

MEMORANDUMfor the Cabinet

by the Hon. Minister of Public Building and Works

Amendments to the Agricultural Leases
(Reletting) Act, 1967

1. The said Act already provides that, subject to the payment of the compensation therein specified, the Government may prevent the renewal of the lease of any agricultural land which belongs to or is administered by the Government and resume possession thereof on termination of the lease, if such land is required for any purpose connected with the industrial or touristic development of Malta or for the purpose of archaeological excavations or the preservation of archaeological discoveries or for the construction of new streets squares, public gardens or for any other public purpose.

2. However, in any of the above cases, the Government can only resume possession of the land after that the Rural Leases Control Board, having taken cognizance of the proofs produced before it and ascertained the actual purpose for which the land is required, gives judgment ordering the tenant to surrender the land to the Government.

3. Since the proceedings before the said Board take some time before a decision is given, the Minister of Public Building and Works feels that the ensuing delay in making Government-owned land available for works to be carried out thereon by the Public Works Department is frustrating the Government's efforts to carry out works of public utility and particularly so to build sorely needed dwelling buildings and factories.

4. The said Minister, therefore, recommends that, while the provisions for the payment of compensation already existing in the said Act will remain in force, the Government may be empowered to resume possession of agricultural land belonging to or administered by the Government on the sole authority of a simple declaration made by the Governor-General to the effect that such land is required for a public purpose, without the necessity of the Government having to bring the case before the Board above mentioned, saving always the tenant's right to have the compensation assessed by the Court of civil jurisdiction and his right to appeal from the judgment of the court of first instance.

5. It happens occasionally that agricultural land belonging to or administered by the Government is needed urgently by the Government while a lease is still running. The Minister of Public Building and Works feels and recommends that, where a public purpose is concerned, Government should be in a position to take immediate possession of the land also in such case on the making of the requisite declaration by the Governor-General. As this case would, however, be a "compulsory retaking possession of land" falling under section 38 (1) of the Constitution, provision has to be made, in this respect, for the payment of adequate compensation and for the right of appeal against the assessment of such compensation by the Court of first instance.

6. In terms of the attached draft Bill prepared by the Crown Advocate-General, such compensation would consist of the compensation payable in cases where an expired lease is not allowed to be renewed and, in addition, the payment

of the profit which the tenant may be reasonably deemed to have lost in respect of the remaining period for which the current lease would have continued to run but for its premature termination together with actual damages actually suffered by the tenant, except damages already covered by the amounts above referred to. Moreover, the compensation would be assessable, in default of agreement, by the Civil Court, First Hall, whose judgement would be subject to appeal to the Court of Appeal. As against this, the Crown Advocate-General has observed that tenants who are evicted from agricultural land belonging to private persons, under the provisions of the Land Acquisition (Public Purposes) Ordinance, are not entitled to any compensation at all for the termination of the lease if the tenant or occupier of the land has been given a full year's notice, and, if he was not given such notice, he is only entitled to an amount of compensation which is not to exceed the fair rent of the land for a period of two years plus the actual value of the crops, tillage or unexhausted agricultural improvements of which the tenant or occupier has been deprived. Moreover, the tenant has no right of appeal against the compensation made by the Land Arbitration Board. These provisions of the Land Acquisition Ordinance are against section 38 (1) of the Constitution of Malta and they have been saved by section 48 (9) of the Constitution but in such way that they cannot be extended by new legislation to cover new cases. It is the feeling of the Crown Advocate-General that the unfairness of these old provisions will stand out more prominently if and when the new provisions regarding the termination of leases of agricultural land belonging to or administered by the Government are enacted.

7. Hon. Ministers are asked to state whether they agree with the recommendations of the Minister of Public Building and Works that -

(a) the provisions already contained in the Agricultural Lessees (Reletting) Act, 1967, regarding the Government's right to resume possession on the termination of a lease of agricultural land belonging to or administered by the Government should be amended so that the retaking of possession will not depend on a judgment of the Rural Lessees Control Board but on the making of a declaration by the Governor-General to the effect that the land is required for a public purpose; and

(b) that new provisions be inserted in the said Act empowering the Government, on the making of a declaration by the Governor-General as aforesaid, to terminate even a running lease the provisions of the Constitution of Malta concerning the compulsory taking possession of land being complied with;

and accordingly, whether they agree that the attached Draft Bill implementing the said recommendations be presented to the House of Representatives.

16th April, 1969.