

Suppliment tal-Gazzetta tal-Gvern ta' Malta, Nru. 19,950, 16 ta' Frar, 2018

Taqsimha C

Nru. 25

16. 02. 2018

MALTA

KAMRA TAD-DEPUTATI

HOUSE OF REPRESENTATIVES

ABBOZZ ta' Liġi mressaq mill-Onorevoli Owen Bonnici, M.P., Ministru għall-Ġustizzja, Kultura u Gvern Lokali, u moqri għall-Ewwel darba fis-Seduta tad-29 ta' Jannar, 2018.

A BILL introduced by the Honourable Owen Bonnici, M.P., Minister for Justice, Culture and Local Government, and read the First time at the Sitting of the 29th January, 2018.

ATT biex jemenda l-Kodiċi Ċivili, Kap. 16.

AN ACT to amend the Civil Code, Cap. 16.

RAYMOND SCICLUNA
Skrivan tal-Kamra tad-Deputati

RAYMOND SCICLUNA
Clerk of the House of Representatives

ABBOZZ TA' LIĠI msejjah

Att biex jemenda l-Kodiċi Ċivili, Kap 16.

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

1. It-titolu ta' dan l-Att huwa l-Att tal-2018 li jemenda l-Kodiċi Ċivili u dan l-Att għandu jinqara u jinftiehem haġa waħda mal-Kodiċi Ċivili, hawnhekk iżjed 'il quddiem imsejjah "il-Kodiċi".

Titolu fil-qosor.
Kap. 16.

2. L-artikolu 1613 tal-Kodiċi għandu jiġi enumerat mill-ġdid bħala l-artikolu 1613(1) u fl-ewwel *proviso* tal-imsejmi subartikolu (1) kif enumerat mill-ġdid, minnufih wara l-kliem "31 ta' Mejju, 2018" għandhom jiżdiedu l-kliem "soġġett għal dak provdut f'dan l-artikolu" u minnufih wara s-subartikolu (1) għandhom jiżdiedu is-subartikoli li ġejjin:

Emenda tal-
artikolu 1613
tal-Kodiċi:

"(2) Fin-nuqqas ta' ftehim bejn il-kerrej u l-persuna li tkun subinkwilin qabel il-31 ta' Mejju 2018 li jkollha interess li tibqa' fil-fond f'każ ta' sullokazzjoni li tintemm fil-31 ta' Mejju 2018, fejn il-fond sullokat ikun jikkonsisti f'fond kummerċjali li fis-sena ta' qabel il-31 ta' Mejju, 2018 ikun ġestit mis-subinkwilin, il-persuna li qabel il-31 ta' Mejju, 2018 kienet subinkwilin ikollha l-jedd li tibqa' tiġġestixxi n-negozju tagħha mill-fond taħt dawk il-kondizzjonijiet li jistgħu jiġu ddeterminati mill-Bord li Jirregola l-Kera, għal dak il-perjodu li jista' jiġi stabbilit mill-Bord li ma jkunx ta' aktar miż-żmien tal-lokazzjoni jew ta' aktar minn għaxar snin skont liema jkun l-iqsar.

(3) It-talba biex subinkwilin jibqa' jiġġestixxi n-negozju tiegħu mill-fond mikri għandha ssir b'rikors preżentat fil-Bord li

Jirregola l-Kera sa mhux aktar tard mill-31 ta' Mejju, 2018 u dik it-talba għandu jkun fiha r-raġunijiet li għalihom tkun qegħda ssir. Il-Bord m'għandux jilqa' dik it-talba kemm il-darba r-rikorrent ma jissodisfax lill-Bord illi jekk huwa ma jibqax jiġġestixxi n-negozju tiegħu mill-fond huwa jsofri preġudizzju gravi.

(4) Ir-rikors magħmul mis-subinkwilin skont is-subartikolu (3) għandu jiġi nnotifikat lis-sid u lill-kerrej illi jkollhom dritt jopponu t-talba.

(5) Is-smiġħ tar-rikors imsemmi fis-subartikoli (3) u (4) jkun regolat bir-regoli ta' proċedura applikabbli dwar rikorsi fil-Bord li Jirregola l-Kera b'dan iżda li l-Bord ikollu dritt illi f'kull stadju tal-proċeduri jiffissa jew ibiddel l-ammont ta' kumpens illi l-persuna li kienet subinkwilin qabel il-31 ta' Mejju 2018 tkun dovuta thallas lis-sid jew lill-kerrej jew lit-tnejn fil-pendenza tal-proċeduri. Ma jkun hemm ebda dritt t'apell mid-digriet li jiffissa l-imsemmi kumpens.

(6) F'każ li l-Bord jilqa' t-talba biex ir-rikorrent jibqa' jiġġestixxi n-negozju tiegħu mill-fond kif imfisser aktar 'il fuq f'dan l-artikolu l-Bord għandu jiffissa l-kera għall-perijodu wara l-31 ta' Mejju 2018 f'ammont li jkun skont il-valur li l-fond jista' jgħib kieku dan jiġi mikri fis-suq minn sidu għall-użu li jkun qiegħed isir minnu fis-sena minnufih qabel il-31 ta' Mejju 2018. Il-Bord ikollu s-setgħa wkoll li jordna l-ħlas ta' kera inqas mill-imsemmi valur fis-suq jekk jiġi ppruvat għas-sodisfazzjoni tal-Bord li l-ħlas tal-imsemmi valur fis-suq ikun jimponi konsegwenzi horox fuq il-persuna li tkun tiġġestixxi n-negozju tagħha mill-fond b'mod li jkun perikolat l-għejxien ta' dik il-persuna jew ta' persuni oħra li jkunu jaħdmu fil-fond.

F'każ li l-Bord jiddeċiedi li għandu jkun hemm ħlas ta' kera inqas mill-valur fis-suq imsemmi, l-Bord għandu fid-deċiżjoni tiegħu jordna wkoll illi l-kera għandha toghla kull sena sakemm tilhaq l-imsemmi valur fis-suq sa mhux aktar tard mill-ewwel skadenza ta' kera dovuta fis-sena 2027.

(7) Meta l-Bord jiffissa kera ġdida skont dan l-artikolu huwa jkollu s-setgħa li jiddetermina li dik il-kera għandha tinqasam bejn il-persuni li jkollhom dritt fuq il-fond u partikolarment bejn is-sid tal-fond u l-persuna illi jkollha titolu ieħor ta' inkwilinat fuq il-fond u kif għandha tinqasam dik il-kera.

(8) Meta l-kera li għandha tħallas il-persuna li kienet subinkwilin qabel il-31 ta' Mejju 2018 tiġi ddeterminata b'mod finali dik il-kera għandha tithallas sa mill-1 ta' Ġunju, 2018 b'mod li kull kumpens imħallas skont is-subartikolu (5) għandu jitnaqqas mill-ammont ta' arretrati dovuti."

Għanijiet u Ragunijiet

L-għanijiet u r-ragunijiet ta' dan l-abbozz ta' liġi huma sabiex jiġi emendat il-Kodiċi Ċivili fil-parti li tittratta s-subinkwilinat ta' fondi kummerċjali sabiex jiġi pprovdut mezz kif persuni li illum qeghdin imexxu n-negozju tagħhom minn post fejn it-titolu ta' subinkwilinat tagħhom ikun se jintemm b'forza ta' liġi fil-31 ta' Mejju 2018 jkunu jistgħu jitolbu lill-Bord li Jirregola l-Kera illi jippermettilhom jkomplu jmexxu n-negozju tagħhom mill-istess post taħt kondizzjonijiet riveduti li jirriflettu kemm jista' jkun il-kondizzjonijiet tas-suq u li b'hekk jiġu evitati konsegwenzi ħorox għal dawn is-subinkwilini.

**A BILL
entitled**

An act to amend the Civil Code, Cap. 16.

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.
Cap. 16.

1. The short title of this Act is the Civil Code (Amendment) Act, 2018, and this Act shall be read and construed as one with the Civil Code, hereinafter referred to as "the Code".

Amendment of
article 1613 of
the Code.

2. Article 1613 of the Code shall be renumbered as its article 1613(1) and in the first proviso of the said sub-article (1) as renumbered, immediately after the words "31st May, 2018" there shall be added the words "subject to the provisions of this article" and after sub-article (1) there shall be added the following new sub-articles:

"(2) In the absence of an agreement between the lessee and the person who is the sub-lessee before the 31st May, 2018 who has an interest in remaining in the tenement in case of a sub-lease that expires on the 31st May 2018, where the sub-leased tenement consists of commercial premises which in the year preceding the 31st May 2018 is managed by the sub-lessee, the person who before the 31st May, 2018 was the sub-lessee shall have the right to continue managing his business from the tenement, under those conditions as may be determined by the Rent Regulation Board, for such period as may be established by the Board which shall not be longer than the period of the lease or be more than ten years, whichever is the shorter.

(3) A request for the sub-lessee to continue managing his business from the leased tenement shall be made by means of an application filed before the Rent Regulation Board by not later than the 31st May, 2018 and that application shall contain the

reasons for which it is made. The Board shall not accede to the request unless the applicant satisfies the Board that he will suffer serious prejudice if he does not continue to manage his business from the tenement.

(4) The application made by the sub-lessee in accordance with sub-article (3) shall be notified to the owner and the lessee who shall have the right to oppose the request.

(5) The hearing of the application referred to in sub-articles (3) and (4) shall be regulated by the rules of procedure applicable to applications filed before the Rent Regulation Board, without prejudice to the Board's right, at any stage of the proceedings, to establish or change the amount of compensation which the person who was the sub-lessee before the 31st May, 2018 is obliged to pay to the owner or to the lessee or both while the proceedings are pending. There will be no right of appeal from the decree establishing the said compensation.

(6) If the Board accedes to the request for the applicant to continue managing his business from the premises, as previously laid down in this article, the Board shall establish the rent for the period after the 31st May, 2018 at an amount which is in accordance with the value that the tenement could fetch if this were to be leased on the market by its owner for the use that was being made thereof during the year immediately preceding the 31st May, 2018. The Board shall also have the power to order the payment of rent below the said market value if it is proven to the satisfaction of the Board that the payment of the said market value would impose harsh consequences on the person managing his business from the tenement, in a way that would prejudice that person's living or that of persons working in the tenement.

If the Board decides that the payment of rent shall be below the said market value, the Board shall also order in its decision that the rent should be increased every year until it reaches the said market value by not later than the first expiry of rent due in the year 2027.

(7) When the Board establishes a new rent in accordance with this article, it shall have the power to establish that such rent shall be divided among the persons having a right over the tenement and particularly between the owner of the tenement and the person having another title of tenancy over the premises and the manner in which such lease is to be divided.

(8) When the rent that must be paid by the person who was the sub-lessee before the 31st May, 2018 is established in a final manner, that rent must be paid as from the 1st June, 2018 in a way that any compensation paid according to sub-article (5) shall be deducted from the amount of arrears due."

Objects and Reasons

The aims and reasons for this bill are to amend the part of the Civil Code which regulates the sub-tenancy of commercial tenements, to provide for means by which persons who are currently managing their business from premises where their title of sub-tenancy is going to end by application of the law on the 31st May, 2018, would be able to request the Rent Regulation Board to allow them to continue managing their business from the same premises under revised conditions which are as much as possible reflective of market conditions so that harsh consequences are avoided for these sub-lessees.
