

## ABBOZZ TA' LIĠI msejjah

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

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

**1.** It-titolu fil-qosor ta' dan l-Att hu Att ta' l-2004 li jemenda l-Att dwar it-Trasferiment ta' Artijiet tal-Gvern, u għandu jinqara u jiftiehem haġa waħda ma' l-Att dwar it-Trasferiment ta' Artijiet tal-Gvern, hawnhekk iżjed 'il quddiem imsejjah' "l-Att prinċipali".

Titolu  
fil-qosor.

**2.** L-artiklu 3 ta' l-Att prinċipali għandu jiġi emendat kif ġej:-

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

(a) fis-sub-artiklu (1) tiegħu, il-paragrafi (b), (ċ), (d), u (e) għandhom jiġu enumerati mill-ġdid bħala l-paragrafi (ċ), (d), (e) u (f) rispettivament;

(b) minnufih wara paragrafu (a) tas-sub-artiklu (1) tiegħu, għandu jidhol dan il-paragrafu ġdid li ġej:

“ (b) wara avviż ta' bejgħ b'irkant skond ma jiġi pubblikat fil-Gazzetta għar-rigward tal-proprjeta' li tkun ser tiġi trasferita:

Izda l-Ministru responsabbli għall-artijiet jista' b'regolamenti jistabbilixxi l-mod u l-proċedura kif għandu jsir bejgħ bl-irkant bħal dak;”;

(ċ) minflok is-subartiklu (c) kif mibdul, ghandu jidhol dan li ġej:

“ (c) skond il-*“policy”* applikabbli għall-art li jkun hemm il-ħsieb li tigi trasferita, kif muri fl-iskeda ma’ dan l-Att li tista’ tinbidel b’rizoluzzjoni tal-Kamra tad-Deputati.”

(d) is-sub-artiklu (2) tiegħu jigi sostitwit b’dan li ġej:

“ (2) Rizoluzzjoni tal-Kamra tad-Deputati li tghaddi għall-iskopijiet tal-paragrafi (d) u (e) tas-subartiklu (1) tibqa’ fis-seħħ għal żmien sena mill-ġurnata li fiha tghaddi, iżda kull rizoluzzjoni bħal dik tista’ tiġġedded b’rizoluzzjoni jew rizoluzzjonijiet oħra li jsiru wara għal perijodu iehor ta’ sena.”

(e) fis-sub-artiklu (4) tiegħu, minflok il-kliem “fil-paragrafu (ċ)” għandhom jidhlu l-kliem “fil-paragrafu (d)”.

Żjieda ta’ Skeda.

**3.** Minnufih wara l-artiklu 5 ta’ l-Att prinċipali għandha tizzied l-Iskeda il-ġdida li ġejja:

## SKEDA

(Artiklu 3)

*Policy* dwar it-Trasferiment ta' Art tal-Gvern

Interpretazzjoni

1. F'dan id-dokument il-kliem 'art' u 'trasferiment' ghandhom l-istess tifsira moghtija lilhom mill-Att ta' l-1976 dwar it-trasferiment ta' Artijiet tal-Gvern; u kull riferenza ghal 'art tal-gvern' jew 'bini tal-gvern' tinkludi riferenza ghal art jew bini amministrat mill-Gvern.

2. Il-kazi li fihom l-art tal-Gvern tista' tigi ttrasferita skond il-policy migbura f'dan id-dokument huma b'zieda mal-kazi li fihom art tal-Gvern tista' tigi ttrasferita skond il-paragrafi (a), (c), (d) u (e) tas-subartiklu (1) ta' l-Artiklu 3 ta' l-imsemmi Att.

Trasferiment b'titolu ta' bejgh jew fidi

3. Art tal-Gvern tkun tista' tinbiegh jew id-dirett dominju perpetwu jew temporanju gravanti fuqha jkun jista' jinfeda jekk dik l-art tikkonsisti fi flats jew djar li jigu offruti permezz ta' avviz pubbliku biex jinxtraw jew jinfedew minn min joqghod fihom taht il-kundizzjonijiet li jigu murija f'dak l-avviz.

Trasferiment b'titolu ta' enfitewsi

4. Art tal-gvern tkun tista' tigi ttrasferita b'titolu ta' enfitewsi:-

(a) jekk tikkonsisti f'art li tigi offruta biex tigi zviluppata taht xi 'Home Ownership Scheme' permezz ta' avviz pubbliku li jkun fih il-kundizzjonijiet ta' l-ghoti u l-mod kif issir l-ghazla ta' min joffri;

(b) jekk tikkonsisti f'art li tigi moghtija ghall-progett industrijali wara li l-applikant ikun issodisfa lill-Gvern dwar il-beneficċju li l-progett jaghti lil-ekonomija tal-pajjiż u li n-numru ta' impjegi li johloq huwa adegwat;

(c) jekk tikkonsisti f'art li tigi moghtija ghal hamsa u ghoxrin (25) sena ghall-bini ta' kjosks skond pjanti approvati mill-Awtorità ta' l-Ippjanar, lil dawk il-persuni li fl-1996 kienu fil-pussess ta' permess validu mid-Dipartiment ta' l-Artijiet biex joperaw kjosk f'din l-istess lokalità.

5. Konċessjonijiet enfitewtiċi mgħotija taht 'Home Ownership Schemes' fl-imghoddi għal żmien stabbilit, jistgħu jinbidlu għal enfitewsi perpetwa.

Trasferiment b'titolu ta' kiri

6. Art tal-Gvern tkun tista' tinghata b'kiri:-

(a) jekk tikkonsisti f' bini gdid (li ma jkunx bini għall-użu kummerċjali) li jinghata fuq sistema ta' punti wara avvizz pubbliku li jindika, għall-anqas b' mod ġenerali, il-kriterji li fuqhom issir l-allokkazzjoni tal-punti;

(b) jekk tikkonsisti f' bini qadim (li ma jkunx għall-użu kummerċjali) li jinghata skond il-mertu tal-każ lil min ikun fuq il-kotba tad-Dipartiment tal-Gvern responsabbli għal hekk;

(c) jekk tikkonsisti f' fabrika li tinghata għall-proġett industrijali wara li l-applikant ikun issodisfa lill-Gvern dwar il-benefiċċji li l-proġett jagħti lil-ekonomija tal-pajjiż u li n-numru ta' impjiegi li johloq huwa adegwat;

(d) jekk tikkonsisti f' art agrikola li tinghata bi qbiela lil min ikun qed jaħdimha, ukoll jekk ma jkollux titolu għaliha;

(e) jekk tikkonsisti f' art li tiġi allokata direttament:

(i) lil riċevitur tal-lottu;

(ii) lill-persuna li tkun harġet minn darha jew minn post iehor okkupat minnha għan-negozju jew għal xi użu iehor ikun x' ikun, u jew tkun ġiet imġieghla tohroġ mill-Gvern għal xi skop pubbliku jew tkun harġet għax il-post ikun perikoluż;

(f) jekk tikkonsisti f' bini (kompriża art aċċessorji għalih) li jinghata prinċipalment għal użu kummerċjali speċifiku li jista' jsir biss taht liċenzja mahruġa mill-Gvern għal dak l-użu taht liġi speċjali;

(g) jekk tikkonsisti f' fond kummerċjali li tiġi allokata direttament mill-Gvern b'kiri ġdid lil dawk l-ulied jew ulied l-ulied, illi favur tagħhom ikun irrinunzja l-inkwilin preċedenti (u biss jekk dan ikun għalaq l-eta ta' wiehed u sittin sena). Il-kera tal-fond tkun iffissata fuq bażi tal-kera tal-kirja preċedenti miżjuda b' għaxra fil-mija għal kull perjodu ta' għaxar snin u/jew parti minnhom li jkunu għaddew minn meta l-aħhar ġiet stabbilita l-kera tal-kirja preċedenti.

(h) jekk tikkonsisti f' fond kummerċjali mikri minn sena għal sena, li fil-passat kien mogħti b' titlu ta' kera għal perjodu determinat ta' aktar minn sena, lill-istess inkwilin. Il-Kirja tal-fond tinghata lill-istess inkwilin, taht il-kundizzjonijiet tat-titlu oriġinali, hlief għal kera li tiġi stabbilita mill-ġdid, b' dan iżda li l-ebda kirja ma tkun għal perjodu ta' aktar minn hmistax (15) -il sena.

Servitujiet, encroachments u permessi oħra

7. Ikunu jistgħu jinholqu servitujiet u drittijiet oħra simili fuq art tal-Gvern kull meta dawn id-drittijiet ikunu meħtieġa għall-użu xieraq ta' xi art oħra minn haddiehor, u ma jkunx il-każ li d-dritt jinghata b' *encroachment*. F'kull każ iehor dawn id-drittijiet jistgħu u għandhom jinghataw b' *encroachment*.

8 Jistghu wkoll jinghataw b' *encroachment*:

(i) biċċiet mill-ixtajta bhala 'beach concessions';

(ii) art hdejn hwienet tal-kafe' u stabilimenti simili biex jitqieghdu mwejjed u sigġijiet; u

(iii) konċessjonijiet ohra simili.

9 Ikunu jistghu wkoll jinghataw permessi ghall-użu temporanju jew speċifiku ta' art tal-Gvern.

Dritt ta' l-ewwel rifjut

10. Offerti ghal trasferiment ta' art tal-Gvern jistghu jsiru soġġetti ghal dritt maghruf bhala dritt ta' l-ewwel rifjut ('right of first refusal') f'kull każ li l-Gvern jidhirlu xieraq li ghandu jinghata dak id-dritt lil xi persuna.

Sullokazzjoni f' kirja

11. Ikun jista' jinghata permess ghas-sullokazzjoni ta' parti minn bini akbar ghal użu kummerċjali konness ma' jew aċċessorji jew anċillari ghall-użu mill-Gvern tal-bini li minnu hija parti.

Trasferiment ta' art f' xatt il-baħar

12. Art tal-Gvern f' xatt il-baħar li fuqha nbriet xi kamra jew bini ieħor jew li qed isservi biex fuqha titqieghed "caravan" tista' tiġi ttrasferita b'titolu ta' kiri ghal mhux iżjed minn għaxar snin b'kera skond stima tal-Kummissarju ta' l-Artijiet u li fl-ebda każ ma tkun inqas minn Lm40 fis-sena;

B'dan iżda illi l-bini bil-benefikati kollha fuqu, hlief dak kollu li hu mobbli, jaqa' f'idejn il-Gvern f'għeluq il-kirja mingħajr l-ebda dritt ta' kumpens.

Għotja ta' art bi tpartit

13 Art tal-Gvern tkun tista' tinghata bi tpartit ma' ohra li tkun ddikjarata meħtieġa ghal skop pubbliku taħt l-Ordinanza XL ta' l-1935, lis-sid l-art hekk iddikjarata. Iżda fejn teżisti differenza fil-valur bejn iż-żewġ artijiet mogħtija bi tpartit, dik id-differenza tiġi ekwiprata bl-għotja wkoll ta' zieda fi flus. B'dan iżda, illi t-tpartit ma jistax isir jekk il-valur ta' l-art tal-Gvern li tkun ser tinghata taqbeż it-tletin fil-mija tal-valur ta' l-art esproprijata. Id-danni sofferti kawża ta' l-esproprijazzjoni ta' l-art huma parti mill-valur ta' l-istess art.

### Trasferiment tale quale ghal-kumpens relattiv

14. L-artijiet komprizi f'dawk l-Arei għall-iżvilupp tal-Bini, inklużi anke dawk l-artijiet f'Arei għall-Iżvilupp tal-Bini li ġew revokati, u li ma gewx utilizzati u/jew ma jidhirx li għalihom hemm xi użu għal skop pubbliku, jistgħu jiġu ttrasferiti b'titolu ta' tpartit lis-sidien tal-jeddijiet għall-kumpens relattivi għal kull biċċa art li tiġi hekk ttrasferita u li jkunu applikaw għaliha, bil-korrispettiv għal kull biċċa art, tal-jeddijiet għall-kumpens relattivi għall-istess art, u fejn il-persuna li lilha tkun ser tiġi ttrasferita l-art ma kenitx is-sid assolut ta' l-art qabel ma ttiehdet mill-Gvern, bil-korrispettiv ukoll ta' somma ekwivalenti għal kull jedd għal kumpens iehor li jkollu x'jaqsam ma' dik l-art, libri u franki minn kull piż, ipoteka jew privilegg, kif ukoll kull dritt għal interessi jew danni ohra li jistgħu jkunu dovuti.

Il-persuna li favur tagħha tiġi ttrasferita l-art hija obbligata li fuq l-istess kuntratt ta' trasferiment terġa tikkostitwixxi fuq l-art lilha ttrasferita kull ipoteka, privilegg, servitù, użufrutt, użu jew kull dritt reali iehor li kienu jeżistu fuq l-istess art qabel din għet ddikjarata bhala Area għall-Iżvilupp tal-Bini skond l-Att numru wiehed tal-1983 u li preżentament huma nkombenti fuq il-jeddijiet ta' kumpens, dana sakemm dawk id-drittijiet ma jkunux thassru bi ftehim bejn il-partijiet qabel it-trasferiment lura; il-persuna li favur tagħha tiġi ttrasferita l-istess art tkun marbuta ukoll li fuq l-istess kuntratt tobbliga ruhha li terġa' tirrikonoxxi kull dritt ta' qbiela u kull dritt iehor li kien inkombenti fuq l-art qabel din għet ddikjarata bhal Area għall-Iżvilupp tal-Bini skond l-istess att numru wiehed ta' l-1983.

L-ispejjeż tal-kuntratt tat-trasferiment jithallsu mill-Gvern ta' Malta.

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### Għanijiet u Raġunijiet

L-għan ta' dan l-Abbozz hu biex jiffaċilita t-trasferiment b'irkant ta' artijiet tal-gvern sabiex jiġu żgurati l-aħjar profitti li jistgħu jsiru u li jinkorpora il-*policy* kurrenti dwar it-trasferiment ta' art tal-Gvern bhala skeda fil-liġi principali.

**A BILL  
entitled**

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

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

**1.** The short title of this Act is the Disposal of Government Land (Amendment) Act, 2004, and it shall be read and construed as one with the Disposal of Government Land Act, hereinafter referred to as “the principal Act”.

Short title.

**2.** Article 3 of the principal Act shall be amended as follows:-

Amendment of article 3 of the principle Act.

(a) in sub-article (1) thereof, paragraphs (b), (c), (d) and (e) shall be renumbered as paragraphs (c), (d), (e) and (f) respectively;

(b) immediately after paragraph (a) of sub-article (1) thereof, there shall be inserted the following new paragraph:

“ (b) after an announcement of an auction as published in the Gazette in respect of the property to be disposed of:

Provided that the Minister responsible for land may by regulations establish the manner and procedure for the holding of any such auction; ”;

(c) instead of sub-article (c) as amended, there shall be inserted the following:

“ (c) according to the policy applicable to the land being transferred, as shown in schedule attached to this Act, which schedule can only be changed by virtue of a Resolution of the House of Representatives.”

(d) sub-article (2) thereof, shall be substituted with the following:

“ (2) A Resolution of the House of Representatives approved in terms of paragraphs (d) and (e) of subarticle (1) will remain valid for a year from the date of approval, but such Resolution can be extended by virtue of another Resolution or other Resolutions proposed after another period of one year.”

(e) In sub-article (4) thereof, the words “in paragraph (c)” shall be changed to “in paragraph (d)”

Addition of  
Schedule to the  
principal act.

**3.** Immediately after article 5 of the principal Act there shall be added the following Schedule:



## SCHEDULE

(Article 3)

Policy relating to the Transfers of Government Land

Interpretation

1. In this document the words 'land' and 'transfer' shall have the same meaning as is given to them by the Disposal of Government Land Act, 1976; and any reference to 'government land' or 'government building' includes a reference to any land or building administered by Government.

2. The cases in which government land may be transferred according to policy as contained in this document are additional to the cases in which government land may be transferred according to paragraphs (a), (c), (d) and (e) of sub-article (1) of Article 3 of the said Act.

Transfer by title of sale or redemption

3. Government land may be sold or the perpetual or temporary *dominium directum* burden thereon may be redeemed if such land consists of flats or houses which are offered by means of a public notice to be bought or redeemed by a person who resides therein under such conditions as are shown in that notice.

Transfer by title of emphyteusis

4. Government land may be transferred by title of emphyteusis:-

(a) if it consists in land which is offered for development under a 'Home Ownership Scheme' by means of a public notice containing the conditions of the transfer and the manner of choice of the person who is making an offer;

(b) if it consists in land which is offered for an industrial project after applicant would have satisfied Government about the benefit which the project would render to the country's economy and that it would create an adequate number of jobs;

(c) if it consists in land which is offered for twenty-five (25) years for the building of kiosks according to plans approved by the Planning Authority, to such persons who in 1996 had a valid permit issued by the Department of Lands to operate a kiosk in such same locality.

5. Emphyteutical grants given previously under the 'Home Ownership Schemes' for a definitive period, may be converted into perpetual emphyteusis.

Transfer by title of lease

6. Government land may be given by lease:-

(a) if it consists in a new building (not being a building for commercial use) which is offered on a points system after the issue of a public notice indicating, at least in a general manner, the criteria on which the allocation of points will be made;

(b) if it consists in an old building (not being for commercial use) which is offered according to the merits of the case to whosoever is listed on the registers of the government department which is responsible for such matters;

(c) if it consists in a factory which is offered for an industrial project after applicant would have satisfied Government about the benefits which the project would render to the country's economy and that it would create an adequate number of jobs;

(d) if it consists in agricultural land which is offered on agricultural lease to whosoever would be cultivating it, although such person may not have any title thereto;

(e) if it consists in land which is directly allocated:

(i) to a lotto receiver;

(ii) to a person who has relinquished his place of residence or any other premises occupied by him for commercial purposes or for any other use, and would either have been evicted by Government for any public purpose or would have relinquished such premises due to its dangerous state;

(f) if it consists in a building (comprising land accessory thereto) which is mainly offered for a specific commercial use which may be only carried out under a licence issued by the Government for such use under a special law;

(g) if it consists in commercial premises which are directly allocated by Government on a new lease to such children or grand-children as the preceding tenant would have renounced in their favour (and then only if such tenant would have reached the age of sixty-one years). The rent of the premises shall be fixed on the basis of the previous lease increased by ten per cent for each period of ten years and/or part thereof which would have passed from the date of the last fixing of the rent of the preceding lease.

(h) if it consists in commercial premises leased on a yearly basis, which was in the past given by title of lease for an established period exceeding one year, to the same tenant. The lease of the premises is given to the same tenant, under the conditions of the original title, other than for the rent which is fixed again, so however that no lease may exceed a period of fifteen (15) years.

### Servitudes, encroachments and other permits

7. Servitudes and other similar rights may be created on government land whenever such rights are required for the proper use of any other land by any other person, and it would not be the case that such right is given on encroachment terms. In any other case such rights may and shall be given on encroachment terms.

8. Encroachment terms are also allowed as regards:

- (i) stretches of shore land as 'beach concessions';
- (ii) land adjacent to coffee-shops and similar establishments for the placing of tables and chairs; and
- (iii) other similar concessions.

9. Permits may also be granted for the temporary or specific use of government land.

### Right of first refusal

10. Offers for the transfer of government land may be made subject to the right known as the right of first refusal in any instance where Government deems it appropriate that such right should be conceded to any person.

### Sub-lease in a lease agreement

11. Permission may be granted for the sub-lease of part of a larger building for commercial use connected with or accessory or ancillary to use made by the Government of the building of which the leased premises form part.

### Transfer of land on the sea shore

12. Government land situated on the sea shore on which a room or any other building has been built or which is being used for the siting of a caravan thereon may be transferred by title of lease for not more than ten years at a rent fixed according to a valuation made by the Commissioner of Lands and which may in no case be less than Lm40 annually;

So however that the building together with all improvements made thereon, other than existing movables, shall revert to Government on the expiration of the lease without any right of compensation.

### Land given by exchange

13. Government land may be given by exchange with any other land which is declared as required for a public purpose under Ordinance XL of 1935, to the owner of

the land which has been so declared. Provided that when a difference exists in the value of the two plots of land given by exchange, such difference shall be balanced with also giving an additional sum of money. So however that the exchange may not be effected if the value of the government land to be given exceeds thirty per cent of the value of the expropriated land. Any damages sustained due to the expropriation of such land shall form part of the value of the same land.

*Tale quale* transfer for relative compensation

14. Any plots of land comprised in such Building Development Areas, also including such plots of land in Building Development Areas which have been revoked, and which have not been utilized and/or there is apparently no use for them for a public purpose, may be transferred by title of exchange to the owners of the rights for relative compensation for each plot of land which is so transferred and for which an application has been submitted, with money's worth for each plot of land, of the rights for compensation regarding the same land, and when the person to whom the land shall be transferred was not the absolute owner of such land prior to its expropriation by Government, with money's worth also of an equivalent amount for each right of any other compensation relating to such land, free and exempt from any burden, hypothec or privilege, and also every right for any other interests or damages which may be due.

The person in whose favour the land is transferred is bound, on the same deed of transfer, to reconstitute on the land so transferred to such person any hypothec, privilege, easement, usufruct, use or any other real right which had existed on the same land prior to such land being declared a Building Development Area according to Act I of 1983 and which are presently incumbent on the compensation rights, until such time as such rights have not been erased by agreement between the parties prior to the reverse transfer; the person to whom such land is transferred shall also be obligated to bind itself on the same deed to recognize any right *ta' rural lease* and any other right which was incumbent on such land prior to such land being declared a Building Development Area in terms of the said Act I of 1983.

The expenses relating to the deed of transfer shall be paid by the Government of Malta.

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### **Objects and Reasons**

The object of this Bill is to facilitate the disposal by auction of government property so as to ascertain the best financial returns and to incorporate the current policy on disposal of government land by adding a schedule to the principal Act.

