

I assent.

(L.S.)

EDWARD FENECH ADAMI
President

14th February, 2006

ACT No. I of 2006

*AN ACT to amend the Land Acquisition (Public Purposes) Ordinance,
Cap. 88.*

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled and by the authority of the same, as follows:-

Short title.

1. The short title of this Act is the Land Acquisition (Public Purposes) (Amendment) Act, 2006 and the Act shall be read and construed as one with the Land Acquisition (Public Purposes) Ordinance, hereinafter referred to as “the principal law”.

PART I

Amendment of
article 2 of
the principal law.

2. In article 2 of the principal law, the definition “built up area” shall be deleted.

Amendment of
article 12 of the
principal law.

3. Article 12 of the principal law shall be amended as follows:

(a) in the marginal note thereof, for the words “Contents of notice to treat” there shall be substituted the words “Rights of Government over land”; and

(b) sub-article (3) thereof, shall be substituted by the following:

“(3) Without prejudice to the provisions of sub-article (3) of article 22 of this Ordinance, simple interest at the rate

of five per centum per annum shall accrue on the value of the land in accordance with Schedule 2 to this Ordinance, and for the period indicated in such Schedule, in favour of any person having a right of compensation in respect of any land acquired by the absolute purchase thereof under this Ordinance:

Provided that where a notice to treat has been issued under this Ordinance, the interest shall accrue on the value determined in such notice, from the date of the taking of possession of the land by the competent authority up to the date of transfer by title of absolute purchase in favour of the Government of Malta.”.

- 4.** Articles 17 and 18 of the principal law shall be substituted by the following:

Substitution of articles 17 and 18 of the principal law.

“Valuation of land not being a building site.

17. 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 rural land or as wasteland, as the case may be:

Provided that in determining such compensation, consideration shall be given to the value of any structures existing thereon and whether such structures are covered by a permit according to law.

Building Sites.

18. (1) Land shall be deemed to be a building site if it falls within the limits of a building scheme or as indicated and approved for development in a Structure Plan or subsidiary plan which has been adopted for the time being in force under any law relating to planning.

(2) In determining the compensation due for a building site, consideration shall be given to the use or development that can be made thereof or thereon in accordance with the provisions of subarticle (1).”.

- 5.** Immediately after article 18 of the principal law there shall be added the following new article:

Addition of new article 18A to the principal law.

“Valuation of land expropriated prior to 2003.

18A. Notwithstanding the provisions of this or any other law, the value of any land -

(a) still in the course of acquisition on the 1st January 2005;

(b) in respect of which a declaration under article 3 was issued before the 5th March 2003, and

(c) in respect of which a notice to treat was not issued before the 1st January 2005 under the provisions of this Ordinance as in force before the date mentioned in this paragraph,

shall, saving any interests due until payment is made under sub-article (3) of article 12 of this Ordinance, be its value as on the 1st January 2005.”.

Amendment of
article 22 of the
principal law.

6. In sub-article (3) of article 22 of the principal law, for the words “to the competent authority.” there shall be substituted the words “to the competent authority:” and immediately thereafter there shall be inserted the following:

“Provided that in cases where the President’s Declaration refers to the acquisition by conversion from possession and use or public tenure into absolute ownership, the government shall not be bound by the time-limit established in this sub-article with respect to the deposit of a sum equal to the amount of compensation offered in the President’s Declaration, and may deposit such amount any time thereafter; and in such cases simple interest at the rate of five per centum per annum shall be paid annually on the sum declared in the President’s Declaration up to the date of the eventual deposit in the Bank:

Provided further that in such cases, any proceeds from the sale, alienation or the creation of any real and personal right on such land, and any proceeds from any rent or other annual payment over such land, shall be retained by the Commissioner for Land and reserved for the payment to the rightful owners of the sum and interests referred to in the previous proviso and only such proceeds or payments in excess of such sum shall be transferred to and received by the Consolidated Fund.”.

Amendment of
article 33 of the
principal law.

7. In article 33 of the principal law, for the words “President of Malta” there shall be substituted the words “Government of Malta”.

Amendment of
article 20 of the
principal law.

8. Immediately after the Schedule to the principal law there shall be added the following new Schedule:

“Schedule 2

Article 12(3)

$$\left[\frac{A-B}{2} \right] \times \left[\frac{5}{100} \right] \times \left[\frac{C}{365} \right]$$

where “A” is the value of the land at the time when the competent Authority took possession of the land;

“B” is the value of the land at the time when the land was transferred by title of absolute purchase in favour of the Government of Malta;

“C” is the number of days between the dates of “A” and “B” ”.

9. (1) The provisions of article 4 of this Act shall only apply to land in respect of which a declaration under article 3 of the Ordinance was issued after the coming into force of this Act. Transitory provision.

(2) (a) The President may in relation to any land subject of a Declaration issued before 5th March 2003, issue a fresh Declaration wherein shall be stated the amount of compensation which the competent authority is willing to pay for the land to which the Declaration refers. The said 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:

Provided that when such fresh Declaration is issued the compensation shall be determined on the basis of the value of such land on the date of the service of any notice to treat in respect of such land, and where no notice has been so served, in accordance with the value of the land as on 1st January 2005.

(b) For the purpose of determining whether land is to be valued as a building site, agricultural or rural land or waste land for the purpose of this sub-article the relevant date shall be the date when the original Declaration was issued by the President, in accordance with the criteria established by the law in force at the time of the issue of the original Declaration.

(c) Any fresh Declaration issued in virtue of this article shall, subject to the provisions of this sub-article be deemed as a Declaration issued under the provisions of article 22 of the principal law and the provisions of the said article as amended by this Act shall apply thereto.

PART II

Amendment of the Code of Organization and Civil Procedure. Cap. 12.

10. This Part amends and shall be read and construed as one with the Code of Organization and Civil Procedure, hereinafter in this Part referred to as “the Code”.

Amendment of article 125 of the Code.

11. In sub-article (2) of article 125 of the Code, for the words “by writ of sworn application” there shall be substituted the word “by application”.

Amendment of article 156 of the Code.

12. In sub-article (7) of article 156 of the Code, immediately after the word “application.” there shall be added the following new paragraph:

“If the necessity of producing a witness arises at any time after the filing of the sworn application or if the opposite party gives his consent in the manner prescribed in article 150 (1) (c), or if the court deems it in the interest of justice to hear a particular witness, the court may allow such witness to be heard.”.

Amendment of article 213 of the Code.

13. In the Maltese text of article 213 of the Code, the words “b’rikors ġuramentat” shall be deleted and substituted by the words “b’rikors”.

PART III

Amendment of the Administration of Lands Act, 2002. Act No. XI of 2002.

14. Sub-article 7(2) of the Administration of Lands Act, 2002, shall be repealed:

Provided that when in relation to any land a fresh President’s Declaration was issued under the provisions of sub-article 7(2) repealed by this article such Declaration shall continue to be governed by the provisions of the same sub-article 7(2) as if it had not been repealed by this article.

Passed by the House of Representatives at Sitting No. 348 of 1st February, 2006.

ANTON TABONE
Speaker

RICHARD J. CAUCHI
Clerk to the House of Representatives