik id-dar minnufih qabel dik il-konversjoni.

(12) Meta xi wieħed mill-jeddijiet mogħtija b'dan l-artikolu jkun jista' jiġi eżerċitat minn iktar minn persuna waħda dak il-jedd jista' jiġi eżerċitat minkejja kull nuqqas ta' ftehim bejniethom iżda biss jekk mhux inqas minn nofs innumru ta' dawk il-persuni jiftiehm li jeżerċitaw dak il-jedd; u f'kull kaz bħal dak il-jedd ikun japplika biss favur dawk li jkunu qed jeżerċitawh.

Indiċi ta' inflazzjoni.

10Ċ. (1) L-indiċi ta' inflazzjoni għal kull waħda mis-snin mill-1947 sal-1978 għandu jkun kif muri fl-Iskeda li tinsab ma' din l-Ordinanza, billi l-1946 tittiehed bħala bażi b'100 punt.

(2) L-indiċi ta' inflazzjoni għal kull sena wara l-1978 għandu jiġi stabbilit mill-Istatistiku Prinċipali tal-Gvern bħala punti ta' perċentaġġ għal kull waħda minn dawk is-snin b'mod li titkompla l-imsemmija Skeda u fuq il-baži ta' l-indiċi tal-prezzijiet ta' l-oġġetti kollha li jinbiegħu bl-imnut, jew indiċi simili li jissostitwih, u għandu jiġi pubblikat minnu fil-Gazzetta mhux iktar tard mill-aħħar ta' Marzu li jiġi minnu-fih wara s-sena li għaliha jirreferi l-indiċi.

(3) Zieda fl-inflazzjoni tkun stabbilita billi tittiehed d-differenza bejn il-punti ta' perċentaġġ għas-sentejn rilevanti, kif muri fl-Iskeda jew kif jiġi pubblikat fil-Gazzetta, bħala proporzjon ta' l-ewwel waħda minn dawk is-snin.

Jeddijiet
mogħtija
bl-Ordinanza
jipprevalu
fuq ftehim
eċċ.

10D. (1) Id-disposizzjonijiet ta' din l-Ordinanza, u, b'mod partikolari, iżda bla ħsara għall-ġeneralità ta' l-imsemmija espressjoni, id-disposizzjonijiet ta' l-artikoli 5, 7, 10B u 10Ċ għandu jkollhom effett minkejja kull ftehim, obligazzjoni, wegħda jew għemil jew haġa oħra li hi kuntrarja għal, jew li tillimita, jew li tkun tidher li tillimita, xi wieħed mill-jeddijiet mogħtija b'dawk id-disposizzjonijiet lill-kerrej, enfi-tewta jew okkupant ta' dar ta' abitazzjoni, u meta persuna li teżerċita xi wieħed mill-imsemmija jeddijiet issir, bis-saħħa ta' xi ftehim, obligazzjoni jew għemil jew haġa oħra bħal dik, suġġetta li tehel xi penali jew obbligu ieħor jew xi konsegwenza oħra jew effett ieħor, kull ftehim, obligazzjoni, wegħda jew għemil jew haġa oħra tkun, sal-limitu li ttipprovi li dik il-persuna tkun hekk suġġetta kif intqal qabel, nulla u mingħajr effett.

(2) Kull rinunzja u kull restrizzjoni jew limitazzjoni ta' xi wieħed mill-jeddijiet imsemmija fis-subartikolu (1) ta' dan l-artikolu, isiru kif isiru, u kull haġa li tissugġetta xi jedd bħal dak għal xi obbligu jew responsabbiltà, tkun nulla u mingħajr effett."

6. Minnufih wara l-artikolu 11 tal-liġi prinċipali għandha tizzied l-Iskeda li ġejja:

Dhul ta'
Skeda mal-liġi
prinċipali.

"SKEDA

Artikolu 100Ċ

Indiċi ta' inflazzjoni għas-snin mill-1947 sa l-1978

1946	100.0	1963	168.18
1947	104.9	1964	172.00
1948	113.9	1965	174.70
1949	109.7	1966	175.65
1950	116.9	1967	176.76
1951	130.1	1968	180.42
1952	140.3	1969	184.71
1953	139.1	1970	191.55
1954	141.2	1971	196.00
1955	138.8	1972	202.52
1956	142.0	1973	218.26
1957	145.7	1974	234.16
1958	148.3	1975	254.77
1959	151.1	1976	256.20
1960	158.8	1977	281.84
1961	164.84	1978	295.14"
1962	165.16		

Mgħoddi mill-Kamra tad-Deputati fis-Seduta Nru. 311 tat-8 ta' Awissu, 1979.

Skrivan tal-Kamra tad-Deputati

Speaker



I assent.

Anton Kuitiga
President

14 August, 1979

ACT No. XXIII of 1979

AN ACT further to amend the Housing (Decontrol) Ordinance, 1959.

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 Housing (Decontrol) (Amendment) Act, 1979, and shall be read and construed as one with the Housing (Decontrol) Ordinance, 1959, hereinafter referred to as "the principal law".

Amendment
of section 2
of the
principal law.

2. Section 2 of the principal law shall be amended as follows:

(a) immediately after the definition of "improvements" there shall be inserted the following new definition:

" "increase in inflation" means the increase in inflation established in the manner provided in section 10C of this Ordinance;";

(b) immediately after the definition of "the Rent Ordinances" there shall be inserted the following new definition:

" "repairs" means those repairs which the lessor is bound to carry out at his expense;";

(c) in the definition of "tenant", there shall be inserted, at the end thereof, the following proviso:

"Provided that for the purposes of sections 5 and 10B of this Ordinance, "tenant" shall not include any of the persons included under paragraph (b) or (c) of this definition but shall include, instead, the children, and any brother or sister, of the tenant who are not married and who reside with the tenant at the time of his or her death and any ascendant of the tenant who so resides with the tenant;".

3. For section 5 of the principal law there shall be substituted the following:

"Decontrolled premises and the Rent Ordinances.

Substitution of section 5 of the principal law.

5. (1) Subject to the following provisions of this section and of section 6 of this Ordinance, the provisions of the Rent Ordinances shall not apply to any decontrolled dwelling-house from the day on which the house is registered in accordance with the provisions of section 3 of this Ordinance.

(2) Where on the expiration of the lease of a decontrolled dwelling-house (whether such period be conventional, legal, customary or otherwise) the tenant is a citizen of Malta and occupies the house as his ordinary residence, the provisions of subsection (3) of this section shall have effect and the provisions of the Reletting of Urban Property (Regulation) Ordinance shall also apply but only in so far as they are not inconsistent with the said provisions of this section.

(3) The provisions referred to in subsection (2) of this section are:

(a) It shall not be lawful for the lessor of the dwelling-house to refuse to renew the lease except in any of the circumstances set out in paragraph (b) of this subsection, nor shall it be lawful for him to raise the rent, or to impose new conditions for the renewal of the lease, except as provided in paragraphs (c) and (d) of this subsection;

(b) The lessor may only refuse to renew the lease, and may only resume possession of the house, at the termination of the lease, if he shows to the satisfaction of the Board, on an application to resume possession, that in the course of the lease, the tenant has failed to pay the rent due by him in respect of two or more terms within fifteen days from the day on which the lessor called upon him for payment, or has caused considerable damage to the house, or otherwise failed to comply with the conditions of the lease or his obligations thereunder, or has used the premises for a purpose other than mainly as his ordinary residence;

(c) The rent payable under the same lease after the date of the first renewal of the lease made by virtue of this subsection may be increased by the lessor, upon such renewal and after the lapse of every fifteenth year thereafter during the continuance of the lease in favour of the same tenant, by so much of the rent payable immediately before such renewal or before the commencement of each subsequent fifteen year period, being an amount not exceeding the said rent, as represents in proportion to such rent the increase in inflation since the year the rent to be increased was last established.

(d) Where, on or before the date of any renewal of the lease of the dwelling-house, the lessor files in the Registry of the Board, a certificate, signed by a qualified architect and civil engineer and which is either accepted as correct by the tenant or has been so declared by the Board on an application by the lessor requesting such a declaration, showing that the house is in a good state of maintenance and repair, all repairs and all maintenance

of the dwelling-house shall thereafter, and throughout the continuance of the lease in favour of the same tenant, be at the charge of the tenant.

(4) The following provisions of this subsection shall also have effect with respect to all leases of decontrolled dwelling-houses where the tenant is a citizen of Malta. The said provisions are:

(a) Where the lease of a decontrolled dwelling-house has been renewed as provided in subsection (3) of this section or under subsection (3) of section 10B of this Ordinance, or has been established under subsection (2) of the said section, it shall not be lawful for the lessor of any such house to require from any citizen of Malta, under a lease made thereafter, a rent higher than the amount which would have been payable by way of rent if the tenant in whose favour the lease was first so renewed or established had remained the tenant of that house; and any amount paid in excess shall be recoverable from the lessor;

(b) It shall not be lawful for the lessor to require the payment of a rent which is subject to variation at any time prior to the expiration of the lease, whether the variation is due to an increase or a decrease of such rent; and where the lease of a decontrolled dwelling-house is made subject to such a variation the rent payable in respect thereof shall notwithstanding the agreement to the contrary, be the lowest rate payable for any part of the duration of the lease, and any amount paid in excess shall be recoverable from the lessor;

(c) It shall not be lawful for the lessor to impose a condition requiring the repairs of the dwelling-house to be at the charge of the tenant unless the lease is in writing and a certificate as is mentioned in paragraph (d) of subsection (3) of this section is attached to the instrument of lease;

(d) Where the dwelling-house is leased furnished —

(i) if the lease is made before 21st June, 1979, the tenant shall be entitled, at any time not earlier than one year after the said date, to demand that, with effect from the expiration of six months after the date of such demand, the lease shall remain only in respect of the building and that he shall pay only such part of the rent as relates to the building as may be agreed between himself and the lessor, or, failing such agreement, as the Board may on application by either of them establish;

(ii) if the lease is made after the date aforesaid, the lease shall distinguish between the part of the rent agreed in respect of the house and the part of the rent agreed in respect of the furniture and other household articles; and the tenant shall be entitled, at any time not earlier than one year from the date he first occupies the house under the lease, to demand the dissolution of the lease of the furniture and other household articles, and with

effect from the expiration of six months after the date of the demand to have such lease dissolved and to pay only the rent agreed in respect of the house;

(iii) where a lease is made in contravention of sub-paragraph (ii) of this paragraph, no rent or other compensation shall be due to the owner, until such time as the provisions of that sub-paragraph are complied with; and any sums paid by way of rent or other compensation and not due as aforesaid shall be recoverable from the lessor;

(iv) the rights given by the foregoing provisions of this paragraph shall also be competent, mutatis mutandis, in respect of a transaction relating to furniture or other household articles where such transaction is so connected with the lease of a decontrolled dwelling-house to which this subsection applies that the said lease would not have been contracted unless the said transaction had also taken place.

(5) Subject to any agreement entered into prior to 21st June, 1979, and without prejudice to the rights to which a tenant may become entitled under this section after that date, the provisions of subsections (2) and (3) of this section shall apply even though the expiration of the lease has taken place before that date if the tenant still occupies the house as his ordinary residence on that date.”.

4. Section 7 of the principal law shall be amended as follows:

Amendment of section 7 of the principal law.

(a) immediately after the words “at any time during the period of three years beginning with the appointed day” there shall be inserted the words “or at any time after 20th June, 1979”; and

(b) for the words “to which the provisions of” there shall be substituted the words “to which any of the provisions of”.

5. Immediately after section 10 of the principal law there shall be inserted the following new sections:

Addition of new sections 10A, 10B and 10C to the principal law.

“Repairs in dwelling-houses not decontrolled.

10A. (1) Notwithstanding anything contained in the Rent Ordinances, where at any time after 20th June, 1979, repairs are carried out by the lessor in a dwelling-house which has not been registered as a decontrolled dwelling-house, and such repairs are so carried out with the agreement of the tenant signified in writing or upon an order of a competent Court, the fair rent of the dwelling-house shall be increased by an amount, not exceeding the said rent, corresponding to one-tenth of the cost of such repairs.

(2) Notwithstanding any other enactment, the lessor of a dwelling-house which has not been registered as a decontrolled dwelling-house may free himself from the obligation to carry out repairs in the said house by means of an

outright sale of the house in favour of the Government for a price equal to the capitalization of the fair-rent of the house at six per cent.

Cap. 23

Temporary
emphy-
teusis of
dwelling-
houses.

10B. (1) Notwithstanding anything contained in the Civil Code or in any other enactment the following provisions of this section shall have effect with respect to all contracts of temporary emphyteusis made at any time.

(2) Where a dwelling-house has been granted on temporary emphyteusis —

(a) for a period not exceeding thirty years, if the contract was made before 21st June, 1979, or

(b) for any period, if the contract is made on or after the date aforesaid,

and on the expiration of any such emphyteusis the emphyteuta is a citizen of Malta and occupies the house as his ordinary residence, the emphyteuta shall be entitled to continue in occupation of the house under a lease from the *directus dominus* —

(i) at a rent equal to the ground-rent payable immediately before the expiration of the emphyteusis increased, at the beginning of the lease of the house by virtue of this section, and after the lapse of every fifteenth year thereafter during the continuance of the lease in favour of the same tenant, by so much of the ground-rent payable immediately before such commencement or the commencement of each subsequent fifteen year period, being an amount not exceeding such ground-rent, as represents in proportion to such ground-rent the increase in inflation since the time the ground-rent to be increased was last established; and

(ii) under such other conditions as may be agreed between them, or failing agreement, as the Board may deem appropriate.

(3) Where on the expiration of an emphyteusis as is mentioned in paragraph (a) or (b) of subsection (2) of this section the dwelling-house is subject to a lease, the provisions of the *Reletting of Urban Property (Regulation) Ordinance*, shall not apply in respect of such a lease:

Provided that where the tenant under the said lease is a citizen of Malta and occupies the house as his ordinary residence he shall, on the termination of the lease, be entitled to continue in occupation of the house under a new lease from the *directus dominus* at the same rent and under the same conditions as are mentioned in paragraphs (i) and (ii) of subsection (2) of this section in respect of the emphyteuta.

(4) On the expiration of a temporary emphyteusis of a dwelling-house occupied by a citizen of Malta as his ordinary residence at the time of such expiration, not being an emphyteusis mentioned in paragraphs (a) or (b) of sub-

section (2) of this section, the emphyteuta shall be entitled to convert the emphyteusis into a perpetual one under the same conditions of the temporary emphyteusis with the exception of those relating to the duration and the ground-rent. The ground-rent payable with effect from the conversion of the emphyteusis into a perpetual one and until fifteen years from that date shall be equal to six times the ground-rent payable immediately before such conversion, and shall thereafter be increased every fifteen years by so much of the then current ground-rent, being an amount not exceeding such rent, as represents in proportion thereto the increase in inflation since the time the said ground-rent was last established.

(5) If the emphyteuta does not exercise the right granted to him by subsection (4) of this section within six months from the date such right is exercisable, such right shall, with the necessary modifications, pass to the occupier of the house who shall be entitled to demand, to the exclusion of the emphyteuta, that the dwelling-house be granted to him by the owner in perpetual emphyteusis under the same conditions as could have applied if the emphyteuta had converted the emphyteusis into a perpetual one.

(6) Where the emphyteuta or the occupier is entitled to convert a temporary emphyteusis into a perpetual one under subsection (4) or (5) of this section, he may require that a notarial deed be entered into to this effect, and the dominus or the owner shall comply with such request.

(7) Where the date of expiration of the emphyteusis is a date prior to 21st June, 1979, the foregoing provisions of this section shall apply only if the emphyteuta or the tenant, as the case may be, still occupies the house as his ordinary residence on that date and shall not apply if he so occupies the house under an agreement entered into by him after the expiration of the emphyteusis.

(8) Where, in the case of an emphyteusis mentioned in paragraph (a) of subsection (2) of this section and expiring after the 21st June, 1979, the emphyteuta or the tenant occupying the house as his ordinary residence on the expiration of the emphyteusis is a person different from the person occupying the house as his ordinary residence on 21st June, 1979, the provisions of subsection (2) or (3) of this section, as the case may be, shall apply only —

(a) if —

(i) the person occupying the house on the date aforesaid continued in occupation of the house as his ordinary residence until his death; and

(ii) the person occupying the house as his ordinary residence on the expiration of the emphyteusis resided with the emphyteuta at the time of his death and had then all the other qualifications to be

treated as a tenant for the purposes of this section; or

(b) if —

(i) the person occupying the house as his ordinary residence on the date aforesaid derived the title under which he so occupied the house from the emphyteuta occupying the house as his ordinary residence on the expiration of the emphyteusis or, if the emphyteuta from whom the said title was derived dies before the expiration of the emphyteusis, from the emphyteuta whose heir occupies the house as his ordinary residence on the expiration of the emphyteusis; and

(ii) until the expiration of the emphyteusis, no person other than the person aforesaid and the said emphyteuta, or his heir, and members of their family living with them, occupied the house in any manner whatsoever; and

(iii) not later than 30th September, 1979, notice is given in writing to the Housing Authority of the title under which the house is occupied on 21st June, 1979, stating the nature of that title, the expected duration thereof and the name of the person occupying the house under that title.

(9) For the purposes of this section, emphyteusis means the original emphyteusis, but where, on the expiration of such emphyteusis, the dwelling-house is held on sub-emphyteusis —

(a) the rights given by this section to the emphyteuta shall be exercisable by the last sub-emphyteuta and, without prejudice to the rights given to the occupier by subsection (5) of this section, only by him;

(b) the *directus dominus* means only the person entitled to receive the original ground-rent;

(c) the ground-rent means only the original ground-rent;

Provided that where the ground-rent payable by the last sub-emphyteuta exceeds six times the original ground-rent, subsection (4) of this section shall have effect as if for the words "shall be equal to six times the ground-rent" there were substituted the words "shall be equal to the sub-ground-rent".

(10) Where on the expiration of a temporary emphyteusis to which subsection (2) or (3) of this section applies, the dwelling-house is occupied by a person by title of usufruct or habitation, the right to continue in occupation of such dwelling-house conferred by those subsections or by

subsection (7) of this section shall, notwithstanding those provisions, be competent to such occupier as if he were the emphyteuta or the tenant of the dwelling-house, as the case may require.

(11) Where a temporary emphyteusis is converted into a perpetual one under subsection (4) of this section, the dwelling-house shall remain subject to the rights enjoyed by third parties over such house immediately before such conversion.

(12) Where any of the rights conferred by this section is exercisable by more than one person such right may be exercised notwithstanding any disagreement among them but only if not less than half the number of such persons agree to exercise such right; and in any such case it shall operate only in favour of those exercising it.

Index of
Inflation.

10C. (1) The index of inflation for each of the years from 1947 until 1978 shall be that shown in the Schedule to this Ordinance, taking 1946 as a basis at 100 points.

(2) The index of inflation for each year after 1978 shall be established by the Principal Government Statistician as percentage points for each of such years in continuation of the Schedule aforesaid and on the basis of the all items retail price index, or a similar index replacing it, and shall be published by him in the Gazette not later than the end of March immediately following the year to which the index refers.

(3) An increase in inflation shall be established by taking the difference between the percentage points for the two relevant years, as shown in the Schedule or as published in the Gazette, as a proportion of the first of such years.

Rights
granted
by
Ordinance
to prevail
over
agreements
etc.

10D. (1) The provisions of this Ordinance, and, in particular, but without prejudice to the generality of the foregoing expression, the provisions of sections 5, 7, 10B and 10C, shall have effect notwithstanding any agreement, undertaking, promise or other act or thing contrary to, or limiting, or purporting to limit, any of the rights conferred by those provisions on the tenant, emphyteuta or occupier of a dwelling-house; and where a person exercising any of the said rights is, by virtue of any such agreement, undertaking, promise or other act or thing, made liable to incur any penalty or any obligation or other consequence or effect, any such agreement, undertaking, promise or other act or thing shall, to the extent that it provides for any liability as aforesaid, be null and without effect.

(2) Any waiver and any restriction or limitation of any of the rights referred to in subsection (1) of this section, however made, and any subjection of any such right to any obligation or liability, shall be null and without effect."

Addition of
Schedule to the
principal law.

6. Immediately after section 11 of the principal law there shall be added the following Schedule:

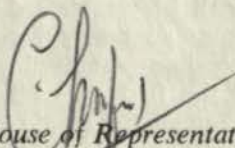
"SCHEDULE


Section 10C

Index of inflation for the years from 1947 until 1978

1946	100.0	1963	168.18
1947	104.9	1964	172.00
1948	113.9	1965	174.70
1949	109.7	1966	175.65
1950	116.9	1967	176.76
1951	130.1	1968	180.42
1952	140.3	1969	184.71
1953	139.1	1970	191.55
1954	141.2	1971	196.00
1955	138.8	1972	202.52
1956	142.0	1973	218.26
1957	145.7	1974	234.16
1958	148.3	1975	254.77
1959	151.1	1976	256.20
1960	158.8	1977	281.84
1961	164.84	1978	295.14".
1962	165.16		

Passed by the House of Representatives at Sitting No. 311 of the 8th August, 1979.


Clerk to the House of Representatives


Speaker