CHAPTER 269

MONTE DI PIETÀ ACT

To vest in the Government the assets and functions of the institutions known as Monte di Pietà and Monte di Redenzione, and to provide for matters connected therewith or ancillary thereto.

(1st April, 1977)*

ACT XXXIX of 1976, as amended by Act XIII of 1983; and Legal Notice 423 of 2007.

Short title.

1. The short title of this Act is the Monte di Pietà Act.

Interpretation.

2. (1) In this Act, unless the context otherwise requires -

"Il-Monti" means the division of the department of Government known by that name in accordance with article 4;

"loan assets" has the meaning assigned to it by article 4;

"Minister" means the Minister responsible for finance;

"Monte di Pietà" means the foundation or institution known by that name, and includes the foundation or institution known as Monte di Redenzione, whatever the legal status of these foundations or institutions and howsoever they may have been set up;

"prescribed" means prescribed by or under this Act;

"ticket" has the meaning assigned to it by article 5;

"transferred assets" has the meaning assigned to it by article 3.

(2) Notwithstanding anything contained in any other law, or in any deed, will, contract, instrument or other document whatsoever, the provisions of this Act shall have effect, and in the event of any conflict with the provisions of any other law or anything contained in any deed, will, contract, instrument or other document whatsoever, the provisions of this Act shall prevail.

Transfer of liabilities of Monte di Pietà.

3. (1) With effect from the commencement of this Act, all assets and property, movable and immovable which, immediately before such commencement, formed part of, or otherwise belonged to, or was considered or treated as forming part of or otherwise belonging to, the Monte di Pietà, other than the loan assets, is transferred to and shall vest in the Government by virtue of this Act and without further assurance, and, subject to the following provisions of this article, are so transferred and shall so vest in absolute ownership free and unencumbered; and the property transferred as aforesaid is in this Act referred to collectively as " the transferred assets".

(2) All liabilities which immediately before the commencement of this Act were liabilities of or due by the Monte di Pietà, other

**See* article 1(2) as originally enacted, which subarticle has been omitted under the Statute Law Revision Act, 1980, and Legal Notice 43 of 1977.

than those mentioned in subarticle (4), shall, with effect from such commencement, become liabilities of and due by Government by virtue of this Act, and any payment so due to be made by the Government shall be a charge on the Consolidated Fund without further appropriation than this Act.

(3) Without prejudice to any consolidation of the *directum dominium* with the *utile dominium* happening on the transfer of any of the transferred assets as provided in subarticle (1), the provisions of that subarticle shall not affect any emphyteusis or lease granted in respect of any of the transferred assets or any easement to which any of such assets may be subject, and any such emphyteusis or lease shall, for all purposes, be deemed to have been granted by the Government and shall be treated accordingly.

(4) With effect from the commencement of this Act, any burthen or charge to which any of the transferred assets may, immediately before such commencement, be subject, and any other payment or performance that may, before the date aforesaid, be due in respect of any such assets, shall, by virtue of this Act, cease to be such a burthen or charge on, or a payment or performance due in respect of, any of the transferred assets, and any sum or other thing or act which but for the provisions of this subarticle would have been due to be paid or made immediately before the commencement of this Act, shall, as from such commencement, be due to be paid or made by the Government; and any payment so due shall be a charge on the Consolidated Fund without any further appropriation than this Act.

(5) Notwithstanding the provisions of subarticle (4), and without prejudice to the extinguishment of any obligation arising therefrom by way of set-off or in any manner other than in pursuance of this subarticle, the Government may at any time extinguish any such obligation arising as aforesaid by the payment of a sum of money corresponding, in the case of an annual payment, to the capitalization of such annual payment at the rate of five per cent, and in any other case, to an adequate compensation for the extinguishment of the relative obligation.

Transfer of loans and advances made by Monte di Pietà.

4. (1) With effect from the commencement of this Act, all loans which, immediately before such commencement, were loans made by the Monte di Pietà, and all rights, claims, obligations and liabilities, pertaining, relating or ancillary thereto, shall, by virtue of this Act and without further assurance, be transferred to and vest in the Government, and shall become loans, rights, claims, obligations and liabilities of the Government as if the loans and anything done in relation thereto had been originally made or done by the Government under this Act; and all such loans, rights, claims, obligations and liabilities aforesaid are in this Act referred to collectively as the "loan assets".

(2) With effect from the commencement of this Act, all moneys which, immediately before such commencement, were held by the Monte di Pietà on account of owners of pledges sold by auction before that date, being amounts by which the price of a pledge sold exceeded the amount due in respect of the relative loan, shall be

held by the Government in place of the Monte di Pietà as if the sale of the pledge had been made by the Government under this Act:

Provided that the action for the recovery of any such excess shall be barred by the lapse of ten years beginning with the commencement of this Act.

(3) The Government shall continue the functions performed by the Monte di Pietà in respect of the loan assets immediately before the commencement of this Act; and may thereafter, as the Minister may decide, continue to lend money against security provided by the giving of pledges of articles of gold, silver or other precious metal or of precious stones.

(4) The functions referred to in subarticle (3) shall be performed by such department of Government as the Minister may from time to time designate for that purpose, and the division of the department performing those functions shall, in respect of those functions, be known as "Il-Monti".

Provisions concerning loans made under this Act.

5. (1) The provisions of this article shall have effect with respect to loans made by the Government under this Act:

(*a*) all loans shall be made against the security of a pledge consisting in articles of gold, silver or other precious metal or of precious stone, or a combination thereof;

(*b*) the acceptance or otherwise of any article offered by way of pledge as a security for a loan shall be in the absolute discretion of the Government;

(*c*) no article shall be received as a security for a loan unless and until a ticket has been issued in respect thereof, and, save as provided in this Act, no such article shall be returned except against the surrender of that ticket;

(*d*) a loan shall not be made for a specified period, and any article given in pledge as a security for a loan may be redeemed at any time by the payment of the amount of the loan and any interest that may be due thereon;

(*e*) all loans shall, unless renewed, be repayable within three years from the date on which they are made;

(*f*) the interest payable on any loan shall be five per cent per annum or such other rate (not being higher than the maximum allowed by article 1852 of the Civil Code) as the Minister may from time to time by notice in the Gazette specify;

Cap. 16.

(*g*) any pledge remaining unredeemed within the aforesaid period of three years shall be sold by public auction, and where the price at which the pledge is sold exceeds the amount due to the Government in respect of the loan, including all interest due until the price of the pledge sold is received by the Government, any such excess shall be paid to the owner of the pledge against the surrender of any ticket issued with respect to the loan;

(*h*) no interest shall be payable by the Government on any excess due under paragraph (*g*), and the action for the recovery of any such excess shall be barred by the lapse of ten years from the date of the sale by auction of the pledge to which the excess relates.

(2) Where a ticket has been lost, destroyed or otherwise mislaid, any article in respect of which that ticket was issued may be delivered to a person claiming entitlement thereto only if such procedure as may be prescribed has been followed within such time as may be prescribed.

(3) In this Act, the word "ticket" means any document released on behalf of the Government in evidence that an article has been delivered as a pledge by way of security of a loan made under this Act.

(4) Where any article received as a security of a loan under this Act is delivered in good faith to any person against the surrender of the relative ticket, or in accordance with the provisions of subarticle (2), no claim by any person against the Government or against any person acting on behalf of the Government, and arising from any delivery as aforesaid, shall be entertained by any court.

Regulations.
Amended by: XIII. 1983.5; L.N. 423 of 2007.

6. The Minister shall have power to make regulations to give effect to any of the provisions of this Act and, in particular, but without prejudice to the generality of the foregoing, such regulations may -

(*a*) provide for the management and administration of any department, or section of a department, of Government entrusted with the functions referred to in article 4, including provision with respect to the days and hours during which such a department or section thereof shall be open to the public;

(*b*) modify or put in abeyance, in its application to Il-Monti, any provision of law regulating the conduct of financial or administrative matters in government departments;

(*c*) provide for the manner in which a loan under this Act is to be made, regulate the conditions and the repayment of any loan so made, the payment of the interest thereon, and the acceptance, receipt, withdrawal and sale by auction of articles pledged as a security therefor;

(*d*) establish the minimum and maximum amounts of any loan made under this Act;

(*e*) make provision for the protection of the rightful owners of articles given as a pledge under this Act in the event of the loss, destruction or mislaying of the ticket issued in respect thereof;

(*f*) provide for the manner in which unredeemed pledges may be disposed of and the proceeds thereof dealt with;

(*g*) provide for the keeping of records for the purposes of any function exercised under article 4, the period for which such records are to be kept, and the disposal or destruction thereof on the expiration of such period;

(*h*) provide for any matter authorised or required by this Act to be prescribed;

(*i*) provide for offences in relation to any matter provided for in this Act or in regulations made under this article and establish punishments with respect to any such offence not exceeding a fine (*multa*) of one thousand one hundred and sixty euro (1,160) or imprisonment for a term of six months, or both such fine and imprisonment;

(*j*) provide for and regulate civil liability in relation to any matter provided for in this Act or in regulations made under this article.

Regular court deposits lodged with Monte di Pietà before the 31st December, 1944.

7. (1) The deposits to which this article applies, (hereinafter referred to as "the deposits") shall be dealt with and disposed of as provided in this article.

(2) Subject to any directives which the Minister may give, and to the other provisions of this article, the deposits shall be sold by public auction in the same manner as unredeemed pledges may be sold in accordance with the provision of article 5(1) and of any regulations made under this Act:

Provided that any deposit of trivial or no value shall be disposed of as the Minister may direct.

(3) The proceeds from the sale of any deposit shall for all purposes of law take the place of the deposit sold as if it had been the thing originally deposited, and shall be kept by the Government indefinitely and shall only be paid to the person or persons specified in an order issued by a competent court and in accordance with any such order. No interest shall be payable on any such proceeds.

(4) The deposits to which this article applies are all regular court deposits lodged with the Monte di Pietà under any authority whatsoever on and before the 31st December, 1944, and not withdrawn therefrom in pursuance of an order issued by a competent court before the commencement of this Act.

Construction of references to Monte di Pietà in other laws, etc.

8. Wherever in any law or other instrument having the force of law, or in any deed, contract, instrument, writing or other document whatsoever, any reference is made to the Monte di Pietà, and it is necessary or expedient, in consequence of anything contained in this Act, that such a reference be substituted by a reference to Il-Monti, that reference shall be so substituted, and any law, instrument or document as aforesaid shall be construed and shall have effect accordingly.