CHAPTER 289

WAR DAMAGE (REPEAL) ACT

To repeal the War Damage Ordinance, 1943, and to make provision for matters consequential or incidental thereto or connected therewith.

(31st October, 1980)*

Enacted by ACT XXIX of 1980, as amended by Act XXIV of 1995.

1. This Act may be cited as the War Damage (Repeal) Act. Short title.

2. In this Act, unless the context otherwise requires - Interpretation.

"appointed day"† means the day appointed as such by the Minister by notice in the Gazette, and different days may be so appointed for different provisions or different purposes of this Act;

"Commission" means the War Damage Commission set up in accordance with article 3 of the Ordinance;

"Minister" means the Minister responsible for justice, acting after consultation with the Minister responsible for finance;

"Ordinance" means the War Damage Ordinance, 1943; Ord. No. III of 1943.

"Secretary" means the person for the time being appointed under the Ordinance as Secretary to the Commission.

3. (1) As soon as practicable after the coming into force of this Act, the Secretary shall, in his capacity as Secretary, lodge in the First Hall of the Civil Court such sums of money as according to the records and past experience of the Commission will be sufficient to meet each of the several claims pending before the Commission immediately before the date of the coming into force of this Act and which were not, on that date, barred by prescription. Deposits to meet claims pending before the Commission.

(2) Such lodgement shall be made by separate schedules of deposit for each of the claims aforesaid; and with respect to such schedules the following provisions of this subarticle shall, notwithstanding any other law, have effect:

(*a*) where the original claimant, or any of the original claimants, is dead or has assigned or otherwise disposed of his rights under the Ordinance, or where for any other reason the Secretary deems it expedient so to act, any lodgement made under this subarticle may be made in favour of any one or more of the heirs or successors of the original claimant, or other person claiming under him, in representation of all persons having an interest in the moneys so lodged;

(*b*) the omission from the schedule of deposit of any one or more persons having an interest in any part of the moneys lodged under this article shall not invalidate or otherwise affect the operation of any such lodgement;

* *See* Government Notice No. 602 of the 31st of October, 1980.
†The appointed day is the 15th of June, 1981. *See* Legal Notice 57 of 1981.

but the rights of any such person shall, notwithstanding such omission, remain unprejudiced;

(*c*) a schedule of deposit made under this article shall be served only on persons who are named in the schedule of deposit and who are ordinarily resident in Malta on the day the schedule is filed in court; and if within three months from such day the schedule cannot be served on any of the persons aforesaid, either by reason of absence or for any other reason, such person shall, for the purposes of this article, be treated as if he were not ordinarily resident in Malta.

(3) When all lodgements have been made, the Secretary shall deal with the books, records, papers and other documents belonging to or held by or on behalf of the Commission, in such manner as the Minister may direct.

Repeal of the Ordinance.

4. Without prejudice to anything lawfully done or omitted to be done thereunder, and subject to the other provisions of this Act, the War Damage Ordinance, 1943 is hereby repealed with effect from the appointed day.

Court deposits. *Amended by: XXIV.1995.362.*

5. (1) Notwithstanding the repeal of the Ordinance all moneys lodged in court under article 3, shall remain payable to the persons who, but for such repeal, would have been entitled thereto or to any part thereof; but all payments thereof shall be governed exclusively by the provisions of this Act and shall be due subject to the provisions of this Act.

(2) With respect to any moneys lodged as aforesaid, the following provisions of this subarticle shall, notwithstanding any other law, have effect:

(*a*) all sums shall be paid or otherwise dealt with by the Registrar of Courts only in accordance with directions given by the Minister and signified by means of a note filed in the registry of the superior courts by or on behalf of the Attorney General;

(*b*) in giving any direction under paragraph (*a*) of this subarticle the Minister shall:

(i) in all cases, take into account the rights of any person who appears to him to have an interest in any part of the deposit as if the Ordinance had not been repealed;

(ii) with respect to any claim relating to works which are not completed on the date of the filing of the relative schedule of deposit, exercise such functions and enforce such requirements as could have been exercised or enforced by the Commission if the Ordinance had still been in force and with respect to any claim, ensure that no payment is made which could not have lawfully been made by the Commission if the Ordinance had still been in force; and

(iii) where any sum would, but for the repeal of the

Ordinance, have been due to the Commission by any person entitled to any part of the deposit, deduct such sum from any moneys due to be paid out of such deposit.

(3) On the expiration of the period applicable to the case as provided in subarticle (4), any balances remaining unpaid, or otherwise disposed of, out of any sums lodged under this article, shall be forfeited in favour of the Government and shall be paid by the Registrar of Courts into the Consolidated Fund in accordance with directives given by the Minister by means of a note filed in the registry of the superior courts by and on behalf of the Attorney General.

(4) The periods referred to in subarticle (3) are:

(*a*) where payment is due for works completed before the appointed day, two years after that day;

(*b*) where payment is due for works not completed or not undertaken before the appointed day -

(i) six months after the appointed day, if the works are not undertaken and continued in earnest or if already undertaken they are not continued in earnest within that period;

(ii) two years from the appointed day, if the works are undertaken and continued in earnest or so continued as aforesaid:

Provided that if, having been undertaken and continued or continued as aforesaid, the works are discontinued or not continued with due diligence, the period referred to in subarticle (3) shall be the period ending on the day certified by the Minister under his hand to be the day on which the works were discontinued or not continued with due diligence.

(5) Notwithstanding anything contained in the foregoing provisions of this article -

(*a*) if on the expiration of two years after the appointed day payment would, but for the provisions of sub-article (3)(*b*)(ii), have been due, and the Minister is satisfied that the works in respect of which such payment would have been so due were completed before the expiration of the period aforesaid, he may, if he deems it equitable so to act, direct the payment to be made as if the period had not expired;

(*b*) where the Minister is satisfied that any amount deposited under article 3 is not sufficient to meet the claim in respect of which such deposit is made, he may direct the registrar to pay out of any balance remaining unpaid or otherwise disposed of under this article such sum or sums as he may deem necessary to meet the claim aforesaid.

Rights of the Commission.

6. Notwithstanding the repeal of the Ordinance, all debts and other rights which immediately before the appointed day were due

or pertained to or were exercisable by the Commission shall, with effect from the appointed day, become due or vest in and be exercisable by the Minister in the same manner, as far as practicable, as if he were the Commission and the Ordinance had not been repealed.

No claim or other action except as provided in the Act.
Amended by: XXIV.1995.362.

7. (1) No person shall have any claim under the Ordinance or otherwise in respect of war damage as defined by the Ordinance except as and to the extent provided by this Act.

(2) No action shall lie against the Minister or against the Registrar of Courts in respect of anything done or omitted to be done by them under this Act.