

CHAPTER 158

HOUSING (DECONTROL) ORDINANCE

To provide for the decontrol and registration of certain dwelling houses, and for matters connected therewith, and to permit an adjustment in the rent payable in respect of a controlled dwelling-house where improvements have been carried out with the consent of the tenant.

10th April, 1959

ORDINANCE XIXA of 1959, as amended by Legal Notice 4 of 1963; Acts: XXIX of 1965, XXXI of 1966, XLVIII of 1972, XXXVII of 1973; Legal Notice 148 of 1975; Act XXIII of 1979; Legal Notices: 10 of 1980, 14 of 1981, 15 of 1982, 16 of 1983; Act XIII of 1983; Legal Notices: 18 of 1984, 2 of 1985, 4 of 1986; Act XXXVII of 1986; Legal Notices 10 of 1987, 20 of 1988; Act XXVIII of 1988; Legal Notices 26 of 1989, 31 of 1990, 31 of 1991, 29 of 1992, 46 of 1993, 36 of 1994 and 29 of 1995; Act XXXI of 1995; Legal Notices 25 of 1996, 29 of 1997, 76 of 1998, 64 of 1999 and 31 of 2000; Act IX of 2000; Legal Notices 30 of 2001, 46 of 2002, 73 of 2003, and 90 of 2004; Act XVIII of 2004; Legal Notices 32 of 2005, 30 of 2006 and 36 of 2007; Act XVIII of 2007; and Legal Notices 410 of 2007 and 83 of 2008.

1. The short title of this Ordinance is Housing (Decontrol) Ordinance.

Short title.
Amended by:
XXIX. 1965.2.

2. In this Ordinance and any regulations made hereunder, except in so far as the context otherwise requires -

Interpretation.
Amended by:
L.N. 4 of 1963;
XXIX. 1965.2;
XXXVII.1973.2;
XXIII.1979.2;
XXVIII.1986.2.

"appointed day" means the day on which this Ordinance comes into force;

"the Board" means the Rent Regulation Board constituted under article 16 of the Reletting of Urban Property (Regulation) Ordinance;

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"decontrolled dwelling-house" means a dwelling-house registered by the Land Valuation Officer in accordance with the provisions of article 3;

"dwelling-house" means a building or part of a building constructed or structurally adapted for occupation as a separate dwelling;

"fair rent" means the rent that has been or may be established by the Board in respect of a dwelling-house in accordance with the provisions of the Rent Restriction (Dwelling Houses) Ordinance;

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"improvements" includes structural alterations, additions or extensions and the provision of additional fixtures or fittings, but does not include anything done by way of decoration or repair;

"increase in inflation" means the increase in inflation established in the manner provided in article 13;

"Land Valuation Officer" means the officer appointed by the Prime Minister as Land Valuation Officer for the purpose of the Developed Land (Valuation) Ordinance;

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"lessor" includes any person deriving title under the original lessor;

"letting" or "lease" includes -

- (a) any emphyteutical or sub-emphyteutical grant for a period not exceeding sixteen years;
- (b) notwithstanding any stipulation to the contrary, any agreement in pursuance of which any person has been accommodated in consideration of payment periodically recurrent in any dwelling-house; and
- (c) any other agreement whereby any real or personal right on any dwelling-house, which right includes that of occupation of that dwelling-house, is granted under an onerous or commutative title for a period of time, whether such time is established by fixing a certain specified day or whether it can be established by reference to a certain or to an uncertain future event;

"owner" used with reference to a dwelling-house means the person or any of the persons entitled to that dwelling-house in absolute ownership, emphyteusis, sub-emphyteusis, or usufruct:

*Provided that in article 3(d) and, for the purpose of and in relation to that paragraph, in any other provision of this Ordinance, "owner" used with reference to a dwelling-house means the person or any of the persons entitled to that dwelling-house in absolute ownership or in perpetual emphyteusis or sub-emphyteusis or in usufruct, but, in the last mentioned case, only if on the termination of the usufruct the bare owner becomes entitled to that dwelling-house in absolute ownership or in perpetual emphyteusis or sub-emphyteusis;

"prescribed" means prescribed by regulations under article 15;

"rental period" means a period in respect of which a payment for rent falls to be made;

"the Rent Ordinances" means the Letting of Urban Property (Regulation) Ordinance and the Rent Restriction (Dwelling Houses) Ordinance;

"repairs" means those repairs which the lessor is bound to carry

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*This proviso was added by Act XXXVII of 1973 which contained the following provisions:

"4. (1) Subject to the provisions of sub-article (2) of this article nothing in this Act shall affect any registration validly made by the Land Valuation Officer under article 3 of the principal law before the coming into force of this Act.

(2) Notwithstanding any provision of the principal law, any registration as a decontrolled dwelling house made by the Land Valuation Officer under the principal law before the coming into force of this Act shall be without effect, and any house so registered shall be deemed not to be and never to have been a decontrolled dwelling house, if such registration was made after the issue of a requisition order under the Housing Act in respect of such house and if -

- (a) the house is one specified in paragraph (d) of article 3 of the principal law; or
- (b) in the case of any other house, a person has been accommodated therein or has otherwise remained in occupation thereof before the coming into force of this Act,

and in any such case any such house shall be deemed to have always remained a requisitioned house."

out at his expense;

"tenant" includes -

- (a) the widow or widower of a tenant provided husband and wife were not, at the time of the death of the tenant, either legally or *de facto* separated;
- (b) where the tenant leaves no widow or widower such members of the tenant's family as were residing with him or her at the time of his or her death; and
- (c) any sub-tenant in relation to the tenant:

Provided that for the purposes of articles 5 and 12, "tenant" shall not include any of the persons included under paragraph (b) or (c) of this definition but shall include, instead, the children, and any brother or sister, of the tenant who are not married and who reside with the tenant at the time of his or her death and any ascendant of the tenant who so resides with the tenant.

"war damage payment" means a cost of works payment as defined in the War Damage Ordinance.*

3. Subject to the provisions of article 6, the Land Valuation Officer, on the application of an owner made in such manner as may be prescribed, shall register as a decontrolled dwelling-house any dwelling-house which -

- (a) is not completed or ready for use as a dwelling-house on the appointed day; or
- (b) although completed or ready for use as a dwelling-house on the appointed day, has not been occupied as a dwelling-house on or before that day; or
- (c) is completed or ready for use after the appointed day by the making of the structural alterations converting one or more dwelling-houses into a larger number of dwelling-houses; or
- (d) was on the first day of March, 1959, occupied by an owner as his ordinary residence and has continued to be so occupied up to and including the appointed day; or
- (e) was acquired under a scheme as is referred to in the Home Ownership (Encouragement) Act, and in respect of which the right to register as a decontrolled dwelling-house has been granted as an incentive in accordance with that Act; or
- (f) is on the date of the application, occupied by the owner as his ordinary residence and has been so occupied by him, under any title, throughout the period of ten years immediately preceding the date of the application. For the purpose of this paragraph the expression "ordinary residence" does not include a summer residence.

Registration of decontrolled dwelling-houses. Amended by: XXIX. 1965.2; XXVIII. 1988.8.

Cap. 328.

*The War Damage Ordinance (Ordinance No.III of 1943) was repealed by the War Damage (Repeal) Act (Cap.289).

Appeals from decisions of Land Valuation Officer.
Amended by:
L.N. 148 of 1975.

4. (1) Any person aggrieved by an order of the Land Valuation Officer refusing to register a dwelling-house as a decontrolled dwelling-house may appeal to the Board.

(2) The Land Valuation Officer shall in every case be made a respondent in the appeal.

(3) No appeal shall lie from the decision of the Board except on a point of law determined by the Board.

(4) An appeal under sub-article (3) shall be brought before the Court of Appeal.

(5) Appeals under sub-article (1) or under sub-article (3) shall be made in such manner and within such time and subject to such other rules of procedure as may be prescribed.

Decontrolled premises and the Rent Ordinances.
Amended by:
XXIX. 1965.2.
Substituted by:
XXIII. 1979.3.
Amended by:
XVIII. 2004.115.

5. (1) Subject to the following provisions of this article and of article 6, the provisions of the Rent Ordinances shall not apply to any decontrolled dwelling-house from the day on which the house is registered in accordance with the provisions of article 3.

(2) Where on the expiration of the lease of a decontrolled dwelling-house (whether such period be conventional, legal, customary or otherwise) the tenant is a citizen of Malta and occupies the house as his ordinary residence, the provisions of sub-article (3) shall have effect and the provisions of the Reletting of Urban Property (Regulation) Ordinance shall also apply but only in so far as they are not inconsistent with the said provisions of this article.

(3) The provisions referred to in sub-article (2) are:

(a) It shall not be lawful for the lessor of the dwelling-house to refuse to renew the lease except in any of the circumstances set out in paragraph (b), nor shall it be lawful for him to raise the rent, or to impose new conditions for the renewal of the lease, except as provided in paragraphs (c) and (d).

(b) The lessor may only refuse to renew the lease, and may only resume possession of the house, at the termination of the lease, if he shows to the satisfaction of the Board, on an application to resume possession, that in the course of the lease, the tenant has failed to pay the rent due by him in respect of two or more terms within fifteen days from the day on which the lessor called upon him for payment, or has caused considerable damage to the house, or otherwise failed to comply with the conditions of the lease or his obligations thereunder, or has used the premises for a purpose other than mainly as his ordinary residence.

(c) The rent payable under the same lease after the date of the first renewal of the lease made by virtue of this sub-article may be increased by the lessor, upon such renewal and after the lapse of every fifteenth year thereafter during the continuance of the lease in favour of the same tenant, by so much of the rent payable

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immediately before such renewal or before the commencement of each subsequent fifteen year period, being an amount not exceeding the said rent, as represents in proportion to such rent the increase in inflation since the year the rent to be increased was last established.

- (d) Where, on or before the date of any renewal of the lease of the dwelling-house, the lessor files in the Registry of the Board, a certificate, signed by a qualified architect and civil engineer and which is either accepted as correct by the tenant or has been so declared by the Board on an application by the lessor requesting such a declaration, showing that the house is in good state of maintenance and repair, all repairs and all maintenance of the dwelling-house shall thereafter, and throughout the continuance of the lease in favour of the same tenant, be at the charge of the tenant.

(4) The following provisions of this sub-article shall also have effect with respect to all leases of decontrolled dwelling-houses where the tenant is a citizen of Malta. The said provisions are:

- (a) Where the lease of a decontrolled dwelling-house has been renewed as provided in sub-article (3) or under article 12(3), or has been established under sub-article (2) of the said article, it shall not be lawful for the lessor of any such house to require from any citizen of Malta, under a lease made thereafter, a rent higher than the amount which would have been payable by way of rent if the tenant in whose favour the lease was first so renewed or established had remained the tenant of that house; and any amount paid in excess shall be recoverable from the lessor.
- (b) It shall not be lawful for the lessor to require the payment of a rent which is subject to variation at any time prior to the expiration of the lease, whether the variation is due to an increase or a decrease of such rent; and where the lease of a decontrolled dwelling-house is made subject to such a variation the rent payable in respect thereof shall notwithstanding the agreement to the contrary, be the lowest rate payable for any part of the duration of the lease, and any amount paid in excess shall be recoverable from the lessor.
- (c) It shall not be lawful for the lessor to impose a condition requiring the repairs of the dwelling-house to be at the charge of the tenant unless the lease is in writing and a certificate as is mentioned in sub-article (3)(d) is attached to the instrument of lease.
- (d) Where the dwelling-house is leased furnished -
- (i) if the lease is made before the 21st June, 1979, the tenant shall be entitled, at any time not

earlier than one year after the said date, to demand that, with effect from the expiration of six months after the date of such demand, the lease shall remain only in respect of the building and that he shall pay only such part of the rent as relates to the building as may be agreed between himself and the lessor, or, failing such agreement, as the Board may on application by either of them establish;

- (ii) if the lease is made after the date aforesaid, the lease shall distinguish between the part of the rent agreed in respect of the house and the part of the rent agreed in respect of the furniture and other household articles; and the tenant shall be entitled, at any time not earlier than one year from the date he first occupies the house under the lease, to demand the dissolution of the lease of the furniture and other household articles, and with effect from the expiration of six months after the date of the demand to have such lease dissolved and to pay only the rent agreed in respect of the house;
- (iii) (*deleted by: XVIII. 2004.115.*);
- (iv) the rights given by the foregoing provisions of this paragraph shall also be competent, *mutatis mutandis*, in respect of a transaction relating to furniture or other household articles where such transaction is so connected with the lease of a decontrolled dwelling-house to which this sub-article applies that the said lease would not have been contracted unless the said transaction had also taken place.

(5) Subject to any agreement entered into prior to 21st June, 1979, and without prejudice to the rights to which a tenant may become entitled under this article after that date, the provisions of sub-articles (2) and (3) shall apply even though the expiration of the lease has taken place before that date if the tenant still occupies the house as his ordinary residence on that date.

Exceptions.
Amended by:
XXIX. 1965.2;
XLVIII. 1972.2;
XXXVII. 1973.3.

6. (1) The Land Valuation Officer shall not register as a decontrolled dwelling-house under this Ordinance any dwelling house specified in article 3(a), (b) or (c) if funds are or have been provided by a war damage payment or by a Government grant towards its construction or towards the structural alterations referred to in article 3(c) or if the land on which it is constructed was given on its emphyteusis or sub-emphyteusis by the Government after the 6th December, 1972, unless in the deed of emphyteusis or sub-emphyteusis it is declared that this provision shall not apply to buildings to be constructed on the land granted by that deed.

* (2) Where a house specified in article 3(d) is requisitioned under the provisions of the Housing Act and is not, at the time of the issue of the requisition order, registered as a decontrolled dwelling-house under this Ordinance, the Land Valuation Officer shall not register that house as a decontrolled dwelling-house if the appropriate application for the registration of such house as a decontrolled dwelling-house is not made within fifteen days from the service of a notice, given by the Housing Secretary to any of the owners entitled to apply for the registration aforesaid, informing such owner of the issue of the requisition order and reproducing the provisions of this sub-article, or if such application, although made within the period aforesaid, is not pursued with due diligence. Cap. 125.

* (3) Any registration made by the Land Valuation Officer in any case to which article 3 does not apply, or in any case in which he is by this article directed not to make, shall be without effect and such house shall, notwithstanding any other provision of this Ordinance, be deemed not to be and never to have been a decontrolled dwelling-house.

(4) Where a dwelling-house specified in article 3 is subject to a letting on the appointed day, the registration thereof under that article shall have effect, for the purposes of article 5, only from the day on which the owner becomes entitled to the vacant possession of such dwelling-house upon the determination of that letting.

7. As respects grant, renewal or continuance at any time during the period of three years beginning with the appointed day or at any time after 20th June, 1979, a letting of a dwelling-house to which any of the provisions of the Rent Ordinances do not apply by reason only of the preceding provisions of this Ordinance shall be treated as one to which article 8 of the Rent Restriction (Dwelling Houses) Ordinance (which article prohibits the requiring of premiums on the grant, renewal or continuance of a letting of any dwelling-house) applies.

Prohibition of premiums to continue as respects dwelling-houses otherwise decontrolled.
Amended by:
XXIX. 1965.2;
XXIII. 1979.4.
Cap. 69.
Cap. 116.

8. (1) Any person who, in connection with an application under this Ordinance for registration of any premises as a decontrolled dwelling-house, knowingly or recklessly makes any statement or gives any information which is false in any material particular, shall be liable on conviction to a fine (*multa*) not exceeding one hundred and sixteen euro and forty-seven cents (116.47) or to imprisonment for a term not exceeding three months.

Penalty for misrepresentation.
Amended by:
XXIX. 1965.2;
XIII. 1983.5;
L.N. 410 of 2007.

(2) Where a person is convicted of an offence under sub-article (1) any registration of a decontrolled dwelling-house obtained by means of a false statement or false information shall be null and void, and the court pronouncing the conviction shall order its cancellation.

*sub-articles (2) and (3) were added by Act XXXVII of 1973 which contained the provisions as shown in the foot-note to article 2 of this Ordinance.

Exclusion of decontrolled dwelling-house from the operation of the Housing Act.

Amended by:
XXIX. 1965.2.
Cap. 125.

Increase of the fair rent of controlled dwelling-houses in respect of improvements.

Amended by:
XIII. 1983.5;
L.N. 410 of 2007.
Cap. 69.
Cap. 116.

9. The Housing Act shall not apply to any house which is registered as a decontrolled dwelling-house in accordance with the provisions of this Ordinance.

10. (1) Notwithstanding anything to the contrary in articles 3, 4, 5 and 7 of the Reletting of Urban Property (Regulation) Ordinance and in articles 2, 4, 5 and 6 of the Rent Restriction (Dwelling Houses) Ordinance, if any improvements are carried out by the lessor, after the appointed day, to a dwelling-house which has not been registered as a decontrolled dwelling-house, the fair rent of such dwelling-house shall be increased by the Board, on the application of the lessor to that effect, by an amount, hereinafter in this article referred to as "the appropriate increase", corresponding to six per cent, *per annum* of any amount up to one thousand and one hundred and sixty-four euroeuro and sixty-nine cents (1,164.69) expended by the lessor on the improvements, as proven to the satisfaction of the Board, or, in default, as assessed, if necessary after an inspection of the dwelling-house, by the Board.

(2) An application for the appropriate increase under sub-article (1) shall not be allowed by the Board unless the tenant and any sub-tenant have agreed in writing, prior to the application, to the carrying out of the improvements and to the payment of the appropriate increase.

(3) An application under sub-article (1) shall, on pain of nullity -

- (a) be accompanied by -
 - (i) the written agreement or agreements referred to in sub-article (2); and
 - (ii) a certified copy of the determination of the fair rent of the dwelling-house by the Board, if any, and, where more than one determination of such fair rent has been made, a certified copy of the latest of such determinations, and
- (b) contain a demand for the appropriate increase stating the grounds therefor:

Provided that the Board may, at any time, allow the application to be amended for the purpose of making it clearer.

(4) Where the fair rent of the dwelling-house has not been determined by the Board, an application for the appropriate increase under sub-article (1) shall be allowed by the Board only if the lessor, in the same application, demands also the determination of the fair rent.

(5) In computing the amount expended by the lessor on the improvements, the Board shall not take into account any idle capital, any interest on loans, and any amount which has been paid or may at any time become payable to the lessor, in respect of such improvements by way of grant by the Government.

(6) Any increase of the fair rent approved by the Board under sub-article (1) shall take effect from the first rental period beginning after the completion of the improvements.

(7) The provisions of articles 19 to 24, 28, 29, 32 to 37 and 39 to 43 of the Reletting of Urban Property (Regulation) Ordinance shall apply to any proceedings under sub-article (1). Cap. 69.

11. (1) Notwithstanding anything contained in the Rent Ordinances, where at any time after 20th June, 1979, repairs are carried out by the lessor in a dwelling-house which has not been registered as a decontrolled dwelling-house, and such repairs are so carried out with the agreement of the tenant signified in writing or upon an order of a competent court, the fair rent of the dwelling-house shall be increased by an amount, not exceeding the said rent, corresponding to one-tenth of the cost of such repairs. Repairs in dwelling-houses not decontrolled. Added by: XXIII. 1979.5.

(2) Notwithstanding any other enactment, the lessor of a dwelling-house which has not been registered as a decontrolled dwelling-house may free himself from the obligation to carry out repairs in the said house by means of an outright sale of the house in favour of the Government for a price equal to the capitalization of the fair rent of the house at six per cent.

12. (1) Notwithstanding anything contained in the Civil Code or in any other enactment the following provisions of this article and of article 12A shall have effect with respect to all contracts of temporary emphyteusis made at any time. Temporary emphyteusis of dwelling-houses. Added by: XXIII. 1979.5. Amended by: XXXVII. 1986.3; XVIII. 2007.2. Cap. 16.

(2) Where a dwelling-house has been granted on temporary emphyteusis -

- (a) for a period not exceeding thirty years, if the contract was made before 21st June, 1979, or
- (b) for any period, if the contract is made on or after the date aforesaid,

and on the expiration of any such emphyteusis the emphyteuta is a citizen of Malta and occupies the house as his ordinary residence, the emphyteuta shall be entitled to continue in occupation of the house under a lease from the *directus dominus* -

- (i) at a rent equal to the ground-rent payable immediately before the expiration of the emphyteusis increased, at the beginning of the lease of the house by virtue of this article, and after the lapse of every fifteenth year thereafter during the continuance of the lease in favour of the same tenant, by so much of the ground-rent payable immediately before such commencement or the commencement of each subsequent fifteen year period, being an amount not exceeding such ground-rent, as represents in proportion to such ground-rent the increase in inflation since the time the ground-rent to be increased was last established; and
- (ii) under such other conditions as may be agreed

between them, or failing agreement, as the Board may deem appropriate.

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(3) Where on the expiration of an emphyteusis as is mentioned in sub-article (2)(a) or (b) the dwelling-house is subject to a lease, the provisions of the Reletting of Urban Property (Regulation) Ordinance, shall not apply in respect of such lease:

Provided that where the tenant under the said lease is a citizen of Malta and occupies the house as his ordinary residence he shall, on the termination of the lease, be entitled to continue in occupation of the house under a new lease from the *directus dominus* at the same rent and under the same conditions as are mentioned in sub-article (2)(i) and (ii) in respect of the emphyteuta.

(4) On the expiration of a temporary emphyteusis of a dwelling house occupied by a citizen of Malta as his ordinary residence at the time of such expiration, not being an emphyteusis mentioned in sub-article (2)(a) or (b), the emphyteuta shall be entitled to convert the emphyteusis into a perpetual one under the same conditions of the temporary emphyteusis with the exception of those relating to the duration and the ground-rent. The ground-rent payable with effect from the conversion of the emphyteusis into a perpetual one and until fifteen years from that date shall be equal to six times the ground-rent payable immediately before such conversion, and shall thereafter be increased every fifteen years by so much of the then current ground-rent, being an amount not exceeding such rent, as represents in proportion thereto the increase in inflation since the time the said ground-rent was last established.

(5) If the emphyteuta does not exercise the right granted to him by sub-article (4) within six months from the date such right is exercisable, such right shall, with the necessary modifications, pass to the occupier of the house who shall be entitled to demand, to the exclusion of the emphyteuta, that the dwelling-house be granted to him by the owner in perpetual emphyteusis under the same conditions as could have applied if the emphyteuta had converted the emphyteusis into a perpetual one.

(6) Where the emphyteuta or the occupier is entitled to convert a temporary emphyteusis into a perpetual one under sub-article (4) or (5), he may require that a notarial deed be entered into to this effect, and the *dominus* or the owner shall comply with such request.

(7) Where the date of expiration of the emphyteusis is a date prior to 21st June, 1979, the foregoing provisions of this article shall apply only if the emphyteuta or the tenant, as the case may be, still occupies the house as his ordinary residence on that date and shall not apply if he so occupies the house under an agreement entered into by him after the expiration of the emphyteusis.

(8) Where, in the case of an emphyteusis mentioned in sub-article (2)(a) and expiring after the 21st June, 1979, the emphyteuta or the tenant occupying the house as his ordinary residence on the expiration of the emphyteusis is a person different from the person occupying the house as his ordinary residence on 21st June, 1979, the provisions of sub-article (2) or (3), as the case may be, shall

apply only -

(a) if -

- (i) the person occupying the house on the date aforesaid continued in occupation of the house as his ordinary residence until his death; and
- (ii) the person occupying the house as his ordinary residence on the expiration of the emphyteusis resided with the emphyteuta at the time of his death and had then all the other qualifications to be treated as a tenant for the purposes of this article; or

(b) if -

- (i) the person occupying the house as his ordinary residence on the date aforesaid derived the title under which he so occupied the house from the emphyteuta occupying the house as his ordinary residence on the expiration of the emphyteusis or, if the emphyteuta from whom the said title was derived dies before the expiration of the emphyteusis, from the emphyteuta whose heir occupies the house as his ordinary residence on the expiration of the emphyteusis; and
- (ii) until the expiration of the emphyteusis, no person other than the person aforesaid and the said emphyteuta, or his heir, and members of their family living with them, occupied the house in any manner whatsoever; and
- (iii) not later than 30th September, 1979, notice is given in writing to the Housing Authority of the title under which the house is occupied on 21st June, 1979, stating the nature of that title, the expected duration thereof and the name of the person occupying the house under that title.

(9) For the purposes of this article -

- (a) in respect of an emphyteusis mentioned in sub-article (2)(a) or (b), emphyteusis includes a sub-emphyteusis;
- (b) in respect of any other emphyteusis, emphyteusis means the original emphyteusis, but where, on the expiration of such emphyteusis, the dwelling house is held on sub-emphyteusis -
 - (i) the rights given by this article to the emphyteuta shall be exercisable by the last sub-emphyteuta and, without prejudice to the rights given to the occupier by sub-article (5), only by him;
 - (ii) the *directus dominus* means only the person entitled to receive the original ground-rent;
 - (iii) the ground-rent means only the original ground rent:

Provided that where the ground-rent payable by the last

sub-emphyteuta exceeds six times the original ground-rent, sub-article (4) shall have effect as if for the words "shall be equal to six times the ground-rent" there were substituted the words "shall be equal to the sub-ground-rent".

(10) Where on the expiration of a temporary emphyteusis to which sub-article (2) or (3) applies, the dwelling-house is occupied by a person by title of usufruct or habitation, the right to continue in occupation of such dwelling-house conferred by those sub-articles or by sub-article (7) shall, notwithstanding those provisions, be competent to such occupier as if he were the emphyteuta or the tenant of the dwelling-house, as the case may require.

(11) Where a temporary emphyteusis is converted into a perpetual one under sub-article (4), the dwelling-house shall remain subject to the rights enjoyed by third parties over such house immediately before such conversion.

(12) Where any of the rights conferred by this article is exercisable by more than one person such right may be exercised notwithstanding any disagreement among them but only if not less than half the number of such persons agree to exercise such right; and in any such case it shall operate only in favour of those exercising it.

Dwelling-houses
subject to more
than one emphy-
teusis.
Added by:
XVIII. 2007.3.

12A. (1) This article shall apply:

- (a) on the expiration of a temporary emphyteusis of sub-emphyteusis (hereinafter in this article referred to as "the most recent emphyteusis or sub-emphyteusis") which is not one the effects of the termination of which are regulated by article 12(2)(a) or (b) or by article 12(4) or 12(5);
- (b) of a dwelling house which at the time of the expiration of the most recent emphyteusis or sub-emphyteusis:
 - (i) is occupied by a citizen of Malta as his ordinary residence; and
 - (ii) is subject to another emphyteusis or sub-emphyteusis (hereinafter in this article referred to as "the preceding emphyteusis or subemphyteusis") whether perpetual or temporary.

(2) On the expiration of the most recent emphyteusis or sub-emphyteusis the emphyteuta or the sub-emphyteuta who satisfies the requirements of subarticle (1)(b)(i) shall be entitled to continue in occupation of the dwelling house under a lease from the person holding the preceding emphyteusis or sub-emphyteusis at the same rent and under the same conditions applicable according to article 12(2)(i) and (ii) which shall apply *mutatis mutandis*.

(3) On the expiration of the preceding emphyteusis or sub-emphyteusis the lease mentioned in subarticle (2) shall remain in force for the same rent and under the same conditions as mentioned in subarticle (2) between the tenant and the person who from time

to time would, were it not for the tenancy, be entitled to the vacant possession of the house.

(4) The provisions of this article shall also apply in all cases where although the most recent emphyteusis or sub-emphyteusis shall have expired before the 1st July 2007 the person who was the emphyteuta or the sub-emphyteuta in the most recent emphyteusis or sub-emphyteusis still occupies the house as his ordinary residence on the said date.

(5) When on the expiration of the most recent emphyteusis or sub-emphyteusis the dwelling house is subject to a lease the provisions of article 12(3) shall apply *mutatis mutandis*.

(6) The rights given by this article to the emphyteuta and to the sub-emphyteuta of the most recent emphyteusis or sub-emphyteusis shall, where the said emphyteuta or sub-emphyteuta shall have died before the 1st July 2007, be exercisable by the person who resided with the said emphyteuta or sub-emphyteuta at the time of his death and had at that time all the other qualifications to be treated as a tenant for the purposes of article 12.

(7) Where in the case of a most recent emphyteusis or sub-emphyteusis which expires after the 1st July 2007 the emphyteuta, the sub-emphyteuta or the tenant occupying the house as his ordinary residence on the expiration of the most recent emphyteusis or sub-emphyteusis is a person different from the person occupying the house as his ordinary residence on the 1st July 2007 the provisions of this article shall apply only in the cases mentioned in article 12(8)(a) and (b) which paragraphs shall apply *mutatis mutandis* to the emphyteusis and the sub-emphyteusis regulated by this article, provided however that references to the "21st June 1979" are to be read and construed as references to the "1st July 2007", references to "the emphyteusis" are to be read and construed as references to "the most recent emphyteusis or sub-emphyteusis" and references to "the emphyteuta" shall be read and construed accordingly, and the reference to the "30th September 1979" shall be read and construed as a reference to the "31st December 2007".

13. (1) The index of inflation for each of the years from 1947 until 1978 shall be that shown in the Schedule to this Ordinance, taking 1946 as a basis at 100 points.

Index of inflation.
Added by:
XXIII. 1979.5.

(2) The index of inflation for each year after 1978 shall be established by the Principal Government Statistician as percentage points for each of such years in continuation of the Schedule aforesaid and on the basis of the all items retail price index, or a similar index replacing it, and shall be published by him in the Gazette not later than the end of March immediately following the year to which the index refers.

(3) An increase in inflation shall be established by taking the difference between the percentage points for the two relevant years, as shown in the Schedule or as published in the Gazette, as a proportion of the first of such years.

Rights granted by Ordinance to prevail over agreements, etc.
Added by:
XXIII. 1979.5.

14. (1) The provisions of this Ordinance, and, in particular, but without prejudice to the generality of the foregoing expression, the provisions of articles 5, 7, 12 and 13, shall have effect notwithstanding any agreement, undertaking, promise or other act or thing contrary to, or limiting, or purporting to limit, any of the rights conferred by those provisions on the tenant, emphyteuta or occupier of a dwelling-house; and where a person exercising any of the said rights is, by virtue of any such agreement, undertaking, promise or other act or thing, made liable to incur any penalty or any obligation or other consequence or effect, any such agreement, undertaking, promise or other act or thing shall, to the extent that it provides for any liability as aforesaid, be null and without effect.

(2) Any waiver and any restriction or limitation of any of the rights referred to in sub-article (1), however made, and any subjection of any such right to any obligation or liability, shall be null and without effect.

Regulations for compilation and inspection of register of decontrolled dwelling-houses.
Amended by:
L.N. 4 of 1963;
XXXI.1966.2;
L.N. 148 of 1975;
IX.2000.6.

15. The Minister responsible for the Public Registry may make regulations with respect to -

- (a) the duties, powers and functions of the Land Valuation Officer in connection with the compilation of a register of decontrolled dwelling-houses, which may, without prejudice to the generality of the foregoing, include the power to demand the production of any books or other documents relating to the premises in respect of which an application for registration is made and to enter and inspect the premises;
- (b) the delegation by the Land Valuation Officer of any such duties, powers and functions;
- (c) the procedure and fees payable for registration;
- (d) the particulars required to be noted in the register;
- (e) the procedure relating to appeals from decisions of the Land Valuation Officer to the Board and from decisions of the Board on such appeals to the Court of Appeal;
- (f) registry fees and fees payable to any advocate or legal procurator in connection with such appeals as are referred to in the last preceding paragraph;
- (g) the inspection of the register, the taking of notes therefrom, the issue of certificates of registration and the fees payable therefor;
- (h) generally for carrying the purposes of this Ordinance into effect.

Operativeness of this Ordinance.
Added by:
XXXI.1995.4.

***16.** (1) The provisions of article 5(2) to (5), article 7, article 10 and article 11, shall not apply to the lease of any dwelling house entered into on or after the 1st June, 1995.

(2) For the purposes of sub-article (1) -

- (a) the renewal of a lease on or after the 1st June, 1995 (whether such renewal be conventional, legal,

customary or otherwise) shall not be deemed to be a lease entered into on or after the 1st June, 1995;

- (b) the continued occupation of a dwelling house under a lease from the directus dominus at the expiration of a temporary emphyteutical concession expiring on or after the 1st June, 1995 in terms of article 12 shall not be deemed to be a lease entered into on or after the 1st June, 1995.

- (3) The provisions of article 12 shall not apply to any contract of temporary emphyteusis entered into on or after the 1st June, 1995.
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*Article 5 of Act XXXI of 1995 *inter alia* provides:

5. Nothing in article 16 of the Housing (Decontrol) Ordinance shall be deemed to restrict any of the powers of the Director of Social Housing under the Housing Act, (Cap. 125) and the provisions of the Ordinance as in force immediately before the coming into force of this Act (1st June 1995) shall, in as far as applicable, continue to apply with regard to the relationship between the said Director and any owner of premises in possession of the said Director on that date, or between the said Director and any person legally in occupation of such premises. The provisions of the said Ordinance as aforesaid shall also continue to regulate the relationship between any person in occupation of such premises and the owner thereof.

Added by:
 XXIII.1979.6.
 Amended by:
 L.N. 18 of 1984;
 L.N. 2 of 1985;
 L.N. 4 of 1986;
 L.N. 10 of 1987;
 L.N. 20 of 1988;
 L.N. 26 of 1989;
 L.N. 31 of 1990;
 L.N.31 of 1991;
 L.N. 29 of 1992;
 L.N. 46 of 1993;
 L.N. 36 of 1994;
 L.N. 29 of 1995;
 L.N. 25 of 1996;
 L.N. 29 of 1997;
 L.N. 76 of 1998;
 L.N. 64 of 1999;
 L.N. 31 of 2000;
 L.N. 30 of 2001;
 L.N. 46 of 2002;
 L.N. 73 of 2003;
 L.N. 90 of 2004;
 L.N. 32 of 2005;
 L.N. 30 of 2006;
 L.N. 36 of 2007;
 L.N. 83 of 2008.

SCHEDULE

ARTICLE 13(1)

Index of inflation for the years from 1947 until 1998

1946	100.0	1979	316.21
1947	104.9	1980	366.06
1948	113.9	1981	408.16
1949	109.7	1981	408.16
1950	116.9	1982	431.83
1951	130.1	1983	428.06
1952	140.3	1984	426.18
1953	139.1	1985	425.17
1954	141.2	1986	433.67
1955	138.8	1987	435.47
1956	142.0	1988	439.62
1957	145.7	1989	433.39
1958	148.3	1990	456.61
1959	151.1	1991	468.21
1960	158.8	1992	475.89
1961	164.84	1993	495.60
1962	165.16	1994	516.06
1963	168.18	1995	536.61
1964	172.00	1996	549.95
1965	174.70	1997	567.95*
1966	175.65	1998	580.61
1967	176.76	1999	593.00
1968	180.42	2000	607.07
1969	184.71	2001	624.85
1970	191.55	2002	638.54
1971	196.00	2003	646.84
1972	202.52	2004	664.88
1973	218.26	2005	684.88
1974	234.16	2006	703.88
1975	254.77	2007	712.68
1976	256.20		
1977	281.84		
1978	295.14		

*Note: In November 1998 the index of inflation for the year 1997 was revised to 567.08 following a revision of the water and electricity rates.

ARTICLE 13(2)

Increase of inflation for the years after 1978

1979	316.21	(L.N. 10 of 1980)
1980	366.06	(L.N. 14 of 1981)
1981	408.16	(L.N. 15 of 1982)
1982	431.83	(L.N. 16 of 1983)
1983	428.06	(L.N. 18 of 1984)
1984	426.18	(L.N. 2 of 1985)
1985	425.17	(L.N. 4 of 1986)
1986	433.67	(L.N. 10 of 1987)
1987	435.47	(L.N. 20 of 1988)
1988	439.62	(L.N. 26 of 1989)
1989	443.39	(L.N. 31 of 1990)
1990	456.61	(L.N. 31 of 1991)
1991	468.21	(L.N. 29 of 1992)
1992	475.89	(L.N. 46 of 1993)
1993	495.60	(L.N. 36 of 1994)
1994	516.06	(L.N. 29 of 1995)
1995	536.61	(L.N. 25 of 1996)
1996	549.95	(L.N. 29 of 1997)
1997	567.95	(L.N. 76 of 1998)
1998	580.61	(L.N. 64 of 1999)
1999	593.00	(L.N. 31 of 2000)
2000	607.07	(L.N. 30 of 2001)
2001	624.85	(L.N. 46 of 2002)
2002	638.54	(L.N. 73 of 2003)
2003	646.84	(L.N. 90 of 2004)
2004	664.88	(L.N. 32 of 2005)
2005	684.88	(L.N. 30 of 2006)
2006	703.88	(L.N. 36 of 2007)
2007	712.68	(L.N. 83 of 2008)