CHAPTER 228

LAND (COMPULSORY EVICTION) ACT

To make provision for the compulsory eviction from land and tenements owned or administered by Government or held by Government under any other title.

4th April, 1972

ACT XIV of 1972, as amended by Acts XIII of 1983, VIII of 1990 and III of 2004; Legal Notice 411 of 2007; Act III of 2011 and XV of 2017.

Short title.

1. The short title of this Act is the Land (Compulsory Eviction) Act.

Interpretation.

2. In this Act unless the context otherwise requires:

"Commissioner" means the Commissioner of Land;

"land" means any land or building owned or administered by the Government or any part thereof and any land or building or part thereof held by the Government under any title;

"order" means an order in writing given by the Commissioner.

Compulsory eviction. *Amended by: III. 2004.67; III. 2011.3.*

3. (1) The Commissioner, if it appears to him to be necessary or expedient to do so, may in his absolute discretion order the compulsory eviction of any person from any land which is occupied by such person without any title or on encroachment terms or where, in respect of land that may from time to time be specified in terms of article 2 of the Commissioner of Land Ordinance, the time-period specified in a contract conferring title has lapsed and the removal therefrom of any movable effects, within a specified period of time to be stated in the order, and may for the purpose give such directions as appear to him necessary so that any such order may be put into effect with the least possible delay:

Cap. 169.

Provided that the provisions of article 535 of the Civil Code shall not be applicable to eviction orders issued in accordance with subarticle (1):

Cap. 16.

Provided further that an eviction order so issued shall not constitute an arbitrary exercise of pretended rights in terms of article 85 of the Criminal Code.

Cap. 9.

(2) When the identity of the evictee is unknown, the order shall be addressed to the 'occupant' and such order is deemed served once it is fixed on the land.

(3) If the occupier of any such land does not comply with the order within the period of time so specified, the Commissioner may instruct any Police officer, to take such steps and to use such force as appear to him reasonably necessary for securing compliance with the order and with any directions given under subarticle (1) and for the removal from such land of any movable effect existing therein. In giving such instructions the Commissioner may also provide that the Police officer may be assisted by an officer of the Government Property Department or by any other person

authorised by the Commissioner to act on behalf of the Government Property Department for the purposes of this Act.

(4) The Commissioner shall not be required to provide alternative storage for any such movable effects existing in the land and will not be held responsible for their safe custody, and the removal of such movable effects shall be carried out at the complete risk and expense of the evictee:

Provided that before the removal of such movable effects an inventory of such effects shall be made and such inventory shall be signed by the Commissioner or his representative and by a Police officer:

Provided further that the evictee shall be liable to refund any expenses which may have been incurred by the government directly or in connection with the eviction.

Power to require information.

4. (1) Any person, if requested by the Commissioner so to do, shall furnish to the Commissioner such information in his possession relating to any land, being information which may reasonably be demanded of him in connection with or which the Commissioner deems necessary for the taking possession of any land.

(2) Any information required under the last preceding subarticle is to be given in a statement in writing to be signed by the person giving the information. In the case of an illiterate or a person otherwise incapacitated from writing the Commissioner may require the statement by the person giving the information to be marked by that person in the presence of two witnesses who shall sign the statement.

Service. *Substituted by: III. 2011.4.*

5. Service of any order, notice or direction on any person for the purposes of this Act shall be effected by the Executive Police, or by an officer of the Government Property Department or by a person authorised by the Commissioner to act on behalf of the Government Property Department for the purposes of this Act.

Absentees and service thereon. *Amended by: XV. 2017.55.*

6. In the case of any person absent from Malta any order, notice or direction shall for the purpose of this Act be validly served on any known lawful representative of such absent person or, in the absence of a known lawful representative, on such person's spouse, civil union partner or cohabitant or on a near relation of such person by consanguinity or affinity.

Power to sell movable effects. *Substituted by: III. 2011.5.*

7. Following the execution of the eviction and once the evictee has been informed of the expenses incurred, such evictee shall have a period of fifteen days to fully reimburse the Commissioner with all expenses incurred and to collect movable effects seized during the eviction and on failure by the evictee to do so, the Commissioner shall have the right to sell any such movable effects by public auction:

Provided that, without prejudice to the provisions contained in article 8, the proceeds of such public auction, after the deduction of any amount due to the Government in terms of article 3(4) and of the fees incurred for the auction, shall be paid to the person to

whom the said movable effects belonged.

Failure of purchaser to take delivery and remove effects.

8. If any person, having purchased movable effects at a public auction held under the provisions of the previous article, fails within fourteen days from the date of the sale of any such movable effects to him, to take delivery of and remove any such movable effects, then any such movable effects not removed by the purchaser shall be forfeited to Government and the evictee or purchaser shall have no right to claim any compensation or refund of the price or any part thereof paid for such movable effects as the case may be.

Penal provisions. *Amended by: XIII. 1983.5; L.N. 411 of 2007.*

9. Any person who without lawful excuse, the proof whereof shall lie on him, commits a breach of the provisions contained in article 4 whether by refusing to supply information or by supplying false information when required under the provisions of this Act to give information, shall be guilty of an offence under this Act and shall on conviction be liable to a fine (*multa*) of not less than twenty-three euro and twenty-nine cents (23.29) but not exceeding two hundred and thirty-two euro and ninety-four cents (232.94) or to imprisonment for a period not exceeding three months or to both such fine and imprisonment.

Competence in respect of offences under this Act. *Amended by: VIII. 1990.3.*

10. Proceedings for an offence under article 9 shall be instituted by the Police in the Court of Magistrates sitting as a court of criminal judicature:

Provided that if any higher punishment is applicable to the offence under any other law whenever the circumstances set out in such other law concur in the offence, the punishment laid down in that other law shall apply and it shall be tried by the appropriate court.