

Memorandum by the Hon. Minister of Works and HousingMeasures for Winding up the War Damage
Commission

With a view to having the War Damage Commission wound up at the earliest possible date, it was agreed in Cabinet on the 2nd July, 1963 that the following measures regarding Parts I and II of the War Damage Ordinance be put into operation immediately:-

(a) Time limits for the various outstanding claims to be fixed as follows:

i) Claims on "Bills" System: Assessments to be completed by the 31st March, 1964;

ii) Claims on "Unpriced or Descriptive" Schedule System: Full and satisfactory documents to be submitted by 31st December, 1963 and claims to be finalized through all stages by the 31st March, 1964;

iii) Claims on "Priced" Schedule System: Full and satisfactory documents to be submitted by 31st December, 1963, and claims to be finalized through all stages by 30th June, 1964;

iv) Open Credits: Works costing less than £1,500 to be carried out within six months, and those costing more than £1,500, within twelve months;

v) Exhaustion Inspections: Six months for works already completed, and three months for works eventually to be completed;

vi) Churches: Assessment of claims through all stages to be finalized within six months. All the above periods were to run from the date of the publication of the relative appropriate notice in the Government Gazette and in the Press.

(b) The following action was also decided upon:

i) Latent Damage: Immediate amendment of section 24 (1) (b) of the War Damage Ordinance to exclude further consideration of latent damage;

ii) Risk-period: Immediate legislation in terms of section 77 of the War Damage Ordinance for the termination of the risk period;

iii) Tenements affected by re-alignment: Immediate abrogation of the Demolition and Clearance Ordinance and of Government Notice No. 3 of 1955. Responsibility for compensation in respect of new alignment to be taken over by the Public Works Department.

iv) Claims under Part II of the War Damage Ordinance (Goods, Private Chattels and Business Equipment): Regulations to be made to allow settlement of the claims not necessarily on grounds of hardship.

/Following

Following exhaustive consideration of the above Cabinet decisions by the War Damage Commission it is submitted that action be taken as suggested below:-

- i) Claims on "Bills" System: Cabinet decision to stand.
 - ii) Claims on "Unpriced or Descriptive" Schedule System: Full and satisfactory documents to be submitted to the Secretary, War Damage Commission within 3 months from the date of a registered letter forwarded by the Secretary of the Commission requesting the provision of the required documents.
 - iii) Claims on "Priced" Schedule System: Full and satisfactory documents to be submitted to the Secretary, War Damage Commission within 3 months from the date of the registered letter forwarded by the Secretary of the Commission requesting the provision of the required documents. These claims are to be finalized through all stages within 6 months from the date of receipt of all necessary documents.
 - iv) Open Credits: Works costing less than £1,000 to be completed within 9 months, works costing between £1,000 and £2,000 to be completed within 15 months, works costing over £2,000 but not more than £5,000 to be completed within 18 months, and works costing over £5,000 to be completed within 2 years. The above periods are to be reckoned from date of publication of the Notice or from date of notification of permissible amount (Open Credit) to claimant whichever happens later.
 - v) Exhaustion Inspections: Cabinet decision to stand.
 - vi) Churches: Churches to be excluded from time limits regulations.
- (b) Other action.
- i) Latent Damage: Cabinet decision to be augmented to read as follows: "Immediate amendment of section 24(1) (b) of the War Damage Ordinance to exclude further consideration of latent damage as from 1 month following the enactment of the amendment of the War Damage Ordinance.
 - ii) Risk period: Cabinet decision can be implemented by the issue of a legal notice.
 - iii) Tenements affected by re-alignment: Cabinet decision to be implemented in respect of cases not already being dealt with by the War Damage Commission. As regards cases already being processed the present arrangements between the War Damage Commission and the Public Works Department to stand provided that in future cases all realignments of War Damage property already reinstated out of War Damage funds are to be the complete administrative and financial responsibility of the Public Works Department.

/ iv)

iv) Claims under Part II of the War Damage Ordinance (Goods, Private Chattels and Business Equipment): Action has been taken by the publication of legal notice No. 27 of 1963.

Further action which is not purely administrative will be taken by the enactment of the attached Bill (Appendix A) and the subsequent publication of Regulations (Appendix B).

The most important reasons which are withholding the assessment of claims and recommendations thereon were enumerated in the Memorandum submitted to Cabinet on the 2nd July last, but it would not be out of place to mention them again below:-

- i) The establishment of the exact extent of claimants' property.
- ii) Absence of satisfactory proof that certain items claimed actually existed at the time of the occurrence of war damage.
- iii) Evidence that works carried out and included in the schedule were started before the dates laid down by the Commission in respect of the first two systems for the submission of claims on the Bills and Unpriced Schedules Systems.
- iv) In some cases, proof of title of ownership has not been furnished by claimants.

Section 34 of the War Damage Ordinance provides for the issue of regulations giving a time limit for the submission of the necessary documents or proofs. Action will be taken when Regulations are published following the proposed enactment of the Amending Ordinance.

Open Credits at the Treasury: As Cabinet had already been informed, the value of Open Credits at the Treasury amounts to about £450,000.

The proposed legislation will compel the owners or the authorised claimant to either make use of such open Credits or forfeit their claims in full or in part.

Cabinet had decided that six months be allowed for works costing less than £1,500 and 12 months for works costing over £1,500. With due respect, and after very careful consideration by the Commission, it is considered that these periods are rather short. Cabinet's decision would mean that almost half-a-million pounds would have to be spent within one year on war damage repairs alone. This could mean a dearth of labour and material which would require an extension of the time limit. Independently of the above consideration, it normally takes about one year to complete in all respects - including services- a building costing about £1,500. It is proposed that the time limits be fixed as at recommendation in (a) (iv) above.

/Outstanding

Outstanding claims after lapsing of time limits: No Cabinet decision was taken in July's meeting regarding measures to be taken on claims still unsettled after the lapsing of the time limits. As the necessary measures will not be taken for at least a year hence, it may appear that a decision on what measures should be taken can wait. Government must, however, be prepared to answer questions on this matter in the Legislative Assembly and in the Press and a policy decision would therefore be essential before the Bill is published. The measures suggested in July last are, therefore, being again enumerated below:-

- i) Claims which are not substantiated by the necessary documents or evidence by the specified date to be cancelled.
- ii) Claims in respect of which a "Credit" is opened at the Treasury but no reinstatement works will have been taken in hand on the expiry of the time-limit to be converted into a "value" payment.
- iii) Claims in respect of which reinstatement will have been started but not brought to completion by the said closing date to be converted into a "hybrid" payment.

It is evident that when the War Damage Commission is wound up, certain residual work will still have to be done and the possibility of a very limited number of fresh claims in respect of exceptional cases cannot be ruled out. It is suggested that such responsibility both financial and administrative, should become the liability of the Public Works Department which is considered to be the most closely related to and in a position to take over duties performed by the War Damage Commission.

Hon. Ministers are therefore asked to agree to the following measures:-

- (a) Publication of attached Bill (Appendix A) amending the War Damage Ordinance, 1943.
- (b) After the enactment of the legislation at (a) above, the publication of regulations as per Appendix (B).
- (c) Works costing less than £1,000 to be completed within 9 months, works costing between £1,000 and £2,000 to be completed within 15 months, works costing over £2,000 but not more than £5,000 to be completed within 18 months and works costing over £5,000 to be completed within 2 years. The above periods are to be reckoned from date of publication of this Notice or from date of notification of permissible amount (Open Credit) to claimant whichever happens later.

/ (d)

(d) In virtue of the Regulations to be published, the War Damage Commission shall be empowered to act as follows:-

i) Any claim which, in this the stipulated period, has not been substantiated by satisfactory documents or proof, where such documents or proof have been asked for, such claim shall be disallowed.

ii) Claims in respect of which a "Credit" is opened at the Treasury but no reinstatement works will have been taken in hand on the expiry of the time-limit to be converted into a "value" payment.

iii) Claims in respect of which reinstatement will have been started but not brought to completion by the said closing date to be converted into a "hybrid" payment.

(e) Assumption of responsibility for outstanding War Damage matters by the Public Works Department when the War Damage Commission is wound up.

7th February, 1964.

A BILL
entitled

Att. A.

AN ACT further to amend the War Damage Ordinance, 1943.

ENACTED by the Legislature of Malta:-

Short title.

1. This Act may be cited as the War Damage (Amendment) Act, 1964, and shall be read and construed as one with the War Damage Ordinance, 1943, hereinafter referred to as "the principal law".

Amendment of section 24 of the principal law.

2. Section 24 of the principal law is amended by the addition, immediately after paragraph (b) of subsection (1) thereof, of the following new proviso:-

"Provided that the Commission shall not take cognizance of any alterations in respect of structural damage which was latent unless such alterations have been submitted to the Commission by the 31st March, 1964.

Amendment of section 34 of the principal law.

3. Section 34 of the principal law is amended -
(a) by the substitution of the following subsection for subsection (2) thereof:-

"(2) Regulations made under this section may specify limits of time -

- (a) for the giving of such notification and for the making of such claims as aforesaid;
- (b) for the submission of any information and the production of any document or proof as the Commission may require in regard to any such claim as aforesaid;
- (c) for the completion of reinstatement works which involve the making good of war damage approved by the Commission;
- (d) for the observance of the requirements of the regulations as to any other matter;

/ (b)

- (b) by the renumbering of subsection (3) thereof as subsection (5); and
- (c) by the addition, immediately after subsection (2) thereof, of the following new subsections:-

"(3) The time limit for the purpose of paragraph (b) of subsection (2) of this section may be specified in the regulations by the fixing of a period to run from the date of the request by the Commission of the information, document or proof therein referred to.

(4) Where, in relation to any claim whether already approved by the Commission or not, any time limit specified by virtue of regulations made under this section expires and what was required to be done within such time limit was not done, it shall be lawful for the Commission in their discretion -

- (a) if the expiry of the time limit relates to a claim already approved by the Commission, to withdraw the approval given or to convert, totally or in part, an approved cost of works payment into a value payment and to claim the repayment of any reimbursement becoming due to the Commission as a result of such withdrawal or conversion;
- (b) if the expiry of the time limit relates to a claim not yet approved by the Commission, to disallow such claim or, in respect thereof, to approve, instead of a cost of works payment, a value payment or a payment which is in part a cost of works payment and in part a value payment."

Objects and Reasons

This Bill empowers the Minister responsible for public works to make regulations prescribing limits of time for the production to the War Damage Commission of such information and proofs as will enable it to finalize all claims before it and for the completion of any reinstatement works in respect of which payment has been approved under the provisions of the War Damage Ordinance. The sanction for non-observance of any such time limit will be the right of the Commission either to withdraw the approval given in relation to any approved claim or to withhold and disallow approval of any claim not yet approved or to allow, in respect of any claim, a different payment from that for which such claim would have normally qualified under the provisions of the said Ordinance. The Bill also excludes the making of any further claims for latent damage after the 31st March, 1964. The ultimate object of these amendments is the winding up of the War Damage Commission.

WAR DAMAGE ORDINANCE, 1943

(ORDINANCE NO.III OF 1943)

WAR DAMAGE (TIME LIMITS) REGULATIONS, 1964

Date of commencement:

IN exercise of the powers conferred by section 34 of the War Damage Ordinance, 1943, the Minister of Works and Housing has made the following regulations:-

- Citation 1. These Regulations may be cited as the War Damage (Time Limits) Regulations, 1964.
- Interpre- 2. The interpretation section of the War Damage
tation Ordinance, 1943, (hereinafter referred to as "the Ordinance") shall, unless the context otherwise requires, apply to the interpretation of these regulations as it applies to the interpretation of the Ordinance.
- Time limit 3. In respect of any claim for compensation already
for submitted to the Commission, which the Commission has been
submission unable to consider for lack of information, documents or
of proof requisite for such consideration, the necessary
Documents information, documents or proof to justify such claim to the
or proof. satisfaction of the Commission are to reach the Commission's
Secretary within three months from the date of receipt by
claimant of a registered letter signed by the Secretary,
whereby such information, documents or proof are requested.
- Time 4. (1) In respect of any war damaged building claim
limit for which at the date hereof has been assessed by the
completion Commission and in regard to which the Permissible Amount
of works payable has been notified to claimant by the said date,
approved reinstatement works involving the making good of war damage
by the approved by the Commission shall be completed within nine
Commission months from the date of publication of this Notice where the
relative Permissible Amount does not exceed £1,000, within
fifteen months from the date of publication of this Notice
where the Permissible Amount exceeds £1,000 but does not
exceed £2,000, within eighteen months from the date of
publication of this Notice where the Permissible Amount
exceeds £2,000 but does not exceed £5,000 and within two
years from the publication of this Notice where the
Permissible Amount exceeds £5,000.
- (2) In respect of any war damaged building claim
which at the date hereof has not been assessed by the
Commission, the periods mentioned in paragraph (1) of this
regulation shall be reckoned from the date on which
claimant has been notified of the Permissible Amount
assessed and payable.

5. Regulation 4 shall not apply to any reinstatement works of a war damaged building.

- (a) which is let as a shop, where and for so long as the carrying out of such works requires the building to be unoccupied and the owner is unable to resume possession of the building from the tenant on legal grounds;
- (b) which is used as a dwelling house and is affected by the re-alignment of an existing street, where and for so long as the carrying out of such works cannot take place because no alternative accommodation is available, or has been made available by the Housing Secretary, to the persons occupying such building;
- (c) which is affected by an order made by the Director of Public Works under section 2 of the Demolition and Clearance Ordinance, 1946, where and for so long as the additional works or replanning referred to in section 6 of the said Ordinance have not been finally determined;
- (d) in regard to which, on the date of this notice, the Minister of Works and Housing has by judicial letter notified the owner of his decision to carry out or to continue to carry out the necessary works under the provisions of the Developed Tenements (Compulsory Repairs) Act, 1948;

provided that, where the Minister of Works and Housing at the time informs the owner by means of a judicial letter that he has revoked such decision, the said regulation 4 shall become applicable to the reinstatement works to which the revocation refers and the relevant period proscribed in the said regulation shall commence to run from the date of service on the owner of the judicial letter notifying the revocation.

- (e) which is a church edifice in terms of Section 43(3) of the War Damage Ordinance.

6. These regulations shall not apply to the developed tenements referred to in regulation 4 of the War Damage (Time Limits) Regulations, 1958, published by Government Notice No. 301 of the 21st April, 1958.