

CHAPTER 199

AGRICULTURAL LEASES (RELETTING) ACT

To regulate the reletting of agricultural land and to provide for matters connected therewith and ancillary thereto.

20th June, 1967

ACT XVI of 1967 as amended by Acts: XXVIII of 1969, IX of 1972, V of 1973, LVIII of 1974, V of 1975; Legal Notice 148 of 1975; and Acts: XIX of 1979, XIII of 1983, VIII of 1990, XIX of 1993, XXIV of 1995, VI of 2001 and XXXI of 2002.

1. The short title of this Act is Agricultural Leases (Reletting) Act. Short title.

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

"agricultural land" means any land which is mainly let for the growing of crops, flowers, fruit-trees or vines and for cognate agricultural purposes, including the erection of glasshouses, cloches or cold frames, but does not include grazing grounds;

"assignee of the lease" includes a sub-tenant and, where there is neither a person to whom the lease has been assigned nor a sub-tenant, the person who is in the actual enjoyment of the lease by the tenant's express or tacit consent, and "assignment" shall be construed accordingly;

"Board" means the Rural Leases Control Board established under article 5;

"conditions" includes the rent payable in respect of a lease;

"date of termination" means the last day on which the period of the lease whose conditions the lessor proposes to change or which the lessor does not intend to renew expires;

"lease" means a lease for an agreed total period not exceeding sixteen years for a rent in money or other consideration payable yearly in one or more instalments and includes a lease tacitly renewed from year to year or renewed by a decision of the Board under this Act, but does not include either an emphyteusis or an agreement of lease in virtue of which the produce is to be apportioned between the lessor and the tenant; it also includes "sub-lease" in relation to sub-lessor and sub-tenant;

"lessor" includes a sub-lessor in relation to a sub-tenant;

"Malta" means the Island of Malta and the Islands of Gozo and Comino;

"member of the family" means a lineal ascendant, a lineal descendant, a widow or a widower, a son-in-law, and a widowed daughter-in-law while not remarried, of the tenant;

"tenant" includes any member of the family who is an assignee of the lease and, after the tenant's death, where there is no such member, it includes in order of preference any member of the

family who is a legatee of the lease or who, during the last year immediately preceding the tenant's death, was living with the tenant or has been working the agricultural land with him or for him or is the tenant's heir; it includes also, in relation to a sub-lessor, a sub-tenant, which expression shall be deemed in such relation to have the same meaning as tenant in its full extent.

Change of
conditions of lease.
Amended by:
IX. 1972.2.

3. (1) Subject to the provisions of this Act, where a lessor desires to make any change in the conditions of a lease on the expiration of its term, unless an agreement in writing is reached with the tenant, he shall apply to the Board by means of an application containing in detail the proposed changes, filed not later than three months before the date on which the term expires.

(2) The Board shall not approve any new conditions contained in any application if it is proved that -

- (a) such new conditions would be justified only in view of improvements of a permanent character carried out in the agricultural land, during the period of eight years immediately preceding the date of termination, by the tenant himself or by a member of the family, without their having been under any obligation to effect those improvements; or
- (b) such new conditions would be justified only in view of improvements of a permanent character carried out in the agricultural land by the use of funds provided by the Government or on behalf of the Government in the form of a grant or in any other form which, subject to compliance with the conditions governing the provision of such funds, does not involve repayment; or
- (c) such new conditions would not be equitable by comparison with conditions of lease prevailing in comparable fields in the same part of the Island, having regard principally to the average quality and depth of the soil, the nature of the subsoil, the direction in which sloping agricultural land is facing, the accessibility to the road and its distance from the closest village.

(3) The Board may, instead of rejecting the new conditions proposed by the lessor, modify and approve them to the extent justified by the application of the provisions contained in paragraphs (a), (b) and (c) of the last preceding subarticle:

Provided that in no case shall such conditions be less favourable to the lessor than those of the last preceding lease.

Non-renewal of
lease.
Amended by:
XXVIII. 1969.2;
IX. 1972.3.

4. (1) Subject to the provisions of this Act, where a lessor desires to resume possession of any agricultural land, unless the tenant has agreed in writing both as regards the termination and as regards the compensation due, he shall apply to the Board by means of an application containing -

- (a) detailed grounds for such termination, and

- (b) a demand for the liquidation of any compensation payable under the provisions of this article,

and filed not later than three months before the date on which the current lease terminates:

Provided that, where any such lease does not terminate on the 15th day of August of any year, no decision approving such resumption of possession shall be carried into effect before the 15th day of August following the date of the termination of the lease then current.

(2) The Board shall allow the lessor's application if the lessor proves that -

- (a) he requires the agricultural land to be used for agricultural purposes by himself personally or by any member of the family personally for a period of not less than four consecutive years starting immediately following the date of termination; or
- (b) he requires the agricultural land, provided it is not irrigable land, for the construction thereon of buildings for dwelling, business or industrial purposes; or
- (c) the agricultural land was sublet or the lease thereof transferred without the consent of the lessor to any person other than a co-tenant thereof or a member of the family; or
- (d) during the two years immediately preceding the date of termination, the field was allowed to lie fallow for at least twelve consecutive calendar months; or
- (e) during the two years immediately preceding the date of termination, the tenant has failed, in respect of two or more terms, to pay the rent, on each occasion, within fifteen days from the day on which the lessor has called upon him in writing for payment; or
- (f) during the two years immediately preceding the date of termination, the tenant, being bound to repair and maintain the walls of the agricultural land, failed to fulfil such obligation or habitually disregarded any other conditions of the lease or deliberately or through negligence caused or allowed to be caused damage, other than damage of small importance, to any fruit-trees in the agricultural land:

Provided that the circumstance mentioned under paragraph (a) shall not be a sufficient reason to allow the lessor's application, if the tenant proves that the agricultural land in question is an important source of his and his family's livelihood and if the Board is satisfied that the tenant would suffer a greater hardship than the lessor were the application to be allowed:

Provided further that, where the agricultural land includes a farmhouse which is used by the tenant as his and his family's sole place of residence, the circumstance mentioned under paragraph (b) shall not be a sufficient reason to allow the lessor's application

unless the tenant is allowed to retain possession of such farmhouse at the rent and under conditions to be established by the Board or is provided by the lessor alternative accommodation reasonably suitable to his means and the means of his family and to their needs as regards extent.

(3) Where only part of the agricultural land is required for any of the purposes mentioned in subarticle (2)(a) or (b) and the area of the remaining part of such land exceeds 1124 square metres, the tenant may ask the Board and the Board shall order that the lease be renewed in respect of such remaining part of the agricultural land, under such conditions as the Board, having regard to the conditions of the last preceding lease, may deem fair to establish.

(4) Where the lessor resumes possession of agricultural land or a part thereof by virtue of a decision of the Board based on subarticle (2(a)), he shall pay to the tenant a fair compensation in respect of any agricultural improvement carried out by the tenant 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.

(5) Where the lessor resumes possession of the agricultural land or a part thereof by virtue of a decision of the Board based on subarticle (2)(b), he shall pay to the tenant a fair compensation as provided in the last preceding subarticle and, in addition, an amount equal to the value of the products gathered by the tenant 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:

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

(6) The amount payable under the provision of subarticle (4) or (5) shall be determined by the Board, subject to an appeal as is provided under article 10. Such amount shall be paid to the tenant within one month from the date on which the decision awarding resumption of possession becomes final in all its parts. In default of such payment within such time the said decision shall be of no effect whatsoever.

(7) If the tenant retakes possession of any agricultural land or a part thereof by virtue of a decision of the Board under article 13, he shall pay back to the lessor any amount received in respect of the agricultural land or part thereof in terms of subarticle (4) or (5).

5. (1) There shall be a Board to be known as the Rural Leases Control Board.

(2) The Board shall consist of a chairman who shall be a magistrate or a person who has practised as an advocate in Malta for a period of, or periods amounting in the aggregate to, not less than seven years, appointed by the Prime Minister.

(3) The Prime Minister may appoint several magistrates or

Constitution of the Board and appointment of two Panels.
Amended by:
IX. 1972.4;
V. 1973.2;
LVIII. 1974.68.
Substituted by:
XIX. 1993.2.

persons qualified as in subarticle (2) hereof to sit on the Board, but only one magistrate or other person qualified as aforesaid shall sit as chairman in any one case.

(4) The Prime Minister shall also appoint two panels as follows:

- (a) a panel of Architects and Civil Engineers from among persons who hold the warrant to practise as Architect and Civil Engineer according to the provisions of the Architects Ordinance and who have practised that profession in Malta for not less than seven years; and Cap. 44.
- (b) a panel of persons (in the public service or otherwise) who are competent and knowledgeable in agricultural matters.

(5) The chairman or any member of the panels may abstain or may be challenged by any of the contending parties for any of the causes mentioned in article 739 of the Code of Organisation and Civil Procedure and any question arising in regard to or in connection with any cause of challenge or abstention shall be decided by the chairman. Cap. 12.

(6) (a) Where the chairman is not a magistrate he shall not enter upon the duties of his office unless he has taken and subscribed before the Attorney General an oath to exercise his functions and to examine and decide any matter referred to him with equity and impartiality.

(b) The members of the panels 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.

(7) The members of the panels shall be appointed for a period of two years and may be re-appointed.

(8) Whenever a question arises before the Board requiring the valuation of any agricultural land or any other technical opinion in connection with any case before the Board, the chairman shall assign one member from each panel to examine the agricultural 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.

(9) The chairman may also require the said two members to attend the sitting of the Board when that case is being considered by the Board if any of the said two members require additional information from the parties or need to hear any particular witnesses.

6. (1) The Board shall have all such powers as are by the Code of Organization and Civil Procedure vested in the Civil Court, First Hall.

Power of the Board.
Amended by:
L.N. 148 of 1975.
Cap. 12.

(2) Any warrant or order issued by the Board shall be signed by

the chairman and certified by the registrar.

(3) The enforcement of the decisions of the Board, in the manner prescribed in the Code of Organization and Civil Procedure, shall vest in the Board itself.

Registry of the Board and place where sittings are to be held.
Amended by:
VIII. 1990.3.

7. (1) In regard to any proceedings which concern land situated in the Island of Malta, the Board shall hold its sittings in the Superior Courts of Malta and the registry of those courts shall be the Registry of the Board.

(2) In regard to any proceedings which concern land situated in the Island of Gozo or Comino, the Board shall hold its sittings in the Court of Magistrates (Gozo) and the registry of that court shall be the Registry of the Board.

Appearance before Board.

8. The parties may appear before the Board in person or through an advocate or legal procurator and may be assisted by an advocate or legal procurator.

Decisions of the Board.
Amended by:
XIX. 1993.2.

9. (1) The decisions of the Board shall be delivered in open court.

(2) *Repealed by article 2 of Act XIX of 1993.*

(3) The chairman shall only be bound by the reports of the two members of the two panels assigned to a particular case in accordance with article 5(8) whenever their reports are unanimous; where unanimity is not reached by the said two members, the chairman shall on the basis of the reports submitted by the said two members, decide the matter himself.

Right of appeal.
Amended by:
IX. 1972.5;
L.N. 148 of 1975;
XIX. 1993.2;
XXXI. 2002.259.

10. (1) There shall only lie appeal from a decision of the Board -

- (a) in all cases where the decision is given on an application made under article 4 or under article 25;
- (b) in all other cases, on a point of law only.

Cap. 12.

(2) The appeal shall be brought before the Court of Appeal as constituted in terms of article 41(6) 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 day on which the decision of the Board is delivered.

(3) The Board established under article 29 of the Code of Organization and Civil Procedure may make rules concerning appeals to the Court of Appeal under this article.

Service of judicial letter and proceedings before the Board.
Amended by:
IX. 1972.6.

11. (1) Any application as is referred to under articles 3 and 4 shall be filed against and served on the tenant from whom the lessor has last received the rent before the application was filed in the Registry of the Board or, in the case of an assignment which has been notified in writing by the tenant to the lessor before the filing of the application, shall be filed against and served on the assignee.

(2) The Board may at any time allow any amendment to be made in the application which is intended to make it clearer.

(3) If the applicant personally or through an advocate or legal

procurator fails to appear at the hearing of the application, the Board, unless it is satisfied that there is a good reason for such default, shall dismiss the application and order the costs to be borne by the applicant:

Provided that the applicant may, within ten days of such decision, apply to the Board for a re-hearing of his application and the Board shall grant such application if he justifies his default to the satisfaction of the Board.

12. The costs of the proceedings before the Board shall be borne by the parties or by any of the parties as the Board may direct.

Costs of proceedings before the Board.

13. (1) Any party to proceedings held under the provisions of this Act may, by application, ask the Board for, and the Board shall grant, a new trial if -

New trial.
Amended by:
L.N. 148 of 1975;
XIII. 1983.5.

- (a) the applicant proves to the satisfaction of the Board that its decision in the proceedings has been determined by a misrepresentation of facts or a false statement made by the other party to the proceedings; or
- (b) the applicant proves to the satisfaction of the Board that the lessor, having resumed possession of the agricultural land or part thereof by virtue of a decision of the Board based on paragraph of article 4(2)(a) or (b), has failed to apply it to the purpose which had determined the Board's decision.

(2) If the Board reverses the decision which has formed the object of a new trial, the party in whose favour such decision has been reversed shall have an action before the Civil Court, First Hall, for the recovery of damages from the other party and for the payment by such other party of a penalty to be fixed by the court in a sum not exceeding five hundred liri:

Provided that where the lessor, by disposing of the agricultural land or otherwise, has placed himself in a position which makes him unable to conform with the Board's decision in the new trial, the said penalty shall not be less than two hundred liri.

(3) The Board shall also grant a new trial in any of the cases referred to in article 811 of the Code of Organization and Civil Procedure, but the provision of the last preceding subarticle shall not apply except in regard to a case falling under the provision of article 811(a).

Cap. 12.

(4) A new trial may not be demanded in respect of a case in which the decision is subject to appeal in accordance with article 10 and where the facts constituting the ground for such new trial have come to the knowledge of the party alleging them before the expiration of the time prescribed for appeal.

Clause or condition depriving the tenant of any benefit conferred by the Act.

Provisions as to language.
Cap. 189.

Benefit of legal aid.

Substituted by:
IX. 1972.7.
Amended by:
XXIV. 1995.360.
Cap. 12.

Fees due to the members of the panels.

Added by:
V. 1975.2.
Amended by:
XIX. 1979.2;
XIII. 1983.5.
Substituted by:
XIX. 1993.2.
Amended by:
VI. 2001.11.

Expenditure in connection with the administration of the Board.
Substituted by:
XIX. 1993.2.

Regulations.
Amended by:
VI. 2001.11.

14. Any clause or condition depriving the tenant of any benefit conferred by this Act, whether such clause or condition has been stipulated prior to the commencement of this Act or after such commencement, shall be null and void.

15. The provisions of articles 2, 4, 5, 6 and 7 of the Judicial Proceedings (Use of English Language) Act shall apply in regard to any judicial act filed for the purposes of this Act and to any proceedings of the Board, and any reference in any of those provisions to the court shall be construed as a reference to the Board.

16. The provisions of the Code of Organization and Civil Procedure relating to the benefit of legal aid shall apply to parties to proceedings before the Board, being persons entitled to such benefit within the meaning of those provisions.

17. The Minister responsible for justice may by notice prescribe the fees payable to the chairman and the members of the two panels.

18. The expenses in connection with the administration of the Board, including the fees payable in accordance with regulations made under article 17, shall be paid out of the Consolidated Fund without the necessity of any further appropriation.

19. (1) The Minister responsible for justice may make regulations governing the proceedings of the Board and, without prejudice to the generality of the foregoing, may make regulations-

- (a) prescribing the contents of an application to the Board and the procedure for the service thereof on the party having an interest to oppose the application;
- (b) prescribing the procedure for the fixing by the Board of the date of hearing of an application and for the giving notice of such date to the parties concerned;
- (c) prescribing the payments, including the payment of a registry fee to be fixed by the said Minister, which are to be made with the filing of an application to the Board;
- (d) prescribing what part of the registry fee is to be refunded if an application is abandoned and the procedure of refund;
- (e) prescribing the fee payable to an advocate or legal procurator for an application to the Board and enabling the Board to fix, within limits established by the said Minister, the fee payable to an advocate or legal procurator in respect of proceedings before the Board;

- (f) prescribing any other matter that may be necessary for the better carrying out of the functions of the Board:

Provided that until fees are prescribed in terms of paragraphs (c), (d) or (e), the fees established in Schedule A to the Code of Organization and Civil Procedure shall apply.

Cap. 12.

(2) Any regulations made under this article shall be laid before the House of Representatives as soon as may be after they are made, and if, within the next twenty days beginning with the day on which such regulations are so laid before it, the House of Representatives resolves that the regulations be annulled, they shall henceforth be void, but without prejudice to anything previously done thereunder or the making of any new regulations:

Provided that there shall not be included in the computation of the said twenty days any period of four or more consecutive days intervening between any two consecutive sittings of the House of Representatives.

20. Notwithstanding the provisions of article 4 and the provisions of any other law, the Government may on the expiration of a lease resume possession of agricultural land belonging to or administered by the Government in respect of which a declaration has been made by the President of Malta that it is required for a public purpose.

Non-renewal of lease of agricultural land belonging to or administered by the Government.
Added by: XXVIII. 1969.4.
Amended by: LVIII. 1974.68.

21. (1) The President of Malta may by declaration signed by him declare any agricultural land belonging to or administered by the Government to be required for a public purpose.

Declaration by President of Malta.
Added by: XXVIII. 1969.4.
Amended by: LVIII. 1974.68.

(2) No person shall require any proof of the public purpose referred to in subarticle (1) other than the declaration of the President of Malta.

(3) The Commissioner of Land may deal with and dispose of land in respect of which a declaration has been made under subarticle (1) in such manner and subject to such conditions as he considers expedient having regard to the public interest or utility.

22. (1) Whenever the President of Malta makes a declaration in accordance with the last preceding article, the Commissioner of Land may prevent the renewal of the lease of the land in respect of which such declaration has been made by causing a copy of the declaration, together with the particulars sufficient for the purpose of identifying the land and with an indication of the lease which the Government is not allowing to be renewed, to be published in the Gazette and on the notice board of the Police Station, or, as the case may be, of each Police Station of the town or village where or within the limits of which the land is situated.

Manner in which the Commissioner of Land may prevent renewal of a lease.
Added by: XXVIII. 1969.4.
Amended by: LVIII. 1974.68;
L.N. 148 of 1975.

(2) The Commissioner of Land shall also, as soon as may be after the said publication, cause a copy of the declaration, particulars and indication referred to in subarticle (1) to be served by means of an official letter filed in the Civil Court, First Hall, on the tenant of the land to which the declaration refers:

Provided that full compliance with subarticle (1) shall be sufficient to prevent the renewal of a current lease.

Taking possession
of the land.
Added by:
XXVIII. 1969.4.

23. (1) Subject to the provisions of subarticle (1) of the last preceding article having been fully complied with, in regard to a declaration made under article 21, not less than one month before the date of expiry of the lease in force at the time of the declaration, the tenant or any other occupier of the land in respect of which the declaration was made shall on such date of expiry yield possession of that land to the Commissioner of Land and as from the day next following such date the Commissioner of Land 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 to carry out or cause to be carried out thereon any works.

(2) Before any works on the land are started under subarticle (1), a representative of the Commissioner of Land shall draw up, where practicable in the presence of the tenant, a description in writing of the condition of the land and of any improvements thereon and, if the tenant is present and willing to sign such description, he shall sign it.

Compensation for
non-renewal of
lease.
Added by:
XXVIII. 1969.4.

24. Where the Commissioner of Land resumes possession of agricultural land on non-renewal of a lease under the provisions of this Act, the tenant shall be entitled in respect of such land to the payment of the same fair compensation and of the same amount as is payable to the tenant under article 4(5).

Determination of
compensation.
Added by:
XXVIII. 1969.4.
Amended by:
IX. 1972.8.

25. If the Commissioner of Land and the tenant fail to agree on any amount payable under article 24, such amount shall be determined by the Board, on the application of either the Commissioner of Land or of the tenant, subject to appeal in accordance with the provisions of article 10.

Where declaration
is made in respect
of only a part of
agricultural land
leased.
Added by:
XXVIII. 1969.4.

26. (1) Where a declaration under article 21(1) is made in respect of only a part of the agricultural land forming the object of a lease, the tenant of the land shall have the right, exercisable within one year of the entry by the Government on such part of the land in accordance with article 23(1), 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 tenant 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) Where, in the case of a declaration as is referred to in the last preceding subarticle, the tenant does not exercise the right therein mentioned, the lease of the remaining part of the agricultural land shall be renewed under such conditions as the Board, on the application of the Commissioner of Land, may deem fair to establish having regard to the conditions of the lease of the whole agricultural land which has been dismembered.

27. The provision of article 1591 of the Civil Code shall not apply in respect of the renewal of a lease of agricultural land.

Non-applicability
of article 1591 of
the Civil Code.
Amended by:
XXVIII. 1969.3.
Cap. 16.