

Memorandum for Cabinet by the Hon. Minister of Works & HousingWar Damage Time Limit Regulations

On the 2nd July, 1963, it was agreed in Cabinet to amend the War Damage Ordinance in such a way as to enable the Minister of Works and Housing to publish Regulations which, inter alia, fixed periods of time within which all claimants, whose claims had already been assessed by the Commission and who were already informed of the "permissible amount" arrived at, had to complete reinstatement works. A copy of the Legal Notice which covered these Regulations as well as a copy of the enabling Act (Act IV of 1964) are attached herewith for easy reference.

The first time limit fixed by these Regulations expired on the 1st October, 1965. With the exception of a few tenements, which for reasons beyond our control, could not be inspected, it can safely be said that all premises affected in this regard by L.N.43/64 (1) have been inspected by the Department's Quantity Surveyor Assistants and reports on works still outstanding after the expiry date have been drawn up.

These inspections have revealed that certain claimants have been adversely affected by the said periods of time and that, through no fault of their own, they have been unable to complete works within the specified time limits. Cases have now come to light where a claimant has been unable to take reinstatement works in hand before the completion of the structural works in the underlying tenement belonging to a different owner. It is to be pointed out that in terms of L.N. 43/64(4) the periods of time relating to the underlying and the overlying tenements run concurrently making it impossible for the owner of the latter tenements to start works before the former has completed the structural parts in his property.

Cases also exist where, owing to the complete absence of any trace in the foundations claimants have found it difficult to establish the extent of their property and they have sought settlement in Court. In these cases judgement has to be awaited before works can be taken in hand or proceeded with. To quote other bona fide cases deserving of an extension in the time limits is considered unnecessary especially when it is possible that a few other cases may come to light as a result of inspections which are still being carried out by the Department.

Under the circumstances it is felt that the time is now ripe for necessary action to be taken to rectify the position of claimants affected in this way. There is no doubt that the spirit behind the enactment of the Regulations was to shake up the several indifferent claimants, who in spite of the fact that the relative compensation for the reinstatement of their damaged property had long been approved by the Commission, did not carry out the necessary reinstatement works. Claimants who, notwithstanding their endeavours to reinstate their damaged property found themselves in

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their present predicament, deserve special consideration. As a matter of fact discretionary powers enabling the Hon. Minister of Works and Housing to extend the time limits were intended to be included in the enabling act to safeguard the interests of such claimants but this was not done as such a step would have defeated the very purpose of the Act. It was however understood that a revision of this attitude would be made in due course if demanded by circumstances.

An extension in the periods of time, which must necessarily be a short one and which would apply indiscriminately to all cases, would mostly benefit undeserving cases while genuine claimants requiring a longer period to complete reinstatement works would more or less remain in their present plight. It is, therefore, suggested that discretionary powers be vested in the Hon. Minister of Works and Housing whereby the latter would be empowered to extend the periods of time stipulated in L.N. 43 (4) only in particular cases which, in the Minister's opinion are deserving of such treatment. This can be achieved by the addition of the following 'proviso' to Section 34 of the War Damage Ordinance as amended by Act IV of 1964.

22nd January, 1966.

M.H.774/62

A BILL
entitled

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

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the House of Representatives of Malta in this present Parliament assembled, and by the authority of the same, as follows:-

Short Title 1. This Act may be cited as the war Damage (Amendment) Act, 1966, and shall be read and construed as one with the War Damage Ordinance, 1943, hereinafter referred to as "the principal law".

Amendment of Section 34 of the principal law. 2. Section 34 of the principal law is amended by the addition, immediately after paragraph (b) of sub-section (4), of the following proviso:-

"Provided that, where it is proved to the satisfaction of the Minister responsible for public works that it was not possible to conform with any requirement within the time limit specified therefor, he may extend such time limit by such further period or periods as he may deem proper."

Transitory provision. 3. The amendment of the principal law made by the last preceding section shall have effect and shall be deemed always to have had effect also in relation to any regulations made under section 34 of the principal law prior to the coming into force of this Act.

Objects and Reasons

The object of this Bill is to empower the Minister responsible for public works to extend certain time limits for the purpose of claims falling within the provisions of the War Damage Ordinance, in circumstances which, in the Minister's opinion, justify the extension because it was not possible in any particular case to observe any of the said time limits.

WAR DAMAGE ORDINANCE, 1943
(ORDINANCE No. III OF 1943)

War Damage (Time Limits) Regulations, 1964.

Date of commencement: 2nd October, 1964.

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

1. These regulations may be cited as the War Damage (Time Citation Limits) Regulations, 1964.

2. The interpretation section of the War Damage 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.

Interpretation

3. In respect of any claim for compensation already submitted to the Commission, which the Commission has been unable to consider for lack of information, documents or proof requisite for such consideration, the necessary information, documents or proof to justify such claim to the 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 limit for submission of information, documents or proof.

4. (1) In respect of any war damaged building claim which at the date hereof has been assessed by the Commission and in regard to which the permissible amount payable has been notified to claimant by the said date, reinstatement works involving the making good of war damage approved by the Commission shall be completed within twelve months from the date of these regulations where the relative permissible amount does not exceed £1,000, within fifteen months from the date of these regulations where the permissible amount exceeds £1,000 but does not exceed £2,000 within eighteen months from the date of these regulations where the permissible amount exceeds £2,000 but does not exceed £5,000 and within two years from the date of these regulations where the permissible amount exceeds £5,000.

Time limit for completion of works approved by the Commission.

(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 of works of a war damaged building -

Exceptions.

(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 these regulations, 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 any 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 prescribed in the said regulation shall commence to run from the date of service on the owner of the judicial letter notifying the revocation.

Government Notice No. 301 of 21st April 1958. 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.