

# PRESS RELEASE

31st July 2019

## The Residential Leases Act falls short of achieving true objectives

The Chamber is disappointed to note that despite its efforts for the best part of the last 12 years, successive administrations have ignored its proposals for a holistic plan for both the commercial and the residential rental market. The recently published bill entitled 'Residential Leases Act' does not even begin to solve the decades-long issues that plague the residential rental market. It completely omits pre-1995 leases and fails to tackle its main social/economic objective: that of safeguarding and protecting the right to adequate, affordable accommodation for all residents. To make matters worse it introduces unacceptable and confusing concepts.

The Bill as proposed does the following:-

- i) It provides for the establishment of a register of lease contracts which, while commendable in itself, is limited to enabling Government to be informed of lease contracts and this without contributing to the betterment of the rental market particularly in making it reasonable and affordable.
- ii) It caps increases in rental rates to a maximum of 5% per annum but provides no transitional measures on increases in rental rates between now and the date by which residential lease contracts need to be registered.
- iii) It specifically excludes shared bedrooms – a form of accommodation that is considered central to the present spiralling of rental costs in the residential rental market – by its very scope and intentions. In an ever-growing economy, it is unacceptable that such rental set-ups are not properly regulated by law. More specifically, there is a need for detailed regulations on room sizes, the maximum number of tenants permitted per square metre, health and safety regulations and so on. The regulators must acknowledge that these types of rental agreements are becoming increasingly common, if not the norm, and therefore action must be taken to clarify these challenges.
- iv) It superficially distinguishes between short-term residential lease contracts (referring to those under six months duration), and long-term residential lease contracts (referring to those longer than one year), leaving contracts running between 6 months and 1 year in limbo.
- v) It provides lessors with some fiscal incentives for longer-term leases, but it allows uncertainty (to contracts assumed entered into freely by both parties) as it gives the lessee the whimsical ability to one-sidedly withdraw from long-term contracts at relatively short notice, thereby overruling the agreed contract term period and the principle that the duration of the contract freely entered into should be honoured unless there is 'force majeure', as was allowed in previous legislation and as is usually contracted.  
This one-sided right totally disrespects the declared objective and principle of certainty and security.

- vi) It grants the Housing Authority Chairperson or any person authorised by him, the absolute right to enter “any private premises” to inspect the tenement in terms of this Act, or “take any photographs after entering” irrespective of whether that tenement is subject to a lease agreement or not “..... with the right to do anything that is ancillary or consequential thereto”. The law as drafted does not even specify that there needs to be a reasonable suspicion that the property or part thereof is being leased to third parties. It is the Chamber’s opinion that this clause is obscene and goes against the individual’s fundamental right to privacy. This part of the bill needs to be re-thought, and re-presented with proper and better drafting to meet the declared objectives without infringing on the individual’s right to peaceful enjoyment of their property, and without being harassed by the authorities, and all of this without a legitimate reason.

The Chamber reiterates its strong position that the country needs a holistic plan for the rental market. This piecemeal approach will not align the rental market to the needs of our society and economy. With the proposed legislation, rental rates may only be marginally stabilised for a minority of longer-term tenants. However, the impact of spiralling rental rates on the property market (and as a consequence, the labour market) and the ensuing illegalities of substandard shared accommodation with all the undesirable consequences on the surrounding residential environment and the Maltese community at large, will persist. The unfairness of pre-1995 leases both residential and commercial remain unquestioned and sadly unaddressed, with the only means of redress being the lengthy court cases that cost the country precious resources. Much to the Chamber’s dismay, it seems that it is the individual’s right to peaceful enjoyment of their property that is being placed in jeopardy. This law needs to go back to the drawing board and be broadened in scope and refined in concept to really constitute a much-needed reform of the rental market.

When matters are getting out of hand, cosmetics are not the right tools to address serious shortcomings.

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