

I assent.

(L.S.)

ĈENSU TABONE
President

4th August, 1992

ACT No. XIV of 1992

AN ACT to extend the Housing Act, Cap. 125.

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 and
commencement.

1. (1) This Act may be cited as the Housing (Extension) Act, 1992.

(2) This Act shall be deemed to have come into force on the 13th February, 1992.

Re-enactment of
Housing Act.

2. (1) With effect from the date when, in accordance with section 21 thereof its operativeness would have expired, the Housing Act, Cap. 125, hereinafter referred to as “the principal Act” reproduced in the schedule to this Act is being hereby re-enacted subject to the amendments as incorporated in the said principal Act as reproduced in the said schedule.

(2) The principal Act as reproduced in the schedule to this Act and as may from time to time be amended, shall be operative for a period of 3 years commencing on the 13th day of February 1992 and may be continued in force in the manner prescribed in the proviso to section 21 thereof.

3. The provisions of section 10 of the Housing (Amendment) Act, 1989 shall, notwithstanding any of the provisions of this Act, continue to apply in relation to any building therein referred to.

Transitory
provision.
Act XXXVII
of 1989.

SCHEDULE

(Section 2)

HOUSING ACT

To make provision for securing living accommodation to the homeless, for ensuring a fair distribution of living accommodation and for the requisitioning of buildings.

1. This Act may be cited as the Housing Act.

Short title.

2. In this Act, unless the context otherwise requires —

Interpretation.

“building” means a house or other building, or part thereof, used or capable of use for residential purposes, and includes any land or garden forming an integral part, or enclosed within the precincts, of such a house or other building; but does not include a tenement falling within the definition of shop under section 2 of the Reletting of Urban Property (Regulation) Ordinance;

“Director of Social Housing” or “Director” means the public officer appointed by the Prime Minister to be the Director of Social Housing for the purposes of this Act;

“Minister” means the Minister responsible for housing;

Provided that the Minister may, by writing under his hand, delegate all or any of his powers and duties under this Act to any officer of his Ministry, and, to the extent of such delegation, if made, any reference to the Minister in this Act shall include a reference to such officer;

“requisition” means take possession of a building or require the building to be placed at the disposal of the requisitioning authority;

“requisitionee” means the person or persons from whose possession a building has been requisitioned by the requisitioning authority;

Power to
requisition,
effects and
enforcement.

3. (1) If it appears to the Director of Social Housing to be necessary or expedient so to do in the public interest, but only for the purpose of providing living accommodation to persons or of ensuring a fair distribution of such living accommodation, he may requisition any building, and may give such directions as appear to him to be necessary or expedient in order that the requisition may be put into effect and complied with.

(2) A requisition order made under subsection (1) of this section shall be served on the person entitled to the immediate occupation of the building requisitioned, or his agent or representative, and where the building, is held by the occupant on lease, or on a temporary emphyteusis expiring not later than five years from the date of the order, it shall also be served on the landlord or the direct owner, as the case may be, or their agent or representative:

Provided that where a title to any building as aforesaid, or to its occupancy, belongs to more than one person, service of the requisition order on any one of such persons shall, in respect of the title held in common with others, have effect as if it had been served also on all such other persons.

(3) Where, after the exercise of due diligence, any person on whom a requisition order is to be served, or his agent or representative, cannot be found, or if found refuses to accept the order, the requisition order shall be deemed to have been validly served on such person, and on such other persons as would have been deemed to be served with the order had it been served on such persons, if notice of the order is given in the Government Gazette and in not less than three daily newspapers published in Malta.

(4) A requisition order made and served in accordance with the provisions of this section shall operate and have full effect against all persons and shall remain so operative and effective until the building is derequisitioned.

(5) Any police officer not below the rank of sergeant may, on instructions from the director, take such steps and use such force as appear to him to be reasonably necessary for securing compliance with directions given to any person under the provisions of this section or of section 9 of this Act requiring him to give up possession of the building:

Provided that the Director shall not give such instructions as aforesaid except in cases connected with reconstruction or with replanning, or with mass evacuation, or in the case of unauthorized occupation, or in other cases which the Director deems urgent, and except so far as they are reasonably justifiable in a democratic society.

(6) Where a building requisitioned under this section is vacated and belongs in absolute ownership or on emphyteusis to a person who proves to the satisfaction of the Director that he intends to take possession of the building to establish therein his ordinary residence or that of any of his children, the Director shall allocate the building to such person, or any of his children aforesaid, as the case may require; and if such ordinary residence is in fact so established within six months from the date of the allocation, or such later date as the Director may for a good reason allow, and continues for a period of not less than two years, the Director shall, if he is so requested, derequisition the building.

(7) Where a requisition order has been made, and the requisitionee shows to the satisfaction of the Director that he is unable to procure transport for the removal of, or alternative storage place for, the furniture or other articles existing in the building requisitioned, it shall be the duty of the Director to provide such means of transport and alternative storage place as may be required, without prejudice to the provisions contained in subsection (9) of this section.

(8) Where any requisition order is not complied with, or where, after the exercise of due diligence, no person having the right of immediate occupation of the building requisitioned, or his agent or representative, can be found, the Director may give such orders as he may think fit for the removal and storage of the furniture or articles existing in the building:

Provided that before such removal an inventory of the furniture or articles aforesaid shall be made and signed by the Director or his representative in the presence of a police officer not below the rank of sergeant, who shall also affix his signature to the inventory.

(9) In every case where the transport or storage of furniture or articles is provided by the Director under this section, such furniture or articles shall, during transport and storage, remain at the sole risk of the owner thereof and, in respect of storage, likewise at his charge; and no compensation shall be payable in respect of any deficiency therein or damage thereto if it is proved that such deficiency or damage was not caused by negligence on the part of the Director or persons acting on his instructions.

(10) While a building is in the possession of the Director by virtue of this Act, the building may be used only for the purposes set out in subsection (1) of this section, but, save as aforesaid, the Director, so far as it appears to him to be necessary or expedient in connection with the taking of possession or use of the building in pursuance of this Act, may do, or authorise persons using the building to do, in relation to the building, anything which any person having an unrestricted interest in the building would be entitled to do by virtue of that interest.

4. (1) Any person, if requested by or on behalf of the Director so to do, shall furnish to the Director, or to such person as may be specified in the request, such information in his possession relating to any building, being information which may reasonably be demanded of

Director's power
to require
information.

him in connection with, or which the Director deems necessary for, the taking of possession of any building or with the accommodation of persons therein, as may be specified.

(2) The Director or any other person deputed in writing by the Director for the purpose may require any information required under the last preceeding subsection to be given in writing and the statement to be signed by the person giving the information. In the case of an illiterate person, the Director or, as the case may be, any other person aforesaid 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.

(3) Whosoever knowingly gives an information under the foregoing provisions of this section which is false or incorrect in any material particular shall be guilty of an offence under this Act and shall be liable, on conviction, to a fine (*multa*) of not less than one hundred liri bit not exceeding five hundred liri or to imprisonment for a period of not less than fifteen days and not exceeding three months, or to both such fine and imprisonment.

Maintenance, repairs, improvements and fixtures in requisitioned premises.

5. (1) Subject to the provisions of the next following subsection, the Director shall have the same rights and obligations in respect of repairs and maintenance of a requisitioned building as tenant under the relevant provisions of the Civil Code.

(2) When a building which has been in the possession of the Director under the provisions of this Act is vacated, the Director (unless the requisitionee prefers to retain same paying compensation as laid down in section 1564 of the Civil Code), may remove all fixtures or other improvements of whatsoever nature made therein during the requisition period, making compensation to the requisitionee for the damage which may have been caused by the placing or by the removal of those fixtures or other improvements.

Applicability under this Act of requisition orders made previously to its enactment.

6. The possession of any building which has been taken by the Minister or by another competent authority under or in virtue of the Malta Defence Regulations, 1939†, or under or in virtue of the Protection Office Regulations, 1942, published by Government Notice No. 435 dated the 20th August, 1942*, shall, where the building on the date of enactment of this Act is still in the possession of the Minister, be deemed to have been taken under the provisions of this Act.

Transfer of requisitioned buildings to Director.

7. Any building which was in the possession or at the disposal of or held by the Minister by virtue of a requisition made in accordance with the provisions of this Act, and in respect of which a tenancy or subtenancy was not created by virtue of section 8 of this Act, shall be deemed to have been requisitioned by the Director and to be in his possession or at his disposal or held by him, as the case may be.

† No longer in force.

* Repealed by Government Notice No. 323 of 25th May, 1949.

8. (1) Where any persons have been accommodated in a building which is held by virtue of a requisition, the Director may at any time, by means of a judicial letter, require the requisitionee to recognize the persons so accommodated as tenants or as sub-tenants of the building as the case may be.

Recognition by landlord or by person holding title under him of persons accommodated by Director in requisitioned premises.

(2) Within thirty days of service on him of a judicial letter under the last preceding subsection, the requisitionee, by application before the First Hall of the Civil Court in contestation of the Director, may pray for an authorisation of non-compliance with that request:

Provided that, in the case where the building has been requisitioned from the tenant, the latter, by a judicial letter to be filed within fifteen days from service on him of the judicial letter provided for in the last preceding subsection, may inform the Director that he does not wish to retain the tenancy, and thereupon the Director shall be entitled to take action under the last preceding subsection against the landlord.

(3) The court shall not grant the authorisation of non-compliance mentioned in the last preceding subsection unless the applicant shows to the satisfaction of the court that serious hardship would be caused to him by complying with the request:

Provided that the assertion that the requisitionee wishes to take possession of the building for his own use or for the use of any member of his family shall not be considered of itself as a hardship for the purposes of this subsection.

(4) Any subtenancy created by virtue of this section shall not be deemed to be a subtenancy for the purposes of section 9 of the Reletting of Urban Property (Regulations) Ordinance.

Cap. 69.

(5) No right of preference under the Civil Code or under the Rent Restriction (Dwelling Houses) Ordinance, shall be competent in respect of any tenancy or subtenancy created by virtue of this section.

Cap. 12.
Cap. 116.

(6) Where a tenancy or a subtenancy is created by virtue of this section, then, unless an agreement to the contrary is lawfully reached, a contract of lease or sublease of the building under the usual conditions laid down by the Rent Regulation Board established under the Reletting of Urban Property (Regulation) Ordinance and for a period of three months, to be reckoned from the date of definite recognition, shall be deemed to have been entered into between the requisitionee of the building and the person accommodated therein, and rent, equal to the periodical amount paid or payable by the Director as compensation for the occupation of the building, shall be payable quarterly in advance in respect thereof.

Cap. 69.

9. Where a person has been accommodated in a building requisitioned under this Act, the Director may, even though such person pays compensation in respect of such accommodation, order him to quit such building and to surrender the same to the Director within such time as the Director may determine, if he is of opinion that such

Power of Director to order occupant of requisitioned building to quit the same.

person is not making use of the building for residential purposes, or is the owner of or has or who is otherwise provided with another building which he can use as his and his family's residence, or if it is reasonably required so to act in the interests of defence, public safety, public order or public health.

Power of entry of Director.

10. The Director or any other person deputed in writing by the Director for the purpose may enter any building at all reasonable times with a view to obtaining information to enable him to carry out any of his powers under this Act.

Compensation payable in respect of requisitioned building.

11. (1) Subject as hereinafter provided, the compensation payable in respect of the requisition of a building shall be the aggregate of the following sums, that is to say —

(a) a sum equal to the rent which might reasonably be expected to be payable by a tenant in occupation of the building during the period for which possession of the building is retained by virtue of the provisions of this Act, under a letting granted immediately before the beginning of that period:

Cap. 116.

Provided that where the building is used by the Director or by a person accommodated therein after a requisition, as a dwelling house within the meaning of the Rent Restriction (Dwelling Houses) Ordinance the rent shall not exceed the fair rent as defined in section 2 of the aforesaid Ordinance;

(b) a sum equal to the cost of making good any damage to the building which may have occurred during the period in which possession thereof under requisition was retained (except in so far as the damage has been made good during that period by the occupant of the requisitioned premises or by a person acting on behalf of the Director), no account being taken of damage which, under the provisions of this Act, is the responsibility of the requisitionee;

(c) a sum equal to the amount of expenses reasonably incurred, otherwise than on behalf of the Director, for the purpose of compliance with any directions given by or on behalf of the Director in connection with the taking possession of the building, but without prejudice to the provisions of subsection (5) of section 3.

(2) Any compensation under paragraph (a) of subsection (1) of this section shall be deemed to accrue due from day to day during the period in which possession of the building is held in the exercise of the powers vested in the Director by this Act, shall be apportionable in respect of time accordingly; and shall be paid to the person who for the time being would be entitled to occupy the building but for the fact that it is requisitioned; but the provisions of this subsection shall not operate so as to require the making of payments by the Director at intervals of less than three months.

(3) Any compensation under paragraph (b) of subsection (1) of this section shall accrue due at the end of the period in which possession of the building is retained in the exercise of the powers vested in the Director by this Act, and shall be paid to the person who is then the beneficial owner of the building.

(4) Any compensation under paragraph (c) of subsection (1) of this section shall accrue due at the time when expenses in respect of which compensation is payable are incurred, and shall be paid to the person by whom or on whose behalf those expenses were incurred.

12. (1) Compensation under paragraph (a) of subsection (1) of section 11 shall, in all cases, be assessed by the Rent Regulation Board established under the Reletting Urban Property (Regulation) Ordinance which for that purpose shall have exclusive jurisdiction subject to appeal in cases allowed by that Ordinance:

Assessment of compensation.

Cap. 69.

Provided that, in respect of dwelling houses within the meaning of the Rent Restriction (Dwelling Houses) Ordinance, possession of which has been taken by the requisitioning authority before the 22nd February 1946 and, at the time of the hereunder mentioned application, is still retained by that authority, the requisitioning authority or the requisitionee may at any time apply to the said Board for the assessment of the fair rent as defined in section 2 of the last mentioned Ordinance, and such fair rent shall be the compensation payable under paragraph (a) of subsection (1) of section 11 in respect of that possession as from the date of service of the application on the requisitionee or his representative or, as the case may be, on the requisitioning authority.

Cap. 116.

(2) Compensation under paragraphs (b) and (c) of subsection (1) of section 11 hereof shall, in case of disagreement, be assessed by the First Hall of the Civil Court.

13. Any compensation which, prior to the coming into operation of this Act, has been lawfully assessed shall be deemed to have been so assessed under and for the purposes of this Act, without prejudice however to the provisions contained in subsection (1) of section 12.

Compensation assessed previously to enactment of this Act.

14. The Minister may make and when made amend, repeal or repeal and re-enact regulations for the purpose of carrying the provisions of this Act into effect and in particular, but without prejudice to the generality of that power, for all or any of the following purposes:

Power to make regulations.

(a) for requiring any returns to be made in respect of buildings, or any class thereof, their occupation and use;

(b) for maintaining an equitable distribution of housing accommodation;

(c) for determining within the upper limits set out in section 17 of this Act special penalties applicable in respect of any breach of any regulation so made;

(d) for fixing storage fees and for providing for the retrieval or disposition of furniture or articles, including the sale thereof, removed from a building requisitioned under this Act:

Provided that the regulations mentioned in the Schedule hereto shall be deemed to be regulations made under this Act and shall remain in force until they are amended or repealed by the Minister by virtue of the powers vested in him by this section.

Restriction of powers given under this Act.

15. Nothing in this Act contained shall confer any right upon any person to demand the exercise in his favour or in favour of any other person of any requisitioning or other power vested in the Minister.

Service of notices under this Act or under regulations thereunder.

16. Without prejudice to any special provision contained in this Act, a requisition order or a notice to be served on any person for the purposes of this Act or of any regulations made thereunder may be served by sending it by registered letter post addressed to that person at his last or usual place of abode or place of business, and shall be presumed, saving any proof to the contrary, to have reached the addressee in the normal course of the postal service.

Penal provisions.

17. (1) Any person who, without lawful excuse, the proof whereof shall lie on him, commits any breach of any order or regulation given or made under this Act, whether by doing anything which he ought not to do or by omitting anything which he ought to do, or by preventing other persons from doing anything which they are enjoined or permitted to do or by undoing or frustrating anything which other persons may have done under the provisions of this Act or of any order or regulation thereunder, or by hindering or obstructing the Director or any other person acting on his behalf or under his authority, shall be guilty of an offence under this Act and shall, on conviction, be liable to a fine (*multa*) of not less than one hundred liri but not exceeding five hundred liri or to imprisonment for a period of from fifteen days to three months or to both such fine and such imprisonment:

Provided that any person who commits an offence against the provisions contained in subsections (1) and (2) of section 4 of this Act, shall on conviction be liable to a fine (*multa*) of not less than five liri and not more than one hundred liri or to imprisonment for a period of fifteen days to three months or to both such fine and imprisonment.

Cap. 152.

(2) In the case of any such breach, the court, besides awarding punishment or applying the provisions of sections 5 and 9 of the Probation of Offenders Act shall order the offender, where the occasion so requires, to comply with the law within a time, sufficient for the purpose, to be fixed by the court; and, if the offender fails to comply with any such order within the time so fixed, he shall be liable to a fine (*ammenda*) of from fifty cents to ten liri for every day the default continues after the expiration of the said time.

(3) The court may also order that physical compliance with the requirements of law be carried out by the Police at the expense of the offender, in which case the offender may be made to refund the expense, under the warrant issued by the court.

(4) The powers given to the court under subsections (2) and (3) of this section shall be deemed to be without prejudice to the powers of the Director under section 3 or to any other power given or which may be given to him or to any other person by any regulation.

18. (1) Any offence under this Act or under any order or regulation made thereunder shall, for the purpose of the Criminal Code, fall into the class of contraventions, even where the punishment provided in respect of that offence is higher than those laid down in the said Code in respect of contraventions:

Competence in respect of offences under this Act.

Provided that criminal action arising out of any provision of this Act shall be barred by the lapse of one year unless a longer period is necessary under any other law in respect of any specific offence.

(2) Every punishment provided for any offence under this Act shall be deemed to be so provided without prejudice to any higher punishment applicable to the offence under any other law whenever the circumstances set out in such other law concur in the offence. In any such case the punishment laid down in that other law shall apply.

(3) Any proceedings for any offence under this Act shall be instituted by the Police in the Court of Magistrates of Judicial Police, sitting as a Court of Criminal Judicature.

(4) Notwithstanding the provisions of section 413 of the Criminal Code, every decision of the Court of Magistrates of Judicial Police in respect of an offence under this Act may, in all cases, be appealed against by the Attorney General and by the party convicted.

Cap. 9.

19. (1) When the alleged offender is, on account of mental disease or physical disability, unable to appear in court, or is absent from Malta or has absconded, and the Director certifies on oath that it is urgently required that the law be enforced, the court shall order the summons to be served on any known lawful representative of the alleged offender or any known person having the custody in fact of the alleged offender or, if the alleged offender has not a known lawful representative or is not under the custody in fact of any known person, on his husband or wife or on a near relation by consanguinity or affinity or on any person, if any, entrusted with the management of his property.

Offences by incapacitated persons or absentees.

(2) In any such case the court shall apply the provisions of this Act; provided that where there is room for the application of any punishment under subsections (1) and (2) of section 17 against such offender, the court shall, for the purpose of determining whether or not the punishment is to be applied, adjourn the case until he is fit to stand trial or until his return.

20. (1) All trials in respect of offences under this Act shall be deemed to be urgent and not to admit of any delay for the purposes of sections 361 and 364 of the Criminal Code.

Procedure and appeals, Cap. 9.

(2) In respect of an appeal from a decision concerning an offence under this Act, the application referred to in section 417 of the

Cap. 9. Criminal Code shall be filed within two working days and, in the case of an appeal from a decision of the Court of Magistrates of Judicial Police for the Islands of Gozo and Comino, within five working days. Such periods shall run as provided in that section.

Operativeness
of this Act.

21. Subject as hereinafter provided, this Act shall continue in force for the period mentioned in subsection (2) of section 2 of the Housing (Extension) Act, 1992, and shall then expire:

Provided that, if at any time while this Act is in force a Resolution is passed by the House of Representatives that this Act should be continued in force for a further period not exceeding three years from the time at which it would otherwise expire, this Act shall continue in force for that further period.

Passed by the House of Representatives at Sitting No. 45 of the 28th July, 1992.

LAWRENCE GONZI
Speaker

RICHARD J. CAUCHI
Clerk to the House of Representatives.

