

MEMORANDUM FOR THE CABINET  
BY THE HON. MINISTER OF ECONOMIC PLANNING  
AND FINANCE

Writing-off of property belonging to the  
Malta Government Tourist Board

The Director of Audit has raised the point whether as a matter of principle the Government Tourist Board should have the power to write-off public property.

2. The following legal advice has been given on the matter:

"One is to distinguish between property given on loan to the Board by the Government, which, therefore, is public property, and property which the Board has acquired with its own money - although provided by Government - and which is not, therefore, public property once it belongs to the Board who is a statutory body having a distinct legal personality. I do not know whether the former case arises, but there may be, for example, furniture which belonged to Government and has continued to be used by the Board without a transfer to the Board and is, therefore, to be considered as being on loan to the Board: obviously, such property cannot be written-off by the Board but it is to be written-off by Government according to its accepted procedure.

As regards property which belongs to the Board because it was acquired by the Board with its own funds, one cannot say that it falls automatically under the rules governing public property. But there is, then, this difference between the powers of the Director of Audit in relation to accounting of public property and his powers in relation to accounting of the Board's property, which is that, while with regard to public property he is to be satisfied that it was properly written-off if it is proved to him that such writing-off was duly authorised by the Minister, he is entitled with regard to the Board's property to look into the reason of the writing-off and to make his comments if he is of the opinion that this was done with some degree of levity, so that, even though, strictly speaking, Ministerial Authority is not required in the case of writing-off of the Board's property, it would be an act of wisdom on the part of the Board to obtain such authority - as was done by the Gas Board in the case referred to by the Director of Audit.

I may also make reference to section 7(1) of Emergency Ordinance No. XIII of 1958 which

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provides that "The Governor may give the Board such directions of a general or specific character as he may think fit, and the Board shall comply with any directions so given". I think that, under this section, the Governor on the advice of the Ministers could give directions in regard to the "writing-off" of the Board's property in such a way as to render applicable the rules governing public property."

3. It is seen that a distinction has been made between property loaned to the Board by Government, which remains public property, and property acquired by the Board with its own money which is not public property, once the Board is a statutory body having a distinct legal personality. In the first case, such public property has definitely to be written-off by Government according to accepted procedures. In the second case, it is the legal advice that it will not be unwise for Government authority to be obtained for any write-off of property acquired by the Board even though strictly speaking this is not required.

4. From a Finance standpoint it is considered that this advice should be acted upon. After all, the Board's property is only acquired with money provided by the Government and it is quite proper that there should be adequate safeguards in relation to the use of Board property and that its ultimate disposal should not be left entirely to the Board's discretion.

5. It may be mentioned that in the case of the Gas Board, any write-off of property is only effected with Government approval.

6. Section 7(1) of Emergency Ordinance XIII of 1958 lays down that the Governor may give the Government Tourist Board such directions of a general or specific character as he may think fit, and the Board shall comply with any directions so given. The legal view is that in terms of this section the Governor, on the advice of Ministers, could give directions in regard to the write-off of the Board's property in such a way as to render applicable the rules governing public property.

7. Hon. Ministers are asked whether they agree that His Excellency be advised accordingly.

7th December, 1962.