

CHAPTER 26

INVESTMENT OF CERTAIN MONEYS
ORDINANCE

*To provide for a safe and profitable investment of moneys belonging to certain persons.**

(28th February, 1895)[†]

Enacted by ORDINANCE VI of 1895 as amended by Act VI of 1959; Legal Notice 4 of 1963, Act XIII of 1983 and Legal Notice 407 of 2007.

1. This Ordinance may be cited as the Investment of Certain Moneys Ordinance. Short title.

2. (1) In the case of expropriation for a public purpose of any property subject to entail or in the case of licitation of any property subject to entail as provided in article 523 of the Civil Code, it shall be lawful for the competent court to order that the compensation payable in respect of the property expropriated, where such compensation is not less than one hundred and sixteen euros and forty-seven cents (116.47), or the shares of the proceeds appertaining to the co-owners of the property sold by licitation, whatever the amount thereof, be invested in the purchase of a perpetual annuity to be, upon such order, constituted by the Government of Malta, at the rate of two and one-half *per centum*, according to the provisions of this Ordinance, provided the court is satisfied of the expediency of such investment in the interest of the parties concerned. Investment of money in annuities.
Amended by:
XIII.1983.5;
L.N. 407 of 2007.
Cap. 16.

(2) The court may, either in the order for the purchase of the annuity or subsequently, upon the demand of any party interested, give the requisite directions respecting the alienability of the annuity. Order of court respecting alienability of annuities.

(3) The court may also order that the capital of the annuity shall remain subject to the same entail as a *surrogatum* for the property expropriated or sold by licitation. Power of court to order capital of annuity to remain subject to entail.

(4) Where the annuity is declared to be inalienable or subject to entail, such fact shall be expressly stated in the writings referred to in articles 4 and 6. Fact of inalienability of annuity, etc., to be stated in the writing.

3. (1) The competent court may direct that any of the following moneys, provided the amount be not less than one hundred and sixteen euros and forty-seven cents (116.47), be invested in an annuity as provided in the last preceding article, namely: Investment of certain other moneys in annuities.
Amended by:
XIII.1983.5;
L.N. 407 of 2007.

*Original article 1 of this Ordinance, the title whereof was originally, "To make some provisions relating to property subject to a fideicommissum" has been incorporated as article 523 in the Civil Code (Chapter 16).

[†]See Proclamation No.II of 1895.

- (a) the price or part of the price of property subject to entail which has been disentailed for any purpose other than a public purpose;
- (b) the price or part of the price of property, not alienable without the authority of the court, the alienation of which has been authorized for any purpose whatsoever;
- (c) moneys belonging to any minor under tutorship or person interdicted or to any other person or body corporate represented by an administrator appointed or confirmed by a court of civil jurisdiction;
- (d) moneys assigned to a wife on the separation or in security of her dowry or dower.

(2) The provisions of subarticles (2), (3) and (4) of the last preceding article shall apply in the case of moneys referred to in paragraph (a) and the provisions of subarticles (2) and (4) of the said article shall apply in the case of moneys referred to in paragraphs (b), (c) and (d).

How annuities are constituted.
Amended by:
VI.1959.3.

4. For the purposes of the investment referred to in articles 2 and 3, there shall be produced to the Accountant General an authenticated copy of the decree ordering the investment, and on the day to be fixed by the Accountant General there shall be paid into his office the money required for the purchase of the annuity; upon the receipt of such money the Accountant General shall constitute the corresponding annuity by means of a writing in duplicate in the Form A annexed to this Ordinance, one copy being kept in the office of the Accountant General and the other copy delivered to the creditor of the annuity.

Mode of payment of annuities.

5. (1) The annuity shall be paid in arrear within the first fifteen days of the month of January in each year; each payment shall be noted down on the back of the writing constituting the annuity, or of the writings referred to in the next following article, and no payment may be made without the production of the said writing or writings.

(2) For the purposes of any such payment, the annuity shall be deemed to commence to run from the first day of the month next following that in which the annuity was constituted.

Division of annuity.
Amended by:
VI.1959.3;
XIII.1983.5;
L.N. 407 of 2007.

6. (1) Where an annuity is divided between two or more persons, the Accountant General shall, on the production of the documents relating to such division and the delivery of the writing referred to in the last preceding article, issue as many writings, in the Form B annexed to this Ordinance, as are the shares into which the annuity shall have been divided, provided each share shall correspond to a portion of the capital not less than eleven euros and sixty-five cents (11.65).

(2) No opposition to any such division shall be considered, unless it is made by means of a judicial act to be served on the Accountant General and the holder of the annuity.

- 7.** (1) The annuity, unless subject to entail or otherwise inalienable, is transferable even by endorsement. Transfer of annuity. Amended by: VI.1959.3.
- (2) Such endorsement shall be made on the back of the relative writing; it shall state the name and surname of the endorsee and his father's name, and shall be dated and signed by the endorser.
- (3) The Accountant General is not bound to examine the authenticity of the endorsements.
- 8.** Any transfer of an annuity subject to entail or otherwise inalienable, whenever such transfer is duly authorized, shall, on pain of nullity, be made by a public deed. Transfer of annuities subject to entail, etc., to be by public deed.
- 9.** In case of any transfer of an annuity by means of a private writing or public deed the transferee shall cause the original act of transfer or an authentic copy thereof to be transmitted to the Accountant General. Original or copy of title of transfer to be produced to Accountant General. Amended by: VI.1959.3.
- 10.** The holder of the annuity if he has appointed an attorney to receive the amount thereof, or the person to whom the annuity may have been pledged, shall cause the original power of attorney or the instrument by which the annuity has been pledged, or an authentic copy thereof, to be transmitted to the Accountant General. Power of attorney or instrument of pledge to be produced to Accountant General. Amended by: VI.1959.3.
- 11.** (1) On the duplicate copy of the writing preserved in his office in terms of article 4, the Accountant General shall note down any transfer made otherwise than by endorsement, or any pledge, as well as the date on which he shall have received the documents mentioned in article 9 or 10, as the case may be. Accountant General to note down transfer or pledge of annuity on duplicate copy. Amended by: VI.1959.3.
- (2) The transfer shall not be effectual in regard to third parties, and the pledge shall not be operative, except from the date above-mentioned.
- 12.** No opposition to the payment of the annuity shall be admissible, except - Opposition to payment of annuity.
- (a) where the title of the person holding the annuity in the name of any other person, has ceased to exist;
- (b) where the writing relating to the annuity has been lost, stolen or destroyed; or
- (c) where the holder has become bankrupt.
- 13.** No payment of the annuity, or price of redemption of the annuity where the annuity has been redeemed, can be demanded, unless, in the case referred to in paragraph (a) of the last preceding article, the party concerned duly proves his right thereto, and in the case referred to in paragraph (b) of the said article, such party also gives sufficient security for the restoration of the money paid. In the case referred to in paragraph (c) of the said article, the annuity or the price of redemption may be paid to the curator in bankruptcy. Conditions for payment of annuity in certain cases.
- 14.** Where the writing has been lost, stolen or destroyed, the party concerned may in lieu thereof obtain another writing upon proving his right thereto and giving sufficient security. Loss, etc., of the writing.

Limitation of action.

15. (1) An action for the yearly payments of an annuity shall be barred by prescription, in regard to any claimant, by the lapse of five years to run from the fifteenth day of the month of January.

(2) An action for the payment of the price of redemption shall be barred by prescription by the lapse of thirty years to run from the publication of the notice referred to in article 17.

Annuities redeemable by Government.
Amended by:
VI.1959.3;
L.N. 4 of 1963.

16. Any annuity constituted under this Ordinance shall be redeemable, at any time, at the discretion of the Minister responsible for finance, by the payment of a sum equal to that received by the Accountant General for the constitution of such annuity:

Provided that the Government may not, for any reason whatsoever, be compelled to redeem any such annuity.

Cessation of annuity in case of redemption by Government.
Amended by:
VI.1959.3;
L.N. 4 of 1963.

17. (1) Where the Minister responsible for finance shall order any annuity to be redeemed, such annuity shall cease from the day on which such order shall have been published by the Accountant General by means of a notice in the Government Gazette, which notice shall contain a description of the annuity and an intimation to the holder of the annuity to attend at the office of the Accountant General to receive the capital.

Price of redemption of annuities subject to entail, etc., may not be paid without order of court.

(2) The price of redemption of an annuity subject to entail or otherwise inalienable may not be paid without an order of the court, and it shall be lawful for the court to give such directions as it may deem proper in the interest of the parties concerned.

FORMS**FORM A**

(ARTICLE 4)

Amended by:
VI.1959.3;
L.N. 4 of 1963;
XIII.1983.4.
Substituted by:
L.N. 407 of 2007.

WRITING FOR CONSTITUTING AN ANNUITY

No.....

I, the undersigned, Accountant General, declare that in compliance with the decree of (*here state the court*) dated the a yearly and perpetual annuity of in favour of has this day been created and constituted under the provisions of the Investment of Certain Moneys Ordinance (Cap.26); which annuity I bind myself in the name of the Government of Malta, to pay to the said or to his lawful representative, every year, within the first fifteen days of the month of January.

The aforesaid annuity is constituted by me as aforesaid for the price of € which amount I hereby declare to have already received on account of the Government of Malta.

Treasury,

The day of 20

Approved

*Minister responsible for finance**Accountant General*

Amended by:
VI.1959.3;
L.N. 4 of 1963;
XIII.1983.4.
Substituted by:
L.N. 407 of 2007.

FORM B

(ARTICLE 6)

WRITING ISSUED IN THE CASE OF A DIVISION OF AN
ANNUITY

Whereas the yearly annuity of € constituted under the provisions of the Investment of Certain Moneys Ordinance (Cap. 26) by a writing No issued on the in favour of has been divided intoshares.

Now therefore by these presents the undersigned, Accountant General, in the name of the Government of Malta, binds himself to pay to by whom the (*here state the share*) part of the said annuity has been acquired, or to his lawful representative, every year, within the first fifteen days of the month of January, the sum of €

Treasury,

Theday of 20

Approved

Minister responsible for finance

Accountant General
