

GOVERNMENT LANDS ACT, 2017
ARRANGEMENT OF ACT

| | | Articles |
|-----------|--|----------|
| PART I | General Provisions | 2 |
| PART II | Administration of Government Land | 3-30 |
| PART III | Transfer of Government Land | 31-35 |
| PART IV | Acquisition of Lands for Public Purposes | 36-78 |
| PART V | Estimate Costs of Experts | 79 |
| PART VI | Criminal Proceedings | 80 |
| PART VII | Judicial Terms | 81 |
| PART VIII | Transitory Provision | 82 |
| PART IX | General Amendment | 83 |
| PART X | Repeal and Saving | 84 |

I assent.

(L.S.)

**MARIE-LOUISE
COLEIRO PRECA
President**

25th April, 2017

ACT No. XVII of 2017

AN ACT to regulate the administration of Government land, land acquisition for public purposes, to establish a procedure that shall be followed related to this acquisition, to provide for eviction from lands and properties which are either administered or held by the Government under any title and to regulate the grant of title to any immovable property of the Government or that which is administered by such Government, and to provide for matters connected therewith and ancillary thereto.

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:-

1. The short title of this Act is the Government Lands Act, Short title.
2017.

**PART I
General Provisions**

2. In this Act unless the context otherwise requires: Definitions.

A 492

Cap. 490. "Administrative Review Tribunal" means the Administrative Review Tribunal established by article 5(1) of the Administrative Justice Act;

"agricultural" or "rural land" means land which is mainly leased or rented for the growing of agricultural crops, flowers, fruit-trees or vines and for related agricultural purposes, including the erection of glasshouses, the assembly of cloches or cold frames but does not include grazing grounds. It also includes farmhouses, buildings intended mainly for the keeping of store cattle or other domestic animals, and other structures of a kindred nature. However, these words do not include the domestic garden of a house or building or any other land within the precincts of a house or building nor a building site nor waste land;

"Arbitration Board" means the Land Arbitration Board as established in this Act;

Cap. 563. "authority" or "competent authority" means the Lands Authority established in accordance with article 5 of the Lands Authority Act or any person or any other entity that has been entrusted by contract or by law to administer Government land;

Cap. 563. "Board of Governors" means the Board of Governors of the Lands Authority established by article 10 of the Lands Authority Act;

Cap. 12. "conflict of interest" means a person who is considered to have a conflict of allegiance between the empowerment given to him to act and affinity that derives from parentage or a relationship referred to in article 734(1)(a), (b) and (c) of the Code of Organization and Civil Procedure and also from any professional or commercial interest, whether direct or indirect, in the relative date, with a person from whom one shall benefit or shall be affected by a decision held by the said person;

Cap. 16. "commercial premises" shall have the same meaning as is assigned to it in the Civil Code;

"Declaration" means the Declaration issued by the Governor, Governor General of Malta or by the President of Malta before the entry into force of this Act or from the Chairperson of the Board of Governors of the Lands Authority in accordance with article 38;

"disposal" means the transfer or grant of any land under any title whatsoever, including, but without prejudice to the generality of the aforesaid:

(a) any lease or encroachment or other right of use as well as any grant of any real or personal right in or over any land;

(b) a renewal of any real or personal right in or over any land, whether tacit or expressed on new terms and conditions (provided that an increase in rent, ground rent or compensation for use shall not be deemed to be a new condition), but including a renewal of any real or personal right in or over any land originally made in pursuance of a special resolution of the House, even when made on the same terms and conditions;

(c) any charge of any condition included in the disposal of any land other than land disposed of by the Housing Authority or by the Government for housing purposes, as long as the land remains subject to the condition that it be used for housing purposes, or land disposed of by a local council established under the Local Councils Act:

Cap. 363.

Provided that the transfer of any land acquired under any title in accordance with this Act, where such land is no longer required for a public purpose, to the person from whom such land was so acquired, or to his successors in title, shall not constitute a disposal for the purposes of this Act where the transfer back is made for the consideration (including damages) paid by the Government on the acquisition together with interests at eight *per centum per annum* from the date of the payment up to the date of the transfer back to such persons where such land was acquired by the Government under absolute ownership, and where the land is held by Government on public tenure or possession and use, the transfer back is made subject only to the cessation of the annual payment of the relative recognition rent or acquisition rent as the case may be;

"dwelling house" means a building, a part of a building separately let, or a room separately let, which is let mainly as a dwelling or place of residence, and includes land occupied with the premises under the tenancy, but does not include a building, part of a building or room when let with agricultural land;

"land" includes any property which is immovable either by its nature or by reason of the object to which it refers to it in articles 308, 309, 310 and 311 of the Civil Code and it also includes any land which has been formed following land reclamation and also the sea and the sea bed. Any reference to 'government land', or 'government building' includes reference to land and building administered by the Government or Government agency;

Cap. 16.

A 494

"lease" includes the right of occupation, possession or use of any land by any title whatsoever;

"lessee" is the person on whom the lease is registered with the competent authority or who occupies that land with a title of lease;

"member of the family" means a lineal ascendant, a lineal descendant, widow or widower, the husband, partner, or cohabitant of the daughter, the wife, partner or cohabitant of the son, the widow or widower of the descendants while not remarried;

"Minister" means the Minister or Parliamentary Secretary under whose portfolio the Land's Authority is included;

"owner" also means the lessee of that land;

"premises" means any tenement;

"public purpose" means any purpose connected with exclusive government use or general public use, or connected with or ancillary to the public interest or utility (whether the land is for use by the Government or otherwise) or with or to town-planning or reconstruction or the generation of employment, the furtherance of tourism, the promotion of culture, the preservation of the national or historic identity, or the economic well being of the State or any purpose connected with the defence of Malta or connected with or ancillary to naval, military, or air operations; and includes any other purpose specified as public by any enactment; and for the purposes of this definition, where the purpose for the exercise of any right under this Act is connected with the utilization of any land or any right in connection or in relation therewith for any purpose connected with the supply, storage or distribution of fuels or other sources of energy, or in connection with the provision of any utility or municipal services or infrastructural project shall be deemed to be connected with or ancillary to the public interest or utility;

Cap. 69.

"Rent Regulation Board" means the Board established in accordance with the Reletting of Urban Property (Regulation);

Cap. 199.

"Rural Leases Control Board" means the Board established in accordance with the Agricultural Leases (Reletting) Act.

PART II

Administration of Government Land

Lands
Authority.
Cap. 563.

3. In addition to the powers, duties and functions assigned to it by the Lands Authority Act, the Lands Authority is responsible with the administration of all the land that belongs to the Government and

it also administers any other land that does not belong to the Government however it is possessed or held or administered by the Government.

4. The rights and responsibilities on those lands which by virtue of a law, order or notice have been disposed to the Malta Industrial Parks Limited (C-28965) and to the Lands Authority by virtue of the Commissioner of Land Ordinance or the Housing Authority Act shall still be held by the said Malta Industrial Parks Limited (C-28965) and the Housing Authority.

Land held by the Malta Industrial Parks Limited and the Housing Authority. Cap. 169. Cap. 261.

5. The authority may by means of a notarial act assign rights and obligations that it has on a specific land in order to pass under the responsibility of a ministry, department, authority, corporation, company, agency, local council or any other entity that operates in the public administration.

Transfer of functions and duties.

6. Articles 181, 249(4), 460, 466, 467, 590(2), 627, 637, 837(2), 873 and 905(a) of the Code of Organization and Civil Procedure shall apply to the competent authority.

Applicability of certain articles of the Code of Organization and Civil Procedure. Cap. 12.

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

Competent authority's power to request information.

(2) Any information required under the last preceding sub-article 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 competent authority 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.

8. Any person who without lawful excuse, the proof whereof shall lie on him, commits a breach of the provisions contained in article 7, 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 two hundred and fifty euro (€250) but not exceeding two thousand five hundred euro (€2,500) or to imprisonment for a period not exceeding three months or to both such fine and imprisonment.

Penal provisions.

9. (1) The competent authority may order the eviction of

Eviction.

A 496

any person from any land and the removal therefrom of any movable property, when:

- (a) it is occupied by such person without any title;
- (b) it is conferred on encroachment, tolerance or other precarious title;
- (c) it is still being occupied following the lapse of the time-period specified in the contract conferring the title; or
- (d) although that land is being occupied by that person under a valid title, he:
 - (i) fails to pay at least two terms of payment that are due to the competent authority due to the occupation of land during that period;
 - (ii) causes damage to the land or to anything that is built on it;
 - (iii) doesn't make use of the land or makes different use of that land from what has been agreed upon;
 - (iv) sub-lets, assigns or transfers the land without the written consent of the competent authority; or
 - (v) violates or fails to fulfil at least one condition which is stipulated in the contract by virtue of which the land is being occupied.

Cap. 386.

(2) The competent authority shall not need to acquire the permission of the Court as laid down in article 224 of the Companies Act to initiate or proceed with an action of eviction as referred to in this article nor shall it require such permission to initiate or proceed with a judicial action for a dissolution of emphyteusis or lease in case where there is an order for winding up or in the case where a provisional administrator is appointed.

Decision for eviction.

10. (1) A decision for eviction shall contain all the reasons why such decision has been taken and shall be notified to the person on whom eviction is being ordered by way of a judicial letter filed in the Civil Court, First Hall or in the Court of Magistrates (Gozo) in its superior jurisdiction, as the case may be.

(2) In the same judicial letter there shall be indicated how much time that person has to leave from the land. The period of time shall not be less than 30 days and no more than 90 days, except for

when the Authority considers the eviction to be in the interests of public health and safety or national security.

11. (1) When the identity of the evictee is unknown, the judicial letter shall be addressed to the 'occupant' and such judicial letter is deemed served once it is fixed on land by an officer of the court.

Unknown identity of the evictee.

(2) In the case of any person absent from Malta any judicial letter 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 husband or wife or on a near relation of such person by consanguinity or affinity or partner, the latter as laid down in the Civil Unions Act or to the cohabitant. When no one from the aforementioned has been identified, then the judicial letter shall be served to the deputy curators who are appointed for these purposes by means of an application filed before the Civil Court, First Hall or in the Court of Magistrates (Gozo) in its superior jurisdiction, as the case may be.

Absentee.

Cap. 530.

12. (1) A decision for eviction shall have the same effects as a final judgement of the competent court unless anyone who has interest shall, within a period of twenty days from service upon him of the judicial letter, oppose the eviction by filing an application before the Administrative Review Tribunal against the competent authority wherein he demands that the decision of eviction is without any legal basis.

Effects of the decision of eviction.

(2) The application filed in terms of sub-article (1) shall be served upon the competent authority, who shall be entitled to file a reply within a period of twenty days.

(3) A decision for eviction brings with it the dissolution of any title that a person might have on any Government land including any title of emphyteusis, servitude and lease and this without the need of the competent authority to bring an action for dissolution of a contract before the Civil Court, First Hall, the Rent Regulation Board or the Rural Leases Control Board.

(4) When the eviction dissolves a real right, the decision of that eviction shall be registered through a note of enrolment in the Public Registry within fifteen days from when the decision for eviction becomes *res judicata*.

(5) The note of enrolment shall make reference to the contract that is being dissolved, to the judicial letter of the competent authority in which the evictee has been informed about the decision of eviction and to the judgement of the Administrative Review Tribunal or of the

A 498

Court of Appeal (Inferior Jurisdiction) in the event that the judicial letter is challenged and the decision taken by the competent authority for eviction has been confirmed.

Hearing before the Administrative Review Tribunal. Cap. 563.

13. The Administrative Review Tribunal shall set down the application referred to in the previous article for hearing and shall decide it within the time-frames referred to in article 57(2) of the Lands Authority Act.

Appeal.

14. (1) Any party that disagrees with the decision held by the Administrative Review Tribunal shall have the right to appeal before the Court of Appeal (Inferior Jurisdiction).

Cap. 563.

(2) The same procedure and terms referred to in article 57(4) of the Lands Authority Act shall apply *mutatis mutandis* to proceedings before the Court of Appeal (Inferior Jurisdiction).

Suspended decision for eviction.

15. Pending the time period within which one may challenge the decision of eviction and pending ongoing procedures before the Administrative Review Tribunal or before the Court of Appeal (Inferior Jurisdiction), the decision for eviction shall remain suspended.

Powers of the Administrative Review Tribunal and of the Court of Appeal (Inferior Jurisdiction).

16. (1) The Administrative Review Tribunal or the Court of Appeal (Inferior Jurisdiction) shall have the power to revoke any decision regarding eviction that should not have been issued in accordance with law or to amend the decision concerning such eviction in accordance with what they deem to be appropriate in those circumstances.

(2) Whenever a decision for eviction has been confirmed, the Administrative Review Tribunal or the Court of Appeal (Inferior Jurisdiction) shall indicate the time frame in which the person is to evict from the land. In each case, such time frame for eviction shall not be longer than three months from the day of delivery of judgement.

Execution of eviction.

17. (1) If the decision for eviction has not been challenged, the evictee shall leave from the land and remove all movable property during the time frame set out by the competent authority.

(2) If the decision for eviction has been challenged but is re-affirmed by the Administrative Review Tribunal or by the Court of Appeal (Inferior Jurisdiction), the evictee shall leave from the land during the time frame ordered by the Administrative Review Tribunal or by the Court of Appeal (Inferior Jurisdiction), which time frame shall not exceed three months from the day of delivery of judgement.

(3) If an evictee does not evict from the land during the time frame established in this article, the competent authority may request a warrant of eviction as referred to in the Code of Organization and Civil Procedure or may also request the assistance of the Executive Police, to use such force as appears to be reasonably necessary for securing the eviction of the person and the removal from such land of any movable effect existing therein. Cap. 12.

(4) The provisions of articles 534 and 535 of the Civil Code and of article 85 of the Criminal Code shall not apply to the execution of eviction referred to in sub-article (3). Cap. 16.
Cap. 9.

18. (1) The competent authority shall not be required to provide alternative storage for any such movable property existing in the land during the eviction and will not be held responsible for their safe custody. Removal of
movable
property.

(2) The removal of such movable property shall be carried out at the complete risk and expense of the evictee, provided that before the removal of such movable property an inventory of such effects shall be made and such inventory shall be signed by a representative of the competent authority and by a Police officer.

19. The evictee shall be liable to refund the competent authority all reasonable expenses. The collection of such expenses shall be made by the authority in accordance with article 65 of the Lands Authority Act. Costs related to
the eviction.

Cap. 563.

20. (1) 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 competent authority with all expenses incurred and to collect movable property seized during the eviction and on failure by the evictee to do so, the competent authority shall have the right to sell any such movable property by public auction. Power to sell
movable
property.

(2) Without prejudice to the provisions of sub-article (3), the proceeds of such public auctions, after the deduction of any amount due to the competent authority in terms of article 19 and of the fees incurred for the auction, shall be paid to the person who owns the said movable property. In the case where the person to whom such movable property belongs to is unknown, such payment shall be done through a schedule of deposit that shall be served to the deputy curators appointed for this purpose by means of an application before the Civil Court, First Hall or the Court of Magistrates (Gozo) in its superior jurisdiction, as the case may be.

(3) If any person, having purchased movable property at a

A 500

public auction held under the provisions of this Act, fails within fourteen days from the date of sale of any such movable property to him, to take delivery of and remove any such movable property, then any such movable property not removed by the purchaser, shall be forfeited to the competent authority 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 property as the case may be.

Dissolving a lease of a premises for public purpose.

21. (1) Despite any other law, the competent authority shall, at all times in the public interest, dissolve a contract of lease when the lease is made for a determined period of time which has not yet expired.

(2) The notice of dissolution of the lease shall be made through a judicial act that shall be served to the lessee.

Eviction period.

22. (1) When the competent authority serves the judicial act to the lessee it shall establish the period of time within which the lessee shall evict the premises, which period shall be of not less than three months both in the case of tenements used for habitation and in the case of other tenements.

(2) As soon as the notice has been served, the contract of lease shall be considered to be dissolved with effect from that date, and thereafter the lessee will no longer have any title on that premises, and this without the need of any authorisation or confirmation by the Rent Regulation Board or by any other board or court.

(3) The dissolution of the lease shall not be opposed on the allegation that there is no necessity therefor in the public interest, however, if it is proved that the contract is dissolved abusively and not in the public interest, the lessee shall have a right to such damages as the Civil Court, First Hall may deem appropriate in the circumstances including the reinstatement in the possession of the tenement.

(4) If the lessee does not evict the premises within the period of time granted to him, the competent authority shall have the right of eviction as referred to in articles 17, 18, 19 and 20.

Right of compensation when the lease of a premises has been dissolved.
Cap.16.

23. (1) Where the competent authority who dissolves the lease would have had a valid reason to dissolve the contract in accordance with the provisions of articles 1566 to 1575 of this Code, the lessee shall have no right to compensation.

(2) Where the competent authority who dissolves the lease would not have a valid reason to dissolve the lease in accordance with the provisions of articles 1566 to 1575 of this Code, it is to pay to the

Cap. 16.

lessee a sum to be fixed by the Rent Regulation Board, according to circumstances, to compensate to the said lessee for the added expenses incurred by him to vacate the tenement before the expired term as well as to lease, and transfer to, another tenement as similar as possible to the one vacated, and this for the unexpired term of the contract, and in the case of commercial premises, where the lessee proves that he has suffered a loss in the goodwill because of the dissolution of the contract, a sum to be fixed by the Rent Regulation Board, according to circumstances, to compensate for the loss in such goodwill, taking into account the unexpired term of the lease before the dissolution.

(3) The decision of the Rent Regulation Board shall be subject to appeal before the Court of Appeal (Inferior Jurisdiction) and the provisions of article 57(4) of the Lands Authority Act shall *mutatis mutandis* apply to that appeal. Cap. 563.

(4) The competent authority and the lessee may also reach an agreement on the amount of money that shall be paid in accordance with this article.

24. (1) Despite any other law, the competent authority may, at all times in the public interest, give notice by means of a judicial act, served to the lessee to dissolve the agricultural lease contract in the case where the lease is for a determined period that has not expired or to preclude the agricultural lease from being renewed according to the provisions of the Agricultural Leases (Reletting) Act. Cap. 199.

Dissolution of lease or failure to renew lease of agricultural land.

(2) Article 21 and article 22 that affect the dissolution of lease of a premises shall *mutatis mutandis* apply to the dissolution or lack of renewal of the agricultural lease.

25. (1) If the competent authority which dissolves the lease according to article 24, would have had a valid reason to dissolve the lease irrespective of the issue of public purpose, the lessee shall have no right to compensation.

Right of compensation when the lease is dissolved or failure to renew a lease of agricultural land.

(2) If the competent authority which dissolves or rejects to renew the lease would have no valid reason to dissolve or not renew the lease, it shall pay to the lessee a fair compensation in respect of any agricultural improvement carried out by the lessee or by a member of the family in the said agricultural land or part thereof during the period of eight consecutive years immediately preceding the date of termination, and an amount equal to the value of the products gathered by the lessee or by a member of the family from the said agricultural land or part thereof, after deduction of the expenses incurred towards its cultivation, in the last four years immediately preceding the date of termination:

A 502

Provided that there shall not be deducted as part of such expenses the cost of the lessee's own labour or of the labour of any member of the family in the agricultural land or part thereof

(3) If the competent authority and the lessee fail to agree on any amount payable under this article, such amount shall be determined by the Rural Leases Control Board, on the application of the lessee, and its decision shall be subject to appeal before the Court of Appeal (Inferior Jurisdiction).

Where the dissolution or non-renewal is made in respect of only a part of agricultural land leased.

26. (1) Where a dissolution or non-renewal is made in respect of only a part of the agricultural land forming the object of a lease, the lessee of the land shall have the right, exercisable within one year from when the competent authority shall take back such part of the land in accordance with article 24, to terminate the lease also with regard to the remaining part of the agricultural land:

Provided that compensation in respect of such termination of the lease for the remaining part of the agricultural land shall be payable to the lessee in accordance with the provisions of this Act only if he proves that it would not be economically convenient for him to continue in the lease of that part.

(2) If the lessee does not exercise the right mentioned in sub-article (1), the lease of the remaining part of the agricultural land shall be renewed under such conditions as the Rural Leases Control Board, on the application of the competent authority or the lessee, may deem fair to establish having regard to the conditions of the lease of the whole agricultural land which has been dismembered.

Vesting of land in Government.

27. Without prejudice to any other provisions of this Act, with effect from the coming into force of this Act, all lands belonging to foundations and administrations, administered by the Government separate from the administration of other land belonging to the Government shall vest in the Government and the authority shall deal with and administer the land so vested in it in virtue of this Act in the same manner as other land belonging to the Government in absolute property and may dispose of such land accordingly and with effect from such commencement all liabilities of or due in connection with such administration shall become liabilities of or due to the 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 other than this Act.

Effect on emphyteusis, etc.

28. Without prejudice to any consolidation of the *directum dominium* with the *utile dominium* on the vesting of the land as provided in the last preceding article, the provisions of that article shall not affect any emphyteusis or lease granted in respect of such

land or any easement to which such land may be subject, and any such emphyteusis or lease shall for all purposes, be deemed to have been granted by the Government and be treated accordingly.

29. With effect from the commencement of this Act, any burthen or charge to which any of the land referred to in article 27, may be subject to, 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 such land and any sum or other thing or act which but for the provisions of this article would have been due to be paid 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 other than this Act.

Obligations tied to land vested in Government.

30. (1) Any person claiming a right of compensation in connection to land being vested in the Government, as referred to in this Act or under any other law, shall have a right of access, by sworn application against the authority, in the Civil Court, First Hall for the determination of his interest in or right over that land and the amount of any compensation to which he may be entitled and for the payment of such compensation.

Claims.

(2) An appeal shall lie to the Court of Appeal from the decision of the Civil Court, First Hall.

(3) No action under this article may be filed after the lapse of six months after the coming into force of this Act. The period of six months is a peremptory term which cannot be extended for no reason whatsoever.

(4) All the provisions of the Agreement incorporated in the Ecclesiastical (Properties) Act shall apply with regard to any land which immediately prior to the coming into force of this Act belonged to any foundation or administration in whose regards this Act applies and which, had it not been for the Agreement mentioned above, an ecclesiastical entity could claim any right of compensation therefor, and the Joint Office and the Control Committee established by the said Agreement shall continue to have in respect of the land mentioned in this sub-article the same functions as they have with respect to any other land mentioned in or to which the said Agreement applies.

Cap. 358.

PART III
Transfer of Government Land

Methods of
transfer.

31. No land which either belongs to the Government or which is either possessed, kept or administered by the Government shall be disposed of unless such disposal is made in accordance with one of the following provisions, that is to say:

(a) after a call for tenders published in the Gazette and published once in at least two daily local newspapers and in at least a Sunday newspaper in respect of the property to be disposed of; or

(b) after an announcement of an auction as published in the Gazette and published once in at least two daily local newspapers and in at least a Sunday newspaper in respect of the property to be disposed of:

Provided that no land may be so disposed of unless it forms part of a building development zone according to any law for the time being in force:

Provided further that the Minister responsible for land may by regulations establish the manner and procedure for the holding of any such auction;

(c) in accordance with a special resolution of the House of Representatives which is in force at the time of the disposal:

Provided that a resolution of the House of Representatives approved in terms of this sub-article will remain valid for one year from the date of approval, however such resolution can be extended by virtue of another resolution or other resolutions proposed after another period of one year:

Provided that a disposal of land to which this sub-article is made in accordance with the provisions of this article, shall not require any further authority or sanction:

Provided that before notice of a motion proposing a resolution, as is referred to in this sub-article, is given to the Clerk of the House of Representatives by a Minister, such Minister shall cause such motion to be referred to the National Audit Office Accounts Committee established under Part IV of the Second Schedule to the Auditor General and National Audit Office Act, and no notice of a motion as aforesaid may be given before the said committee shall have discussed the motion and reported thereon to the House of Representatives:

Provided that not later than fifteen days after a Minister shall have caused a notice as referred to in this sub-article to be referred to it, the National Audit Office Accounts Committee shall meet to discuss the draft deed or writing or notice, as the case may be, and shall not later than one month after the said draft deed or writing or notice, as the case may be, has been referred to it, report thereon to the House of Representatives:

Provided that where the said Committee fails to report to the House of Representatives in a final manner within the said period of one month, the Minister may proceed to give notice to the Clerk of the House of Representatives proposing a resolution as is referred to in this sub-article:

Provided that when the Committee referred to in this sub-article is convened for the purposes of this Act, they shall have the right to attend, and take part in the debate in this Committee, without the right to vote:

Provided that where the report of the National Audit Office Accounts Committee on a motion is unanimous, the House of Representatives shall proceed to vote on such motion and on any amendments proposed in the said report without debate; or

(d) to the ministry, department, authority, corporation, company, agency, local council or any other entity that operates under the public administration; or

(e) where a change of any condition included in the disposal of any land consists of a modification to the conditions of a lease or to the conditions of a contract of emphyteusis or sub-emphyteusis which is made for a public purpose as defined in this Act, such disposal may also be made without adherence to any of the procedures or formalities prescribed in this article but in such case it shall only have effect after the following conditions are satisfied:

(i) that the Minister responsible for lands shall within four weeks from the conclusion of a conditional agreement to make the modification or if the House of Representatives is not in session at the end of the said period within four weeks from the date when the House of Representatives next meets, lay a copy of the contract of lease or emphyteusis or sub- emphyteusis indicating the modifications proposed on the Table of the House of

Representatives; and

(ii) the modification aforesaid shall only be valid and come into effect if, after the procedure stipulated in sub-paragraph (i) has been completed, the House of Representatives does not within a period of twenty-eight days after the completion of the said procedure resolve that the modification shall be rejected or amended, and immediately upon the expiry of the said period of twenty-eight days the modification shall, unless it is rejected as aforesaid, come into effect as originally proposed or as amended by means of the said resolution; or

(f) in accordance with any other law for the time being in force; or

(g) according to one of the following:

(A) Transfer by title of sale:

(i) Apartments, dwelling houses or garages belonging to the Government may be sold by the competent authority through a public notice on the conditions laid down in such notice.

(ii) The sale of an apartment or dwelling house can only be effected in favour of those persons who are making use of that apartment or dwelling house as a means of their own ordinary residence, while in the case of a garage the sale can only be effected in favour of who has a valid title on that garage which title is recognised by the competent authority.

(B) Redemption of emphyteusis:

(i) The *directum dominium* or the *utile dominium* whether it is perpetual or temporary on apartments, dwelling houses or garages belonging to the Government can be redeemed by the emphyteuta through a public notice issued by the competent authority and this under the conditions established in that notice.

(ii) The redemption of emphyteusis does not terminate the conditions that are imposed on the emphyteuta in accordance with the contract of

emphyteusis.

(iii) The conditions imposed in a contract of emphyteusis may be renounced by the competent authority, provided that the emphyteuta pays the adequate compensation that is at the satisfaction of the competent authority to set aside those conditions.

(C) Transfer by title of temporary emphyteusis:

(i) Government land may be transferred by title of temporary emphyteusis:

(a) if it consists in land which is offered for residential purposes by means of a public notice containing the conditions of the transfer and the manner of choice of the person who is making an offer;

(b) if it consists in land which is offered for an industrial project after applicant would have satisfied the competent authority about the benefit which the project would render to the country's economy and that it would create an adequate number of jobs;

(c) if it consists of land granted for a period of fifty (50) years to licensed and, or registered livestock farmers; or

(d) if it consists of land granted for humanitarian, philanthropic, cultural or social reasons.

(D) Emphyteutical concessions for residential purposes:

Emphyteutical concessions for residential purposes for an established period of time may become perpetual emphyteusis in accordance with the regulations issued by the Minister or through a public notice issued by the competent authority and under the conditions laid down in such notice.

(E) Government land may be given by lease:

(i) if it consists in a building not being a building for commercial use after the issue of a public notice indicating, at least in a general manner,

the criteria on which the award will be made;

(ii) if it consists in a building not being for commercial use which is offered according to the merits of the case to whosoever is listed on the registers of the government department which is responsible for such matters;

(iii) if it consists in a building which is offered for an industrial project after applicant would have satisfied the competent authority about the benefits which the project would render to the country's economy and that it would create an adequate number of jobs;

(iv) if it consists in agricultural or rural land which is offered on agricultural lease in accordance with the regulations issued by the Minister through a public notice issued by the competent authority and under the conditions laid down in that notice;

(v) it consists of land allocated to a person who has relinquished his place of residence or any other premises occupied by him for commercial purposes or for any other use, and would either have been evicted by Government for any public purpose or would have relinquished such premises due to its dangerous state;

(vi) if it consists of a land that is allocated to licensed lotto receivers, if the aforementioned land has already been allocated as a lotto office;

(vii) if it consists in a building including land accessory thereto which is mainly offered for a specific commercial use which may be only carried out under a licence issued by the Government for such use under a special law;

(viii) if it consists of land which formed part of a larger land and is being allocated directly by Government on a new lease to the preceding tenant under the same conditions but at a different rent;

(ix) if it consists of a concession under a temporary title for a maximum period of time of ten years of land situated outside Malta; or

(x) if it consists of land granted for humanitarian, philanthropic, cultural or social reasons:

Provided that the competent authority may at any time give the lessee the right to sublet or give up his lease in favour of third persons.

(F) Commercial lease:

(i) Premises leased for commercial purposes before the entry into force of this Act may be renewed after the lapse of the lease period provided that such leases shall in all cases be terminated by the 1st of June 2028.

(ii) Unless a lease contract was entered into for a longer period, the lessee shall return the leased commercial premises by the 1st of June 2028.

(iii) Upon termination of the lease, the lessee shall have the right of first refusal in the event that the competent authority opts to dispose of the land under whichever title.

(G) Necessary rights for adequate use of a land:

Servitudes and other similar rights may be created on government land whenever such rights are required for the proper use of any other land by any other person, and it would not be the case that such right is given on encroachment terms. In any other case such rights may and shall be given on encroachment terms.

(H) Encroachment:

(i) Any competent authority may grant an encroachment to any person who is occupying Government land for temporary and specific use.

(ii) When the competent authority grants to a person the right to occupy a land by way of encroachment, it shall have the right to take it back whenever it wants and for any reason whatsoever and the person who benefits from the encroachment shall return the land immediately or return it by the given date, and the authority shall not be held responsible

for any loss or damages suffered by that person in view of the termination of the encroachment.

(iii) Occupation by way of encroachment may be conferred either by payment or gratuitously, provided that in every case the encroachment shall confer no title whatsoever to the occupier of such land.

(iv) The fact that a person has paid money to occupy a land by way of encroachment for a definite period of time shall not preclude the competent authority from demanding the return of the land before the lapse of the definite period and the person benefiting from the encroachment shall have no right whatsoever over that land saving the right to get back the money paid in excess to the competent authority given that the land was not occupied for the whole period of time specified in the encroachment.

(I) Transfer of land on the sea shore or in any other place:

(i) Government land situated on the sea shore or on any other place, on which a room or any other building has been built or which is being used for the siting of a caravan thereon may be transferred by title of lease for any period the competent authority deems fit, which title may be renewed.

(ii) The building with all improvements made thereon, other than existing movables, shall revert to Government on the expiration of the lease without any right of compensation.

(J) Land given by exchange:

(i) Government land may be given by exchange with any other land which is declared as required for a public purpose under this Act.

(ii) If the land that has been declared to be required for public purpose has more than one owner, the exchange shall be done with all the owners and there cannot be an exchange with one of the owners whilst excluding the other owners.

(iii) When a difference exists in the value of the

two lands given by exchange, such difference shall be balanced with also giving an additional sum of money, so however that the exchange may not be effected if the value of the Government land to be given exceeds the value of the expropriated land.

(iv) Any damages sustained due to the expropriation of such land shall form part of the value of the same land.

(K) *Tale quale* transfer for relative compensation:

(i) Any land comprised in such Building Development Areas, also including such land in Building Development Areas which have been revoked, and which have not been utilised and, or there is apparently no use for them for a public purpose, may be transferred by title of exchange to the owners of the rights for relative compensation for each land which is so transferred and for which an application has been submitted, with money's worth for each land, of the rights for compensation regarding the same land, and when the person to whom the land shall be transferred was not the absolute owner of such land prior to its expropriation by Government, with money's worth also of an equivalent amount for each right of any other compensation relating to such land, free and exempt from any burden, hypothec or privilege, and also every right for any other interests or damages which may be due.

(ii) The person in whose favour the land is transferred is bound, on the same deed of transfer, to reconstitute on the land so transferred to such person any hypothec, privilege, easement, usufruct, use or any other real right which had existed on the same land prior to such land being declared a Building Development Area according to the Revision of certain Lands Act and which are presently incumbent on the compensation rights, until such time as such rights have not been erased by agreement between the parties prior to the reverse transfer.

Cap. 432.

A 512

(iii) The person to whom such land is transferred shall also be obliged to bind itself on the same deed to recognize any right of rural lease and any other right which was incumbent on such land prior to such land being declared a Building Development Area in terms of the Revision of certain Lands Act.

Cap. 432.

(iv) The expenses relating to the deed of transfer shall be paid by the competent authority.

(L) Regulations:

In accordance to the regulations issued by the Minister under this Act.

Right of first refusal.

32. Offers for the disposal of government land may be made subject to the right known as the right of first refusal:

(i) to the emphyteuta or to the lessee who was the last person to occupy such land;

(ii) to the possessor who has the land which is situated above, below or adjacent to Government land; or

(iii) to the possessor who prior to the offer of disposal has been relocated or asked to relocate from Government land and who has not yet been granted an alternative place.

Transfers which are not held in accordance with this Act shall be null and void.

33. (1) Any disposal of land, to which article 31 applies, which was disposed of differently from the provisions of that article, shall be null and void.

(2) The nullity of a disposal made in contravention of the article aforesaid may be demanded by the parties involved in the disposal and also by the Attorney General or by any person who is a member of the House of Representatives at the time of the demand before the Civil Court, First Hall.

Cap. 16.

(3) The effects and consequences referred to in articles 541 and 543 of the Civil Code shall apply to whosoever acquires land in violation of article 31 of this Act.

Disposal not in accordance with this Act to constitute offence.

34. (1) Any person who enters into or appears on any deed, instrument or contract (whether in his own name or on behalf of others) in contravention of any of the provisions of article 31, and any person who induces any other person to enter into or appear on any such deed, instrument or contract as aforesaid or the making thereof, or aids or abets any of the aforesaid acts, shall be guilty of an offence and shall be liable on conviction to a fine (*multa*) not exceeding five

thousand euro (€5,000) or to imprisonment not exceeding six months or to both such fine and imprisonment:

Provided that it shall be a defence for any person to prove that he took reasonable steps to ascertain that the deed, instrument or contract would not, where made, be in contravention of the provisions aforesaid.

(2) For the purposes of any proceedings under sub-article (1), a Declaration made by a court of competent jurisdiction that a disposal is null and void on the grounds that it was made in contravention of any of the provisions of article 31, or a mere Declaration that it was so made, shall be conclusive evidence that the disposal was made in contravention of these provisions; and where any action for any such Declaration has been taken, the period of prescription in respect of any offence against this article shall be suspended until a final judgement on the issue is given or the action is abandoned.

35. (1) The land shall automatically revert back to the competent authority upon expiry of the emphyteutical term, provided that the emphyteuta shall have the right of first refusal in the event that the competent authority opts to dispose again of that land following the lapse of the emphyteutical term.

Termination of emphyteusis.

(2) The competent authority may also after the expiration of temporary emphyteusis decide to extend the temporary emphyteusis for a specific period of time on payment of a yearly revisable ground rent that reflects the value of the land in the market.

PART IV

Acquisition of Lands for Public Purposes

36. (1) The authority may acquire any land required for any public purpose, either:

Methods of transfer.

(a) by the absolute purchase thereof; or

(b) for the possession and use thereof for not more than ten years.

(2) The authority can acquire part of a land by absolute purchase and part of it by possession and use.

(3) Where the land is to be acquired on behalf and for the use of a third party for a purpose connected with or ancillary to the public interest or utility, the acquisition shall, in every case, be by the absolute purchase of the land.

A 514

(4) No land shall be acquired any more by public tenure and all those lands which are held by public tenure shall be acquired by absolute purchase or by possession and use as laid down in the Act or else be relinquished to the owner.

Preliminary investigation.

37. (1) Whenever the authority considers it desirable that any land should be examined with a view to its possible acquisition for any public purpose, it may make a Declaration, signed by the Chairperson of the Board of Governors of the Lands Authority to that effect, and thereafter it shall be lawful for any person either generally or specially authorised by the authority in that behalf, and for the assistants and workmen to do all or any of the following things:

(a) to enter upon and survey and take levels of any such land;

(b) to dig or bore under the subsoil;

(c) to do all other acts necessary to ascertain whether the land is adapted for such purpose;

(d) to clear, set out and mark the boundaries of the land proposed to be taken and the intended line of work proposed to be made thereon:

Provided that no person shall enter into any building or upon any court or garden attached to any dwelling-house except with the consent of the occupier thereof, without previously giving such occupier at least seven days notice of his intention to do so.

(2) As soon as conveniently may be after any entry made under sub-article (1), the authority shall pay for all damage done, and in case of dispute as to the amount to be paid, the authority or the person claiming compensation may refer such dispute to the Arbitration Board.

Declaration by the authority that land is required for public purpose.

38. (1) The Chairperson of the Board of Governors of the Lands Authority may by Declaration signed by him declare any land to be required for a public purpose.

(2) Any Declaration issued by the Governor General of Malta or by the President of Malta before the entry into force of this Act shall for all the purposes and effects of the law be considered to have been issued by the authority.

Content of that Declaration.

39. (1) The signed Declaration by the Chairperson of the Board of Governors of the Lands Authority shall be published in the

Gazette and also published for at least once in two daily or Sunday local newspapers, and it shall contain well-defined details to identify the land that is being acquired for public purposes and it shall also mention the public purpose for which such land is being required.

(2) The Declaration shall also state the amount of compensation which the authority is willing to pay for the land to which the Declaration refers. The Declaration shall have attached with it a valuation drawn up in terms of the provisions of this Act and a site plan of the land described in the Declaration.

(3) In the case of acquisition of land for possession and use, the Declaration shall indicate the number of years during which the land shall be kept by the authority, as long as that period of time does not exceed ten years, and it shall specify the whole amount of compensation that the authority is willing to pay as an acquisition rent for all the years that the land is going to be kept.

(4) Acquisition rent shall be payable to the person who is entitled to receive, or is immediately entitled to let and receive, the rental on lease of the land affected or the tutor, curator, administrator, procurator or other representative of the person so entitled.

40. (1) So long as this is physically possible, the authority shall by not later than fourteen days following the publication of the Declaration of the Chairperson of the Board of Governors of the Lands Authority in the Gazette and at least a one time announcement in two daily or Sunday local newspapers, attach a copy of the Declaration and of the site plan upon or near the land in respect of which the Declaration was issued.

Notice of
Declaration.

(2) The authority shall also ensure that within the same time, the notice of such Declaration is shown on the notice board of the office of the Local Council and of the Police station in the locality where the land is situated.

(3) When the required land for public purpose is occupied by any person, the authority shall, by means of a judicial act presented in the register of the Arbitration Board, forward a copy of the Declaration and the plan to those persons occupying the land:

Provided that the fact that any notification has been served upon any person shall not be taken as an admission by the competent authority that the person on whom such notice has been served or any other person has any ownership or interest in the land or any part of the land specified in the notice, and shall not debar the authority from alleging in any proceedings under this Act or otherwise that all rights in

A 516

or in relation to such land are vested in the Government of Malta.

Contestation on
the public
purpose.

41. (1) Any person who has an interest in the land, in respect of which a Declaration by the Chairperson of the Board of Governors of the Lands Authority as is referred to in article 38 (1) is made, may contest the public purpose of the said Declaration and demand for its cancellation before the Arbitration Board by means of an application to be filed in the registry of the said Board within fifty days from the publication of the said Declaration.

(2) The application filed in accordance to sub-article (1) shall be served to the authority, who has a right to submit a reply within twenty days.

(3) The Arbitration Board shall set down the application for hearing without delay, and after listening to the witnesses and the submissions of the parties, it shall pass judgement within the shortest time possible but not any later than two months from the closing date within which the authority had to file its reply.

Appeal before
the Court of
Appeal.

Cap. 12

42. (1) Any party that feels aggrieved by any decision given by the Arbitration Board in accordance with article 41 may appeal before the Court of Appeal (Superior Jurisdiction) as constituted in accordance with article 41 (1) of the Code of Organization and Civil Procedure by means of an application filed in the registry of that court within twenty days from the date of such decision.

Hearing.

(2) The Court of Appeal (Superior Jurisdiction) shall set down the cause for hearing at an early date, in no case later than two months from the date on which the appeal is brought before it and shall cause notice of such date to be given to the parties to the suit who, on their part, shall assume the responsibility to visit the court registry and be aware of the latest information regarding the appointment for the hearing of the case.

(3) After appointing the application for hearing, and after listening to the oral submissions made by all parties, the Court shall decide the application on its merits, within the shortest time possible but not any later than six months from the day when the appeal had been filed and the parties have been duly notified.

Erasure of the
Declaration.

43. The Chairperson of the Board of Governors of the Lands Authority may at any time revoke any Declaration issued under this Act or before by means of a notice in the Gazette and at least once in two daily or Sunday local newspapers, provided that any revocation shall be registered with the Land Registry and the Public Registry.

44. (1) If a Declaration for expropriation was issued without indicating the compensation being offered for that land, the Chairperson of the Board of Governors of the Lands Authority may issue a fresh Declaration wherein it shall be stated the amount of compensation which the competent authority is willing to pay for the land to which the Declaration refers.

Issuance of a
new
Declaration.

(2) This new Declaration shall have attached with it a valuation drawn up by an architect and where available a site plan of the land described in the Declaration.

(3) If a fresh Declaration is issued the value and classification of such land shall be determined on the basis of the value and classification of such land on the date when the first Declaration has been issued.

(4) The provisions of articles 52, 53, 54 and 55 shall apply to all fresh Declarations issued by operation of this article.

45. (1) The authority shall have the right to enter the land and take possession thereof if no contestation is made to the Declaration as mentioned in article 41.

Effects of the
Declaration.

(2) If a contestation has been made and the Arbitration Board or the Court of Appeal (Superior Jurisdiction) according to the case, dismisses claim for the revocation of such Declaration, the authority shall have the right to take the land into possession within fourteen days from when the decision of the Arbitration Board or the Court of Appeal (Superior Jurisdiction) has become *res judicata*.

(3) If the land of which possession is so required, is a dwelling house actually occupied as such, the occupier shall not be required to yield up possession thereof before the lapse of fourteen days from the date when alternative accommodation, reasonably sufficient for the persons resident in that dwelling house, has been offered in writing by the authority to the said occupier.

(4) On the lapse of time mentioned in sub-articles (2) or (3) the authority may without any further formality enter upon and take possession of the land or authorize any person to enter upon and take possession of the land and, notwithstanding any restriction imposed on such land by any other law or by any instrument or otherwise, do or authorize any person to do in or upon or in relation to such land any work or other thing whatsoever which any person having an unrestricted interest in the land would be entitled to do by virtue of that interest saving the liability of the authority to re-instate the land or pay compensation for any damage caused if in the cases permitted by this Act the acquisition is not completed.

A 518

Part of a house. **46.** An owner shall not be required to sell or convey to the authority a part only of any house or other building, if such owner is willing and able to sell and convey the whole thereof.

Portion of building site. **47.** (1) An owner shall not be required to sell or convey to the authority a portion only of a building site, if the remaining portion measures less than two hundred and twenty square metres, or if, in the opinion of the Arbitration Board, the remaining portion, owing to its conformation and extension, will cease to be adaptable for building purposes under the laws and regulations relating to building.

(2) In any such case the authority shall acquire the whole site:

Provided that if the owner owns adjacent land, the Arbitration Board may declare that the foregoing provisions of this article do not apply to the land to be acquired.

Portion of land. **48.** An owner shall not be required to transfer a portion only of any land if such portion exceeds three quarters of the area of the whole and the remaining portion measures less than one thousand one hundred and twenty-four square metres and that owner does not own any adjacent land.

Valuation of land not being a building site. **49.** Any land which is not a building site shall be valued for the purpose of determining the compensation payable in the case of compulsory acquisition, as the case may be.

Building sites. **50.** (1) Land shall be deemed to be a building site for the purposes of this Act if it falls within the limits of a building scheme or as indicated and approved for development in a Spatial Strategy for Environment and Development or subsidiary plan which has been adopted for the time being in force under any law relating to planning.

(2) The compensation due for that building site, shall be calculated in accordance with the provisions of this Act.

The amount of compensation can be settled by an agreement. **51.** (1) The amount of compensation to be paid for any land required by the authority may be determined at any time by agreement between the authority and the owner.

(2) Any agreement reached between the authority and the owners regarding the amount of compensation shall be done through a notarial act which shall be registered in the Public Registry and the Lands Registry.

Deposit for compensation. **52.** (1) The authority shall deposit in an interest bearing bank account which will guarantee a minimum of interest *per annum* as the Minister may by regulation under this sub-article prescribe, a sum equal to the amount of compensation offered in the Declaration

drawn up by the chairperson of the Board of Governors of the Lands Authority.

(2) If there is no contestation as referred to in article 41, the deposit referred to in sub-article (1) shall be made within a period of fifteen days running from when the time for contesting the Declaration has elapsed. If there is a contestation which is then dismissed, the fifteen day period starts running from when the decision of the Arbitration Board or the Court of Appeal (Superior Jurisdiction) has become *res judicata*.

(3) Whosoever satisfies the Arbitration Board that he is an owner of that land by virtue of a valid title may request for the Board's authorization to withdraw the deposited sum as referred to in this article, together with the interest accrued thereon.

(4) This action shall be done by means of an application filed in the registry of the Arbitration Board which shall be addressed against the authority who shall have a right of reply within twenty days from when it has been served with the application.

(5) The amount deposited as provided in this article together with any interests accruing thereon may be withdrawn whether or not the sum deposited as compensation has been accepted as the amount of compensation due, and the withdrawal of such deposit interests shall not prejudice the right competent to any person to take action according to this Act for the purpose of determining any further compensation that may be payable to him in accordance with this Act.

53. Upon making the deposit as referred to in the previous article, the absolute ownership of the land to which the Declaration refers shall be deemed to be a registration area for the purposes of the Land Registration Act and the absolute ownership thereof shall, by virtue of this Act and without any further assurance or formality, be transferred to and be acquired by the Government free and unencumbered from any charge, hypothec or privilege and the absolute ownership thereof and the authority shall cause such land to be registered in the Public Registry and in the Lands Registry in its name in accordance with the Land Registration Act, provided that this shall be done within a period of three months from when the deposit has been done.

Effects of deposit.

Cap. 296.

54. The right to withdraw the compensation deposited in accordance with this article and to any further compensation that may be due for the purposes of this Act (hereinafter referred to as "the compensation rights") shall be deemed to be an immovable right by reason of the object to which it refers and shall be transferable

The right of compensation is an immovable right.

A 520

accordingly. Any charge, hypothec or privilege which prior to the acquisition of the land by the authority, shall continue to attach to the compensation rights with the same ranking and priority as it attached to the land.

Contestation regarding the compensation established in the Declaration.

55. (1) When an owner feels that the amount of compensation offered to him by means of a Declaration is not appropriate, such person may apply to the Arbitration Board for the determination of the compensation in accordance with the provisions of this Act.

(2) Such application shall, on pain of nullity, state the compensation, that in the opinion of the applicant is due and it shall be served to the authority who shall have twenty days to file a reply.

(3) The application shall be filed by not later than five years from when the Declaration by the chairperson of the Board of Governors of the Lands Authority has been published as referred to in article 39(1) and (2), provided that if such an application is not filed, the owner shall only have the right over the deposited sums and the interests mentioned in article 52.

(4) The Arbitration Board shall determine such compensation and shall give all necessary orders and directives in accordance with this Act, if it is satisfied that the applicant has proved that he has a valid title on that land.

Land Arbitration Board.

56. (1) There shall be an Arbitration Board to be known as the Land Arbitration Board.

(2) The Arbitration Board shall consist of a chairman who shall be appointed by the President of Malta. The chairman shall be a person who holds or has held the office of judge or a person who holds the office of magistrate.

(3) The President of Malta may appoint several such judges or magistrates to sit on the Arbitration Board, but only one such judge or magistrate shall sit in any one case.

Cap. 390.

(4) The President of Malta shall also appoint a Panel of *periti* for the purpose of assisting the Arbitration Board in the valuation of land and in other technical matters. The said Panel of *periti* shall be appointed from among persons who hold the warrant to practice as *periti* according to the provisions of the *Periti Act* and who have practised that profession in Malta for not less than seven years.

(5) The members on the list are to be appointed for a period of five years. The members of the Panel who have been appointed to

exercise their functions and to also commence assisting the Arbitration Board in the valuation of the land and in other technicalities cannot be reappointed. However, other members of the Panel who have not been appointed to exercise their functions and therefore they did not commence to assist the Arbitration Board in the valuation of the land and in other technicalities may still be reappointed.

(6) The provisions of articles 733,734,735,737 and 739 of the Code of Organization and Civil Procedure shall apply to the chairman and to the members of the Panel and any exception to any member of the Panel shall be decided by the chairman and shall be subject to appeal in accordance with the same procedure referred to in article 74. Cap. 12.

(7) The provisions of the Code of Organization and Civil Procedure shall apply to the hearings of cases before the Civil Court, First Hall, and shall apply *mutatis mutandis* to all proceedings before the Arbitration Board in accordance with this Act. Cap. 12.

(8) All pending cases before the Arbitration Board as composed before the entry into force of this Act shall be transferred and shall continue to be heard before the Arbitration Board as established under this Act.

57. (1) Where the chairman is a person who has held office of judge but no longer holds such office he shall take and subscribe an oath before the Attorney General to exercise his functions under this Act. Oath to be taken by chairman and members of the Panel.

(2) The members of the Panel shall not enter upon the duties of their office unless they have taken and subscribed an oath before the chairman to exercise their functions under this Act with impartiality and in accordance with the law.

58. (1) The Arbitration Board shall be competent: Powers of the Board.

(a) to order immediate possession of any land to be given to the competent authority;

(b) to order the transfer of any land to the competent authority in absolute ownership;

(c) to order the subjection of land to any easement;

(d) to assess the amount of compensation payable under any of the provisions of this Act and for this purpose to declare whether any area is a building site or not, provided that the amount of compensation that shall be determined by the Board

A 522

does not exceed the highest amount of compensation that has been proposed by any one of the parties;

(e) to order that the Declaration of expropriation be revoked;

(f) to order that the land be returned to the owner;

(g) to liquidate and pay moral and material damages;

(h) to decide on issues related to interest;

(i) to determine who is the owner or who has a title on a land that has been subject to the Declaration or that has been occupied by the Government without the issuance of such Declaration;

(j) to determine the date when the Government possessed such land;

(k) to call upon persons to enter into proceedings for the purpose of establishing who is the owner or who has a title on the land that has been subject to the Declaration which has been occupied by the Government without the issuance of such Declaration; and

(l) to order the execution of its decisions.

Cap. 12.

(2) The Arbitration Board has the same powers as are by law vested in the Civil Court, First Hall, and subject to the provisions of this Act the provisions in the Code of Organization and Civil Procedure shall, as far as practicable, be applicable to the Arbitration Board.

(3) All acts shall be issued in the name of the Arbitration Board and shall be signed by the chairman.

(4) The chairman shall decide all questions in regard to the admissibility of evidence, the competence of witnesses, and all other questions relating to procedure.

(5) The Registrar of Courts or any other person deputed by him shall be the registrar of the Board, and all acts brought before the Board shall be kept in the Registry of the Superior Courts which shall be the registry of the Board.

Cap. 12.

(6) All acts shall be filed, issued and served in accordance with the provisions of the Code of Organization and Civil Procedure,

subject to any rules made under this Act.

(7) Parties shall be heard on the day established by the Arbitration Board.

59. (1) Whenever a question arises before the Arbitration Board requiring the valuation of any land or any other technical opinion in connection with any case before the Board, the chairman shall assign two of the members of the Panel to examine the land in question, or to take cognizance of the record of the case relative to the matter in which the technical opinion is requested; and such two members shall present their report to the chairman during the sitting or file the said report in the Registry of the Board as the chairman may direct. The report shall be accessible to the parties who shall be granted the opportunity to put questions in writing thereon to the members on the Panel and to comment thereon to the Board: Members' report.

Provided that the parties, without prejudice to their right to bring during the evidence stage their own expert witnesses *ex parte*, shall not be entitled to request the appointment of additional referees.

(2) When the report consists of or includes a valuation, that valuation shall be made in accordance with the provisions of this Act.

(3) The chairman may also require the members of the Panel assigned to a case to attend the sitting of the Board when that case is being considered by the Board as he may deem appropriate or if the said members require additional information from the parties or need to hear any particular witnesses.

(4) The chairman shall decide the matter himself after giving due consideration to the reports of the two members of the panel and any other relevant acts presented or submissions made.

60. Where, out of the proceedings before the Arbitration Board, there arises any question which is not included under article 58(1), the Board shall reserve such question to be decided by the Civil Court, First Hall, and shall fix a time-limit for the party raising such question to bring it forward by sworn application before the said court; the Board shall then adjourn the proceeding until final judgement thereon has been given by the civil courts or until the expiry of the said time-limit, whichever shall be the earlier: Questions to be decided by the chairman as a judge.

Provided that, if the party raising such question before the Board does not bring forward the relative action as aforesaid before the Civil Court, First Hall, it shall be lawful for the other party to bring forward the action in the same manner as hereinbefore stated, and in such case the proceedings before the Board shall not be

A 524

resumed until after the final judgement of the Civil Court:

Provided further that -

(a) the reservation of any point of law or fact shall not be an obstacle to the authority obtaining possession of any land within the period fixed by the Board;

(b) the authority shall not be bound to intervene in any dispute which may arise between co-owners; nor shall the authority bear any additional expense due to the apportionment of the compensation between the parties interested in the land.

Assessment of
compensation.

61. (1) The Arbitration Board shall, upon establishing the compensation for absolute purchase, act in accordance with the following rules:

(a) no allowance shall be made on account of the acquisition being compulsory;

(b) the value of the land shall, subject as hereinafter provided, be taken to be the amount which the land could acquire if sold in the open market by a willing seller voluntarily;

Cap. 158.

(c) the value of the land is the value that the land has within the period of publication of the Declaration as updated during the years in accordance to the index of inflation published in the schedule of the Housing (Decontrol) Ordinance, and without regard to any improvements or works done by a competent authority;

(2) When the compensation to be established relates to possession and use only, the amount of acquisition rent for the whole period of the time until the land is being held shall be established in accordance with the amount which the land if leased in the open market by a willing owner might be expected to realize.

(3) Besides the accrued interests on the sum deposited in accordance with article 52(1), the Arbitration Board may order in its decision that the owner receives simple interest at the rate of eight *per centum per annum* over the final compensation liquidated by the Board, which interest shall start running from when the owner files his application in terms of article 55.

Payment for
compensation.

62. Where the compensation payable in respect of land acquired by the absolute purchase thereof is determined, whether by agreement or by decision of the Arbitration Board, any sum due as compensation over and above any sum deposited together with the

interest, shall be paid to the person entitled thereto by the Lands Authority not later than three months from the date on which such compensation was determined as aforesaid.

63. (1) If land which is subject to a Declaration issued before the entry into force of this Act remains unacquired in terms of one of the manners referred to in this Act and such land has not been used for public purposes for a period of more than ten years from the issue of the Declaration, whosoever proves to the satisfaction of the Arbitration Board that he is the owner of the land by valid title may ask for the revocation of the Declaration and for the relinquishment of the land.

An action for revocation of a Declaration in a situation where the land has not been acquired.

(2) This action shall be made by means of an application filed in the Registry of the Arbitration Board that shall be addressed against the Lands Authority who shall have the right of reply within twenty days from the day it has been served with the application.

(3) Together with the requests for revocation of the Declaration and the return of the land, one can make a request so that the Arbitration Board liquidates and orders the authority to pay for material damages and moral damages that have been suffered by the owner for all the years that the land has been kept by the Government without anything being done on it.

(4) In order for an application to be heard and decided by the Board, all the persons who are known to have a right of title on such land have to be present during proceedings.

(5) The Arbitration Board shall dismiss the application for revocation of the Declaration if the authority gives valid reasons why the land remained unused for all these years or if it proves to the satisfaction of the Board that there is still public interest in the acquisition of that land.

(6) Everyone shall forfeit his right of action in accordance with this article if he fails to proceed within thirty years from when the Declaration has been issued, provided that if upon the entry into force of this Act, a period of twenty five years already had elapsed from the date of issue of the Declaration, the action shall be filed by not later than five years from the entry into force of this Act. Such periods are peremptory and cannot be renewed.

64. (1) When land is subject to a Declaration which has been issued before the entry into force of this Act and such land is in possession of Government without having issued any notice to treat or without having indicated the compensation offered for its acquisition, anyone who proves to the satisfaction of the Arbitration Board that he is the owner of the land by valid title may demand that the competent

Land that is subject to a Declaration without a notice of the agreement.

A 526

authority acquires the land by absolute purchase.

(2) This action shall be done by means of an application filed before the Registry of the Arbitration Board that shall be addressed against the authority who shall have a right of reply within twenty days from when it has been served with the application.

(3) The compensation that shall be paid for the acquisition of the land shall be the value that the land has within the period of publication of the Declaration as updated during the years in accordance to the index of inflation published in the schedule of the Housing (Decontrol) Ordinance.

Cap. 158.

(4) Apart from the compensation for the acquisition of the land as established in this article, the owner can also make a request to the Arbitration Board to liquidate and order the authority to pay him for material damages and moral damages due to the excessive delay for such acquisition.

(5) The peremptory period referred to in article 63(6) for filing such action shall apply *mutatis mutandis* to the action under this article.

Land that is subject to a Declaration and notice of agreement but has not been acquired.
Cap. 88.

65. (1) Whosoever proves that he is an owner by valid title of land in respect of which a Declaration and notice to treat had been issued in terms of the Land Acquisition (Public Purposes) Ordinance, may proceed before the Arbitration Board to receive compensation if the competent authority failed to effect the payment.

(2) This action shall be made by means of an application filed in the Registry of the Arbitration Board that shall be addressed against the Lands Authority who shall have the right of reply within twenty days from the day it has been served with the application.

(3) The authority shall indicate in its reply whether the Government is still interested in the purchase of that land.

(4) If upon the issue of the notice to treat, the owner decided not to contest the price offered in the notice by means of a judicial act, the compensation due by the authority shall be that indicated in the notice to treat, as updated during the years in accordance to the index of inflation published in the schedule of the Housing (Decontrol) Ordinance

Cap. 158.

(5) If upon the issue of the notice to treat, the owner chose to refuse the price offered in the notice by means of a judicial act, the compensation due by the authority shall be that established by the Arbitration Board, which compensation shall be calculated in accordance with the value of the land at the time when the Declaration had been issued, as updated during the years in accordance to the index of inflation published in the schedule of the Housing (Decontrol) Ordinance. Cap. 158.

(6) The compensation established by the Arbitration Board shall not be higher than the amount indicated by the owner or lower than the amount indicated in the notice to treat.

(7) Apart from the compensation for the acquisition of the land as established in this article, the owner can also make a request to the Arbitration Board to liquidate and order the authority to pay him for material damages and moral damages due to the excessive delay for such acquisition.

(8) The peremptory period referred to in article 63(6) for filing such action shall apply *mutatis mutandis* to the action under this article.

66. (1) In the cases referred to in articles 64 and 65, the owner also has the right to receive interest with the simple rate of eight per cent on the compensation that has been established by the Arbitration Board as updated during the years in accordance to the index of inflation published in the schedule of the Housing (Decontrol) Ordinance and this interest shall start accruing from the date when the Declaration has been published. Interests. Cap. 158.

(2) If there is a contestation between the owner and the Lands Authority regarding the interest that shall be paid, the owner shall file an application so that the issue would be resolved by the Arbitration Board. This application shall be filed till not later than six months from when the contract of transferring the land has been paid by the parties or from when the decision of the Board become *res judicata*.

(3) This application shall be served to the authority who shall have a right to reply within twenty days.

(4) The Arbitration Board shall decide the issue within a peremptory period of not longer than six months from when the application has been served to the authority.

67. (1) When land not subject to a Declaration is occupied or administered by a competent authority, anyone who proves to the satisfaction of the Arbitration Board that he is owner of the land by Land occupied by a competent authority without a Declaration.

valid title may either request that the land be acquired by absolute purchase by the Lands Authority or else that the land be relinquished free and unencumbered from any occupation.

(2) This action shall be done by means of an application filed in the Registry of the Arbitration Board which shall be addressed against the authority who shall have a right of reply within twenty days from when it has been served with the application.

(3) The authority shall indicate in its reply whether the Government wants to acquire the land with absolute purchase or else return the land to the owner.

(4) Should the authority indicate in its reply that it wants to acquire the land by absolute purchase it shall prove to the satisfaction of the Board that the land is required for public purposes.

(5) Should the Arbitration Board be satisfied that the land is required for public purpose, it shall fix a period of time within which the owner and the authority have to declare the amount of compensation which should be paid for the transfer of the land.

(6) If the parties disagree on the compensation to be paid, it shall be for the Arbitration Board to determine the fair compensation for the transfer of the land, provided that the compensation cannot be higher than the amount indicated by the owner or lower than the amount indicated by the authority.

(7) The value of the land shall be taken to be the amount which the land if sold by a willing seller might be expected to realize and shall be calculated on the value of the land at the time when the application was filed in terms of this article.

(8) In combination with the demands for purchase or relinquishment of the land, one can make a request so that the Arbitration Board liquidates and orders the authority to pay for material damages and moral damages that have been suffered by the owner for all the years that the land has been occupied without any issuance of the Declaration.

(9) Everyone shall forfeit his right of action in accordance with this article if he fails to proceed within five years from the entry into force of this Act. This period is peremptory and cannot be renewed.

Land occupied
by public
tenure.

68. (1) All those lands which upon the entry into force of this Act are held by a competent authority by title of public tenure shall either be acquired by absolute purchase or by title of use or possession or else they should be returned to the owner.

(2) This decision by the authority must be taken within ten years from when this Act comes into force, provided that if the authority fails to take any decision such default shall be deemed that the authority renounced to every right over that land and that the owner shall have the right to take it back.

(3) In the case that the land is required for purchase the chairperson of the Board of Governors of the Lands Authority shall issue a Declaration in accordance with article 38 and the provisions of articles 52, 53, 54 and 55 shall apply.

(4) The value of the land shall be taken to be the amount which the land if sold by a willing seller might be expected to realize at the time when the Declaration has been issued as provided in sub-article (3):

Provided that in the value, no regard shall be had to any building, erection or other improvement erected or made on the land after the date upon the possession thereof was taken by the competent authority.

69. (1) When land has been acquired by a competent authority for use and possession during such time as the exigencies of the public purpose shall require, the owner may, after the lapse of ten years from the date when possession was taken by the competent authority, apply to the Board for an order that the land be purchased or acquired by the authority with absolute purchase in same manner as defined in article 68(3) and (4) or else be vacated within a year from the date of the order.

Land occupied by use and possession for more than ten years.

(2) When land which has been in the possession and use of a competent authority is vacated, the competent authority may remove all buildings, erections, or other improvements erected or made thereon during the period of occupation, making such compensation to the owner of the land for the damage which may have been caused by the erection of such buildings or otherwise, as may be agreed between the Authority and the owner or as, in default of agreement, shall be assessed by the Arbitration Board.

70. Property regulated by the Ecclesiastical Entities (Property) Act, shall notwithstanding any provision of this Act continue to be governed by the provisions of the said Act, and the procedures and criteria therein established for the determination of compensation and the payment thereof shall apply accordingly.

Ecclesiastical property. Cap. 358.

71. (1) The Chairperson of the Board of Governors of the Lands Authority may for public purposes declare through a notice published in the Gazette and also published for at least once in two

Clearance rights.

daily or Sunday local newspapers that the land is subject to a clearance right or to a subsoil rights.

(2) When for any public purpose any land is declared to be subject to clearance rights, no owner shall build or erect any structure on any land declared to be so subject or increase the height of any existing structure without the permission of the Arbitration Board.

(3) When for any public purpose any land is declared subject to subsoil rights, no owner shall make any new or extend any existing underground work or excavation without the prior permission, in writing, of the Arbitration Board.

(4) When for any public purpose any land is declared to be subject to clearance rights or to subsoil rights, no compensation shall be payable by reason only of the subjection of the land to such rights or to the possession, by a competent authority, of any underground work or excavation made or constructed by a competent authority, however the following provisions shall apply.

(5) The demand for the permission referred to in sub-article (2) and sub-article (3) shall be made by filing an application together with a plan showing the buildings or other structures proposed to be erected and the work or excavation proposed to be made. The Arbitration Board shall forthwith cause notice of the application to be served to authority.

(6) If the competent authority does not oppose the application within twenty days, the application shall be granted by the Board.

(7) If the Authority shall oppose the grant of the permission, the Arbitration Board shall, on the application of the person requiring the said permission, determine the compensation payable by reason of the refusal of the competent authority to allow the erection of the proposed buildings or other structures or the making of the proposed underground work or excavation. When compensation is paid under the provisions of this article, the Board shall specify the area in respect of which the compensation is granted, and in such case no further compensation shall at any time thereafter become payable for clearance rights or subsoil rights, as the case may be, in respect of that area, saving the provision of the last part of sub-article (10).

(8) No compensation shall be payable unless it is shown to the satisfaction of the Board -

(a) that the proposal to build or to increase the height of existing buildings or to make any new or extend any existing

underground work or excavation is a genuine intention on the part of the owner;

(b) that no alternative proposal can be adopted which, while not detrimental to the owner, is acceptable to the Authority.

(9) Where any land has been declared subject to clearance or subsoil rights, any person who makes, builds or erects any structure or increases the height of any structure on the land or who makes any new or extends any existing underground work or excavation in such land, without the prior permission, in writing, of the Authority, shall, within ten days after due notice in writing has been given to him in that behalf by the Authority -

(a) remove any structure so made, built or erected or any such increased part of a structure; and

(b) fill in any new or extended underground work or excavation, and restore the land to its condition prior to the making of the new or extended work or excavation, and in the event of the notice not being complied with, the Authority may order such part of a structure to be demolished, or such work or excavation to be filled in and the land restored, at the expense of the person erecting such structure or increased part of a structure or making such new or extended underground work or excavation, without any compensation to such person, and such expense shall be recoverable from him in the same manner as a fine, and he shall be liable, on conviction therefor, to a fine (*multa*) not exceeding two thousand five hundred euro (€2,500) for non-compliance with such notice.

(10) Land subject to clearance rights under this article may be released by the Authority from such rights, provided the owner consents to accept the release and pays to the competent authority such fair compensation as may be agreed upon or, in default of agreement, as may be fixed by the Arbitration Board. Payment of compensation for the release from clearance rights may only be demanded by the competent authority where compensation has been paid for the subjection of the land to clearance rights in accordance with this article. Land released from clearance rights may again be declared subject to such rights.

(11) Where any land is declared subject to subsoil rights, the Authority may retain the possession of any underground work or excavation which was constructed by the Authority therein prior to the coming into force of this sub-article and may make or extend

A 532

therein any underground work or excavation and use it for such purposes as it considers necessary:

Provided that the Authority shall take all reasonable precautions to ensure the safety and stability of any buildings or other structures on the surface of such land and any well, cellar or other underground structure used and enjoyed in connection with the occupation of such surface, and in case of injury to any such structure shall either repair and restore it to its former condition or pay compensation to the owner for any loss sustained by him by reason of such injury and the amount of such compensation shall, if the parties fail to agree thereto, be referred to and determined by the Arbitration Board.

(12) Where any land has been declared subject to any rights in favour of the Government in virtue of this article, the Government may transfer any such rights over such land to any other person or authority:

Provided that the exercise by the transferee of the right so transferred shall continue to be so exercised for a public purpose.

Right to order temporary evacuation of land.

72. (1) The Chairperson of the Board of Governors of the Lands Authority may by notice in the Gazette and also published for at least once in two daily or Sunday local newspapers, order the evacuation of any area where danger to life or limb is possible as a result of naval, military or air operations, and while such order is in force the danger area and all houses and buildings within that area shall be vacated by the tenants or occupiers and by any other person, and no responsibility shall lie with the naval, military or air authorities in consequence of any personal injury which may derive to any person within the danger area as a result of the said operations. Any person remaining in the danger area while any such order is in force shall, on conviction by the Court of Magistrates, be liable to a fine not exceeding two thousand five hundred euro (€2,500).

(2) Compensation for temporary evacuation shall be paid to any person who has incurred loss or expense in consequence of the evacuation.

(3) In the event of any compensation payable under this article not being agreed upon between the authority and the claimant, the amount thereof shall be determined by the Arbitration Board in the manner provided in this Act.

Costs.

73. (1) Where the authority has made an offer in writing of any sum whether payable periodically or as a lump sum as compensation to an owner and the sum awarded by the Arbitration

Board to that owner does not exceed the sum offered, the Board shall order the owner to bear his own costs and to pay the costs of the authority so far as they were incurred after the offer was made.

(2) Where an owner does not accept the offer of the authority and claims that the amount due as compensation should be higher, indicating such sum, whether payable periodically or as a lump sum, as compensation, and the sum awarded is more than that offered by the competent authority, then all costs shall be borne by the parties in proportion that the difference in the amount offered by the authority and that determined by the Board has to be the difference in the amount claimed by the owner and the amount determined by the Board.

(3) Where the Arbitration Board orders the owner to pay the costs or any part of the costs of the authority, the authority may deduct the amount so payable by the owner from the amount of the compensation payable to him.

74. (1) Any party that feels aggrieved by any decision given by the Arbitration Board in accordance with this Act may appeal before the Court of Appeal (Superior Jurisdiction). Appeal.
Cap. 12.

(2) The appeal shall be filed by means of an application before the Court of Appeal (Superior Jurisdiction) within twenty days from such decision; and the party against whom the appeal is filed may file his reply within twenty days from the date of service upon him of the said application.

(3) The Court of Appeal (Superior Jurisdiction) shall set down the cause for hearing at an early date, in no case later than two months from the date on which the appeal is brought before it and shall cause notice of such date to be given to the parties to the suit who, on their part, shall assume the responsibility to visit the court registry and be aware of the latest information regarding the appointment for the hearing of the case.

(4) After appointing the application for hearing, and after listening to the oral submissions made by all parties, the Court of Appeal (Superior Jurisdiction) shall decide the application on its merits, within the shortest time possible but not any later than six months from the day when the appeal had been filed and the parties have been duly notified.

75. The authority shall ensure that any contract or decision of the Arbitration Board or of the Court of Appeal where land is being acquired by the Government shall be registered in the Land Registry and in the Public Registry, and this within one month from when the Registration.

A 534

contract has been signed or the decision held by the Arbitration Board or the Court of Appeal becomes *res judicata*.

Penalty for obstruction.

76. Any person who shall wilfully hinder or obstruct any person duly authorised from entering upon or taking possession of or using any land in pursuance of the provisions of this Act, or who shall molest, hinder or obstruct any such person shall be liable to a fine not exceeding two thousand five hundred euro (€2,500) or to imprisonment for a term not exceeding three months.

Rules.

77. The Minister responsible for justice may make rules, including rules as to forms, costs, and fees, for carrying this Act into effect.

Pending proceedings.

78. (1) Pending proceedings before the Arbitration Board before the coming into force of this Act shall keep on being regulated by the substantive law that were into force before the coming into force of this Act, unless the owner does not indicate by means of a written note filed in the acts of proceedings before the Arbitration Board that he wants the proceedings to be decided in accordance with the provisions of this Act.

(2) Should the owner decide that the proceedings are to be regulated and decided in accordance with the provisions of this act he shall be allowed to add or change his pleas in order to reflect the actions and remedies referred to in this Act.

(3) Pending appeals before the Court of Appeal filed before the entry into force of this Act shall continue to be heard by the same Court in accordance with the prevailing law prior to the entry into force of this Act, saving and without prejudice to owner's right who may wish to file a new action as laid down in this Act about matters that were not decided by the Arbitration Board or the Court of Appeal.

PART V

Estimate Costs of Experts

Estimate costs of experts.

79. (1) Whenever a value needs to be determined under this Act, this shall be done following a valuation made in terms of this article. If the valuation does not meet the precise requirements mentioned in this article, then the valuation shall be deemed to be invalid and hence should be done again.

(2) Every report or valuation made by *periti* appointed by the competent authority under this Act shall be done in accordance with one of the approved methodologies by the competent authority and in each report or valuation the *periti* should indicate which methodology they have used to reach their value. During the preparation of the

report, *periti* may seek the aid of other experts in different areas, which aid shall then be indicated in their report.

(3) In any case, either when they are appointed by the competent authority or when they are appointed by the Arbitration Board, the report made by the *periti* shall include the following:

- (a) the date of the valuation;
- (b) the date with reference to which the property was valued;
- (c) the state which it is calculated that the property was in on the date with reference to which the property was valued;
- (d) the use which was being made of the property on the date with reference to which it was valued, including information as to whether the property was at the said time subject to rights of third parties such as emphyteusis, use, usufruct or lease;
- (e) the comparable transactions, if any, with reference to which the property was valued;
- (f) the restrictions from the scheming in accordance with the local plans and, or other pertinent reasons;
- (g) the method which made them reach such valuation; and
- (h) the Declaration of the *periti* and also other experts involved in the valuation, in accordance with the previous sub-article, that they do not have any conflict of interest on the date of valuation;

(4) One report by three *periti* appointed by the competent authority should always be done when the land to be disposed of by the competent authority has a value exceeding four hundred thousand euro (€400,000).

(5) The fees of the *periti* appointed externally by the competent authority shall be calculated in accordance with Tariff K of the Code of Organization and Civil Procedure, provided that the individual fees of each *Perit* shall not exceed the amount of two thousand and five hundred euro (€2,500) for each report. Cap. 12.

(6) The fees of the *periti* appointed by the competent authority shall be borne by the person who acquired the title over Government

A 536

land.

PART VI Criminal Proceedings

Proceedings. **80.** Proceedings for an offence under this Act shall be taken by the Police decided by the Court of Magistrates as a court of criminal judicature:

Provided that if a higher punishment applies to the offence under any law when the circumstances mentioned in the other law are referred to in the offence, the punishment of that law shall apply and the proceedings shall be held before the competent court.

PART VII Judicial Terms

Judicial terms.
S.L. 12.09 **81.** (1) The Court vacations mentioned in Court Practice and Procedure and Good Order Rules shall not hold back the hearing of the cases and appeals filed under this Act, during the court vacations.

(2) At any given time, any Board, Tribunal or Court competent to hear any proceeding under this Act may, for serious and necessary reasons, by means of a decree, extend for a reasonable period the judicial time limits that are imposed on them according to this Act.

PART VIII Transitory Provision

Transitory
Provision.
Cap. 12.
Cap. 16.
Cap. 169.
Cap. 199.
Cap.228.
Cap.268.
Cap. 121.
Cap. 448. **82.** Any act, decision or action taken before the coming into force of this Act in accordance with articles 468 and 468A of the Code of Organization and Civil Procedure, articles from 1576A to 1576D of the Civil Code, the Commissioner of Land Ordinance, articles 20 to 26 of the Agricultural Leases (Reletting) Act, Land (Compulsory Eviction) Act, the Disposal of Government Land Act and the Administration of Lands Act shall continue to be regulated by the laws that were into force before the coming into force of this Act.

PART IX General Amendment

General
amendment. **83.** The words "Commissioner of Lands" shall be substituted by the words, wherever they occur in any other law, by the words "Lands Authority".

PART X
Repeal and Saving

84. (1) Without prejudice to anything made or any liability incurred thereunder, the laws or articles or parts of laws listed in sub-article (2) (hereinafter referred to as ‘repealed laws’) shall be repealed. Repeal and saving.

(2) The Land Acquisition (Public Purposes) Ordinance, Cap. 88; Commissioner of Land Ordinance, Cap. 169; Land (Compulsory Eviction) Act, Cap. 228; Disposal of Government Land Act, Cap. 268; Administration of Lands Act, Cap. 448 and articles 468 and 468A of the Code of Organization and Civil Procedure, Cap. 12; article 1576A to article 1576D of the Civil Code, Cap. 16; articles 20 to 26 of the Agricultural Leases (Reletting) Act, Cap. 199.

(3) Any regulation made under the repealed laws shall continue in force as if it was made under the corresponding provision of this Act, and may be amended, repealed or substituted accordingly.

Passed by the House of Representatives at Sitting No. 507 of the 12th April, 2017.

ĊENSU GALEA
Deputy Speaker

RAYMOND SCICLUNA
Clerk of the House of Representatives

