I assent.

(L.S.)

ANTON BUTTIGIEG
President

25th July, 1980

ACT No. XXVI of 1980

AN ACT to make provision for the control on prices in the construction of buildings and for the constitution of the Building Price Control Tribunal.

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.

1. This Act may be cited as the Building (Price Control) Act, 1980.

Interpretation.

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

"building" means any stone, brick or concrete structure and any structure made of any other material, or of a combination of any of the aforesaid materials, whatever the purpose for which such structure is intended;

"Minister" means the Minister responsible for public works, and, to the extent so authorised, includes any public officer authorised by the Minister in that behalf;

"price" means the price established under the provisions of section 3 of this Act and includes any remuneration or other consideration and any obligation so established for or in respect of any work, service or material therein mentioned;

"registered" means registered under section 6 of this Act;

"Tribunal" means the Tribunal established by section 9 of this Act.

Power to make regulations.

3. The Minister may make regulations establishing the price which may be charged for any work performed or any materials employed in the construction, servicing, decoration or finishing of buildings or otherwise in relation thereto and, without prejudice to the generality of the foregoing, may —

(a) establish such price according to the quality of the work and materials used;

(b) establish the price for the work and materials jointly or separately;

(c) establish the price for any work or service ancillary to any of the foregoing works.

Effects of price order.

4. (1) Where a price established by the Minister under this Act in respect of any work or material is operative, it shall not be lawful for any person to charge or receive, in respect of any such work or materials done or supplied while the price aforesaid is operative, a price which is in excess of the said price.

(2) Where the price charged or received for any work done or materials supplied in relation to a building is a price covering work or materials in respect of which a price established by the Minister under this Act is operative and work or materials in respect of which no such price is operative, the difference between the price charged or received and the market price of the work and materials in respect of which no established price is operative as aforesaid shall, for all purposes of this Act, be deemed to be the price charged or received for the works or materials in respect of which an established price is operative as aforesaid under this Act.

Offences and penalties.

5. A person who contravenes any of the provisions of section 4 of this Act shall be guilty of an offence and shall, for each offence, be liable —

(a) on a first conviction, to a fine (*multa*) of not less than one hundred pounds or the amount charged in excess of the price established by the Minister, whichever is the greater;

(b) on a second or subsequent conviction to a fine (*multa*) of not less than two hundred pounds or twice the amount charged in excess of the price established by the Minister, whichever is the greater, and the Court shall in addition order the cancellation of the registration of the offender under section 6 of this Act, and may further order that the offender shall be disqualified from being registered for such period as it may specify in the sentence.

Registration of persons engaged in the building industry.

6. (1) It shall not be lawful for any person to undertake any work or to supply any materials in respect of which a price may be established by the Minister under this Act, whether any such price has been so established or not, unless he is registered under this Act as a person authorised to perform that work or supply those materials.

(2) Any person desiring to be registered under this Act shall be so registered by the Minister, on an application made in the appropriate form and containing —

(a) the name and surname, age, address, occupation, skill, trade, and the business or profession of the applicant;

(b) the name of his banker;

(c) the nature of the work or of the materials in respect of which the registration is applied for; and

(d) such other particulars or information as may be requested in the application form.

(3) Without prejudice to the provision of paragraph (b) of section 5 and paragraph (b) of section 7 of this Act, the Minister shall

cause the applicant's name to be entered in the register kept for the purpose and shall cause the person so registered to be issued with a Registration Card showing the name and address of the person registered and the work that may be performed or the materials that may be supplied by him.

(4) The registration of a person under this section shall be cancelled:

(a) by order of the Court under section 5 or 7 of this Act; or

(b) if the Minister is satisfied that the person registered is no longer performing the work or supplying the materials for which he was registered.

(5) It shall not be lawful for any person to undertake any work or to supply any material in respect of which a price may be established by the Minister under this Act, whether such price has or has not been established, unless he has, before undertaking such work or supplying such materials, delivered to the person commissioning the work or acquiring the material, a detailed statement in writing, or an invoice, specifying the price of each item of which the work is made up or to which the sale refers.

Offences and penalties.

7. A person who contravenes any of the provisions of subsection (1) or of subsection (5) of section 6 of this Act shall be guilty of an offence and shall, for each offence, be liable —

(a) on a first conviction, to a fine (*multa*) of not less than twenty pounds;

(b) on a second or subsequent conviction, to a fine (*multa*) of not less than fifty pounds and the Court shall in addition order the cancellation of the registration of the offender under section 6 of this Act and may further order that the offender shall be disqualified from being registered for such period, as it may specify in the sentence.

Action for claiming back excess barred by lapse of two years.

8. Where any person has paid any price in excess of the price established by the Minister, such person or any other person having a lawful interest shall be entitled to have such excess refunded to him:

Provided that the action for claiming back such excess shall be barred by the lapse of two years from the day of the last payment.

Building Price Control Tribunal.

9. (1) There shall be a court of law to be known as the Building Price Control Tribunal, hereinafter referred to as the "Tribunal", which shall have jurisdiction —

(a) to try offences under this Act, and

(b) to determine claims or other disputes with respect to any matter concerning the price payable or any refund due, in accordance with the provisions of this Act,

and any matter incidental or ancillary thereto.

(2) For the purposes of exercising its functions under this section, the Tribunal shall, as the case may require, have all such powers as are —

Cap. 12

(i) by the provisions of Book Second of the Criminal Code vested in the Court of Judicial Police sitting as a Court of Criminal Judicature, and

(ii) by the Code of Organization and Civil Procedure vested in the Civil Court, First Hall. Cap. 15

(3) Notwithstanding the provisions of any other law the Tribunal may deal concurrently with the criminal action and with the civil action.

(4) With respect to any proceedings relating to an offence under this Act, or to any part of the proceedings relating to such an offence,

falling within the jurisdiction of the Tribunal. With respect to all other matters falling within the jurisdiction of the Tribunal, the Tribunal shall, subject to the provisions of this Act and to any regulations made thereunder, apply the provisions of the Code of Organization and Civil Procedure.

Constitution of the Tribunal.

10. (1) The Building Price Control Tribunal shall consist of —

(a) a Magistrate, as Chairman, and

(b) two members appointed, one from among persons holding the warrant of Architect and Civil Engineer and the other from among contractors in the building trade.

(2) The Chairman and the other members of the Tribunal shall be appointed by the President acting in accordance with the advice of the Prime Minister:

Provided that the President may at any time so appoint more than one magistrate and more than two other members of the Tribunal, but only one magistrate and only two of such members shall sit on the Tribunal in respect of any one case.

(3) A member of the Tribunal shall, other than a Chairman, at the first occasion in which he sits on the Tribunal after his appointment, take in open court an oath to decide each application with equity and impartiality according to law; he shall otherwise be bound by the same obligations, *mutatis mutandis*, arising out of the form of the oath of office prescribed for Magistrates.

(4) The Chairman of the Tribunal shall vacate his office upon the appointment of another Magistrate to act as Chairman or upon his ceasing to be a Magistrate.

The office of the other members of the Tribunal shall become vacant —

(a) at the expiration of five years from the date of the appointment or at such earlier time as may be specified in the instrument by which he was appointed; or

(b) if he is removed from office in the same manner and on the same grounds as a Magistrate may be removed from office.

(5) The provisions of the Code of Organization and Civil Procedure regarding the abstention and challenge of judges shall apply to the abstention and challenge of the Chairman and members of the Tribunal.

Proceedings.

11. (1) Proceedings before the Tribunal shall be instituted by application.

The application shall contain —

(a) a clear and correct statement of the subject matter and the cause of the claim,

(ii) by the Code of Organization and Civil Procedure vested in the Civil Court, First Hall. Cap. 15

(3) Notwithstanding the provisions of any other law the Tribunal may deal concurrently with the criminal action and with the civil action.

(4) With respect to any proceedings relating to an offence under this Act, or to any part of the proceedings relating to such an offence,

falling within the jurisdiction of the Tribunal. With respect to all other matters falling within the jurisdiction of the Tribunal, the Tribunal shall, subject to the provisions of this Act and to any regulations made thereunder, apply the provisions of the Code of Organization and Civil Procedure.

Constitution of the Tribunal.

10. (1) The Building Price Control Tribunal shall consist of —

(a) a Magistrate, as Chairman, and

(b) two members appointed, one from among persons holding the warrant of Architect and Civil Engineer and the other from among contractors in the building trade.

(2) The Chairman and the other members of the Tribunal shall be appointed by the President acting in accordance with the advice of the Prime Minister:

Provided that the President may at any time so appoint more than one magistrate and more than two other members of the Tribunal, but only one magistrate and only two of such members shall sit on the Tribunal in respect of any one case.

(3) A member of the Tribunal shall, other than a Chairman, at the first occasion in which he sits on the Tribunal after his appointment, take in open court an oath to decide each application with equity and impartiality according to law; he shall otherwise be bound by the same obligations, *mutatis mutandis*, arising out of the form of the oath of office prescribed for Magistrates.

(4) The Chairman of the Tribunal shall vacate his office upon the appointment of another Magistrate to act as Chairman or upon his ceasing to be a Magistrate.

The office of the other members of the Tribunal shall become vacant —

(a) at the expiration of five years from the date of the appointment or at such earlier time as may be specified in the instrument by which he was appointed; or

(b) if he is removed from office in the same manner and on the same grounds as a Magistrate may be removed from office.

(5) The provisions of the Code of Organization and Civil Procedure regarding the abstention and challenge of judges shall apply to the abstention and challenge of the Chairman and members of the Tribunal.

Proceedings.

11. (1) Proceedings before the Tribunal shall be instituted by application.

The application shall contain —

(a) a clear and correct statement of the subject matter and the cause of the claim,

(b) the claim or claims,

and all other contents required by law in respect of written pleadings.

(2) The Tribunal may, at any time, allow any amendment to be made in the application for the purpose of making it clearer.

(3) Service of the application shall be made in accordance with the provisions of the Code of Organization and Civil Procedure.

(4) The party on whom the application is served shall make his submissions in writing within six days from the day on which the service is effected. In default of any submissions the Tribunal shall allow the application.

(5) If the party files a reply whereby he accedes to the request contained in the application, the Tribunal may allow the application *in camera.*

(6) If during the hearing the Tribunal finds that the application is vexatious, the Tribunal may order the offending party to pay to the other party a penalty not exceeding twenty pounds.

(7) The decisions of the Board shall be taken by a majority of votes, and shall be delivered by the Chairman in open Court:

Provided that any point of law shall be decided by the Chairman alone.

(8) The costs of the proceedings shall be borne by the parties or any of the parties as the Tribunal may direct.

(9) The Tribunal shall be vested with the powers to enforce its own decisions in the manner prescribed in the Code of Organization and Civil Procedure and in the Criminal Code, as the case may be.

(10) Any warrant or order issued by the Tribunal shall be signed by the Chairman and certified by the Registrar or Clerk of the Tribunal.

(11) The Registry of the Superior Courts in Malta or the Registry of the Courts of Magistrates in Gozo, as the case may be, shall be the Registry of the Tribunal and the records of the Tribunal shall be deposited therein.

Sittings.

12. (1) The Tribunal shall hold its sittings on such days and at such time as the Chairman may determine.

(2) The sittings of the Tribunal shall be held in the buildings where the ordinary courts normally hold their sittings unless the Minister responsible for justice has, by notice in the Gazette, otherwise directed.

Appeals.

13. (1) From a decision of the Tribunal an appeal shall lie —

(a) in respect of a criminal charge in all cases, and whether by the person accused or by the prosecution;

(b) in respect of all other matters only on a point of law determined by the Tribunal.

(2) The appeal shall be brought before the Court of Appeal by means of an application within six working days from the day on which the decision of the Tribunal is delivered.

(3) The provisions of section 9 of this Act shall *mutatis mutandis* be applicable to the Court of Appeal.

14. The fees payable in the Registry of the Tribunal and to the legal practitioners shall be those prescribed for proceedings before the Civil Court, First Hall, in the Tariffs to the Code of Organization and Civil Procedure and in the Criminal Code, as the case may be. Fees.

15. There shall be paid to the members of the Tribunal, other than a Chairman, such remuneration as the Minister responsible for justice may, with the approval of the Minister responsible for finance, determine. Remuneration to members.

16. The criminal action under the provisions of this Act shall be barred by the lapse of two years. Prescription.

17. (1) The Minister responsible for justice may make regulations prescribing or relating to the procedure to be followed by the Tribunal, and any other matter that may be expedient for the better carrying into effect of this Act. Power to make regulations and orders by Minister of justice.

(2) The Minister responsible for justice may also, with the concurrence of the Minister responsible for finance, make regulations prescribing the fees payable in respect of any of the registrations referred to in section 6 of this Act.

Passed by the House of Representatives at Sitting No. 418 of the 22nd July, 1980.

C. AGIUS
Speaker

C. MIFSUD
Clerk to the House of Representatives

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