

MEMO

Consideration of Emphyteutical Rent as house rent for the purposes of the National Assistance Act.

In paragraph two of the First Schedule to the National Assistance Act, 1956, it is provided that the scale rate of social assistance shall be increased by an amount equal to the house rent payable by the household subject to a maximum of 5/- a week. A claimant who occupies a house in terms of a contract of emphyteusis is considered to be the owner of the house for the duration of the period stipulated in the contract, and as such he is not entitled to receive any assistance in respect of the rent stipulated in the contract of emphyteusis.

2. The interpretation given by the Department of Social Services to the said provision is based on the provisions found in Title VIII "Of Emphyteusis" of the Civil Code (Cap. 23), especially those in articles 1576, 1580, 1585, 1588 and 1589. The Umpire appointed under the National Assistance Act confirmed the correctness of this interpretation in at least one of his decisions (Decizjoni NA 26/58 AB vs L-Agent Direttur ta' l-Emigrazzjoni, Xoghol u Ghajnuna Socjali).

3. It is felt that in the present circumstances heads of households receiving social assistance may find themselves compelled to enter into an emphyteutical contract, either to retain the house in which they live, or to improve their accommodation. It is therefore proposed that the term "house rent" in the relative provision of the National Assistance Act will be given a more liberal interpretation in the case of a house taken on an emphyteutical grant for a period exceeding sixteen years provided that:

it is proved to the satisfaction of the Director that

- a) the house is used as residence exclusively by claimant's household; and
- b) that account shall be taken only of the amount payable as house rent, to the exclusion of any amount payable specifically as ground rent.

4. The benefit of the proposed liberal interpretation will be enjoyed not only by heads of households receiving social assistance, but also by a substantial number of single persons receiving a pension under the Old Age Pensions Act, whose sole income is the pension. This measure will entail additional expenditure and may be partially or wholly the cause of an excess in the relative provision for the current year.

29th October, 1965.