



GOVERNMENT OF MALTA  
MINISTRY FOR SOCIAL  
ACCOMMODATION



# The Annual Malta Residential Rental Study First Edition



# **The Annual Malta Residential Rental Study**

(First Edition)





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# GLOSSARY

<b>FOREWORD A Return to Regulation in the Maltese Private Rental Market</b>	<b>6</b>
Hon. Minister Roderick Galdes – Minister for Social Accommodation	
<b>FOREWORD Regulation as a friend, not an enemy of the market</b>	<b>8</b>
Leonid McKay, Chief Executive Officer – Housing Authority	
<b>CHAPTER 1 Background on the Private Rental Market in Malta</b>	<b>13</b>
(Author: Dr . Brian Micallef)	
<b>CHAPTER 2 An Analysis of Private Residential Leases Registered with the Housing Authority in 2020</b>	<b>21</b>
(Authors: Mr. Nathaniel Debono, Mr. Reuben Ellul and Dr. Brian Micallef)	
<b>CHAPTER 3 A Framework to Assess Developments in Registered Rents</b>	<b>37</b>
(Authors: Dr. Brian Micallef, Mr. Nathaniel Debono and Mr. Reuben Ellul)	
<b>CHAPTER 4 Housing Authority Survey on the Impact of COVID-19 on Private Residential Leases</b>	<b>44</b>
(Author: Dr Stefan Cutajar)	
<b>CHAPTER 5 The impact of the 2020 Private Residential Leases Act – Insights from Economics</b>	<b>65</b>
(Author: Dr. Marie Briguglio)	
<b>CHAPTER 6 Leases Granted Legislative Protection in Malta: Past developments and Future Implications</b>	<b>76</b>
(Author: Mr. Jean Paul Fiott)	
<b>CHAPTER 7 The First Year of the Private Residential Leases Act: An Assessment Going Forward</b>	<b>94</b>
(Author: Dr. Kurt Xerri)	



# FOREWORD

Hon. Minister Roderick Galdes – Minister for Social Accommodation

## A return to regulation in the Maltese private rental market

The Government's decision to depart from the status quo of quasi-complete deregulation in the realm of private residential leases was anything but an easy or foregone conclusion. It is no secret that the policy direction taken by the country for over two and a half decades, one which favored a laissez-faire approach to the residential rental market, became deeply rooted in the mental framework of policymakers, stakeholders, tenants, intermediaries and landlords alike. Challenging this mindset without providing a research-based alternative would have undoubtedly led to a legislative fiasco of gargantuan proportions. As we carefully discern the findings and indicators recorded in the first year of the Private Residential Leases Act, it is safe to say that the private residential leases market has not suffered such a fate, despite the arduous challenges brought about by the Coronavirus pandemic.



Politicians, like so many other leading figures in the sphere of micromanagement, can easily fall into the trap of detaching themselves from the reality on the ground and start thinking of their areas of competence in very abstract terms. The most effective counterbalance to this worrying tendency can be found in continuous monitoring, rigorous research and constant communication with end-users and practitioners in the field. It is therefore imperative that the exercises conducted through this study, not only be repeated annually, but also become standard practices in the governance of the private residential rental market. I am very confident that the expert analysis provided by the Residential Rent Observatory, coupled with the continuous

upkeep of the Rent Registration Unit's statistical database have already positioned the Housing Authority in a prime position to respond to the shocks and twists in this volatile market through effective and expedient policy responses.

A year from now, the second edition of this publication shall undoubtedly feature extensive insights on the impact of the historic reform in the archaic controlled leases segment of the local residential leases market carried out by my Ministry, as ratified by the Maltese Parliament in May of 2021. My team and I had been studying this complex legal regime and potential solutions since the publication of the white paper on the Maltese Rental Market back in 2018, and it is evident that the amendments which shall come into effect on the 1st June 2021 shall have a direct and significant impact on what we now consider as the 'liberalised' rent market. The means-testing process, which we have reformed and renewed to reflect current socio-economic realities, shall protect the security tenure of deserving tenants but also shall shift many properties from the protected market to its free counterpart. This increase in supply, however large or small as it may be, surely merits continuous attention and scrutiny.

The conclusions of the publication and the various insights provided herein shall become invaluable tools for my Ministry to devise the next steps in the continuous process of reform and implementation. The promulgation of Chapter 604 was the very first step in a long process of regulatory development and capacity building at the Housing Authority, and I note with great satisfaction that the work carried out by the Rent Regulation Unit to collect data and facilitate good tenant-landlord relations in the Act's maiden year is being acknowledged and recognized far and wide. It is essential that the Authority builds upon this positive momentum and fosters further dialogue with relevant stakeholders to maximise the potential of the Maltese and Gozitan residential rental market whilst ensuring stability and adequate accommodation to renters from all social backgrounds.

# FOREWORD

## RENT REGISTRATION - A Year On

Historically, the private rental market in Malta was generally viewed as an inferior form of housing tenure for the less well-off. Successive generations of legislators enhanced this perception by promoting home ownership whilst regulating the rental market by setting arbitrarily low prices, hence contributing to the decline of quality of the housing provided. The cultural perception meant that the rental market somehow became associated with social housing and the concept of leasing one's residence out of choice never took off. For many years, property owners were reluctant to lease



out their property due to a history of recurring rent control regimes in Malta. Buying one's home offered a better return on investment and for many years highly encouraged by successive Governments. Incentives to buy over renting was highly encouraged and promoted in several successive budgets. Homeownership was, and still is, seen as the ideal form of tenure.

The complete de-regulation of the rental market in 1995 brought about a significant turning point. It addressed primarily the reluctance of property owners to lease out their property. As a result, it also improved the quality of leased properties but deprived the tenants of any form of protection and security of tenure. As a result of this commodification process lease agreements were largely slanted in the landlord's favor to ensure no risk of loss of rights, typically short in terms of duration and made it difficult to improve lease conditions and little option, if any, to enforce renewal. The rental market was, thus, becoming increasingly associated with those who have an unstable lifestyle or foreigners who plan to stay in Malta for a short while.

The Government's aim is to ensure that harmony is maintained between the private property and the private rented sectors through the neutrality of tenure principle. In terms of standards,



ideally, residents would feel equally at ease leasing their residence as they would if they chose to buy it. The need was felt to introduce a light-touch regulation to achieve this aim. A white paper was launched back in 2018 to this effect. Unregulated and high rental costs were eating half, if not more, of the net income of low-income families. Calls for a just framework to provide a decent and an affordable private rented sector were high on the housing agenda in the context of a booming economy and an increasing demand for rented housing. As a result, Chapter 604 of the Laws of Malta was enacted with unanimous approval in Parliament following an extensive consultation process. The primary objective would be to towards introducing a set of basic minimum standards reflective of any modern rental market including an obligatory registration system accompanied with a signed inventory and declared security deposit, fiscal incentives to promote long-term rent contracts, clear legal mechanisms to facilitate contract renewals or contract termination, a minimum duration of one-year for long-term contracts and a quasi-judicial body to resolve minor disputes in a swift manner. It is very pertinent to point out that other measures to address the affordability element were introduced concurrently. Lower rents may only be achieved through measures that diversify housing provision or through fiscal transfers to those in need. The Housing Benefit, as an example was introduced in parallel inspired by the principle that rental costs should not exceed a quarter of a households' disposable gross income.

### Rent Reform – greater visibility of the private rental market

The mechanism of this law entrusted upon the Housing Authority the role of receiving, vetting, and validating lease agreements and to host a tribunal for the settling of disputes of claims up to €5,000. This rent reform has, therefore, endowed the Housing Authority with a new role as a regulator of the housing market. This is completely different from its traditional role of providing solely social and affordable housing and financial assistance to improve affordability and quality of housing. A very important element of this reform would be to achieve a better understanding of the private rented sector through greater visibility while making it possible for tenants to achieve a greater degree of security of tenure. This will also provide owners with a stable means of income where they could also benefit from a forum to settle disputes swiftly. The private sector plays a significant role in our housing system therefore, the State must ensure that all aspects of private sector involvement is consistent with State's obligation to realise the right to housing for all<sup>1</sup>.

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<sup>1</sup> Guidelines for the Implementation of the Right to Adequate Housing – Report on the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context. Human Rights Council 26 December 2019

This publication provides a very thorough assessment of all data collated between January and December 2020. The registration of 30,483 lease agreements during the first year of operation is no mean feat, especially when considering that the first year was a transitory one – the registration of agreements which expired during 2020 was not required, and that the rental market was substantially impacted by the onset of COVID-19, which led to a number of foreign residents to return to their home country. It would be wrong however to rest on one's laurels and assume that the mission to get every lease agreement registered has been achieved. If one assumes that the registered rents are representative of the market at large, then the data collected gives a clear indication of a market predominantly made up of foreign residents who are living in Malta for a short- to medium-term. This outcome is to be expected since the market does not change at once; the blockchain-based registration platform which cannot be mutated to safeguard transparency and certainty shall allow the Housing Authority and other stakeholders to monitor how the market shall evolve due to the new legislation and propose any necessary amendments.

### Why a Rental Observatory?

The existing legal framework should not be a static set of regulations cast in stone but open to continuous analysis and review. Housing policy is a multi-disciplinary area. Any assessment of any housing policy necessitates a multi-disciplinary examination. It is with this in mind that the first Residential Rental Observatory was set-up within the Housing Authority. The aim is to provide a vehicle through which the data collected may be assessed and scrutinized by the various disciplines including economics, law and social policy. I am very pleased to see that the rental observatory comprises of the most qualified academics in this field, including key stakeholders such as the Central Bank of Malta. Thus, the Housing Authority has opened itself and embraced criticism of its mechanisms from the onset of its new role as regulator of the housing market. This publication, the first ever set of data arising out of registered residential rental contracts between January and December 2020, reviews the first year of operation already provides invaluable insight into potential cause-effect relationships which are happening due to the way the legal framework is structured, together with recommendations on how the framework may be improved. Future publications will undoubtedly provide added value by assessing the market over several years.

This first edition of the Annual Malta Residential Rental Study presents an in-depth analysis of all data gathered in the first year of this rent reform. Nathaniel Debono, Reuben Ellul and Brian Micallef of the Central Bank of Malta present the key results following a thorough analysis of the

raw data in chapter 2. Following that, Brian Micallef in Chapter 3 develops a hedonic model based on registered rents in Malta. It finds that registered rents are determined by type of property, its location, size, type of lease and duration. Undoubtedly, the rental market does not operate in isolation from other segments of the housing market. It is worth highlighting that the assessment of data of the first year of registered contracts coincided with two very specific developments: the onset of a global pandemic and a preliminary discussion on the pre-1995 rent regime. Secondly, the glaring discrepancies between protected and liberalized rental market segments are increasingly being reduced, and the upcoming rent reform of the pre-1995 protected leases will be lessening this distinction even further. It is within this context that the publication dedicates two specific chapters on these two phenomena. Stefan Cutajar in Chapter 4 provides an analysis of the direct impact of the initial stages of COVID-19 on private rental sector in the context of other European literature. It is based on a previous Housing Authority survey on the impact of Covid-19 on private residential leases. In chapter 6 Jean Paul Fiott makes a first attempt at quantifying the number of households which fall within the pre-1995 (protected) rent regime, thus complementing the subsequent analysis by the NSO on this market segment. This will serve as a basis for the upcoming reform on pre-95 protected leases. Chapters 5 and 7 provide a comprehensive overview of the New Private Residential Leases Act in operation. Marie Briguglio's discerning reflections provide an understanding of the impact of the 2020 Private Residential Leases Act from an economic point of view. Kurt Xerri, one of the co-authors of the White Paper and also a co-author of the drafting of the law itself concludes his publication with a legal analysis of the first year of the Private Residential Leases Act.

The role of the Observatory shall not be limited to the scrutiny of the rent registration platform. Brian Micallef in his introductory chapter sets the background very eloquently. He asserts that data gathering has so far been largely left to the initiative of private firms, which naturally tailor the data to their own needs. Given the public good properties of the data, there seems to be a good case for official authorities to put efforts in this area. This is what the Observatory should be about.

### [Regulation as a Friend not an Enemy of the Market](#)

As the local economist Marie Briguglio asserts in her perceptive chapter on market regulation and its direct impact on the rental market, just as markets fails, so may regulations. The introduction of a regulatory framework in a market characterised by archaic laws was a bold and a challenging task especially in the context of the continuous human rights which challenges the old

rent laws. Therefore, the impact of the first year of the Private Residential Leases Act (Chapter 604) should be assessed with great caution, particularly due to the concurrent pandemic. Results indicate that the first year of regulation is an extremely positive attempt at introducing a set of basic and minimum standards in a market which was, up till then, characterised by a complete regulatory vacuum. Regulation and the market are not hostile enemies. Rather than perceived as opposing forces, regulation facilitates a stable and a more sustainable market in the best interest of both parties.

Leonid McKay  
Chief Executive Officer

# CHAPTER 1

## BACKGROUND ON THE PRIVATE RENTAL MARKET IN MALTA

Brian Micallef<sup>2</sup>

### Abstract

Any assessment of the private rental market and its developments over time must inevitably rely on a variety of data sources. This chapter looks at the composition of this sector and in private sector rents using information from the Census of Population and Housing, specialised surveys like the Survey on Income and Living Conditions (SILC) and the Estate Agents Rent Survey (EARS), and academic research based on advertised rents. It concludes that the current available information on the private rental market falls short of what is required for a holistic assessment of this sector. For this reason, the information from the Private Residential Leases register maintained by the Housing Authority will be a useful complement to the other sources of information described in this chapter, thus providing a more detailed and complete view of the private rental market in Malta.

**Keywords:** private rental market, Census, surveys, advertised rents.

### Introduction

Any assessment of the private rental market in Malta and its developments over time must inevitably rely on a variety of data sources such as official statistics, surveys and academic research. There are many elements that define data quality, such as its timeliness, representativeness and accuracy, as well as the level of detail it provides. A common approach used in social sciences is to apply a triangulation method, that is, trying to cross-check the data or research from multiple sources in order to provide a more detailed and balanced picture of the situation. This is especially important if policy decisions are to be based on the careful use of rigorous evidence.

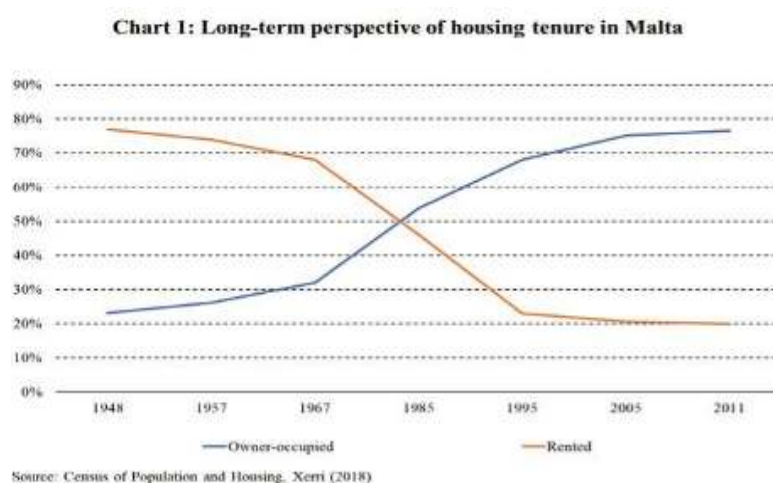
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<sup>2</sup> Dr Brian Micallef is an economist in the Research Department of the Central Bank of Malta. Helpful comments by Marie Briguglio, Reuben Ellul and Nathaniel Debono are gratefully acknowledged. The views expressed in this article represent those of the author and should not be interpreted to represent those of the Central Bank of Malta or the Housing Authority. Any remaining errors are the author's own.

## Size and composition of the private rental market

The Census of Population and Housing provides the most detailed information about the housing market in Malta. The Census is held once every ten years and the latest one provides a snapshot of the situation in 2011. The rental market in the Census is distinguished between ‘furnished’ and ‘unfurnished’ tenancies, with the latter consisting primarily of pre-1995 leases and social housing<sup>3</sup>. According to the 2011 Census, the share of the rental market stood at around 20% of the occupied dwellings in Malta, though the share of furnished rents only stood at 5%<sup>4</sup>. In addition to providing the most comprehensive picture of housing in Malta, samples extracted from the Census still provide the basis for regular surveys held by the National Statistics Office (NSO) on population and housing in Malta.

The Census provides a long-term perspective of the evolution of the rental market in Malta. Chart 1 illustrates the share of households in owner-occupied and rented housing since the late 1940s. From a long-term perspective, the most striking feature is the reversal of the relative importance of these two categories of housing tenure since the aftermath of the World War II, reflecting the direct consequences of the institution of rent controls and government incentives to promote home ownership during this period<sup>5</sup>.

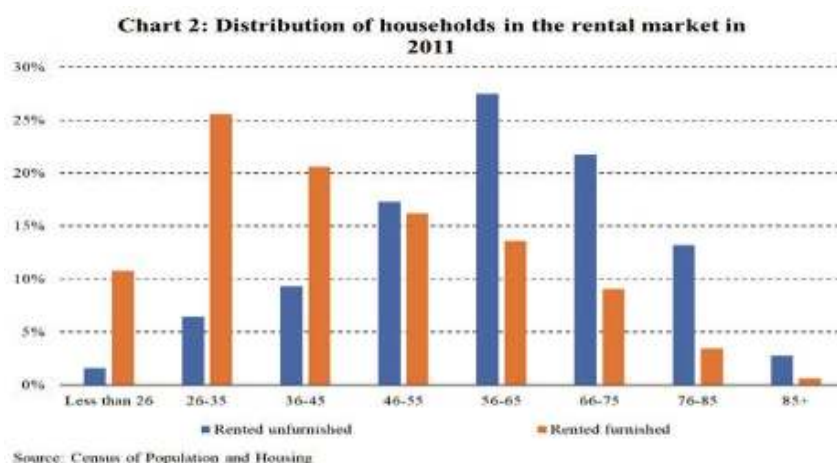


<sup>3</sup> A detailed discussion on the pre-1995 rent regime in Malta is available in: Xerri, K. (2018), *Renting immovable in twenty-first century Malta: does the law provide a level playing field?* BDL Publishing, Malta.

<sup>4</sup> According to the Census, the rental market in 2011 consisted of 22,351 units classified as ‘Rented unfurnished’ and 7,994 units classified as ‘Rented furnished’. The 22,351 units in the former category consisted of 7,518 Government units, 14,561 units from private landlords and 272 units from the Church. In 2011, the median annual rent in this category stood at €186. The units in the ‘Rented furnished’ category were mostly owned by the private sector and the median annual rent in this sector amounted to €3,537.

<sup>5</sup> A detailed discussion on the evolution of housing policy in Malta is available in: Vakili-Zad, C. (2007), *Housing policy in Malta*, Union Press: Marsa, Malta.

Information from the Census can also be used to shed light on the age bracket of households living in the rental market. As shown in Chart 2, the age structure of households living in ‘furnished’ and ‘unfurnished’ tenancies differs considerably. Households in the furnished tenancies tend to be relatively young and the reference person in 57% of these households was less than 46 years in 2011. On the contrary, households in the unfurnished sector tend to be relatively older, with 65% of them having their reference person above 56 years in 2011.



Since 2011, however, the private rental market has evolved significantly, primarily as a result of the sharp increase in the foreign workforce, which tend to rely on this sector for accommodation. According to Jobsplus, the number of foreign workers stood at 67,596 in 2019, an increase of more than 55,200 individuals compared to 2011. Foreign workers tend to be relatively young, with 63% of them aged between 30 and 54 years in 2019, while another 21% being in the 25 to 29 age bracket.

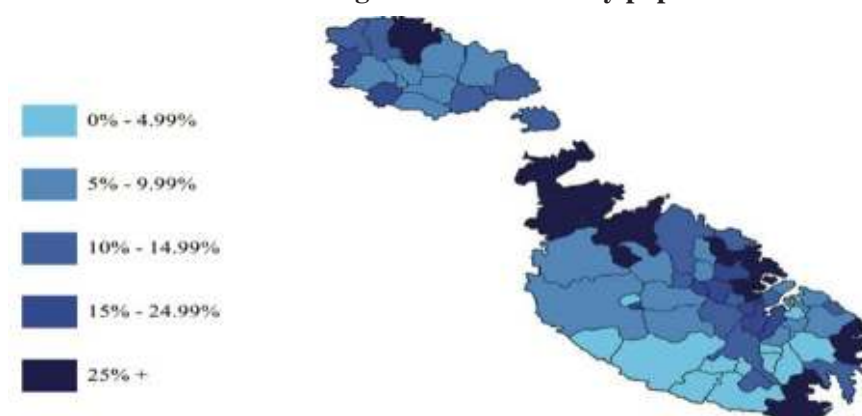
The reliance on the private rental sector is especially prevalent for recently arrived foreign workers and those with temporary migration intentions<sup>6</sup>. Indeed, evidence from administrative sources suggest that most foreign workers remain in Malta for a relative short period of time. Borg (2019) estimates that the average length of stay for foreign workers in Malta stood at 3.5 years and that almost half of them leave the country after two years<sup>7</sup>. This may suggest a preference for flexibility in terms of the length of the rental lease.

<sup>6</sup> Evidence from the UK suggests that 76% of recently arrived migrants (defined as being in the UK for less than 5 years) relied on the private rental market for accommodation, compared to 39% among all migrants. By contrast, migrants who have been in the UK for a longer period, say 20 years or more, tend to have similar housing accommodation to UK-born residents. Further details are available in: Vargas Silva, C. and Fernandez-Reino, M. (2019), Migrants and housing in the UK: experiences and impacts, Migration Observatory, 2019.

<sup>7</sup> Borg, I. (2019), The length of stay of foreign workers in Malta, Central Bank of Malta Policy Note, January 2019.

Chart 3 uses locality-level statistics from the NSO to shed light on the spatial distribution of foreigners as a share of the total population in each locality in Malta and Gozo in 2019. Foreign-born residents made up 20% of Malta's total population in 2019<sup>8</sup>. The localities of St Paul's Bay, Msida, Gżira, Sliema and St. Julian's have the highest concentration of foreigners, which account for more than 25% of the total population in each locality. Other localities with a relatively high share of foreigners include Birżebbuġa, Ta' Xbiex, Swieqi, Pieta`, Mellieħa, Żebbuġ (Gozo) and Marsascula. In all these localities, foreigners account for more than 25% of the total population in each locality in 2019. A recent study found that these localities are also the most prevalent for short-term lets advertised on Airbnb, a phenomenon that increased rapidly in recent years and that has contributed to an increase in the supply of rental properties during the pandemic following the sharp drop in the number of tourists visiting the Maltese islands<sup>9</sup>.

**Chart 3: Share of foreigners to total locality population in 2019**



**Source: National Statistics Office**

As a result of these developments, the snapshot provided by the Census in 2011 may provide an outdated picture of the size and composition of the rental market.

More updated information on this sector is obtained from the Survey on Income and Living Conditions (SILC), which is held every year by the NSO. This survey can be used to analyze trends in housing tenure over time, while its European dimension makes it possible to compare the domestic situation with other European countries. Another source of information is from the

<sup>8</sup> Statistics sources from the NSO publication: 'Regional Statistics: Malta 2020 edition'.

<sup>9</sup> Further details are available in: Ellul, R. (2019), Short-term rentals in Malta: a look at Airbnb listings, Central Bank of Malta Policy Note, November 2019. According to this study, there were 8,761 Airbnb short-term rent listings in May 2019. The top ten localities for short-term lets were Sliema, St Paul's Bay, St Julian's, Mellieħa, Valletta, Gżira, Msida, Swieqi, Żebbuġ (Gozo) and Marsascula.



Household Budgetary Survey, although this survey is held less frequently, approximately every five years, with the last one carried out in 2015<sup>10</sup>.

Table 1 compares the evolution of housing tenure in Malta and the EU between 2011 (the year of the Census) and 2019 from SILC. The homeownership rate in Malta has remained broadly stable at around 80%, which is significantly higher than the corresponding average in the EU. The most pronounced change in housing tenure in Malta took place in the post-1995 private rental sector – classified as ‘rent at market prices’ in the SILC – which rose from 2.1% to 8.7%. On the contrary, the share of tenants classified as ‘rent at reduced price or free’, which includes pre-1995 leases, declined to 11.5% in 2019. Despite the increase in rents at market prices, it is highly likely that the SILC – like most other survey-based estimates – underestimates the true extent of the increase in the size of the private rental sector as foreign-born residents tend to be inadequately covered in surveys<sup>11</sup>. For this reason, more up-to-date estimates of the size of the private rental market will only be available in the next Census of Population and Housing, which the NSO is expected to carry out in 2021.

**Table 1**  
**Housing tenure according to SILC**

	Malta		EU	
	2011	2019	2011	2019
<b>Owner</b>	80.2	79.8	70.5	69.2
Owner, with mortgage or loan	17.8	21.3	27.4	26.5
Owner, no outstanding mortgage or housing loan	62.5	58.4	43.1	42.6
<b>Tenant</b>	19.8	20.2	29.5	30.8
Tenant, rent at market price	2.1	8.7	17.6	22.2
Tenant, rent at reduced price or free	17.7	11.5	11.9	8.6

*Source: SILC, Eurostat*

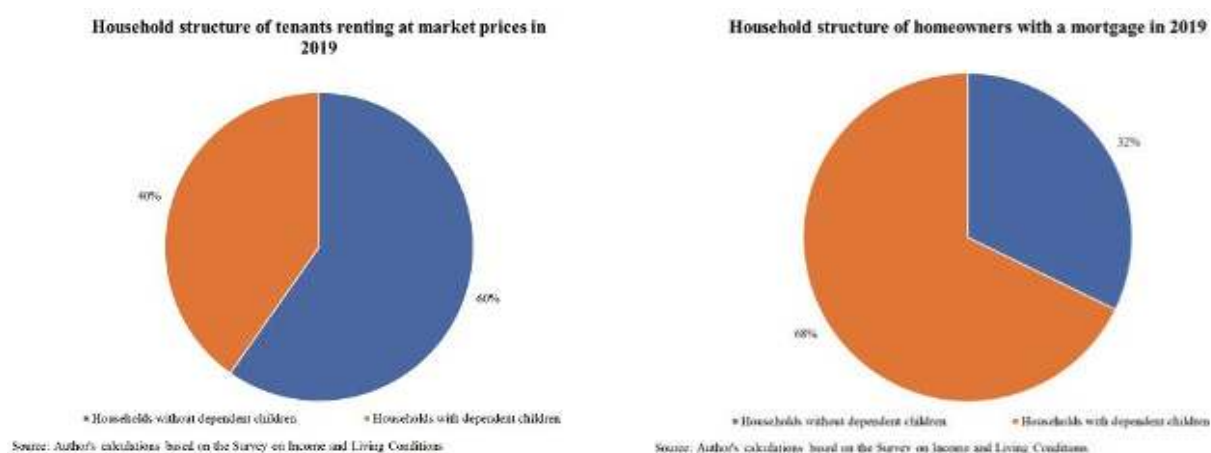
The SILC survey also provides information on the household characteristics of tenants and

<sup>10</sup> According to the HBS, 70.9% of private households were homeowners in 2015, 16.5% were paying rent and the remaining 12.7% were living in a dwelling with an alternative arrangement. The HBS does not make a distinction between market and controlled rents, although the household profile suggests that a large proportion of renters in the HBS are likely paying controlled rents.

<sup>11</sup> This might be due to the under-coverage of recently arrived foreign workers from the sample frame, the exclusion of households in collective accommodations and the low response rate of migrants in surveys. Further details are available in: Barnes, W. (2008), Improving migrant participation in the labour force survey: A review of existing practices in European Union member states, Survey Methodology Bulletin, 63, pp. 25-38.

homeowners. In 2019, around 60% of tenants classified as renting at market prices were households without dependent children, while the remaining 40% had dependent children living with them. More disaggregated data suggests that, in the former category (i.e. households without dependents), the largest category consists of two adults living together, followed by single individuals. The household structure of tenants that are renting at market prices differs considerably from those that are homeowners, especially those with a mortgage, who tend to be relatively younger than those without a mortgage. Around two thirds of households who are homeowners with a mortgage have dependent children living with them.

**Chart 4: Household structure of categories of tenants and homeowners**

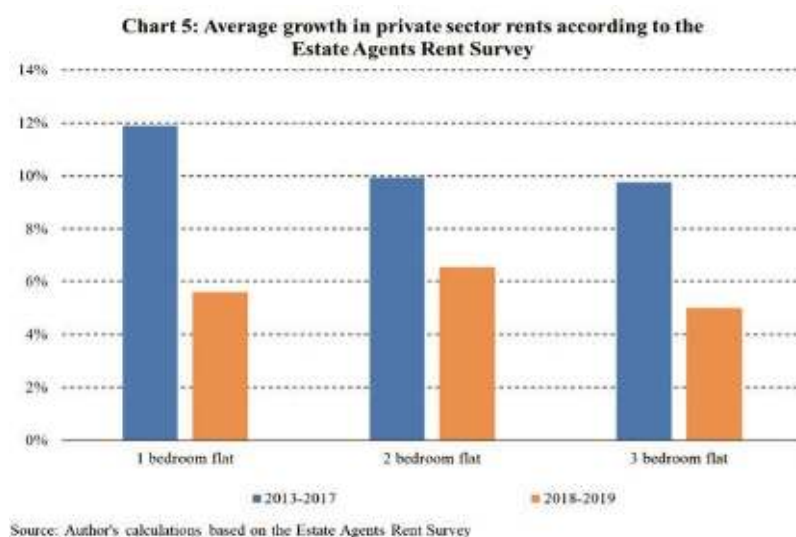


## Private sector rents

As discussed elsewhere in this publication, developments in private sector rents reflect the interplay between the demand and supply for rental housing. In the absence of an official rent index, alternative sources of information must be used to assess price developments in this sector. In this regard, information is available from two main sources, one based on an annual survey with real estate agents and another one using advertised rents from publicly available sources. The Estate Agents Rent Survey (EARS) is based on an annual survey of real estate agents for properties situated in a residential area of good quality in selected localities in Malta<sup>12</sup>. The primary purpose behind the collection of this data is to compare the relative cost of living in different cities of civil servants working for EU institutions, which is then used to adjust their

<sup>12</sup> In Malta, the EARS survey is conducted by the National Statistics Office in collaboration with Eurostat. Further details are available from: <https://ec.europa.eu/eurostat/web/civil-servants-remuneration/estate-agency-rent-surveys>

salaries. For this reason, it is likely that these properties command rents that are higher than the national average. According to this survey, rents for apartments increased between 10%-12% per annum on average between 2013 and 2017, before slowing down to 5%-7% over the period 2018-2019 (see Chart 5).

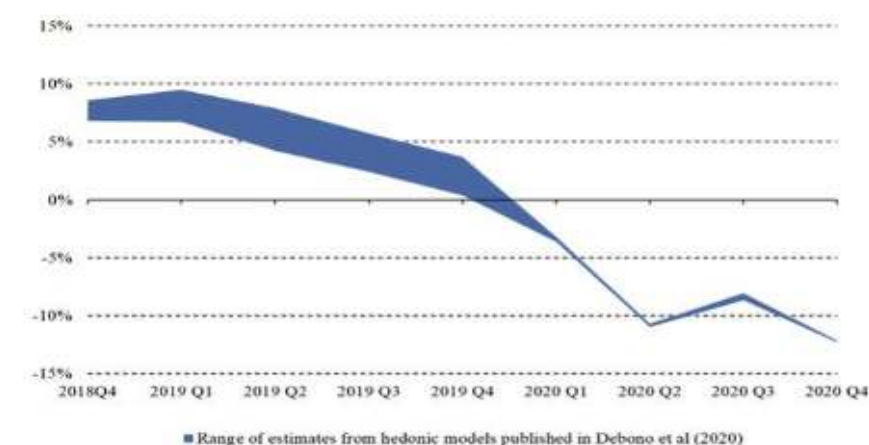


The growth in rents can also be assessed from adverts posted online<sup>13</sup>. The use of advertised prices, which are set prior to the negotiation process that takes place between lessors and prospective lessees, tend to be higher than contract prices but still provide valuable insights on rental price dynamics. A recent study by the Central Bank of Malta uses advertised listings to track the developments in rents over time<sup>14</sup>. Like the EARS survey, the adverts collected by the Central Bank of Malta cover mostly properties of good quality, posted online by estate agents. However, this dataset insufficiently covers the lower end of the market and exclude rental properties whose landlord does not use the services of estate agents. The results, shown in Chart 6, indicate that the growth in rents had started to slow down throughout 2019, albeit it remained at a relatively high rate, broadly in line with the EARS survey. Advertised rents however contracted sharply in 2020, amplified by demand and supply side factors associated with COVID-19.

<sup>13</sup> Descriptive analysis using this approach is available from: Ellul, R. (2020), Long-term housing rentals: A look at advertised listings, Central Bank of Malta Policy Note, September 2020.

<sup>14</sup> Debono, N., Ellul, R. and Micallef, B. (2020), A hedonic index for private sector rents in Malta, Central Bank of Malta Research Bulletin 2020, pp. 5-12.

**Chart 6: Annual growth rate in advertised rents**



Source: Author's calculations based on Debono et al. (2020)

## Conclusion

Nearly two decades ago, economists from the Bank for International Settlement put forward recommendations to address data gaps on housing-related statistics: “The first is more and better data. There is, in particular, a remarkable dearth of data on real estate prices... Data gathering has so far been largely left to the initiative of private firms, which naturally tailor the data to their own requirements. Given the “public good” properties of the data, there seems to be a good case for official authorities to put efforts in this area” (Borio and Lowe, 2002<sup>15</sup>). This advice is still valid today.

The private rental market has evolved significantly over the past decade. It is clear from the above discussion, however, that the current available information on the private rental market falls short of what is required for a holistic assessment of this sector since some segments of the market seem to be inadequately covered. The Private Residential Leases register maintained by the Housing Authority, which will be documented in the next chapter, provides an alternative source of information to monitor developments in the rental market. This information will complement the other sources of information on the private rental market described in this chapter, which tend to focus on specific segments of the market, thus providing a more detailed and complete view of the private rental market in Malta.

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<sup>15</sup> Borio, C. and Lowe, P. (2002), Asset prices, financial and monetary stability: exploring the nexus, Bank for International Settlements Working Paper No. 114, pp.

# CHAPTER 2

## AN ANALYSIS OF PRIVATE RESIDENTIAL LEASES REGISTERED WITH THE HOUSING AUTHORITY IN 2020

Nathaniel Debono, Reuben Ellul and Brian Micallef<sup>16</sup>

### Abstract

Among its main provisions, the Private Residential Leases Act that came into force on 1st January 2020 mandated the registration of private residential rental contracts with the Housing Authority. This obligation led to the creation of a register of residential rental contracts, maintained and administered by the Housing Authority in its capacity as the regulator of the private rental market. This chapter provides a detailed description of this register following the first year since its inception. The first part describes the register in terms of contract submissions, early terminations, commencement date of contracts and the amount of deposits required. The second part looks at the characteristics of the properties registered. The latter documents the distribution of contracts across the localities of Malta and Gozo, the type of properties for rent, their size, the type of lease and their duration, as well as the number of occupants in each property and nationality of lessees. The third part provides a detailed description of the distribution of rents for these contracts and how they differ according to the type of property, its location, size and the type of contract prevailing. Going forward, the breadth of information available and the regular updating of this register should ensure that the data maintained by the Housing Authority remains an important alternative source of information to monitor developments in the Maltese rental market.

**Keywords:** Private Residential Leases register, private rental market, registered rents.

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<sup>16</sup> The authors are economists in the Economics Division of the Central Bank of Malta. Helpful comments by Leonid McKay, Romina Fenech, Marie Briguglio, Kurt Xerri and Aaron G Grech are gratefully acknowledged. The views expressed in this article represent those of the authors and should not be interpreted to represent those of the Central Bank of Malta or the Housing Authority. Any remaining errors are the authors' own.

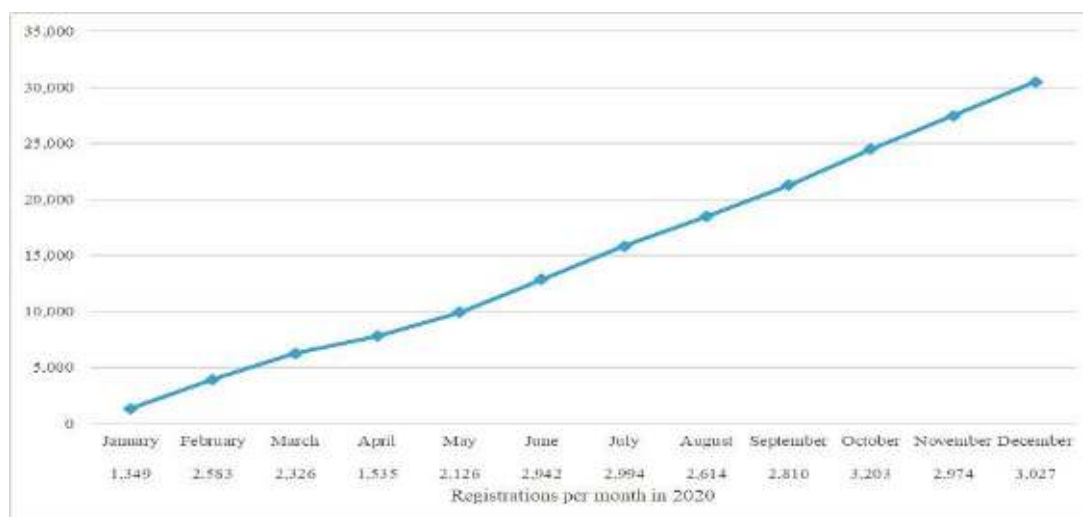
## 1. The Private Residential Leases database

### Contract registrations

During the first year that the Private Residential Leases Act came into force, a total of 30,483 original contracts were registered with the Housing Authority in its capacity as regulator of the private rental market. Of these, 858 contracts were terminated during the year in accordance with the terms stipulated in the respective contracts. A further 4,138 contracts were terminated before the expiry of the original termination date. The remaining 25,487 contracts were still active on 31 December 2020.

Chart 1 shows that the Housing Authority consistently received registrations of rental contracts throughout 2020. The total number of contract registrations had already exceeded the 6,000 mark within the first three months of the year and approached 13,000 by the end of June 2020. The second half of the year saw 17,622 registrations, of which 9,204 were received in the last quarter. The highest number of contract registrations was received in October (3,203) while the lowest number was recorded in January (1,349).

**Chart 1: Cumulative number of contract registrations in 2020**



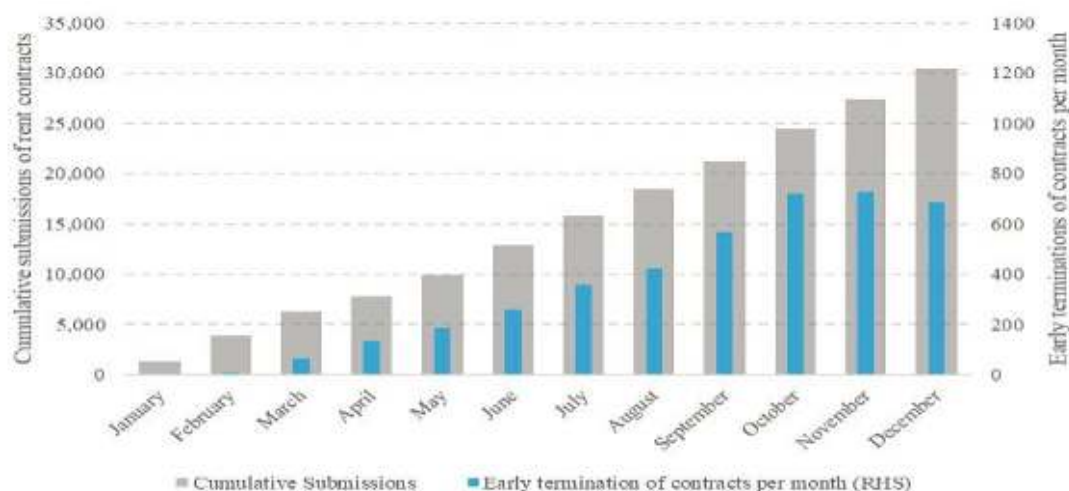
**Note: Registrations refer only to submissions that were subsequently accepted, registered and were either active as at 31st December 2020 or had been terminated by that date. Submissions for renewals are excluded.**

### Early terminations of contracts

Throughout 2020, around 14% of registered contracts were terminated before the original intended duration of the contract had elapsed. As shown in chart 2, the highest number of early terminations in one given month was recorded in November 2020 (730), followed by October

(721) and December (688). Slightly more than 45% of contracts terminated prematurely were terminated without notice from the lessee, while close to 26% were mutual terminations. In 93% of the cases, the tenants who had been party to such contracts were of foreign nationality.

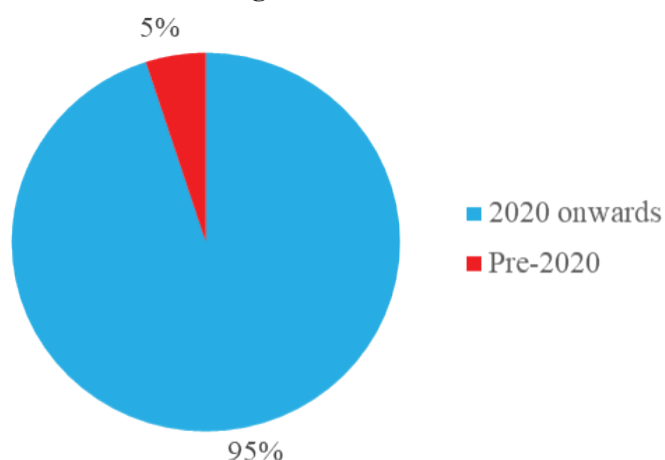
**Chart 2: Number of early termination of contracts per month**



### Commencement date of contracts

Chart 3 plots the commencement date of the registered contracts. Among the 30,483 contracts registered during the first year that the law was in force, 28,662 (94%) commenced some time during 2020 while a further 315 contracts (1%) were to commence in 2021. Another 1,506 (5%) registered private residential leases were entered after 1 June 1995 but before

**Chart 3: Commencement Date of Registered Original Contracts**



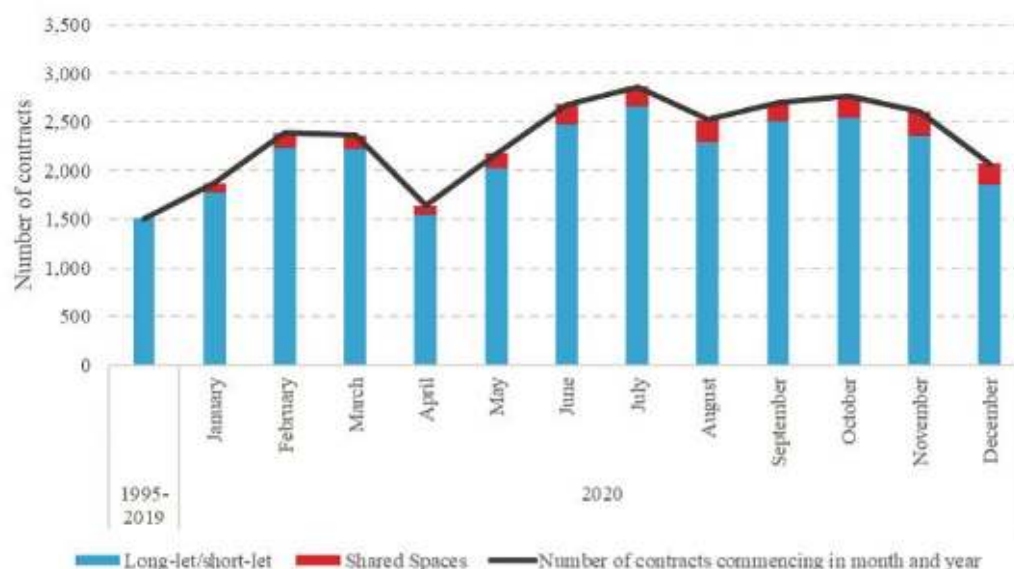
1 January 2020, and were to remain in force on 1 January 2021. By virtue of Cap. 604 5(1), the Private Residential Leases Act mandated that these contracts should also be registered by 1 January 2021.

In 2020, April proved to be the least popular month to rent, with just 1,642 contracts coming into effect during this month (chart 4). This represents a decline of 31% over the corresponding number of residential rent contracts commencing in the previous month and is likely a reflection of the uncertainty brought about by the outbreak of the COVID-19 pandemic in Malta. The situation recovered by summer, with the 2,867 contracts that commenced in July 2020 representing the



highest number of contracts commencing in one month throughout the whole year. An average of 2,600 rent contracts commenced every month between August and November before another drop in the number of registered contracts was recorded in the December 2020, when 2,072 rental contracts came into effect.

**Chart 4: Distribution of Registered Rental Contracts by Year and Month of Commencement**



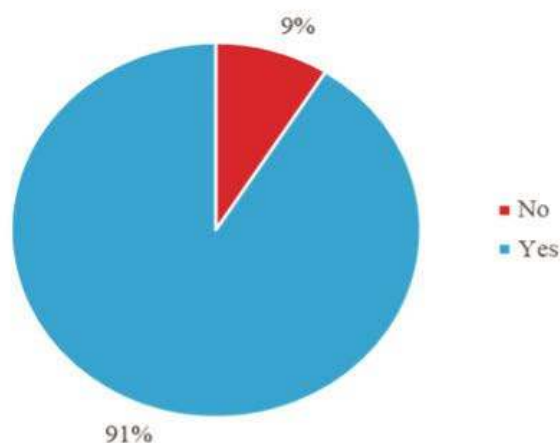
**Note: A further 315 original submissions of contracts commencing in 2021 were received by the end of 2020.**

## Deposits

The Private Residential Leases Act stipulates that “any amount deposited by the lessee by way of security for the performance of his obligations” is to be stated in the process of registering the rental contract.

Of the 30,483 contracts registered with the Housing Authority in 2020, 91% declared that they required a deposit while 9% declared that

**Chart 5: Share of contracts requiring a deposit**



no deposit was required. In almost all contracts that required a deposit (99%), the requested deposit did not exceed the equivalent of two months' worth of rent.

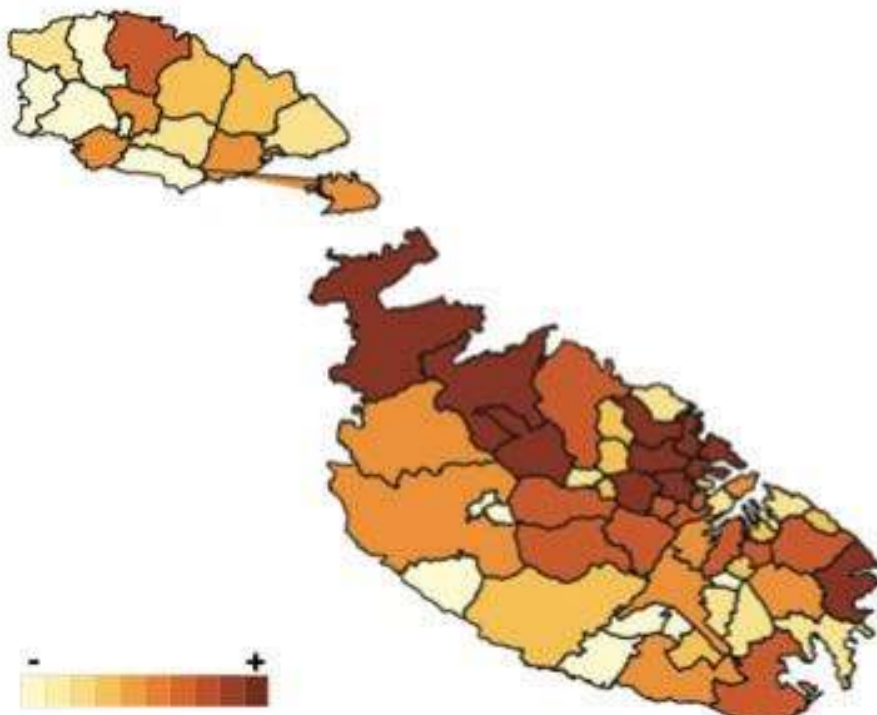


## 2.The characteristics of private rental market in Malta

Around 94% of all rental contracts registered with the Housing Authority involve properties in Malta, with the remaining 6% of registered contracts situated in Gozo.

Chart 6 plots the spatial distribution of rental contracts across the localities of Malta and Gozo. The largest concentration – comprising of 4,959 contracts, which amounts to 16% of all residential contracts registered with the Housing Authority in 2020 – is found in St. Paul's Bay. This is followed by a number of localities in the Northern

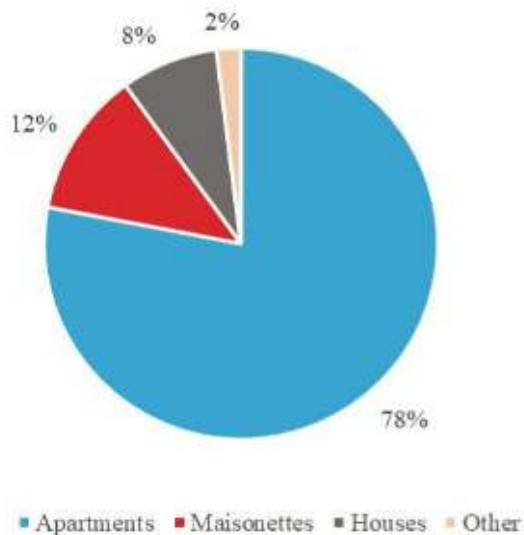
**Chart 6: Number of Registered Residential Rent Contracts by Locality**



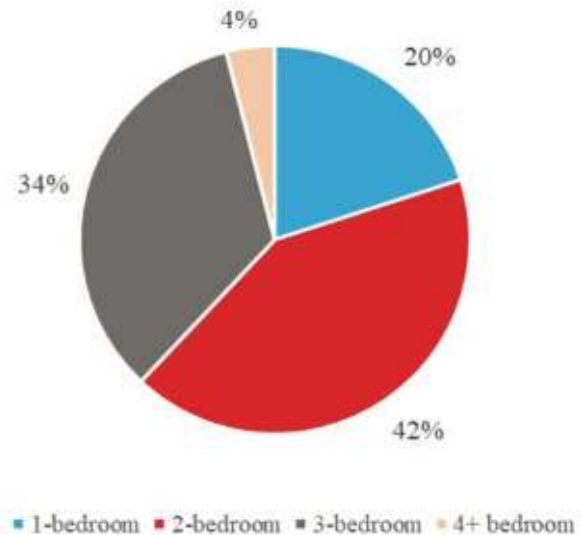
Harbour region, namely Sliema (2,736), Msida (2,301), St. Julian's (1,643) and Gżira (1,484). Other popular localities in the Maltese rental market include Birkirkara, Marsascala, Mellieħa and Swieqi, all of which are host to more than 1,000 residential rental contracts. In Gozo, 20% of rental contracts are based in Żebbuġ – which includes Marsalforn – followed by Victoria (15%) and Għajnsielem (12%). Overall, the distribution of rental contracts across the localities of Malta and Gozo closely mirrors the share of foreigners in the total population of each locality shown in the previous chapter. This provides further evidence that that foreign-born residents constitute a relatively large share of tenants in Malta.

The database provides information on the type of properties available for rent and their size. Apartments (78%) constitute the majority of registered rental contracts, followed by maisonettes (12%) and houses (8%). The remaining 2% comprise villas and other contracts which were registered as being of a 'shared space' type (chart 7). In terms of size, most of the contracts registered are for two-bedroom (42%) and three-bedroom (34%) properties. One out of every

**Chart 7: Distribution of Registered Rental Contracts by Property Type**



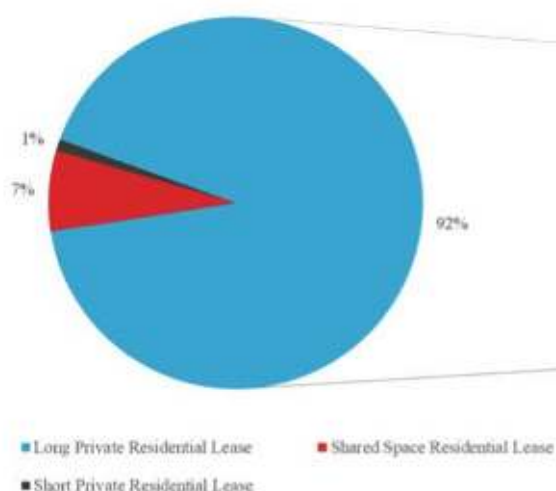
**Chart 8: Distribution of Registered Rental Contracts by Property Size**



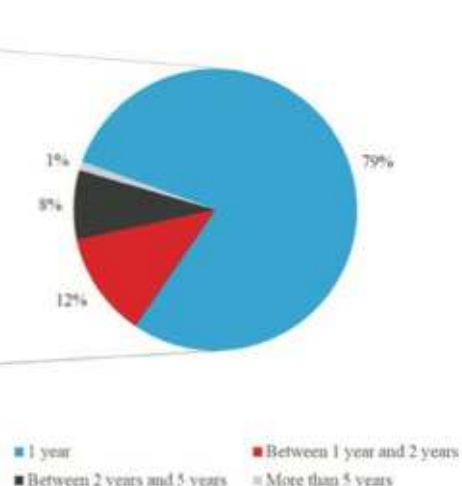
five (20%) contracts is for a one-bedroom property, with the share of contracts for properties comprising four or more bedrooms standing at just 4% (chart 8).

Most of the registered contracts were for long leases with a duration of one year. Chart 9 shows that, out of the 30,483 residential rent contracts registered throughout the year, 27,897 or 92% of the total, were of a long private residential lease. Only 370 (1%) were short private residential leases, while 2,216 (7%) were contracts representing a shared space residential lease. As stipulated in the Private Residential Leases Act, short private residential leases and shared space residential leases cannot have a duration exceeding six months. On the other hand, a long private residential lease cannot have a duration of less than one year. Chart 10 shows that almost 80% of the long private residential leases registered in 2020 were agreed for a period of one year. A further 12% were contracts with a duration of between one and two years, while 8% had been agreed for

**Chart 9: Distribution of Registered Rental Contracts by Type of Lease**



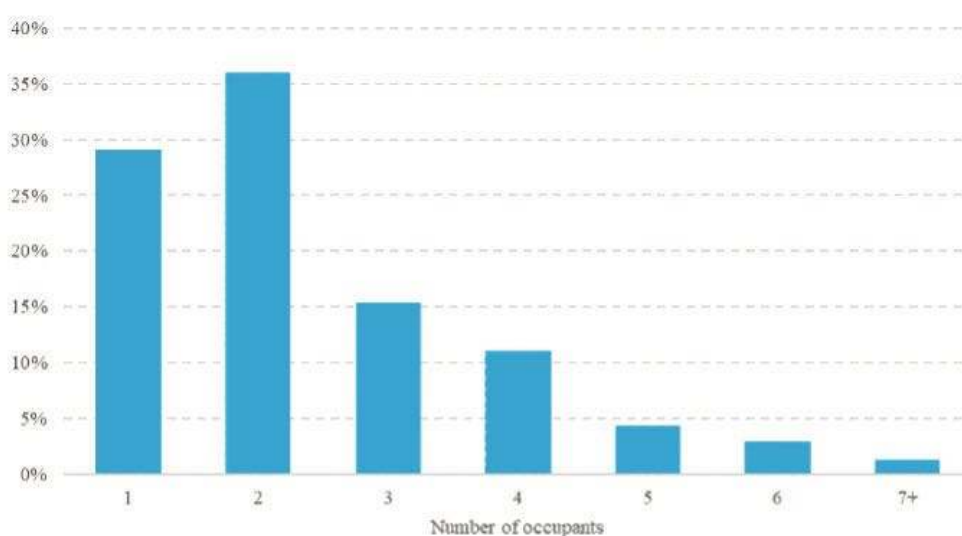
**Chart 10: Duration of Long Private Residential Leases**



a period exceeding two years but less than five years. Only 1% of registered contracts were set for a period exceeding five years, with the majority (60%) of contracts in this category having commenced before 2020.

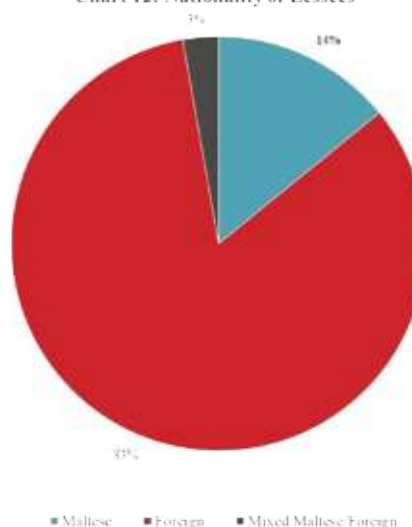
Chart 11 shows the number of occupants in long and short-term private residential leases but excludes those with a shared space lease. Slightly more than one-third (36%) of properties rented on such contracts are rented to two tenants. Around 29% have sole occupancy while in 15% of cases, three occupants reside in the property. 11% of registered contracts are rented to four individuals while a further 9% of such contracts relate to properties hosting five or more occupants.

**Chart 11: Number of occupants in long-let and short-let rental contracts**



Around 83% of rental contracts registered with the Housing Authority in 2020 involved lessees of foreign nationality. Only around 14% of leases were agreed with Maltese individuals, while a further 4% were signed with a mixture of Maltese and foreigners. This distribution is largely in line with a priori expectations, given the preference of homeownership among the Maltese population and foreigners' reliance on the rental market for housing.

**Chart 12: Nationality of Lessees**



Note: The "Mixed Maltese Foreign" category represents the share of registered leases agreed and entered into with at least one Maltese lessee and one foreign naturalised lessee. Consequently, the sum of "Maltese" and

### 3. The distribution of contracted rents

In addition to the characteristics of the properties in the private rental market, the Private Residential Leases register includes information on the annual rent in euro for each registered contract. This section uses this information to assess how rental prices vary by type of contract, type of property, locality and the size of the property.

#### Rents for long and short-term private residential leases

Chart 13 shows the distribution of monthly rents for properties rented on a long-term and short-term contract for different regions in Malta and Gozo<sup>17</sup>. For this analysis, all localities in the Maltese islands are grouped in six regions – Northern Harbour, Southern Harbour, South Eastern, Western, Northern and Gozo<sup>18</sup>. In addition, the last column of chart 13 aggregates the five regions in Malta to facilitate a direct comparison between the two islands.

Rents in Malta are higher than those prevailing in Gozo. Rents in Gozo are mostly distributed in the €300-€699 bracket. 81% of registrations from Gozo are contracted at less than €700 monthly while, in Malta, just under 50% of rental agreements are set at a price below €700 per month. Similarly, around 13% of rental contracts in Gozo are in the €700-€999 range compared to 33% in Malta. At the higher end of the price distribution, the number of contracts registered for rent above €1000 stands at only 5% in Gozo compared with 19% in Malta.

Significant differences in rents are also registered among the five regions in Malta. In Malta, the most expensive rents are found in the Northern Harbour region. Only 34% of registered contracts in the Northern Harbour region are below €700 per month, whereas in the other regions of Malta, the share of this category stands between 47% and 63%. Similarly, at the opposite end of the price spectrum, 31% of contracts in the Northern Harbour region are in excess of €1000 per month whereas, in the other regions, this price range is only applicable to between 5% and 15% of contracts. The Northern, South Eastern and Southern Harbour regions show comparable distributions, with some slight differences in the Western region. The latter appears to stand

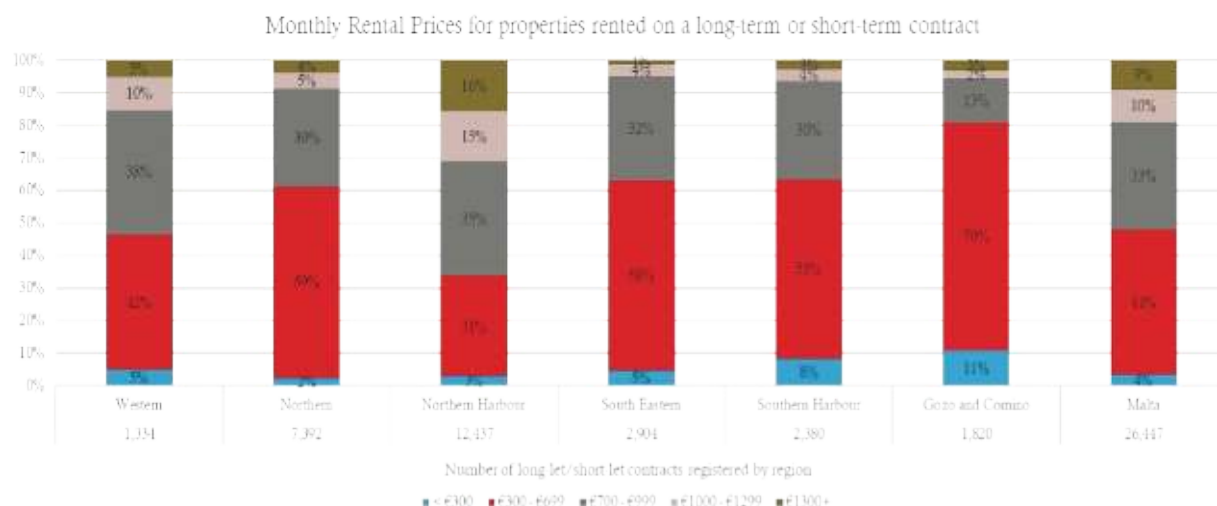
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<sup>17</sup> The analysis is based on all long and short-term leases registered by end-2020 but excluding the renewals.

<sup>18</sup> The classification of the regions is based on Local Administrative Units used by the National Statistics Office for the publication of regional statistics. Further details are found in the NSO publication entitled 'Regional Statistics: Malta 2020 edition'.

somewhere in between the Northern Harbour and the other three Maltese districts, although the number of rental contracts in this region is by far the lowest in Malta. The Northern Harbour region includes around 47% of all contracts on the island of Malta, followed by 28% in the Northern region, while the Western region accounts for only around 5%.

**Chart 13: Monthly rents for properties rented on a long-term or short-term contract**



**Chart 14: Median monthly rents for apartments by region and number of bedrooms**



Chart 14 presents the median monthly rents for apartments, which are the most popular type of rental properties in Malta<sup>19</sup>. Looking at these properties by their size, approximated by the number of bedrooms, larger properties tend to – as expected – command a higher median rent than smaller ones. Across all three property sizes, the Northern Harbour stands out to be the most expensive, while properties in all Maltese regions are more expensive than the comparable

<sup>19</sup> This analysis is limited to contracts that commenced in 2020 to avoid any distortionary effects brought about by the inclusion of rental contracts that originally commenced during the period 1995-2019. Having said that, since the share of these contracts in the register is relatively small (5%), their exclusion has very limited impact on this analysis.

contracted properties in Gozo. For instance, a three-bedroom apartment in the Northern Harbour commands a median rent of €950, with median rents in the other Maltese regions standing between €700 and €750, while an apartment with the same number of bedrooms in Gozo is rented for €500 per month.

It is important to point out that the aggregation of these regions masks important differences in rents at the locality-level. For instance, in the Northern Harbour, the median rent for a three-bedroom apartment in the most and least expensive localities within this region stood at €1,350 and €600, respectively. Hence, care should be taken when comparing statistics compiled based on these regions, as averages or medians calculated for a particular region masks a high degree of heterogeneity in rents, as well as in the number of registered contracts, within the different constituent localities. A more detailed look at the distribution of prices for two and three-bedroom apartments at locality-level for each region is found in Appendix B.

Likewise, registered rents for different property types, such as maisonettes and houses, appear to follow a similar pattern in their distribution by region and number of bedrooms (see Charts 15 and 16). Some caution is warranted in the interpretation of these estimates since, in some regions, the number of registered contracts is very low. For example, only 152 registered rental contracts for houses in the Western region commenced in 2020, while the contracts for maisonettes in Gozo only amount to 108. Such low sample sizes will affect the confidence with which one can make inferences for a whole region and should be quoted in context. For both property types, the highest number of contracts in Malta were registered in the Northern Harbour region, followed by the Northern region and the Southern Harbour.

**Chart 15: Median monthly rents for maisonettes by region and number of bedrooms**





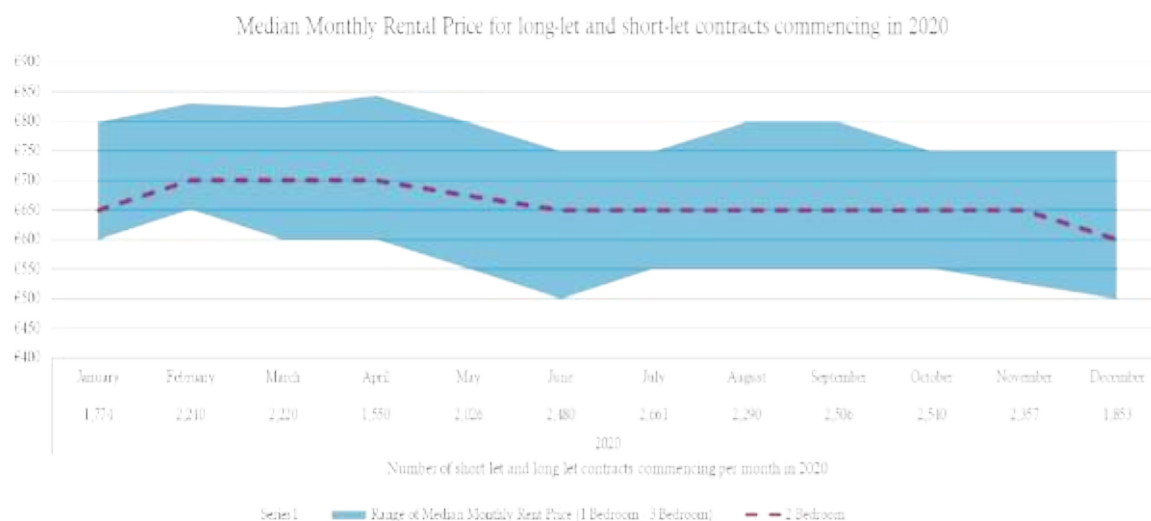
**Chart 16: Median monthly rents for houses by region and number of bedrooms**



Chart 17 computes a simple indicator for the median monthly rent for long and short-term contracts that commenced in 2020. The price for a two-bedroom rental contract, which stands roughly in the middle of the range for a one to three bedroomed properties, has been remarkably stable in 2020 though it followed a slightly downward trend. Rents for a two-bedroom property stood at around €700 between February and April, before it declined gradually in the subsequent two months and stabilized at around €650 throughout the rest of the year, until another drop seems to have been experienced towards the end of the year.

Two caveats are in order. First, in addition to being a transition year for the Private Residential Leases register, the rental market in 2020 was also affected by dislocations brought about by the COVID-19 pandemic. The Housing Authority was not required to be informed in those cases where parties to rental contracts agreed to enter into voluntary and temporary reduction in rents. A survey carried out by the Housing Authority in April to assess the extent of the COVID-19 pandemic on the private rental market found that around 61% of tenants that asked for a reduction in rent benefitted from such discounts from their landlords. Hence, the drop observed after April does not capture the true extent of the decline in rents but rather only reflects the fact that, due to a combination of demand and supply factors, the median rent for contracts that commenced after April were lower than those prevailing in the earlier months of the year. Second, the estimate carried out in Chart 17 does not control for the underlying different characteristics of the properties registered in each month. Estimates controlling for such factors, obtained using regression analysis, is presented in the next chapter.

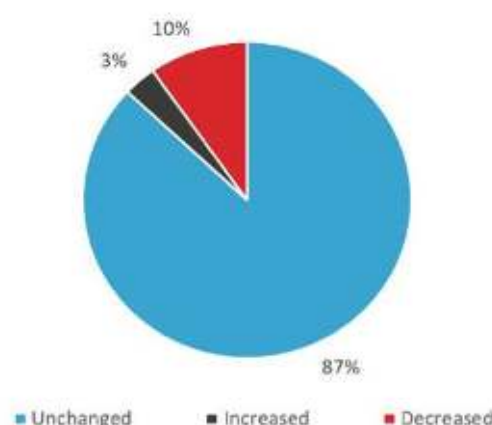
**Chart 17: Median monthly rents for long-let and short-let contracts commencing in 2020**



Finally, the Private Residential Leases Act stipulates that landlords are obliged to issue a notification to their tenants at least three months before the termination date stating whether they intend to terminate the lease upon expiry or to renew it. In the absence of the termination notice within the specified time, the private residential lease will be automatically renewed for a further period of one year. By the end of 2020, the Housing Authority received 429 notifications for contracts to be renewed into 2021. These renewals, which also include those contracts that were renewed automatically, were received by the Housing Authority in the last quarter of 2020. Almost all these contracts (96%) were renewed for a period of one year.

Chart 18 compares the rent from the renewed contract with the original one. 87% of the renewed contracts maintained the same amount of rent as quoted in the original contract. Around 10% of contracts were renewed with a lower rent from the initial contract. In these cases, the median drop amounted to 13%. Only a small percentage of renewals, amounting to 3%, were accompanied by an increase in the rent. In these cases, the median rise amounted to 5%.

**Chart 18: Price changes for renewed contracts in 2020**



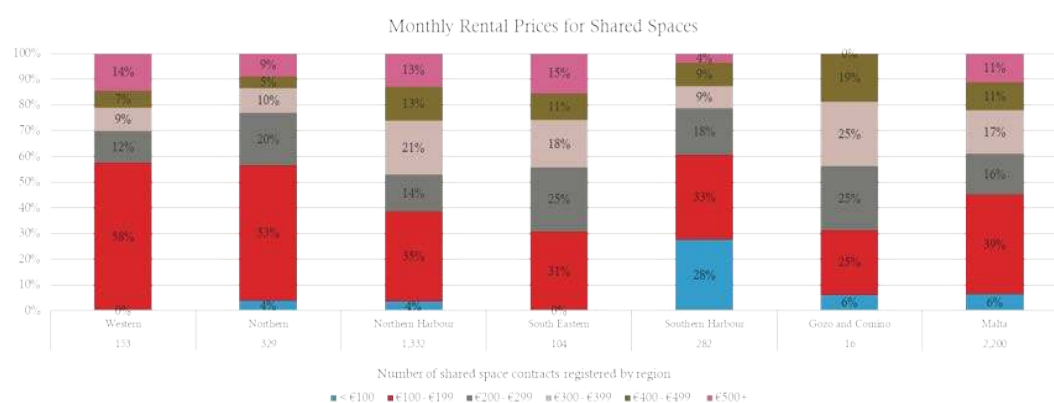


## Monthly rents for shared space contracts

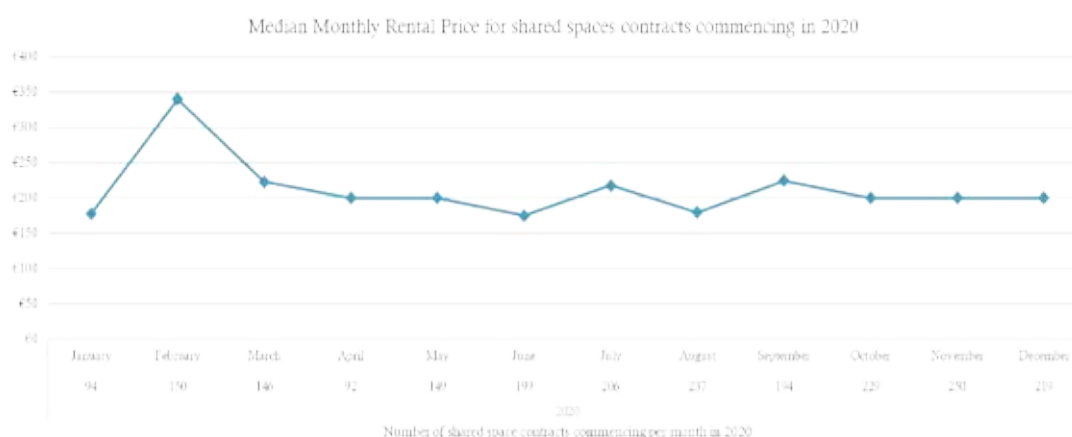
Shared spaces account for around 7% of all contracts registered with the Housing Authority in 2020. Chart 19 shows the distribution of median monthly rents for a shared space contract by region. These contracts were the most prevalent in the Northern Harbour region – 1,332 contracts that constitute 60% of the total in Malta and Gozo – followed by the Northern and Southern Harbour regions. On the contrary, only 16 shared space contracts were registered in Gozo.

In all districts, the most common type of shared space contract refers to a monthly rent of between €100 and €199. In Malta, the latter category accounts for 39% of all shared space contracts, although at the region level, this bracket ranges from 31% to 58%. Other price patterns tend to differ by region. For instance, between 13% and 15% of shared contracts in the Northern Harbour, Western and South Eastern regions are in excess of €500 per month. On the contrary, 28% of shared space contracts in the Southern Harbour region are lower than €100 per month. The latter may be sought by tenants who face particularly low budgets or are somehow unable or unwilling to pay higher amounts for their accommodation. Finally, chart 20 shows that the monthly median unadjusted rent for these shared space contracts was remarkably stable during the year, fluctuating around €200 after February 2020.

**Chart 19: Monthly rents for properties rented on a shared space contract**



**Chart 20: Median monthly rent for shared space contracts commencing in 2020**



## Appendix A

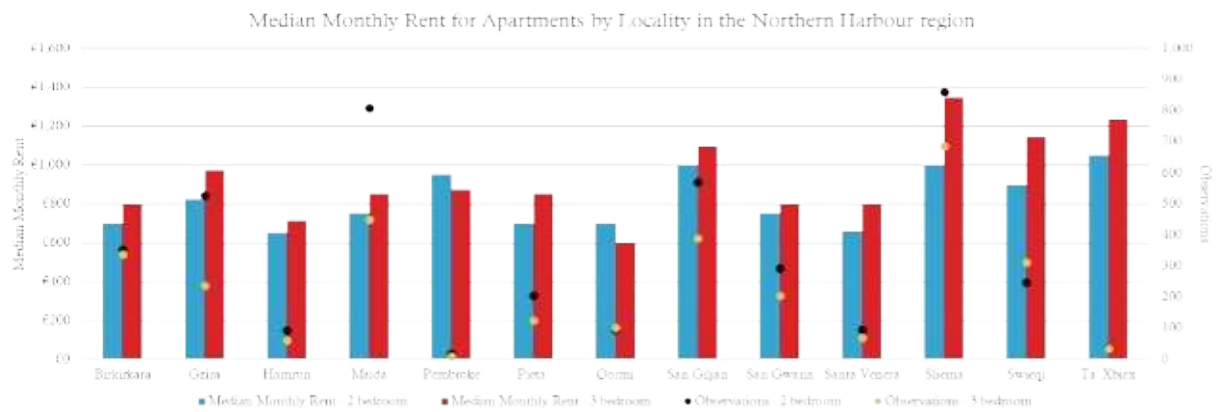
**Table 1A: Basic Descriptive Statistics**

	<b>Number</b>	<b>Percentage (%)</b>
<b>Number of registrations in 2020</b>	<b>30,483</b>	<b>100%</b>
<b><u>Contract Status</u></b>		
Active on 31 <sup>st</sup> December 2020	25,487	83.6%
Terminated prematurely during 2020	4,138	13.6%
Terminated in line with contract terms	858	2.8%
<b><u>Property Type</u></b>		
Apartment (Flat)	23,826	78.2%
House	2,446	8.0%
Maisonette	3,529	11.6%
Other	682	2.2%
<b><u>Region</u></b>		
Gozo and Comino	1,836	6.0%
Northern	7,721	25.3%
Northern Harbour	13,769	45.2%
South Eastern	3,008	9.9%
Southern Harbour	2,662	8.7%
Western	1,487	4.9%
<b><u>Number of Bedrooms</u></b>		
1 Bedroom	6,201	20.3%
2 Bedroom	12,665	41.6%
3 Bedroom	10,261	33.7%
4+ Bedroom	1,356	4.5%
<b><u>Type of Lease</u></b>		
Long Private Residential Lease	27,897	91.5%
Shared Space Residential Lease	2,216	7.3%
Short Private Residential Lease	370	1.2%
<b><u>Deposit</u></b>		
Contracts that do not require a deposit	2,802	9.2%
Contracts that require a deposit	27,681	90.8%

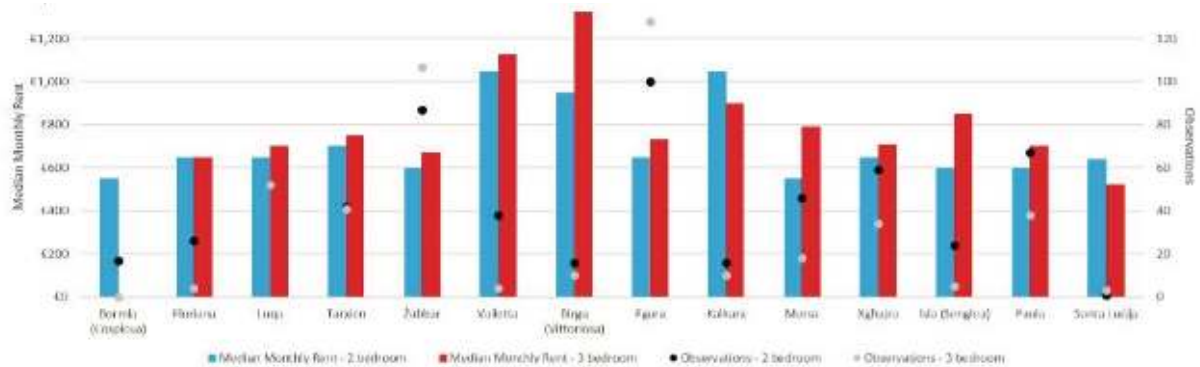
## Appendix B – Registered rents by localities in Malta and Gozo

This Appendix provides additional information on differences in registered rents at the locality-level. Each chart shows the median monthly rent for a two and three-bedroom apartment for each locality in the six regions discussed in the main text, based on the registered rental contracts that commenced in 2020. The charts also show the number of such contracts by locality for these two categories.

**Chart B1: Median monthly rent for apartments by locality in the Northern Harbour region**



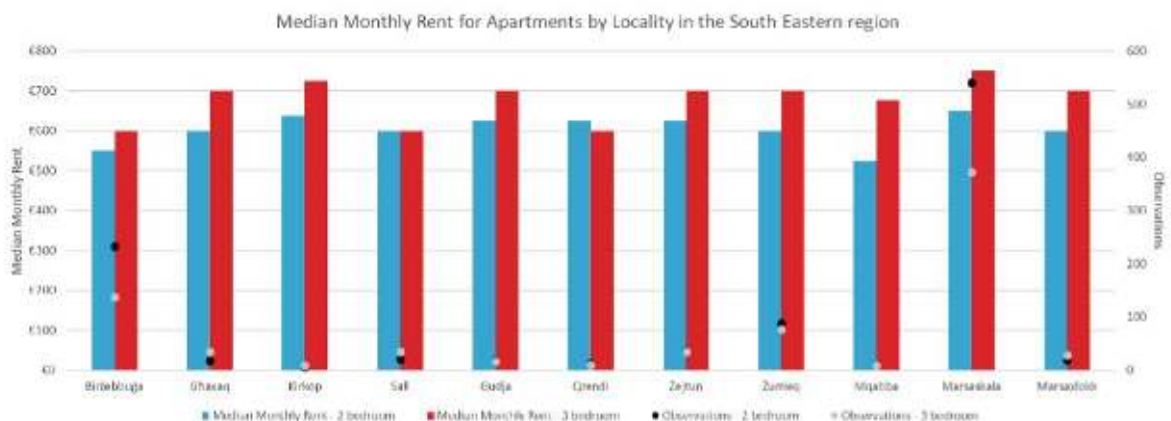
**Chart B2: Median monthly rent for apartments by locality in the Southern Harbour region**



**Chart B3: Median monthly rent for apartments by locality in the Western region**



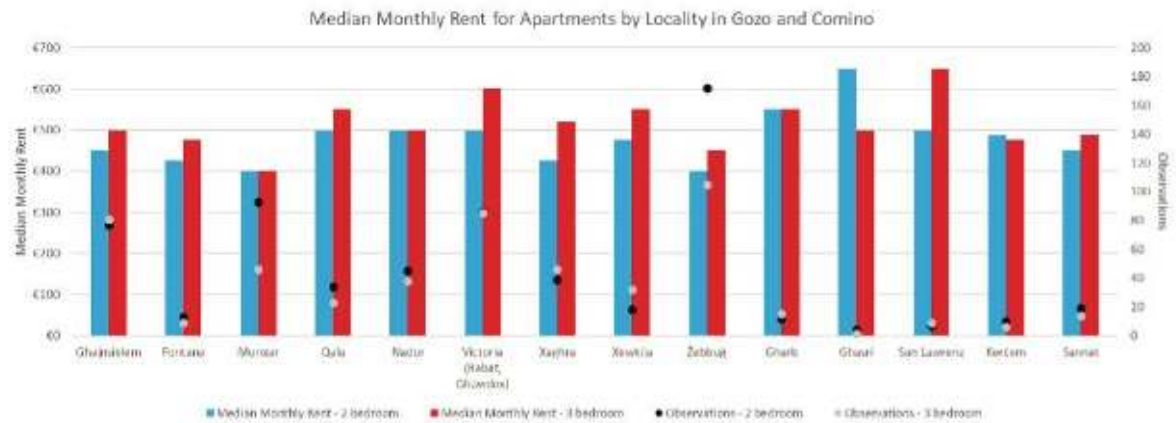
**Chart B4: Median monthly rent for apartments by locality in the South Eastern region**



**Chart B5: Median monthly rent for apartments by locality in the Northern region**



**Chart B6: Median monthly rent for apartments by locality in Gozo**



# CHAPTER 3

## A FRAMEWORK TO ASSESS DEVELOPMENTS IN REGISTERED RENTS

Brian Micallef, Nathaniel Debono and Reuben Ellul<sup>20</sup>

### Abstract

This chapter uses granular information from the Private Residential Leases register of the Housing Authority to develop a framework for registered rents in Malta. The framework is based on a hedonic model, which is commonly used in real estate pricing, and specifies a relationship between rents and the property's characteristics. The methodology is similar to the one used by Debono et al. (2020) to develop hedonic indices for advertised rents in Malta. Two separate models are estimated with the main difference between them consisting of the level of disaggregation in the localities included in each specification. According to this framework, property type and size, locality and the type of lease are all important determinants of rental prices, while the estimated time coefficients illustrate how registered rents evolved during the months of 2020. Overall, this framework opens interesting avenues for research and policy applications. Going forward, this methodology may be used to construct hedonic indices for registered rents in Malta, which at present is unfeasible due to the absence of data over a long period of time.

**Keywords:** hedonic models, private rental market, registered rents.

### Introduction

Economic models are commonly used for real estate pricing. The so-called hedonic model specifies a relationship between house prices or rents and the property's characteristics, with the underlying assumption being that the price of housing can be approximated by the sum of the values of its constituent parts. The housing attributes included in the literature tend to vary, depending to a large extent on data availability or the research focus of the study. The attributes typically included refer to the property's own characteristics, like size and quality, its location and neighbourhood factors. Of course, other factors like time also have a bearing on rents and in fact these models are commonly used to develop indices for house prices or rents that track how these prices develop over time while accounting for the underlying characteristics of the properties in the sample.

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<sup>20</sup> The authors are economists in the Economics Division of the Central Bank of Malta. Helpful comments by Aaron G Grech, Marie Briguglio and participants in an internal seminar at the Central Bank of Malta are gratefully acknowledged. The views expressed in this article represent those of the authors and should not be interpreted to represent those of the Central Bank of Malta or the Housing Authority. Any remaining errors are the authors' own.

In this chapter we use the information from the Private Residential Leases register of the Housing Authority to develop a hedonic model for registered rents in Malta. The methodology is similar to that used by Debono et al. (2020) to develop hedonic indices for advertised rents in Malta<sup>21</sup>. This framework assumes that registered rents are determined by the type of property, its location, size, the type of lease and time.

Two separate models are estimated with the main difference between them consisting of the level of disaggregation in the localities included in each specification. Model 1 groups the country's localities in the six regions used in the previous chapter – Northern Harbour, Southern Harbour, South Eastern, Western, Northern and Gozo – while Model 2 includes 68 localities separately. In both models, the dependent variable is the logarithm of registered rents in euro for leases commencing between January and December 2020. The explanatory variables include the property type and size, its location, the type of lease and monthly time dummies. The parameters are estimated using Ordinary Least Squares (OLS) and each model contains 28,148 observations.

## Results

Table 1 shows the estimated coefficients from the two models. Almost all the coefficients have the expected sign and are statistically significant. With few exceptions, the estimates from the two models are broadly similar and thus the below discussion focuses mostly on Model 1. In terms of property type, maisonettes and houses command a lower rent of 10% and 3%, respectively, compared to apartments (benchmark), while villas enjoy a substantial premium<sup>22</sup>. However, the difference between apartments and houses is not statistically different in Model 2. The negative coefficient of maisonettes is similar to the estimates reported by Debono et al. (2020), while the exclusion of the age of the dwelling, which can be interpreted to represent the quality of the housing unit, can partly explain the negative coefficient of houses relative to apartments<sup>23</sup>.

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<sup>21</sup> Debono, N., Ellul, R. and Micallef, B. (2020), A hedonic index for private sector rents in Malta, Central Bank of Malta Research Bulletin 2020, pp. 5-12.

<sup>22</sup> Since the dependent variable is in logarithms, the model coefficients should be interpreted as  $(\text{exponent}(\text{coefficient})-1)*100$  and compared to the benchmark category. To illustrate by means of an example, the coefficient of 0.67 for villas in Model 1 implies that villas are 95%  $(=\exp(0.67)-1)*100$  more expensive than the benchmark category of apartments.

<sup>23</sup> These estimates are broadly in line with the evidence from the 2011 Census of Population and Housing. According to the Census, the median annual rent for furnished apartments/penthouses and maisonettes stood at €3,600 and €3,000, respectively. The weighted average median rent for houses – consisting of terraced houses (77%), semi-detached houses (13%) and fully-detached houses (10%) – stood at €3,515. In terms of the age of the dwellings, 30% of occupied terraced houses were constructed

Locality, property size and lease type are important determinants of rental prices. Rents are the most expensive in the Northern Harbour, which includes the localities of Sliema and St Julian's. Prices in the other regions of Malta stand between 20% and 28% lower compared to the benchmark Northern Harbour, while rents in Gozo are 44% lower. As expected, larger properties command higher rents. Two- and three-bedroom units stand around 26% and 51% higher compared to the benchmark case of a one-bedroom unit. Larger properties with four or more bedrooms are even more expensive, with rents that are 68% higher compared to the benchmark one-bedroom property. Finally, shared space leases are 74% lower compared to long leases. On the contrary, rents for short-term leases are not statistically different from long-term leases.

The time coefficients in Table 1 illustrate how registered rents evolved during the months of 2020 compared to the benchmark month of January. Both models indicate that rents were increasing in the first quarter of the year. The adverse impact of COVID-19 on registered rents started to be felt in May and June, with both models indicating a statistically significant decline compared to the benchmark. Further downward pressure on rents was registered towards the end of the year.

Table 2 presents the locality coefficients from Model 2. The table also shows the number of observations for each locality and their relative value compared to the benchmark locality of Sliema. With the exception of Mdina, all localities have lower rents compared to Sliema<sup>24</sup>. Hence, geographical differences play an important role in the determination of rental prices, in line with the evidence from advertised listings<sup>25</sup>. The localities of Ta' Xbiex, St Julian's and Swieqi command rents that are between 3% and 7% lower than those in the base category after controlling for non-location hedonic attributes. At the other end of the table, the localities of Sannat, Żebbuġ, Fontana and Munxar, all of them in Gozo, command rental prices that are between 58% and 63% lower than those prevailing in Sliema.

The models are able to explain between 38% and 45% of the variation in registered rents. The

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before 1946 and another 57% between 1946 and 1990. Only 14% of terraced houses were constructed after 1990, compared to 46% of apartments/penthouses. Both the Census and the Housing Authority register combine flats and penthouses together, which might inflate this category since penthouses tend to have a premium compared to apartments (Debono et al., 2020).

<sup>24</sup> The estimated coefficient for Mdina must be treated with caution owing to the small number of observations in this locality, as well as its unique characteristics. As shown in Table 2, there are only 6 registered rental contracts in Mdina, the lowest in Malta.

<sup>25</sup> Ellul, R. (2020), Long-term housing rentals: A look at advertised listings, Central Bank of Malta Policy Note, September 2020



relatively low explanatory power of Model 1 is due to the loss of information arising from the aggregation of the localities in the six regions. In addition, the specifications are constrained by data availability since the database does not include information on additional quality attributes of the properties that in the literature are found to increase further the explanatory power of these models<sup>26</sup>.

### [Applications of this framework](#)

The coefficients from these models can be used to calculate the monthly rent in euro while accounting for the property's characteristics. For instance, according to the estimates from Model 1, in January 2020, the price of a three-bedroom apartment in the Northern region with a long-let lease stood at €706, while that for a three-bedroom maisonette in the Southern Harbour area with a short-let lease stood at €596<sup>27</sup>. The coefficients in Table 2 can be used, in conjunction with those from Model 2, to calculate the monthly rent in individual localities instead of region-wide estimates. For instance, the price of a three-bedroom apartment in Sliema with a long-let lease stood at €1,188 in January 2020, while a similar unit in St Paul's Bay and Gżira commanded a rent of €665 and €963, respectively. These estimates are somewhat lower than those obtained by Debono et al. (2020) using advertised rents. Whilst some of these differences can be explained by the underlying nature of these two databases, the divergences between the two are larger than those usually reported in the literature between advertised and contract prices<sup>28</sup>.

This framework can also be used to assess the evolution of rents for properties with similar characteristics over time. For example, the rent for a two-bedroom apartment in the Northern region with a long-lease stood at €652 in March 2020 but declined to €578 by December 2020. The same calculations can be used at a locality-level using Model 2. For instance, the rent for a two-bedroom apartment in St Julian's with a long-lease decline from €1,086 in March 2020 to €963 in December 2020.

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<sup>26</sup> Kain, J.F. and Quigley, J.M. (1970), Measuring the value of housing quality, *Journal of the American Statistical Association*, Vol. 65 No. 330, pp. 532-548.

<sup>27</sup> The monthly rent in euro is calculated by exponentiating the sum of the coefficients of a property's separate attributes. This is best illustrated by means of an example. Using Model 1, the price a three-bedroom maisonette in the Southern Harbour region with a short-let lease of €596 ( $=\exp(6.43-0.10-0.33+0.41-0.02)$ ) is calculated as the exponential of the sum of the constant (6.43), maisonette (-0.10), Southern Harbour (-0.33), three-bedrooms (0.41) and short-lease (-0.02).

<sup>28</sup> Han, L. and Strange, W.C. (2016), What is the role of the asking price for a house?, *Journal of Urban Economics*, Vol. 93(C), pp. 115-130.



Overall, these models open interesting avenues for research and policy applications, including on studies concerning rental affordability. Going forward, this methodology may be used to construct hedonic indices for registered rents in Malta, which at present is unfeasible due to the absence of data over a long period of time. This approach will assist the Housing Authority, as well as other policy institutions and analysts, to monitor more closely the developments in private sector rents.

**Table 1**  
**Hedonic Models for Registered Rental Contracts**  
Dependent Variable - log(Rent)  
Commencement date: January 2020-December 2020

	<b>Model 1</b>	<b>Model 2</b>
<b>Constant</b>	6.43 ***	6.67 ***
<b>Property Type</b>		
Flats (benchmark category)		
Maisonettes	-0.10 ***	-0.08 ***
Houses	-0.03 **	-0.01
Villas	0.67 ***	0.57 ***
<b>Region</b>		
Western	-0.22 ***	
Northern	-0.28 ***	
Northern Harbour (benchmark category)		
South Eastern	-0.33 ***	
Southern Harbour	-0.33 ***	
Gozo and Comino	-0.58 ***	
<b>Bedrooms</b>		
1-bedroom (benchmark category)		
2-bedroom	0.23 ***	0.25 ***
3-bedroom	0.41 ***	0.41 ***
4+ bedroom	0.52 ***	0.52 ***
<b>Lease Type</b>		
Long Private Residential Lease (benchmark category)		
Shared Space Residential Lease	-1.36 ***	-1.30 ***
Short Private Residential Lease	-0.02	-0.04
<b>Commencement Date</b>		
January 2020 (benchmark category)		
February 2020	0.11 ***	0.10 ***
March 2020	0.10 ***	0.10 ***
April 2020	0.06 ***	0.04 ***
May 2020	-0.02	-0.03 *
June 2020	-0.04 **	-0.03 **
July 2020	0.01	0.01
August 2020	0.02	0.02
September 2020	0.02	0.01
October 2020	0.00	-0.01
November 2020	-0.03 *	-0.03 **
December 2020	-0.02	-0.02
Localities		✓
Observations	28,148	28,148
Adjusted R-squared	0.38	0.45

\* significant at the 10% level    \*\* significant at the 5% level    \*\*\* significant at the 1% level

**Table 2**  
**Locality coefficients in Model 2 and relative values compared to the benchmark category**

Locality	N	Regression coefficient	Relative Value	Locality	N	Regression coefficient	Relative Value
Mdina	6	0.73	208.4	Xghajra	167	-0.55	57.8
Sliema	2736	-	100.0	Dingli	42	-0.55	57.8
Ta' Xbiex	132	-0.03	96.8	Senglea	95	-0.55	57.5
St. Julian's	1643	-0.03	96.8	Zurrieq	281	-0.56	57.0
Swieqi	1085	-0.07	92.9	Żabbar	415	-0.57	56.5
Valletta	217	-0.11	89.2	Qormi	469	-0.58	56.2
Lija	83	-0.19	82.6	St. Paul's Bay	4959	-0.58	56.2
Gżira	1484	-0.21	80.8	Għaxaq	111	-0.59	55.2
Vittoriosa	54	-0.23	79.3	Cospicua	114	-0.60	55.1
Kalkara	65	-0.28	75.9	Qrendi	42	-0.60	55.0
Naxxar	649	-0.30	74.4	Żejtun	195	-0.61	54.3
Pembroke	79	-0.30	74.0	Rabat	261	-0.61	54.2
San Ġwann	885	-0.37	69.4	Santa Luċija	7	-0.62	53.9
Attard	325	-0.37	69.1	L-Għarb, Gozo	78	-0.62	53.8
Balzan	179	-0.37	69.1	Hamrun	609	-0.63	53.3
Msida	2301	-0.38	68.4	Safi	121	-0.63	53.0
Għarghur	138	-0.40	67.0	Tarxien	144	-0.65	52.3
Għasri, Gozo	18	-0.40	67.0	Siggiewi	130	-0.65	52.3
Pieta'	656	-0.43	65.4	Paola	339	-0.66	51.9
Iklin	137	-0.44	64.1	Birżebbuġa	661	-0.68	50.4
Kirkop	36	-0.45	63.7	Mqabba	35	-0.69	50.1
Gudja	68	-0.45	63.5	Qala, Gozo	100	-0.73	48.3
Mosta	818	-0.46	63.3	Kerċem, Gozo	40	-0.74	47.7
Birkirkara	1297	-0.46	63.2	Xewkija, Gozo	111	-0.76	46.8
Santa Venera	393	-0.48	61.9	Fgura	474	-0.76	46.7
Mellicha	952	-0.49	61.6	Marsa	224	-0.77	46.1
Żebbuġ	314	-0.52	59.7	Nadur, Gozo	133	-0.77	46.1
Floriana	105	-0.53	59.1	Xaghra, Gozo	179	-0.78	45.9
Marsaskala	1362	-0.53	59.1	Victoria, Gozo	278	-0.79	45.5
Luqa	242	-0.53	58.9	Għajnsielem, Gozo	212	-0.79	45.3
Mġarr	205	-0.53	58.8	Sannat, Gozo	48	-0.88	41.7
San Lawrenz, Gozo	38	-0.54	58.5	Żebbuġ, Gozo	362	-0.91	40.2
Mtarfa	10	-0.55	58.0	Fontana, Gozo	42	-0.97	38.0
Marsaxlokk	96	-0.55	57.9	Munxar, Gozo	197	-0.99	37.1

# CHAPTER 4

## HOUSING AUTHORITY SURVEY ON THE IMPACT OF COVID-19 ON PRIVATE RESIDENTIAL LEASES<sup>29</sup>

Stefan Cutajar

### Abstract

The onset of the COVID-19 pandemic in Malta and Gozo presented new challenges and dilemmas for policymakers and practitioners operating in the private rented property market. The Maltese State's initial reaction to the spread of the disease, which included restrictive measures and travel bans, severely limited the continued growth of the Maltese economy, effectively bringing to a halt seven years of economic expansion.

The chapter seeks to provide a brief analysis of the context surrounding events and developments in Malta and Gozo throughout March and April 2020, cited as the first two months of the first wave of the Coronavirus pandemic. The paper also provides brief insights on the general economic sentiment of the time and other impacts of the pandemic on the housing sector from a macroeconomic perspective.

The Housing Authority, which had been legally granted the position of regulator of the private residential leases' market by Chapter 604 of the Laws of Malta (which came into effect on the 01 January 2020) sought to understand the initial impacts of the pandemic through a scientific survey conducted over the span of 12 days in the month of April 2020 with the participation of 415 tenants and 365 landlords.

The survey confirmed the prevailing sentiment of uncertainty and volatility in the early weeks of the spread of the pandemic amongst persons living in rented properties and landlords investing in the market. Despite the upheaval caused by the pandemic, most tenants and landlords who were affected by COVID-19 expressed willingness to cooperate and find flexible solutions in the form of temporary discount arrangements and other (mostly verbal) informal agreements.

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The chapter also puts forward a number of recommendations which were inspired by the findings of the survey and developments observed in the first year of this global health crisis.

## 1. Introduction

In the immediate aftermath of the outbreak of the virus in the Maltese islands, the Government of Malta introduced several measures to contain the spread of the pandemic amongst the general resident population. Against the backdrop of a looming economic recession, a predicted net migration decline and severe public health containment measures, the Housing Authority commissioned a scientific survey to understand the initial impacts of the COVID-19 pandemic on the cohort of registered private residential leases regulated by the Private Residential Leases Act (Cap. 604 of the Laws of Malta<sup>30</sup>). The aims of the study were twofold: understanding the current situation in the local rental market in light of the initial spread of the pandemic and aiding the Government of Malta in formulating a strategy to minimize the impact of COVID-19 on the local private rented accommodation sector.

## 2. Context

The first novel virus SARS-CoV-2 cases in Malta were reported on 7 March 2020<sup>31</sup>.

On the 12th March 2020, the Superintendent of Public Health put in place travel bans and mandatory self-quarantine for any person arriving in Malta for 15 days against a capital fine imposed by law. On the same day, the Superintendent also ordered the closure of schools, universities, and childcare centres.

These measures were followed by the closure of the Courts of Justice on the 13th March 2020, and the suspension of legal times related to promise of sale agreements, notarial acts and other legal and judicial times on the 17th March 2020. Places open to the public were also forced to close on the 17th March 2020, with this order mandating the shutting down of catering establishments

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<sup>30</sup> Marmará, V (2020). Riċerka fost il-Kerrejja u Sidien Covid-19, Housing Authority, Malta: Housing Authority

<sup>31</sup> Times of Malta (2020) Malta's first coronavirus cases are girl and parents. Times of Malta. <https://timesofmalta.com/articles/view/first-coronavirus-case-reported-in-malta.776288>.

(excluding take-away and delivery services offered therein), entertainment venues, open-air markets, sports facilities, gaming premises, museums and exhibition spaces.

The 23rd of March 2020 saw the closure of non-essential retail outlets and outlets providing non-essential services<sup>32</sup>. This coincided with the decision to suspend all cultural, recreational, entertainment, sporting and religious events and exhibitions in public or private places which had been already affected by the order to close places open to the public.

The Health Authorities also saw fit to order the segregation of vulnerable individuals within their homes on the 28th March 2020. This unprecedented measure ordered all persons aged 65 or over, pregnant women and persons suffering from chronic illnesses and, or medical conditions listed in the order to remain confined to their residence at all times, with exceptions being made to cover instances of medical, food-related or essential errands.

The Superintendent also restricted the number of persons in public spaces to three, with queues and bus stops included in the definition of a “public space”. On the 01 April 2020, the Government officially declared a state of public health emergency and restricted travel between the main island of Malta and Gozo. These measures remained in place throughout the month of April 2020, which reflects the time period in which the survey was carried out.

### General Economic Sentiment and Impacts

The month of April 2020 saw Malta registering a very low Economic Sentiment Indicator score at 52.1<sup>33</sup>, which was in stark contrast to the average sentiment in the year 2019 which stood at 100.7. The Central Bank of Malta’s economic update described the scenario during the survey’s time-period as follows:

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<sup>32</sup> Superintendent of Public Health (2020) Closure of Non-Essential Retail Outlets and Outlets Providing Non-Essential Services Order, 2020, Public Health Act.

<https://legislation.mt/eli/sl/465.27/eng> - This order barred the continued physical operation of undertakings whose principal commercial interests relate to clothing, sportswear, jewellery, handbags, leather goods, costume jewellery, accessories, footwear, non-prescription eyewear, perfumeries, beauty products, haberdasheries, soft furnishings, household appliances, souvenirs, discount wares, luggage, toys, hobbies, furniture, floral produce and vaping. These outlets could still deliver their goods and services safely to their clients’ doorsteps upon request. Furthermore, several businesses were halted from providing non-essential services, these included hairdressers, barbers, beauticians, spas, nail artists, nail technicians and tattooists.

<sup>33</sup> Centralbankmalta.org, 2020, ECONOMIC UPDATE 5/2020 [online], Available at : <https://www.centralbankmalta.org/en/news/81/2020/8819>

“ In April, the Bank’s Business Conditions’ Index (BCI) fell when compared with the previous month, suggesting that economic conditions shifted significantly below their long-term average. The European Commission’s Economic Sentiment Indicator (ESI) also decreased during this month. Sentiment weakened in all sectors, with the services and construction sectors recording the largest falls. In March, tourism activity contracted sharply as a result of the containment measures and subsequent travel ban introduced in response to COVID-19. The volume of retail trade also contracted, though by far less than tourism activity. Meanwhile growth in industrial production slowed down. Although the number of registered unemployed increased in March, the unemployment rate remained low from a historical perspective. The annual inflation rate based on the Harmonised Index of Consumer Prices (HICP) edged up to 1.2% in March, from 1.1% in February. Inflation based on the Retail Price Index (RPI) also rose slightly, to 1.1%. Meanwhile, Maltese residents’ deposits grew by 6.5% over the year to March, while credit to Maltese residents expanded by 4.7%. ”

This bleak economic sentiment, although improving slightly in the summer months, did not go away completely as the general population received further predictions from international institutions about the impacts of the pandemic on the Maltese economy. For instance, the European Commission (“EC”) in its autumn economic forecast projected a GDP contraction for Malta of around 7.25% and a limited impact on the labour market with a rise in the unemployment rate to 5.1% in 2020. The EC also predicted that “the contraction in private consumption, especially in the tourism-reliant retail sector, declines in demand for housing services and lower international energy prices are set to moderate headline inflation from 1.5% in 2019 to 0.8% in 2020”.

In its first set of economic projections of 2021, the CBM estimated that Maltese GDP had, in fact, contracted by 8.2% in 2020<sup>34</sup> . On the other hand, the National Statistics Office (“NSO”) published a number of provisional estimates which indicate that GDP fell by 7% in volume terms in 2020<sup>35</sup> . The monthly unemployment statistics released by the NSO paint a detailed picture of

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<sup>34</sup> CBM Economic Projections, Central Bank of Malta, 2021, 2021:1 <https://www.centralbankmalta.org/archive-economic-projections>

<sup>35</sup> Gross Domestic Product : 2020, National Statistics Office (Malta), 01 March 2021, NR040/2021 [https://nso.gov.mt/en/News\\_Releases/Documents/2021/03/News2021\\_040.pdf](https://nso.gov.mt/en/News_Releases/Documents/2021/03/News2021_040.pdf)

the fluctuations in the unemployment rate during the first 9 months of the pandemic's spread in Malta<sup>36</sup>. The monthly unemployment rate shifted from an initial 3.5% in March 2020 to 4.0% in April, remained somewhat stable from May to October<sup>37</sup>, peaked at 4.8% in November and decreased slightly to 4.5% in December 2020. It is worth noting that the NSO's inflation rate also registered a slight decrease to 0.64% in 2020 when compared to the 1.64% published in the previous year<sup>38</sup>.

### Impacts on Construction, Housing and Demography

The construction sector stood out as the only growing segment of the Maltese economy in 2020. The NSO published a number of provisional estimates and confirmed that the Construction sector (NACE section F) was the only segment of the economy to register an increase of 2.9%<sup>39</sup> during this time period. The CBM's advertised property price index also estimates that the total advertised house prices fell by around 6 percentiles in the second quarter of 2020 but quickly rebounded to exceed peak levels previously registered in 2019, in both the third and fourth quarters<sup>40</sup>.

The MFSA, in July 2020, published a report entitled 'Covid-19 and the Property Rental Market' and extrapolated data from short-term analytics website 'AirDNA' and a prominent local property listing website<sup>41</sup>. The report indicated that the short-term rental market was probably the worst-

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<sup>36</sup> Unemployment Rate, National Statistics Office, Labour Market and Information Society Statistics, 2021, NR071/2020 to NR041/2021 [https://nso.gov.mt/en/News\\_Releases/View\\_by\\_Unit/Unit\\_C2/Labour\\_Market\\_Statistics/Pages/Unemployment-Rate.aspx](https://nso.gov.mt/en/News_Releases/View_by_Unit/Unit_C2/Labour_Market_Statistics/Pages/Unemployment-Rate.aspx)

<sup>37</sup> The unemployment rate fluctuated from 4.2% in May 2020, remained unchanged in June, dropped to 4.1% in July and August, decreased to 4.0% in September and 3.9% in October.

<sup>38</sup> Prices, National Statistics Offices, Selected Indicators, 2021, [https://nso.gov.mt/Home/SELECTED\\_INDICATORS/Pages/Sub-Selected-Indicators/Prices.aspx](https://nso.gov.mt/Home/SELECTED_INDICATORS/Pages/Sub-Selected-Indicators/Prices.aspx)

<sup>39</sup> Gross Domestic Product : 2020, National Statistics Office (Malta), 01 March 2021, NR040/2021 [https://nso.gov.mt/en/News\\_Releases/Documents/2021/03/News2021\\_040.pdf](https://nso.gov.mt/en/News_Releases/Documents/2021/03/News2021_040.pdf)

<sup>40</sup> Property Price Index (Based on Advertised Prices), Central Bank of Malta, 2021, retrieved from

<sup>41</sup> Malta Financial Services Authority, COVID-19 Likely to Leave its Mark on the Real Estate Market, (July, 2020), <https://www.mfsa.mt/publication/covid-19-likely-to-leave-its-mark-on-the-real-estate-market/#:~:text=COVID%2D19%20Likely%20to%20Leave,the%20Real%20Estate%20Market%20%2D%20MFSA&text=During%202019%2C%20transacted%20property%20prices,in%20real%20terms%20%5B1%5D.&text=The%20properties%20which%20were%20removed,the%20long%2Dterm%20-rental%20market>



hit segment of the real estate market due to flight cancellations which would undoubtedly also have a significant impact on the supply in the long-term rental market. The report explained the situation as follows:

*“The decline in listings suggests that property owners are opting to look for more secure long-term rentals given the uncertainty surrounding inbound tourism this summer. The properties which were removed from Airbnb listings are likely to increase supply in the long-term rental market. This increase in supply, coupled by lower demand due to a significant number of repatriations and suspension of operations in certain sectors is likely to have significant repercussions on rental prices.”*

When analysing the developments in the long-term rental market, the report identified a surge of new listings between the end of April 2020 and the end of May 2020, and a minority of re-listings at the same price or a lower price. The majority of new apartment listings examined by the report were located in the Northern Harbour region, which is also the district with the greatest concentration of short-term listings in Malta<sup>42</sup>. The report’s dataset indicated that, at the height of the first wave of the COVID-19 pandemic, a 14% decline in the average advertised rental price for an apartment in Malta was observed. These developments, as detailed in the MFSA’s report, alluded to a “reversal of the consistent upward trend which has been prevalent in the local rental market over the past years”.

Other noteworthy indicators of the impact of COVID-19 are the demographic projections which estimated a decline in the net migration rate from 2.006 per 1000 population in 2019 to 1.954 per 1000 population in 2020, which represented a hypothetical 2.59% drop from the previous year and an approximate 16% decrease when compared to the peak rate recorded in 2013<sup>43</sup>. This downwards trend seemingly showed no sign of abetting in 2021, as projections estimated the rate at 1.903 per 1000 population, representing a 2.61% decline from 2020. As a country heavily reliant on the importation of foreign labour<sup>44</sup>, these figures were generally considered a fairly

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<sup>42</sup> Ellul, R., 2019. Short-Term Rentals In Malta: A Look At Airbnb Listings. Valletta: Central Bank of Malta, p.14

<sup>43</sup> World Population Prospects, United Nations

<sup>44</sup> Baldacchino, G. (2017). Malta and the ‘new normal’: the labour importing economy. Centre of Labour Studies Biennial Report 2015-2016, (pp.11-18). Malta: University of Malta

accurate reflection of an economy operating below its potential, as the CBM predicted a slight recovery in Maltese potential output growth in 2021 and subsequently projected this growth to *“increase further in 2022 and 2023, mainly reflecting an envisaged improvement in net migration – driven by an increase in labour demand”*<sup>45</sup>

In a reply to a parliamentary question tabled on the 23 February 2021, Minister for Finance and Employment Hon. Clyde Caruana tabled official statistics gathered by the JobsPlus Agency on the number of foreign workers in Malta and Gozo in December 2019 and September 2020<sup>46</sup>. The number of EU nationals working in Malta in September 2020 amounted to 31,513 persons when compared to 36,701 persons in December 2019. Third country nationals working in Malta reached the figure of 38,406 which was an increase from the 30,895 persons registered in December 2019. In total, as of September 2020, there were 69,919 foreigners working in Malta and Gozo, a marginal increase from the 67,596 workers registered in December 2019. The data compiled by Jobsplus confirms that 2020 was the first time since 2009 that the number did not rise exponentially after years of steep increases. This was attributed largely to the disruption caused by the pandemic although it was also assumed that the majority of workers who left the islands might have been unregulated and therefore could not feature in official statistics<sup>47</sup>.

### 3. Method

#### Sampling

The Authority was tasked with preparing a random sample and sent e-mails to 800 lessors, with the corresponding rental agreement types being split as follows: 746 long-let agreements, 9 short-let agreements and 45 shared spaces, and 700 lessees, with the corresponding rental agreements being split as follows: 664 long-let agreements, 7 short-let agreements and 29 shared spaces.

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<sup>45</sup> CBM Economic Projections, Central Bank of Malta, 2021, 2021:1 <https://www.centralbankmalta.org/archive-economic-projections>, (pp. 5).

<sup>46</sup> Table showing the number of foreigners working in Malta and Gozo and the number of foreigners living in Gozo, in December 2019 and September 2020, Papers Laid No.: 6092, <https://parlament.mt/media/110899/06092.pdf>

<sup>47</sup> Farrugia C. (2021), Number of foreign workers stalls for first time in over a decade, Times of Malta, <https://timesofmalta.com/articles/view/number-of-foreign-workers-stalls-for-first-time-in-over-a-decade.848679>

The Housing Authority sent an e-mail to these 1500 prospective participants and the replies were monitored in case any negative feedback was received. These emails were sent on 11th April 2020. The independent statistics' entity engaged to carry out the survey were only provided the contact numbers of the participants in accordance with applicable Data Protection legislation.

From the 1500 e-mails circulated by the Authority, there were no outright refusals to participate. Subsequently, the participants were chosen randomly and were only filtered according to the type of lease. The survey took around five minutes to complete and participation was on a purely voluntary basis. The information provided was kept anonymous.

The final sample size of the study consisted of 415 tenants and 365 landlords, out of a total number of registered rental agreements which numbered 6,258 as of the end of March 2020. The interviews were carried over the span of 12 days between the 13th and the 25th April and followed a pre-determined questionnaire.

### [Questionnaire Content](#)

The questionnaire consisted of two different sets of questions for tenants and landlords, with a maximum of 22 and 21 queries being put forward to each respective group.

#### [Tenants were asked the following questions:](#)

1. Why are you currently renting?
2. Do you have any dependents? If yes, how many?
3. Are you Maltese or foreign?
4. Has COVID-19 affected your economic situation? (Yes/No)
5. If 'yes', how?
6. Have you requested the landlord a reduction of your rent or termination? (Yes/No)

*If answer to question 6 is 'no', continue from question 14.*

7. If 'yes' (Q6), why did you make that request?
8. If 'yes' (Q6), did the landlord accept your request?
9. If 'yes' (Q8), by how much?
10. If 'yes' (Q8), for how long?

11. If 'yes' (Q8), did you agree in verbally or in writing?
12. If 'no' (Q8), did the landlord offer another solution?
13. If, despite your temporary agreement, your situation does not improve and your tenancy had to be terminated, what alternatives do you have or what would you consider?
14. Have you been benefiting from the rental subsidy made available by Government?  
(Yes/No)
15. If 'yes' (Q14), have you found the assistance sufficient? (Yes/No)
16. If 'yes' (Q14), do you find the application process difficult? (Yes/No)
17. Are you coping with water and electricity expenses at the moment? (Yes/No)
18. Do you feel that you need further information about your rights as a tenant in the current situation? (Yes/No)
19. If you'd require legal assistance, do you think you would afford relates expenses? (Yes/No)
20. Age:
21. Current locality:
22. Gender: Male/Female

*On the other hand, landlords were asked the following questions:*

1. How many rental properties do you have?
2. How many short-let properties do you have for rent?
3. How many long-let properties do you have for rent?
4. How many shared-spaces do you rent?
5. Is rental income your main source of income? (Yes/No)
6. Is your rental investment financed by a Buy-to-Let loan? (Yes/No)
7. Is your rental investment insured against tenant default? (Yes/No)
8. Has COVID-19 affected your investment so far? (Yes/No)
9. If 'yes' (Q8), how?
  - a. The tenant terminated the lease prematurely according to contract;
  - b. Your tenant simply left the property or there was a mutual agreement;
  - c. I reduced the rent voluntarily
    - i. If (c), by how much did you lower the rent?
    - ii. Also, for how long have you agreed to lower the rent?
    - iii. Did you do agree verbally or in writing?

10. If 'no' (Q8), would you consider lowering the rent if your tenant is affected by temporary unemployment or reduction in his pay? (Yes/No)
11. If 'yes' (Q10), by how much?
12. If 'yes' (Q10), for how long?
13. If you did not consider lowering the rent, what other solution have you opted for?
14. Since the outbreak of the pandemic, did you re-considered your decision to invest in the rental market? (Yes/No)
15. What is the reason for your answer (to Q14)?
16. Would you consider renting out your property at a proportionately below-market rate (social or affordable) and for a longer period (10 years), against the Government's guarantee of all the rental payments? (Yes/No/Don't Know)
17. If 'No' (Q16), why?
18. Have you considered keeping your property vacant in case you or a family member need it for self-quarantine? (Yes/No)
19. Age:
20. Current locality:
21. Gender: Male/Female

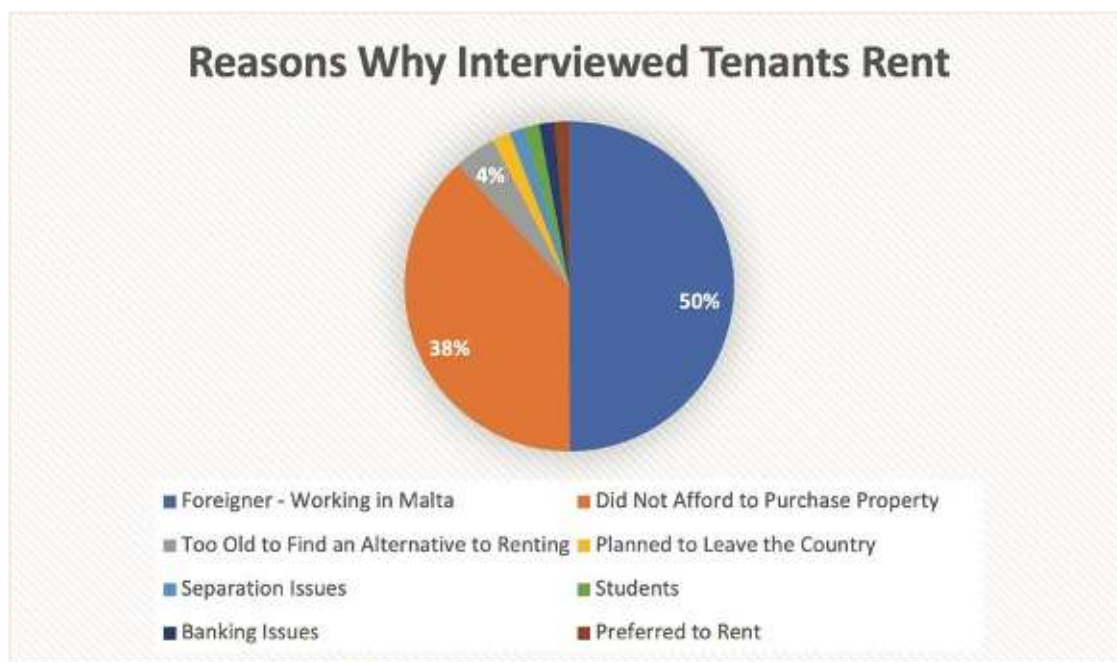
## Demographics of Respondents

### Tenants:

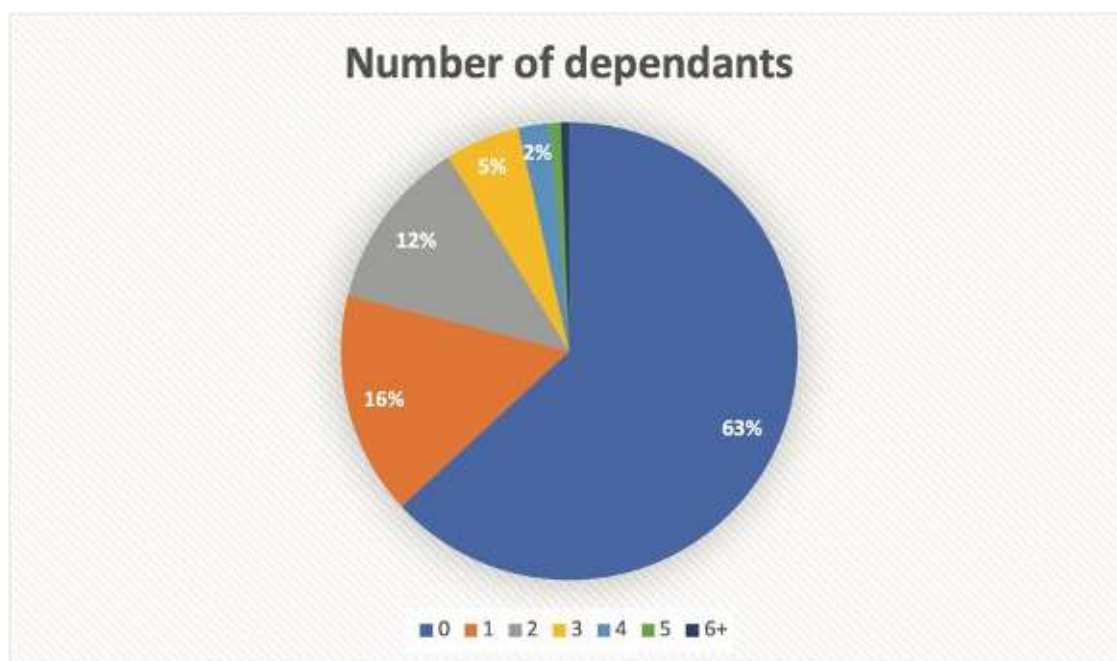
The nationality of the respondents revealed 68% being foreigners living in Malta whilst 32% of the interviewed sample stated that they were Maltese citizens.



One of the first questions posed to tenants enquired upon the principal reason why they chose to rent in the local liberalised rental market and as expected answers varied considerably.



The survey also asked respondents about the number of dependants living in the same tenement.



#### Landlords:

The initial question asked in the questionnaire addressed to landlords sought to determine the number of properties rented out by each individual landlord.





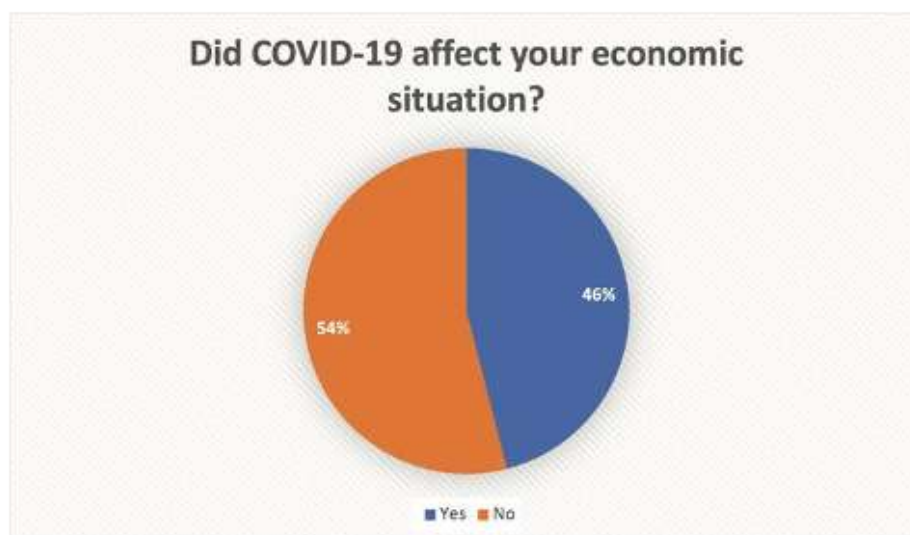
Around 85% of landlords stated that the rental yield did not constitute their main source of income. Around a fifth (20.9%) of the interviewed cohort declared that their rental investment was financed by a buy-to-let loan facility, whilst 79.1% did not require bank financing. Another interesting insight provided by the questionnaire was the fact that 85.3% of interviewed landlords did not take up landlords' insurance on their rental properties.

## [Analysis](#)

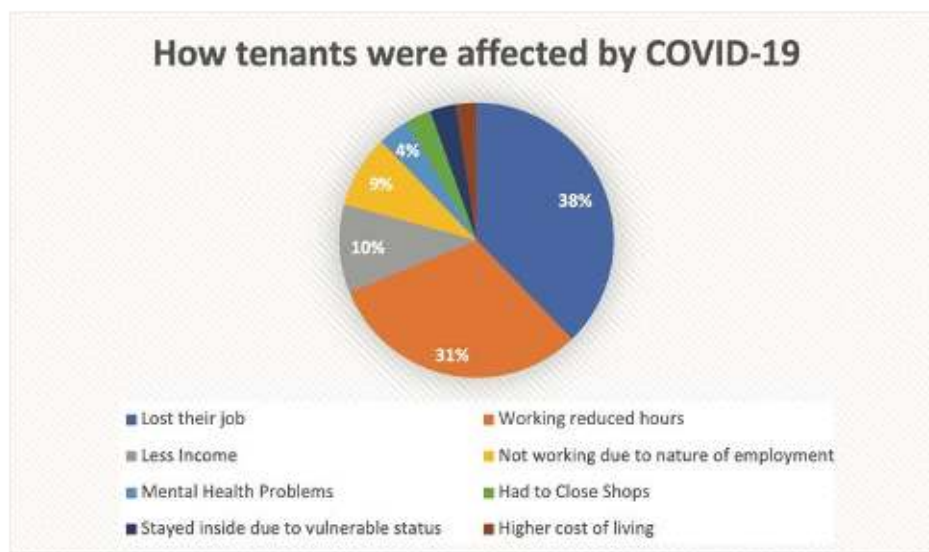
### [4. Results](#)

#### [Interviews with Tenants](#)

When asked whether COVID-19 had affected their economic situation, 46% of interviewed tenants answered in the affirmative, whilst 54.0% told the Authority that their position remained unchanged.



The questionnaire then focused on the cohort of respondents whose economic position had been impacted by COVID by specifically asking how the pandemic affected their livelihoods. One must take into account the fact in the majority of cases, the survey was limited to persons who were actually still renting as opposed to those who had already left the country after potentially losing their employment. The survey was also limited to a time-period which, in hindsight, is considered as one of the early months of the first wave of the pandemic. Both limitations may give rise to a lower bound effect in the results



According to the survey, 30.9% of respondents asked their landlord to reduce the rent amount or terminate the lease. This sub-group was then asked why they had asked for a reduction or termination. and the main reasons elicited were due to a loss of income, loss of employment and the uncertainties related to the prevailing economic situation of the time, whilst a very small segment of interviewed tenants admitted to leaving Malta indefinitely prior to the termination of their lease agreement.

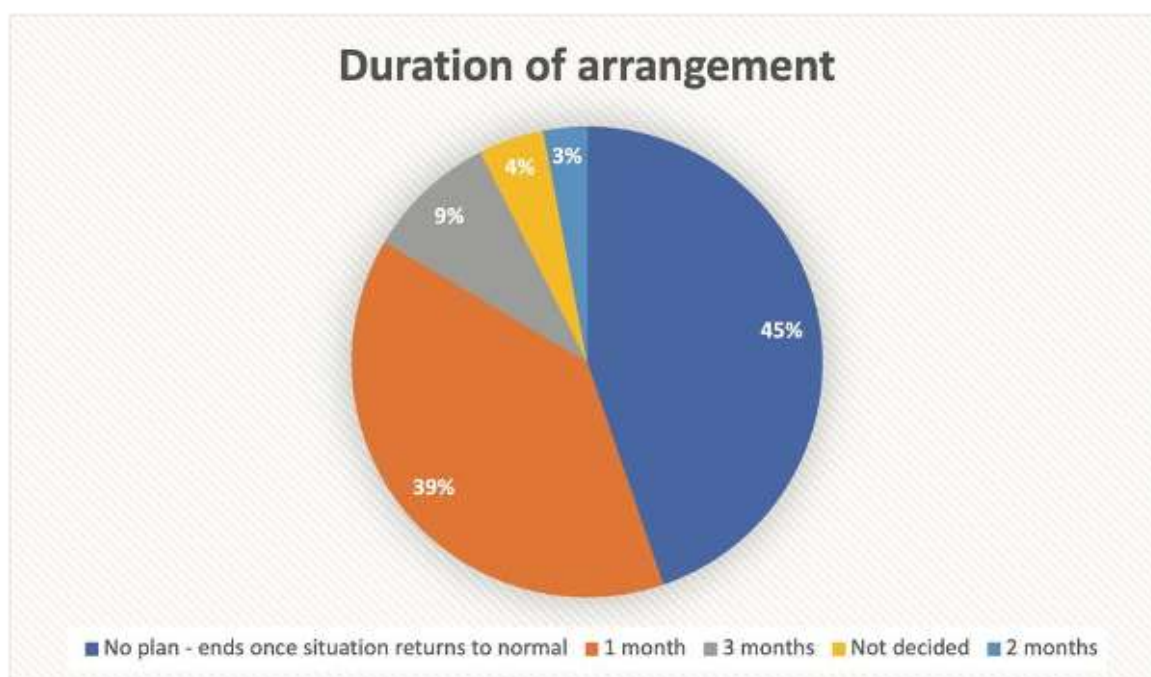
In 60.7% of these cases, the landlord accepted the request for reduction in rent or the termination of the lease agreement. The remainder of respondents (39.3%) were asked whether the landlord had offered an alternative solution following the initial refusal and 29.3% of this sub-group stated that the landlord had suggested an alternative, whilst 70.5% had not.

The survey then analysed situations when the request for a reduction in payable rent was acceded to by the landlord in further detail.





These same tenants were asked a supplementary question on the duration of the reduced rent arrangement.



The same cohort were asked whether this temporary arrangement was agreed in writing or verbally, with 94.2% answering that the agreement was verbal and only a marginal 5.8% responded that they had entered into some form of private writing.

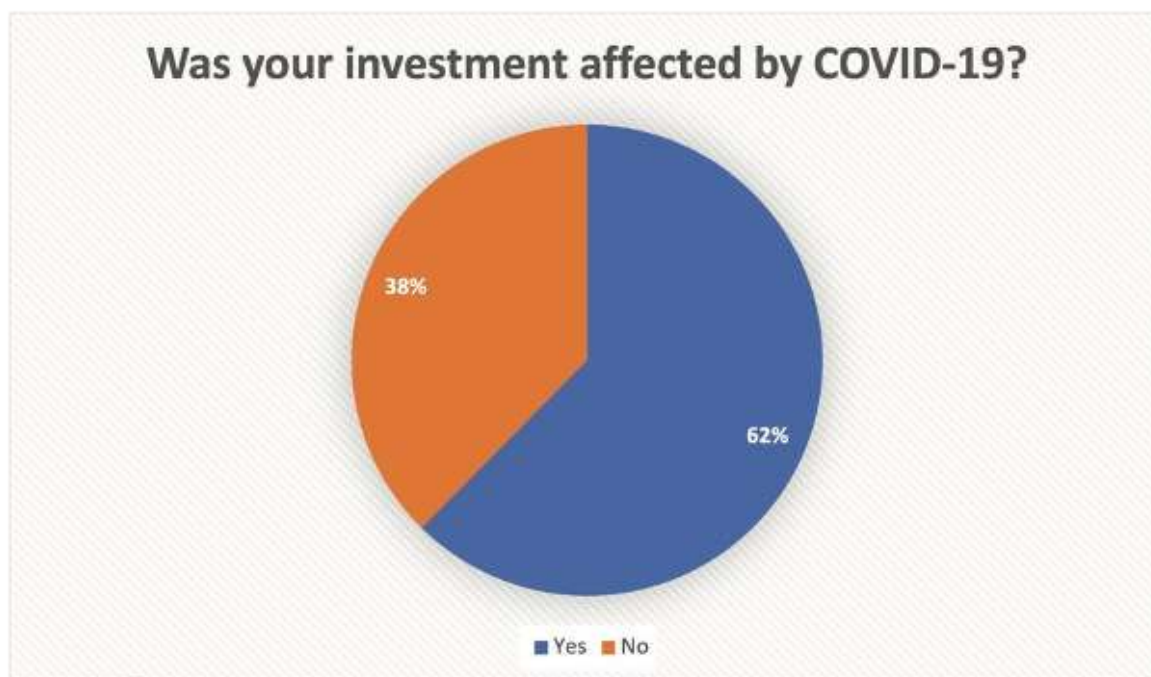
Finally, these tenants were asked if they had an alternative in mind in case their situation did not improve, and they would subsequently be forced to terminate the rent. In the most popular

answers, 56.4% of these tenants replied that they either had no solution or did not know, 13.8% stated that they intended to change apartment if that hypothetical scenario came to fruition and 5.3% said they would leave Malta.

Finally, the survey included additional ancillary questions on utility bills and participants' awareness about their rights as tenants. Around two thirds of respondents stated that they were coping with their water and electricity expenses. However, 58.3% of respondents told the Authority that they required further information on their rights as a tenant, with only 41.7% feeling confident that they knew their rights well enough. Finally, 75.8% of respondents stated that they were able to afford legal assistance if the need arose.

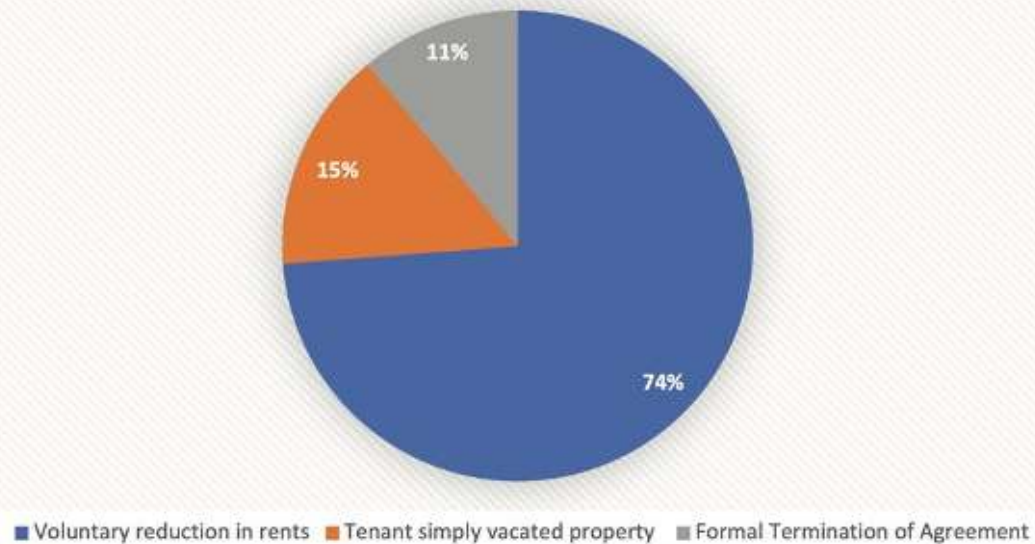
### Interviews with Landlords

When asked whether COVID-19 had affected their investments thus far, the majority of landlords answered that the pandemic had already impacted them. Again, it must be noted that the survey could only interview landlords who were actively registered on the Authority's register and therefore the impact would be larger on landlords who failed to find tenants despite advertising their properties during this time-period.



The next question posed to the landlords whose investment was impacted concerned how COVID-19 had affected their relationship with tenants.

## How was your investment impacted?



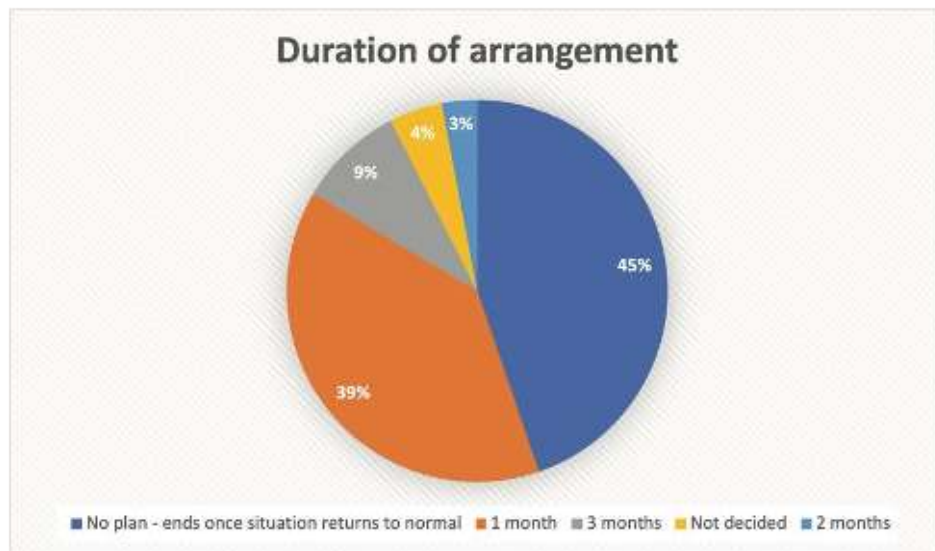
The interview then focused on the sub-group of landlords who had reduced the rent payable to them.

## Forms of Discount



Subsequently, these landlords were asked about the duration of these arrangements, with the vast majority of respondents stating that there was no plan and that the arrangement would be terminated once the situation is back to normal but other arrangements were noted.

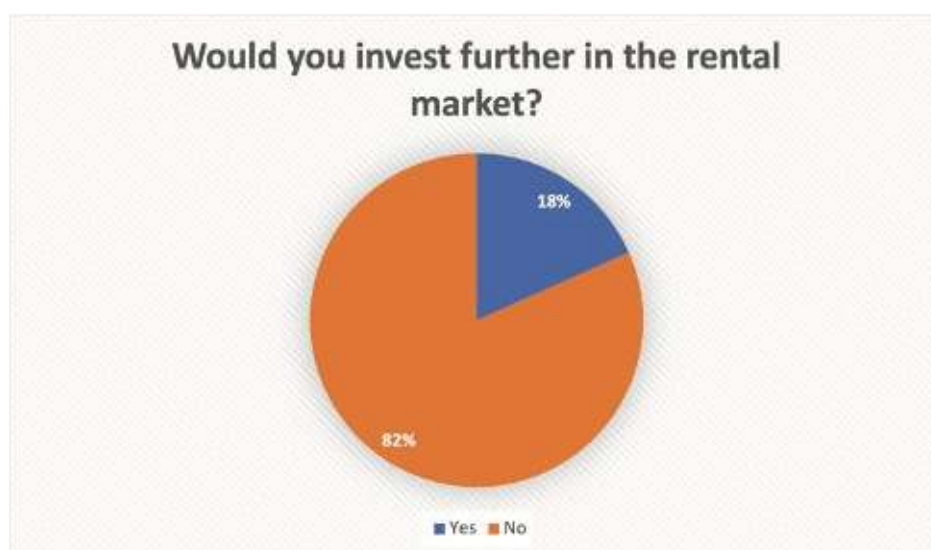




Somewhat echoing the analogous findings in the interviews conducted with tenants, in 89.2% of cases wherein the landlords and tenants agreed upon a discount in rent this was done verbally, whilst only 10.8% had signed a written agreement.

The attention then shifted to the sub-group of landlords who were not affected by COVID-19, who were asked whether they would be willing to reduce rent if their tenant or tenants were rendered unemployed or had their income reduced due to the pandemic. The majority of landlords declared their willingness to reduce the rent in this hypothetical scenario<sup>48</sup>.

All interviewed landlords were asked whether they had considered investing further funds in the rental market since the onset of the coronavirus pandemic in Malta.



<sup>48</sup> 60.9% of respondents

When asked to explain the reasons behind their answer, various respondents who had expressed themselves contrary to any future investments told the Authority that it was simply not a good time to invest.



On the other hand, those landlords who still wanted to increase their investment in the rental market despite the pandemic, explained that they would like to maximise their participation in this market since they consider it a sound investment (38.6%). Others in this minority group, however, were more cautious and said that it all depended on the market (21.1%). Moreover, some did not know exactly why they would be willing to increase their investment (8.8%), whilst 5.3% declared their optimism that further investments would be possible once things return to normal.

The last question posed to the interviewed landlords considered the possibility of leaving their properties vacant in case the landlord or his or her family members would require a place to quarantine. 60.5% of respondents said they would be willing to free up a property reserved for rent to cover this scenario whilst 39.5% expressed themselves contrary to this proposition.

## 5. Discussion and Conclusion

The Housing Authority's snapshot of the private residential leases market in April 2020 revealed a heterogenous cohort of tenants and landlords, who despite their competing interests, were willing to reach flexible compromises to preserve their ongoing legal and economic relationship. While both the underlying reasons and the extent of this increased flexibility varied considerably according to the realities faced by each individual tenant or landlord, the prevalent sentiment echoed in the interviews was one of solidarity and cooperation between the parties.

It is also interesting to note that landlords who participated in this questionnaire expressed their scepticism about the future of their investments at that particular point in time. One may assume that such levels of scepticism were probably the by-product of the various predictions surrounding a cataclysmic decline in net migration towards Malta and Gozo due to the onset of this novel pandemic, which in itself may be interpreted as an indicator of the high degree of dependency on foreign demand in the local rented housing sector. As described throughout this chapter, contrary to initial forecasts, this predicted exodus of foreign labour did not come to fruition especially with respect to third country nationals. However, the predicted sharp declines in tourism did in fact alter the playing field in the rental property market, with a significant number of short-term rentals being shifted to the long-let market and directly impacting supply and pricing.

When analysing the results of the survey vis-à-vis the interviewed tenants, the fact that the majority of tenants responded that their economic situation remained unchanged may be attributable to various factors including but not limited to the limitations of the survey which could not reach out to unregistered or deregistered tenants who had already left their previous residence due to some form of COVID-related financial default. Another factor which may have contributed to this purported financial stability is the higher-than-average resilience observed in the local labour market when compared to other countries.

Comparing the results registered in the Authority's local study with a survey conducted in the United Kingdom in the same month<sup>49</sup>, the majority (58%) of renters in the UK who were working before the outbreak of the pandemic have had their employment impacted when compared to the 46% of interviewed tenants in Malta whose economic situation was negatively affected. Almost half (48%) of the interviewed tenants in the UK survey expressed concern about the stability of their living situation and approximately two-fifths (43%) reported difficulties in coping with expenses related to rent, bills and essentials (for example food). In the Authority's study, around two thirds (67%) of local respondents reported that they had no issues in coping with utility bills but no direct questions about other essentials like food were asked and therefore no comprehensive comparison may be made.

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<sup>49</sup> Opinium/The Guardian (2020), Impact of COVID-19 on Renters , OP14414, Available at: <https://www.opinium.com/wp-content/uploads/2020/04/OP14414-Opinium-and-The-Guardian-COVID-19-and-Renters-Report.pdf>

The same British survey reported that almost three-quarters (73%) of interviewed landlords were concerned that their tenants would not be able to pay all or part of their rent, this is somewhat comparable to the figure of 62% of interviewed landlords in Malta who reported that their investment has been somehow impacted by COVID-19.

In the UK survey, overall around a fifth (19%) of renters took some form of action to change the terms and conditions of their rental relationship due to COVID-19, with this number rising to 39% with those renters who had their employment impacted. In Malta, 30.9% of respondents asked their landlord for some form of assistance or an early exit from the lease.

Maltese tenants reported that around two-thirds of cases (60.7%) landlords were supportive when confronted with requests for assistance, which is similar to the figure of 56% registered in the UK survey. The UK study did not delve deeper in the amounts or percentages of discounts, or the duration of temporary arrangements.

The UK survey also registered low actual knowledge of the policies put in place by the Government to assist tenants during the pandemic. This is analogous to the minority of tenants (41.7%) in the Maltese survey who reported that they felt confident that they knew their rights well enough. It is therefore observable that the trends identified in the local rental survey are mostly aligned with other trends registered in the United Kingdom during the same period, probably due to the global nature of the pandemic and the similarities of the regulatory regimes prevalent in both countries<sup>50</sup>.

## [Recommendations](#)

Considering the results registered in the survey, it would be highly beneficial if the Housing Authority were to:

- Repeat such exercises at least on an annual basis, but preferably on a bi-annual basis given the fluctuations and volatility of the private residential leases market at this point in time;
- Ramp-up its public relations and communications efforts to effectively lower the number of tenants who do not know their rights vis-à-vis the Private Residential Leases Act;

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<sup>50</sup> Malta is considered a hybrid jurisdiction with heavy influences of Anglo-American Common Law and a Westminster-style Parliament.

- Reduce bureaucracy with landlords who voluntarily reduce rents or implement flexible measures to help their tenants and develop schemes and initiatives to incentivise such behaviour amongst landlords;
- Clamp down on abusive tenants who abuse of the uncertainty caused by the pandemic to leave the premises without respecting the notice period stipulated by law by publishing and continuously updating a comprehensive black-list;
- Introduce schemes and initiatives to increase the number of landlords insuring their rented properties against tenant or third-party defaults;
- Publish periodic guidelines on proper tenant-landlord relations and condominium etiquette to be disseminated amongst all persons registered with the Authority to prevent hostility and conflict; and
- Keep and utilize records of individuals who are no longer registered as landlords or tenants for the purposes of prospective statistical and research exercises to address the limitations encountered in this survey.

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# CHAPTER 5

## THE IMPACT OF THE 2020 PRIVATE RESIDENTIAL LEASES ACT - INSIGHTS FROM ECONOMICS

Marie Briguglio<sup>51</sup>

### Abstract

This chapter applies insights from economics to assess the potential impact of the regulatory regime introduced in the residential leases market, in Malta, as of January 2020. It provides an overview of the main tenets of the Private Residential Leases Act as well as the context in which it was introduced. The chapter outlines the economic case for cautious intervention, highlighting examples of both market and regulatory failure. The analysis draws upon insights from economic theory and hypothesises that such intervention is likely to result in market regularisation and stability, but also higher costs on suppliers (landlords), creating upward pressures on rents. A theoretical exposition of the effects of the Covid-19 pandemic, on the other hand, forecasts a concurrent downward pressure on rents. Insights from administrative data illustrate these arguments in the first year of the new regulatory regime in Malta. The chapter provides practical suggestions for maximising the benefits of regulation while addressing any unnecessary rigidities and deadweight costs. An agenda for further economic research concludes.

**Key words:** rent; intervention; stability; cost; economics; unintended consequences

### 1. Introduction: The case for cautious intervention

While most economists agree that some regulation of any free market is, in principle, a necessary thing, they often do so for different reasons. Some focus on the need to reign in excessive market power, others on the need to reduce inefficiencies and frictions, others on the need to provide merit goods or address inequalities<sup>52</sup>. Many would agree that leaving the rental market entirely unregulated, in Malta or elsewhere, is unlikely to be the right strategy to reach the complex objectives of client/tenant satisfaction, entrepreneurial profits as well as economic stability, efficient use of resources, social justice and wellbeing.

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<sup>51</sup> Dr. Marie Briguglio, PhD is an economist. The views expressed here represent those of the author and should not be interpreted as representing those of the Housing Authority. Helpful comments by Kurt Xerri, Brian Micallef, Nathaniel Debono and Reuben Ellul are gratefully acknowledged. Any remaining errors are the author's own.

<sup>52</sup> See Barr, N. (2020), Economics of the welfare state. USA: Oxford University Press.

But economists also tend to also be very sensitive to the design of intervention and to the prospect that government intervention creates unintended and harmful consequences. Simply put, just as markets fail, so too do regulations - be it by omission or by untested, inefficient or overzealous commission. Economists are particularly wary of regulatory failure in rental markets – a subject which has received considerable attention in Europe and elsewhere. While regulation can take the shape of eviction control, quality control and price control, it is the latter which generally garners most concern<sup>53</sup>.

We need not go too far to see evidence of negative consequences of such regulation in Malta's rental market itself. There is now a general consensus that the rent regimes that preceded the 1995 reform, well-intentioned as they may have been to protect tenants, resulted in considerable decay of rights among property owners and a consequent contraction of the rental market itself.<sup>54</sup> By Malta Census data, the rental sector shrunk from over three-quarters of the housing market in 1948 to less than a quarter in 2011. The negative effects of this were not limited to loss of income for landlords, but spilled over onto prospective tenants, whose options became more limited. For those who could not afford to buy, prolonged habitation with parents or a long wait for social housing were the remaining prospects. Broader economic effects could also be felt: property owners preferred to relinquish rents rather than risk losing their property rights and housing vacancy rates rose. Reversing these laws will now cost tax payers millions of euro as government juggles the need to respect property owners' rights with those endowed to tenants by the old rental laws. That experience provided regulators in Malta with fair warning to exercise caution in regulating the rental market. By 2020, the rental market in Malta had been almost completely deregulated<sup>55</sup>.

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<sup>53</sup> In a 2009 review of the economic literature, Blair Jenkins argues the economics profession has reached a rare consensus: that rent controls creates many more problems than it solves, in Jenkins, B. (2009), 'Rent Control: Do Economists Agree?', *Econ Journal Watch*, 6(1).

<sup>54</sup> In a 2009 review of the economic literature, Blair Jenkins argues the economics profession has reached a rare consensus: that rent controls creates many more problems than it solves, in Jenkins, B. (2009), 'Rent Control: Do Economists Agree?', *Econ Journal Watch*, 6(1).

<sup>55</sup> See Xerri, K. (2018), *Renting immovables in twenty-first century Malta*. Malta: BDL Publishing.

## 2. The new Private Residential Leases Act: Context and content

The new Private Residential Leases Act was contemplated in this context of sparse regulation and abundant economic activity. Save for those still protected by the pre-1995 regulations, rents were rapidly rising, compensating for years of stagnation and propelled by a rapidly expanding demand for rental housing. This demand, in turn, was partly fueled by a policy of attracting foreign workers to Malta and partly by socio-demographic changes in the Maltese population itself.<sup>56</sup> Rising rents, in the context of fairly stable and low median salaries and low interest rates also attracted more investors into the rental housing market, including Maltese households who saw “buy-to-let” investment as a means of supplementing present income and future pensions.<sup>57</sup> The new supply, in turn, meant that rents were starting to stabilise finding a natural equilibrium.<sup>58</sup> In short, market forces seemed to be working.

Yet as the rent:salary ratio rose, affordability concerns had started to feature with increasing regularity on the Maltese policy agenda - including fears of harming Malta’s attractiveness to foreigners. Although little data was available about the rental market, it was generally understood that foreign workers, constituted the vast proportion of the rental market in Malta<sup>59</sup>. The number of Maltese people living in rental properties (which did not form part of the pre-1995 regime) constituted a very small fraction of the residential leases market and of the Maltese population in general. But they were likely to be a vulnerable fraction who were not served by social housing. To protect them from price-hikes, eviction and instability, urgent action needed to be taken. Since its inception as a White Paper, it was quite clear that this demographic was also an important target of the new Private Residential Leases Act.

To reach the goals of stability and professionalisation of the sector, the Act introduced controls

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<sup>56</sup> See Micallef, B. and Debono, N. (2020), ‘The rental sector and the housing block in STREAM’, Central Bank of Malta Working Paper, WP03/2020.

<sup>57</sup> See Micallef, B. (2018), ‘Constructing an index to examine house price misalignment with fundamentals in Malta’, International Journal of Housing Markets and Analysis, 11(2), p315-334.

<sup>58</sup> See Ellul, R. (2020), ‘Long-term housing rentals in Malta: A look at advertised listings’, Central Bank of Malta Policy Note [online]. Available at: <https://www.centralbankmalta.org/policy-notes-2020> (Accessed 19 March 2021).

<sup>59</sup> As discussed elsewhere in this publication, the last census data available was for 2011, subsequent to which the demographic realities in Malta changed substantially

on various aspects of the lease. In a nutshell, it introduced basic regulation (the lease had to be made in writing and duly registered), non-trivial fines (on the lessor) and vested new enforcement rights in the Housing Authority (including the right to enter a property), including swifter procedures through an Adjudicating Panel (for damages up to €5,000). It also forbade certain clauses which previously restricted tenants' rights within the rented property and regulated the eviction process.

More controversially, it introduced a ceiling on the rates of increase of the rents (a kind of “second-generation” rent control) for long let contracts that last over the minimum duration of a year. It also stipulated the exact duration and criteria for short leases and the minimum duration of long leases - although tenants were given the flexibility to leave the contract at no penalty after the ‘di fermo’ period (6 months in the case of a 1-year contract). In this regard, the law also introduced a friction to discourage termination: fixed term leases would automatically renew unless landlords notified otherwise through registered letters.

### 3. Analysis of socio-economic impact

#### Impact of rent regulation - insights from economic theory

The impacts of this kind of regulation can be foretold with the help of economic theory. In the first place, mandatory registration of contracts (and penalties) naturally creates an incentive to register the lease, to abide by the conditions in the regulations, and to declare tax. Even among landlords with minimal preference to conform, the risk of penalty exerts weight in favour of compliance. Moreover, lower uncertainty and swift judicial proceedings benefit both the tenants and landlords, reducing transaction costs to both. Tenants have additional benefits – thanks to the act, they enjoy a wider range of rights, freedoms and a greater security and price-stability for the duration of the contract. As a bonus for the state, the process generates taxes and data. This, in turn, provides funds for intervention and the evidence needed to inform it.

As a direct effect various conditions imposed, lessors are also faced with higher net costs, which in turn, create a general upward pressure on rents. The most obvious increase in costs (to the tune of 15%), is the obligation to declare income if they previously did not. But this is not the only pressure. The cap on the rate of increase of rents also induces landlords to establish a high initial rent as a baseline. Pressures also arise from the uncertainty about the duration of the let itself

and hence the period over which to amortise agency fees and overheads. Similar considerations arise with the exclusion of clauses which give comfort to the investor. Such clauses may have acted as a substitute for higher rents and their removal leaves landlords with few options other than to try to raise the rent.

Aside from these direct pressures on rents, the regulation may also create indirect upward pressures in the longer term, if it suppresses supply of property for long lets. If property owners (or potential owners) perceive the laws as reducing return on investment, then they may divert their assets out of the residential market and into others - such as tourism or commercial (neither of which are regulated by the Act). They may also sell their property and re-invest their capital. Some may simply wait and retain the asset vacant for longer periods - a reaction akin to that which characterised the response to the previous rent regime. The extent of diversion (and the resulting upward pressure on rents) responds not just on the conditions of the residential rental market but also on those present in alternative markets<sup>60</sup>.

The theoretical predictions outlined above may therefore be summarised as follows: the new regulations protect the tenant from unpredictable eviction and price-spikes, professionalise and stabilise the market, but they may also induce landlords to pass costs onto the next tenants and potentially withdraw supply. These predictions are certainly not unique to Malta. Krugman argues that rent control typically inhibits supply and pushes up rents in uncontrolled units<sup>61</sup>. A 2019 Stanford study found that rent control benefited the covered tenants but reduced rental housing supply and caused widespread rent increases overall<sup>62</sup>. A Forbes review of the literature reiterates that the positive goals of rent regulation, including security for tenants and enhanced economic and social diversity in urban settings, need to be weighed against the negative consequences, namely those of lower supply and higher rents overall<sup>63</sup>.

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<sup>60</sup> See Whitehead, C., Monk, S., Scanlon, K., Markkanen, S., & Tang, C., (2012) 'The private rented sector in the new century - a comparative approach' [online]. Available at: <https://www.lse.ac.uk/business-and-consultancy/consulting/assets/documents/The-private-rented-sector-in-the-new-century.pdf> (Accessed 19 March 2021)

<sup>61</sup> See Krugman, P. (2000) 'Reckonings: A Rent affair' New York Times, 7 June, [online]. Available at: <https://www.nytimes.com/2000/06/07/opinion/reckonings-a-rent-affair.html> (Accessed 19 March 2021).

<sup>62</sup> See Diamond, R., McQuade, T. and Qian, F. (2019), 'The effects of rent control expansion on tenants, landlords, and inequality: Evidence from San Francisco', *American Economic Review*, 109(9), p3365-3394.

<sup>63</sup> Miller, N. (2018), 'Rent Control: What It Means For The Real Estate Marketplace', Forbes Real Estate Council [online]. Available at: <https://www.forbes.com/sites/forbesrealestatercouncil/2018/05/31/rent-control-what-it-means-for-the-real-estate->

That rents should rise to reflect the costs necessary to professionalise the sector, ensure decency in service and the payment of taxes is not where the contestation lies. That rents may need to rise further to guarantee meritorious stability can also be justified. The problems arise in imposing so called “deadweight” costs and rigidities which cause unnecessary upward pressures on rents and discourage supply. It is for this reason that, over the past three decades, residential rent regulation has been eased across much of Europe and rendered more flexible juggling the dual goals of stability and responsiveness to market pressures.<sup>64</sup>

### The impact of concurrent phenomena

Beyond the effects of regulation, necessary or deadweight, direct or indirect, rents, in Malta and elsewhere, are subject to the other forces of demand and supply. For this reason, the observed outcome, regardless of the costs triggered by regulation may still be stable or indeed declining rents. For instance, rents respond to the supply of rental stock on the market: the greater the supply the lower the rents. Supply, in turn, responds to market conditions, even if with some time-lag. As mentioned earlier, buoyant rents had attracted the building of more stock and this, itself, was starting to suppress rents.

Rents also respond to demographics and social preferences. They respond to the cost of purchasing a dwelling, to the costs of related goods, like utility billing, and several other phenomena. The events that unfolded around Covid-19, which struck the market at around the same time as the introduction of the new regulation in Malta are likely to have created a considerable downward pressure on rents for a number of reasons. Firstly, as incomes declined and job losses occurred, a number of foreign workers were left with little option but to leave. Maltese people in long-lets who experienced income losses may also have switched to lower cost options like flat-sharing or returning to their parental home. As tourism declined, it is likely that property owners switched their offer from tourism to residential. This new supply, added to the rising building stock is also likely to have caused a downward pressure on residential rents.<sup>65</sup>

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marketplace/#1bab55147670 (Accessed 19 March 2021).

<sup>64</sup> Ibid.

<sup>65</sup> Galea Debono, F. (2020), ‘Short lets have flooded the rental market, pushing prices down’, Times of Malta, 18 May, [online].

## Insights from Administrative data

The administrative data that emerges from the first year of data in Malta does not, at face value, contradict these expectations. Firstly, it is clear that mandatory registration did, in fact, create the incentive to register leases (in more than 30,000 instances). Both the risk of penalty as well as landlord/tenant preferences to participate in a regulated market are likely to have accounted for this. While it is not yet possible to accurately quantify this as a percentage of all leases that should have been registered, the Housing Authority considers it to be a substantial turnout for the first year and one that exceeded their predictions. However, a closer inspection of these registered leases reveals that over four-fifths (83%) were signed with foreign tenants - arguably a reflection of the short duration-high turnover of leases among foreigners, and the strong incentive to do so among tenants needing residence documents<sup>66</sup>. The remaining number of registrations attributable to Maltese tenants is low relative to the estimated number of active rentals<sup>67</sup>. In turn, this is, in a large part, due to such rentals being covered by a different regulatory regime. The remaining shortfall may arguably be due to active resistance to regularize one's rental status or perhaps to a more passive failure to understand that this law applies to old contracts too.

Secondly, while it is not yet possible to identify the net effect of the regulation on costs, it appears from Housing Authority data that the first quarter of 2020 registered a significant increase in rents, each month<sup>68</sup>. Prior to the introduction of the Act, rents were reported as having started to stabilise in response to new stock becoming available. Juxtaposed against this backdrop, the increase in rents during January, February and March may be an indication that rents in Malta behaved in line with theoretical predictions.

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Available at: <https://timesofmalta.com/articles/view/short-lets-flood-market-pushing-rent-prices-down.792791> (Accessed 19 March 2021).

<sup>66</sup> The enforcement of the Residential Leases Act was bolstered by a parallel requirement whereby those needing residence documents would need to provide evidence of an address mentioned in a registered rental contract.

<sup>67</sup> In 2018, the NSO estimated that 30,690 households were paying rent in Malta. However this figure is unlikely to capture the reality of foreigners residing in Malta. The forthcoming census is expected to provide a clearer picture. See National Statistics Office, 2019 'News Release 04 Sept 2019'. Available at [https://nso.gov.mt/en/News\\_Releases/View\\_by\\_Unit/Unit\\_C1/Living\\_Conditions\\_and\\_Culture\\_Statistics/Documents/2019/News2019\\_143.pdf](https://nso.gov.mt/en/News_Releases/View_by_Unit/Unit_C1/Living_Conditions_and_Culture_Statistics/Documents/2019/News2019_143.pdf) (Accessed 19 March 2021).

<sup>68</sup> This emerges from the analysis of rents in the Hedonic Model presented elsewhere in this publication. Controlling for the effects of type of lease, the monthly effects in the first three months are positive and significant

Thirdly, there are indications that Covid-19 pressures were strong enough to not only dampen any upward pressures on rents by the new Act, but to cancel them out entirely, and indeed, reverse them. This is evidenced both in the survey data collected by the Housing Authority as well as in the analysis of month-on-month changes in rents documented in the register. The latter indicates that the dip started to occur in April 2020 - within a month of the Covid-19 outbreak in Malta. In the regard, it is unlikely that the effects of the pandemic will be ironed out in the short term. While this is good news for tenants, property owners will have experienced two pressures: increasing costs and declining demand.

Fourthly, there are also indications that certain restrictions may have imposed a deadweight cost - which can now be addressed. Mandating maximum/minimum durations for instance, may have created an inefficiency which prevented both parties from reaching agreement on their mutually preferred choice. The asymmetric application of termination clauses may also have created unnecessary uncertainty. The data indicates that a considerable portion of rents were terminated by tenants before the 1-year period, suggesting also that there may indeed be a demand for long-term contracts that last anywhere between 6 months and 1 year. The cap on the rate of increase of rents may also have discouraged landlords from committing to terms longer than the minimum one year - for it is only through fresh contracts that a higher rent can be earned. Here again, the data indicates that long-let contracts over-whelmingly settled for the minimum 1-year duration.

On a more administrative level, the automatic renewal of contracts beyond their term also necessitated that thousands of registered letters be sent and processed in the first year alone - only to re-affirm a legal termination date already agreed to by both parties. Administrative data further suggests that in cases where such letters failed to be sent and the contract was left to automatically renew, considerable uncertainty followed among both tenants and landlords. Insights from Housing Authority administrative data further suggest that difficulties with the mandatory inventory were among the most common cause of a stalled registration process. The short period within which a contract must be registered (10 days) was another unnecessary burden and one which can easily be relieved.



## 4. Conclusion and agenda for further research

### Synthesis

Against the backdrop of this analysis, one may conclude that, from a socio-economic perspective, the basic regulation of the residential rental market was a very necessary step – especially the need to register the lease and the introduction of enforcement elements. The Act moved the market – indeed over 30,000 contracts in the first year alone – out of the wilderness and into the space where social costs and benefits beyond private profit are considered, where earnings can be taxed and, after all, where data evidence can be collated for understanding the market and improving its regulation. Both theoretical and early empirical insights suggest that the introduction of the regulation created upward pressures on rents but that these were off-set by the downward pressures created by Covid-19 effects. With a year of experience in the bag, it is now a matter of adjusting the regulation, of reducing the costs of any possible overstep to maximise the net benefits to property owners, tenants and society.

### Recommendations for policy

On the basis of the discussion above, it is now possible to outline some recommendations to assist the policy maker with a view to ensuring that all eligible residential rental contracts are duly registered, and that the sector is rendered as professional and stable as possible, without generating unnecessary burdens.

In this regard, it is reasonable to expect that the incentive to register contracts will increase both with increasing awareness of the benefits of registration and with the reduction of unnecessary costs of registration. The communication drive coupled with the requirement of a registered contract from identity papers provided a strong incentive to foreign residents to demand registration. Similar incentives may operate for reticent Maltese tenants and landlords if the registration is integrated with other governmental services/benefits. It may also be the case that future communication efforts may need to specifically target Maltese households in long-term contracts.

Addressing deadweight costs and unnecessary rigidities will not only stimulate more registrations but also enhance the efficiency of the market. One such rigidity is the mandated 5% cap on the

rate of increase which, as discussed, may be suppressing longer term contracts. A minor tweak would see this requirement replaced by a requirement for the landlord and tenant to stipulate an agreed percentage within the contract (without mandating what that percentage is in the law). Another recommendation is to do away with the auto-renewal of contracts and relieve both the Authority and landlords of unnecessary administrative costs. In such a case, certainty of tenure would continue to be provided by the duration of the contract itself. An automated reminder of the date of termination of the contract could provide the intended benefits (of avoiding careless eviction) without the burden of auto-renewal by default. The mandatory inventory process can also be softened to a recommendation to landlords and tenants that recording objects of material value will be useful to both parties in case of dispute.

### Agenda for further work

Beyond the tweaking of the Act, it is also possible to flag further areas ripe for assessment and intervention. One question is the issue of affordability in the Maltese context complete with an assessment of the other side of the affordability coin: incomes<sup>69</sup>. Based on current data available from the Housing Authority, the average Maltese family could theoretically afford the vast majority of the leases registered with the Housing Authority in 2020. But a single person earning a minimum wage can only afford a shared space – an unsavoury prospect for many<sup>70</sup>. The need for the state to address the lack of provision for the low affordability market segment therefore remains a key priority. Subsidising rents and building social housing stock is one way to go, but encouraging the market to supply this offer would cost the state less and arguably be more sustainable in the long run. This is the challenge in Malta as it is in several countries in Europe. The design of social-housing schemes that manage private sector stock merits further focus. It is also plausible to consider facilitating conversions, to enable flat-sharing through suitable and transparent utility metering, to tweak planning regulations to allow smaller but sanitary, well-ventilated units, in a manner that ensures dignity.

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<sup>69</sup> Camilleri, D. (2011), 'A long-term analysis of housing affordability in Malta', *International Journal of Housing Markets and Analysis*, 4(1), p31-57.

<sup>70</sup> Based on the median household income of just over €2,600 per month and minimum salary of less than €800 per month, and estimating affordable rent as 30% of income, then the median household can afford a rent of around €780 monthly while a single person on minimum wage can afford a rent of less than €240 monthly.

Similarly, there is scope for further study on the role of tax rebates in moving the market to specific directions. If it is long term contracts that government wishes to incentivise, then for a period of time, these rebates can be aimed at incentivising renewals or contracts longer than a given time-frame; if it is quality that the government wishes to incentive, then rebates can be set as reimbursement of maintenance costs; if it is provision of low-cost rentals that is needed, then rebates can be used to incentivise conversions. Relatedly, one may also consider how best to design tax rebates and the registration process itself to limit tax evasion. The average values of registered rents are substantially lower than those observed in other studies based on advertised rates. While this is partly due to the fact that settled prices are likely to be lower than advertised with negotiation, the figures may also be capturing a degree of under-declaration which (if undetected) could suit both the tenant and the landlord.

As more data emerges, it will be possible to conduct impact assessments of the regulation on mainstream economic parameters within and beyond the housing market, such as impacts on GDP and growth, on equity, poverty relief and social cohesion, as well as on wellbeing more broadly. The Housing Authority, to date responsive to research, and keen to base policy on evidence, does well to launch further enquiry to fine-tune the Act and to remain vigilant to its direct and indirect impacts. The trick is to continue to balance market and regulatory imperfections and strengths.

# CHAPTER 6

## LEASES GRANTED LEGISLATIVE PROTECTION IN MALTA: PAST DEVELOPMENTS AND FUTURE IMPLICATIONS

Jean Paul Fiott<sup>1</sup>

### Abstract

During the last few years Maltese constitutional courts and the European Court of Human Rights repeatedly judged that the protection granted to tenants of leases which began before June 1995 are in breach of the owners' right to enjoy their property. The owners could follow up the constitutional court case with proceedings in front of the Rent Regulation Board to evict the tenants. In 2021 the Government of Malta enacted legislation which will allow the owners to request the Rent Regulation Board (a section of the Court of Laws) to increase rent to 2% of the fair market value of the property. This study aimed to provide an historical background to these developments and to quantify the number of leases eventually impacted by these developments. This was done by extracting the number of leases with a below market price rent from the 2011 Census and calculating the likelihood that the lease would be extinguished in subsequent years. It was estimated that around 3.8% of the population reside in around 10,545 dwellings covered by a protected lease. These findings are broadly in line with the subsequent NSO analysis of actual cases. This study also found that the average age of the tenants is 70 and almost all leases are expected to be extinguished within the next 25 years. Discontinuation of the rights of tenants' children to inherit the lease may also have implications on the demand for housing services offered by the Government. These are also discussed.

**Keywords:** rent control regime, rent reform, protected leases, pre-95

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1. Jean Paul Fiott is a data analyst in the Office of the CEO of the Housing Authority. Helpful comments by the other members of the Observatory and especially Marie Briguglio and Kurt Xerri are gratefully acknowledged. The views expressed in this article represent those of the author and should not be interpreted to represent those of the Housing Authority or the Government. Any remaining errors are the author's own.

# 1. Background

## Protection of tenants and restrictions

Legislation which regulates how properties in Malta may be used and how rents may be set has been in place for several centuries in some form or another. In 1473 the local administration decided that houses must be inhabited by their owners or leased. In 1480 increases in rent for houses in Mdina was prohibited. During the reign of the Knights of St John (1530-1798) a Rent Tribunal was setup to set the fair rent of houses, shops and stores<sup>71</sup>. The first legislation in the modern era was the Urban Rent Regulation Act of 1929, which was replaced by the Urban Regulation Ordinance of 1931 (Chapter 69 of the Code of Laws).<sup>72</sup> This legislation fixed the maximum rent at 40% above the fair rent in 1914<sup>73</sup>. Subsequently, The Developed Land Valuation Ordinance of 1941 (Chapter 110 of the Code of Laws) allowed rent of furnished properties to be increased to 3.5% of the market value of 1939. The Rent Restriction (Dwelling Houses) Ordinance of 1944 (Chapter 116 of the Code of Laws) provided for increases in rent to recover the costs incurred in repairing the property due to war damage and set rents for new houses as 3% of the value of land plus 3.25% of the cost incurred to build it<sup>74</sup>. Aerial bombing during World War 2 caused extensive damage, especially around the Harbour region, where most of the population used to live. This led to a severe shortage of houses fit for habitation in the post-war period. The Housing Act of 1949 (Chapter 125 of the Code of Laws) allowed the Government to requisition (take over) vacant privately owned dwellings and lease them to persons in need of accommodation<sup>75</sup>.

Against this background of restrictive legislation, the private sector was discouraged from increasing the stock of housing available for rent. In view of this, the Housing (Decontrol) Ordinance (Chapter 158 of the Code of Laws) was passed in 1959 to entice the private sector to increase supply. This legislation allowed owners who leased a property after that date to set rent according to market rates. It also allowed them not to renew the lease upon expiry and exempted them from having their property requisitioned as provided in the Housing Act of 1949<sup>76</sup>.

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<sup>71</sup> Vakili-Zad C., Housing Policy in Malta (2007)

<sup>72</sup> Vakili-Zad C., Housing Policy in Malta (2007)

<sup>73</sup> <https://legislation.mt/eli/cap/69/eng/pdf>

<sup>74</sup> <https://legislation.mt/eli/cap/116/eng/pdf>

<sup>75</sup> <https://legislation.mt/eli/cap/125/eng/pdf>

<sup>76</sup> Gatt N., The Constitutional implications Of Act XXIII of 1979, pages 19 and 20

But a reversal back to tenant protection occurred in 1967 when more restrictive legislation was enacted for leases of rural properties and land (Chapter 199 of the Code of Laws). Act XXIII of 1979 also amended the Housing (Decontrol) Ordinance and obliged owners to continue leasing their properties to the same tenants<sup>77</sup>. An inflation index was introduced to determine increases in rent from then onwards. The Act also gave the next-of-kin the right to inherit the lease upon the tenant's death<sup>78</sup>. Maltese legislation also allowed for a form of temporary ownership of a property, through a concession of temporary emphyteusis. The use of this form of ownership was becoming increasingly common to bypass the legislation which controlled rents. In the late 1970's many concessions were about to expire and would have had to be returned to their owners. But the amendments of Act XXIII of 1979 also allowed the concessionaires to convert the emphyteusis into a lease upon its expiry<sup>79</sup>.

### Protection of Human rights and liberalisation

Subsequently, the European Convention Act (Chapter 319 of the Code of Laws) was passed in August 1987 to make the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECPHRFF) part of the Laws of Malta. Of particular relevance is the article of the first protocol which states *"Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law."*<sup>80</sup> Maltese courts were to adhere to the principles of this Convention and injured parties could appeal in front of the European Court of Human Rights (ECtHR), whose decisions became legally binding through this Act. Article 7 of Chapter 319 however limits the applicability of Article 1 of Protocol 1 to actions taken after 30th April 1987. Cases were soon filed to request the court to deem the protection granted to the tenants by the existing rent laws illegal on the basis of Article 1 of Protocol 1 of ECPHRFF (A1-P1-ECPHRFF). These requests were dismissed on the basis that the protection was granted prior to the date when the law became applicable. The verdict was also confirmed in January 1991<sup>81</sup> by ECtHR on the basis that the protection granted was within

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<sup>77</sup> Gatt N., The Constitutional implications Of Act XXIII of 1979, pages 19 and 20

<sup>78</sup> <https://legislation.mt/eli/cap/158/eng/pdf>

<sup>79</sup> Gatt N., The Constitutional implications Of Act XXIII of 1979, page 25

<sup>80</sup> [https://www.echr.coe.int/documents/convention\\_eng.pdf](https://www.echr.coe.int/documents/convention_eng.pdf)

<sup>81</sup> Application 16756/90, Connie Zammit et vs Malta

the margin of appreciation that the State enjoyed in its administration of public interest.

In 1995, the rental market was liberalized through Act XXXI of 1995 which abolished all the aforementioned legislation, except for leases contracted before the law came into effect.

A landmark judgement by the ECtHR occurred in June 2006 in which the court moved to a more liberal interpretation of A1-P1-ECPHRFF. Whilst the principle that the State should enjoy wide discretion in the administration of the housing market was confirmed, the court decided that a rent scheme that restricted the landlord's return to around 33% to 50% of the freely contracted rents was not legitimate. More specifically, the impossibility of receiving a return that was at least "reasonably commensurate" with the general costs of maintenance was found to "impair the very essence of owners' right of property"<sup>82, 83</sup>. Subsequently, the ECtHR's jurisprudential position on the interpretation of A1-P1-ECPHRFF changed and in judgements beginning in December 2006 the ECtHR regularly found the Maltese legislation to be incompatible with the principles of A1-P1-ECPHRFF.<sup>84</sup>

Act X of 2009 was enacted following these developments. Article 1531 of the Civil Code was amended and the inheritance of leases contracted before June 1995 was limited to those who (a) satisfied a means testing criterion, (b) had lived in the property in four out of the five years preceding the Act and (c) continued to do so until the tenant's demise. It also increased the minimum rent to €185 / year and stipulated that the lease could only be inherited once. These amendments were challenged in the ECtHR and were found to be incompatible with ECPHRFF too, beginning in December 2014 and in several subsequent similar cases<sup>85</sup>.

In January 2014 another key development occurred: Maltese Constitutional Court found that legislation which allowed for temporary emphyteusis to be converted to a lease (Chapter 158, Article 12(2)a) was in breach of A1-P1-ECPHRFF.<sup>86</sup> This development was particularly significant

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<sup>82</sup> Application 35014/97, *Hutten-Czapska v. Poland*

<sup>83</sup> Xerri K., *Maltese law of letting and hiring: Lessons from the past and solutions for the future* (2017), page 6

<sup>84</sup> Application 31122/05, *Ghigo v Malta*

<sup>85</sup> Application 3851/12, *Anthony Aquilina v Malta*

<sup>86</sup> Rik 34/2010/1, *Cedric Mifsud vs Avukat Generali*

as it provided quicker remedy to the injured parties and eventually led to the 2018 amendments of Chapter 158, which are in fact applicable for these specific cases only. Through these amendments, owners may request a specific section of the Court of Laws, the Rent Regulation Board (RRB) to order the eviction of the tenants within five years if their income exceeds set thresholds, and, if not, to increase rent to 2% of the market value of the property. The right to inherit the tenancy upon the death was also limited to the tenant's widow or widower, however, the Civil Code provisions regulating the legal continuation of the tenancy following the death of the tenant in other cases contemplated by Article 1531F remained unaltered, therefore creating ambiguity about this aspect of the law.

In October 2019, the first claim that the 2018 amendments are in breach of A1-P1-ECPHRFF was refused by Maltese Constitutional Court.<sup>87</sup> In March 2021, the ECtHR objected to some aspects of the 2018 amendments but refrained from evaluating the main mechanism<sup>88</sup>. Shortly after, in yet another landmark judgement in May 2019<sup>89</sup> the Maltese Constitutional Court found the main legislation which granted protection to tenants (Chapter 69) to be in breach of Article 1 of ECPHRFF. This was followed by a steady stream of similar judgments.

## Resolving the fallout

These developments resulted in a series of concerns for the Government of Malta, chiefly related to the fate of tenants who faced higher rents or eviction. In March 2021, the Government of Malta proposed draft legislative amendments. These replicated the mechanism enacted in 2018 for all protected leases of residential dwellings in urban areas with some minor differences. The civil code articles which allow the tenants' children to inherit the lease have been abolished and tenants' children are expected to vacate the property within 5 years. Some minor aspects which were criticized by the ECtHR in March 2021 were addressed too. Furthermore, the means-testing criteria was made more restrictive as the thresholds for income and assets were lowered for most age brackets. The Housing Authority was made responsible to provide legal assistance to tenants throughout their court cases. At the time of writing this article, the law had just been approved by Parliament with a view to coming into effect on 1st June 2021.

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<sup>87</sup> Rik 113/2018, Gerald & Rayline Camilleri vs Avukat Generali & Alphonse & Maria Assunta Camilleri

<sup>88</sup> Application 14013/19, Cauchi v Malta

<sup>89</sup> Rik 89/2018, Anthony & Simone Debono vs Avukat Generali & Stefan and Michelle Mifsud



In parallel the Government also announced that the Housing Authority shall subsidize the entire increase in rent for pensioners and the difference between the new rent and 25% of income of persons of working age – a subsidy which shall be capped at €10,000 per annum. Tenants in properties with a higher value who cannot afford to pay the difference would be offered alternative accommodation. Table 1<sup>90</sup> refers.

**Table 1: Protected Tenancy and Rent Eligibility Subsidy<sup>90</sup>**

Age	Means Testing Criteria – Income*	Means Testing Criteria – Assets*	Rent Subsidy Eligibility**
<35	< €28,500	< €60,000	Difference between 25% of income and new rent***
36-45	< €38,000	< €90,000	Difference between 25% of income and new rent***
46-55	< €42,000	< €185,000	Difference between 25% of income and new rent***
56-63	< €44,500	< €213,000	Difference between 25% of income and new rent***
63-65	< €44,500	< €213,000	Entire difference between current and new rent
66-75	< €46,500	< €245,000	Entire difference between current and new rent
76+	< €50,000	< €600,000	Entire difference between current and new rent

Notes:

\*The RRB may, at its discretion, apply different criterion for disabled persons. Tenants who fail means testing criteria are expected to vacate the property within 2 years and are not eligible for rent subsidy.

\*\*Capped at €10,000 per year. In cases of high value properties whose revised rent exceeds the subsidy offered the tenant may either fork out the difference or request alternative accommodation in a property provided by the Housing Authority.

\*\*\*Tenants who stopped working before retirement age may be eligible for the entire difference between the current rent and the new rent.

### Synthesis and research question

In synthesis, the history of residential leases in Malta has undulated from protection to liberalization, back to protection and back to liberalization. Over time, the share of protected leases has gradually declined. While legislation covered 74.8% of all inhabited households in 1948, by 1995

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<sup>90</sup> The criterion to be used by the Housing Authority to determine whether a tenant may benefit from rent subsidy shall be identical to those in the legislation which the courts shall use to determine whether a tenant may continue benefitting from a protected lease. Therefore, all tenants eligible to remain in a protected lease will also enjoy rent subsidy.

this had declined to 19.9%. Post-1995 figures of rented properties from the private sector are a mix of leases including those contracted before June 1995 (which are therefore still protected) and other. Scant literature was found which quantifies the number of protected leases after 1995.

## 2. Estimation of active leases as at 2021

The broad strokes of the method applied involved 1. an estimation of which of these leases were protected at 2011 together with their profiles, 2. An estimation of which of these protected leases remained active as at 2021 and 3. A forecast of the future duration that such active and protected leases.

The analysis starts from an assessment of leased properties based on the Census of Malta (Table 2). This provides information about the number of leased properties, the rent paid, whether they are leased by the Government, by the Church or privately, and information about the property.

*Notes: Sources:*

**Table 2: Leased Properties in Malta over time**

Year	Total	Rented (total)	Rented from Government / Church	Rented from the Private Sector
1948	69,965	76.9%	2.1%	74.8%
1957	70,950	73.9%	4.2%	69.7%
1967	74,069	68%	4.5%	63.5%
1985	101,509	43%	9.4%	33.6%
1995	119,479	28.3%	8.4%	19.9%
2005	139,178	20.7%	6.1%	14.6%
2011	152,770	19.9%	5.5%	14.4%

Total rented for 1948, 1957, 1967 taken from Malta: A Plea for Bi-partisan Consensus, paper presented to the Housing Affordability Conference, Malta, Camilleri, D. H. 1999.<sup>91</sup> Totals for 1985 onwards taken from the reports on the National Census for the respective years.<sup>92</sup> Data for properties rented from Government / Church are the author's estimates based on internal data available at the Housing Authority.

Zooming in on the 2011 Census (Table 3), reveals further provides information about the number

<sup>91</sup> Malta: A Plea for Bi-partisan Consensus, paper presented to the Housing Affordability Conference, Malta, Camilleri, D. H.

<sup>92</sup> Final reports of the 1985, 1995 and 2011 Census of Malta

of leased properties, the rent paid, whether they are leased by the Government, by the Church or privately, and information about the property. In particular, Rented furnished (FR) are leases in which the owner provides the furniture at the commencement of the lease. These properties are usually – but by no means always – leased for relatively short periods. Rented unfurnished (UR) are leases in which the owner does not provide the furniture at the commencement on the expectation that the tenants will equip the property with their furniture as it is envisaged that the lease would last a long while. Most protected leases fall within this category. Temporary emphyteusis (TE) is a contract for the temporary ownership of a property. The concessionaires of emphyteusis contracted before June 1995 are entitled to convert the emphyteusis to a protected lease so these properties were included in this study too.

**Table 3: Identifying PL: private leases**

	Rented unfurnished	Rented furnished	Held by emphyteusis
Church	272	0	77
Government	7,518	214	391
Private	14,561	7,780	970

*Note: Grey shade indicates potential PL*

*Note: Source: Census 2011.*

*Note: Grey shade indicates potential PL / Note: Source: Census 2011.*

Of the total leased properties in 2011, properties owned by the Government and those covered by the Church-State Agreement were removed from the analysis as either of these types of property would be impacted by the developments<sup>93</sup>. As a robustness check, Census data about the number of properties leased by Government and the amount or rent paid was compared with HA administrative data. The two data sets matched. Of the leases in Table 3 the leases considered as potentially PL were the ones shaded in grey, totalling 23,311.

<sup>93</sup> Church State Agreement [https://www.vatican.va/roman\\_curia/secretariat\\_state/archivio/documents/rc\\_seg-st\\_19930218\\_s-sede-rep-malta-beni\\_en.html](https://www.vatican.va/roman_curia/secretariat_state/archivio/documents/rc_seg-st_19930218_s-sede-rep-malta-beni_en.html)

**Table 4 : Identifying PL: privately leases with low rental value**

	Total	Government owned	Privately Owned
UR €0-500	18,255	7,154	11,101
UR €500-€1,500	2,191	610	1,581
UR €1,500-€5,000	1,521	26	1,879
UR €5,000+	384	0	384
FR €0-€2,000	1,518	214	1,304
FR €2,000+	6,476	0	6,476
TE €0-€500	1,337	456	881
TE €500+	101	12	89
NET			14,956

*Note: Grey shade indicates potential PL (Please correct) / Source: Census 2011.*

These leases were subsequently assessed in greater detail (Table 4). Here the leases considered as potentially PL were the ones shaded in grey, totalling 14,956

As a second stage, an attempt was made to use Census data about the lease contract commencement date - as reported by the tenants. This was important so as to remove from the equation those leases which occurred post-1995.

**Table 5: Identifying PL: low rental value private leases, starting pre-1996**

	Before 1996	After 1995	No fixed contract
UR €0-500	18,255	2,905	2,445
UR €500-€1,500	1,059	1,447	236
UR €1,500-€5,000	151	1,149	221
UR €5,000+	17	347	20
FR €0-€2,000	574	626	318
FR €2,000+	147	5,382	947
TE €0-€500	921	318	98
TE €500+	52	48	1
Net	14561	7780	871

*Note: Grey shade indicates potential PL (please correct) so the totals match / Source: Census 2011.*

While the above seems straight forward enough, a robustness test was deemed necessary to identify which leases were indeed post-1995. Administrative HA data showed that around 1,600 properties were leased by the Government between 1995 and 2011 - around 80% of which (1,280) had a lease of less than €500. By deduction, the remaining leases in the €0-500 bracket signed after 1995 (a total of 2,905 less 1,280) must also have been privately owned leases for less than

€500 annually. However an incongruency arises as the average rent advertised by estate agents for a 1-bedroomed property in 2011 was €5,400<sup>94</sup>. In the light of this, one may safely assume that no privately owned property would have been leased for less than €500 in 2011. Further investigation revealed that the discrepancy may have occurred due to the way inherited leases are reported. Some tenants may have reported the date in which they inherited the lease as the commencement date (ergo post 1995) rather than the date when their parents contracted the lease. Since such inherited leases are protected leases too, the reported lease commencement date was not considered a reliable indicator that the lease is a protected one. As a result the candidates from table 4 considered as potential PLs are the ones shaded in grey. In addition 99 TE reported as being without a fixed contract were excluded since a TE is by its very nature a fixed contract with a specified end date. These 99 leases are likely to be perpetual ground rents<sup>95</sup> incorrectly reported as TE.

As a further refinement, the rents paid in 2011 were compared with those paid in 1995 according to the Census held that year. Rent paid on protect leases is generally fixed or may only increase marginally as provided at law and low rents therefore offer a clear signal of being PL. The 1995 census reported only 923 properties with a rent higher than €1,515 whilst the 2011 census reported at least 8,739 such leases. Leases active in 2011 with rents lower than €1,500 for UR and €2,000 for FR were considered to be good candidates for PL. Thus 1,879 UR and 6,476 FR with a higher rent were excluded.

By way of completeness, it should be stated that protected leases with high rents do exist<sup>96</sup>. Indeed the 2011 census indicates there were 315 such leases as reported by the tenants, but this excludes leases without a fixed contract and those reported according to the date they were inherited. Due to the insufficiency of the data available it proved impossible to separate these leases from others with a similar rent but signed after 1995.

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<sup>94</sup> [https://ec.europa.eu/eurostat/documents/6939681/7243182/Booklet\\_2012\\_rents\\_2011+e.pdf](https://ec.europa.eu/eurostat/documents/6939681/7243182/Booklet_2012_rents_2011+e.pdf)

<sup>95</sup> A perpetual ground rent is an indefinite contract where the current owner of the property must pay a fixed amount of money to a past owner of the land where the property is located. The current owner is entitled to redeem (purchase) the ground rent. The past owner may not reclaim possession of the property.

<sup>96</sup> <https://timesofmalta.com/articles/view/owner-of-mdina-palazzo-wins-1-million-damages.859291>, Rent of PL was LM800 (€1,863)



**Table 6: Identifying PL: low rental value private leases, starting pre-1996, Adjustment 1**

	Rented unfurnished	Rented furnished	Held by emphyteusis
Candidate leases from Table 5	14,561	7,780	871
Less UR > €1,500 & FR > €2,000	1,879	6,476	
Net	12682	1304	871

*Note: Grey shade indicates potential PL / Source: 2011 Census*

As explained above, it is extremely unlikely that a property would have been leased for less than €500 per year in 2011. However those with rents in the €500 - €1,500 UR bracket and €0 - €2,000 FR bracket were thus far included.<sup>97</sup> Taking the total number of leases in these brackets as PL was not realistic given the possibility that such rents were actual market rents and given further the profiles of some of the tenants (chiefly their youth) which was indicative of post-1995 rental. Taking the age distribution of tenants in the €0-500 bracket as a guide, indicated that 24% of FR and 16% of UR in the €500-1,500 bracket percent were not PL. On the basis of this simplifying assumption 258 UR and 312 FR were excluded.

**Table 7: Identifying PL: low rental value private leases, starting pre-1996, adjustment 2**

	Rented unfurnished	Rented furnished	Held by emphyteusis	Total PL at 2011 Census
Leases from Table 6	12,682	1,304	871	
Less age profile adjustment	258	312		
NET	12,424	992	871	14,287

*Note: Grey shade indicates potential PL / Source:*

With these calculations therefore, the number of Protected Leases at 20th November 2011 (Census date) was estimated to be 14,287. However, this does not necessarily reflect the number of leases still active 10 years later. Thus, calculations were made about the number of remaining leases in subsequent years. The reasons for which a protected lease could be extinguished were identified and an attempt was made to estimate the number of leases extinguished due to each cause. These reasons are here grouped into three categories: i. the death of all tenants, ii. tenants

<sup>97</sup> The rental categories in the census prohibited a cut off point that is more granular to reflect actual market rents.

leaving the property out of their own volition and iii. factors due to specific developments since the 2011 Census

#### i. Leases extinguished due to the death of all persons eligible for a PL

In order to establish how many leases were extinguished due to the death of all tenants, the likelihood that all residents in a property would have died between 2011 and 2021 needed to be worked out. To do so, the author first referred to government owned properties under protected leases where the amount of rent paid, locality, property type and age of main tenant was available (Housing Authority Data). On this basis, the age profile of PL as at 2011 was assembled for the relevant rent brackets. With this metric in hand, the author then assessed how many private leases were of the same profile. The Census groups tenants in 10-year age brackets according to the age of the reference person, usually the eldest tenant, however a specific age and gender was required for each tenant in order to calculate the likelihood that the tenant would die in each subsequent year. Furthermore, each family member living with the main tenant had to be assigned a specific age and gender too. The specific age of the tenant within the age group indicated in the Census was derived according to calculations by the author based on the weight of each age group. The age and gender of the other family members were worked out using information in the Census about family compositions.

#### ii. Leases extinguished for other reasons

Despite the fact that a PL offers significant advantages, some PL were known to have been extinguished by the tenants themselves for various reasons, for instance: elderly tenants who went to live with their children or in a home for the elderly, being allocated a social housing dwelling or purchasing a property, sometimes the residence with the PL itself, directly from the owner. An attempt was made to estimate the rate at which PL are extinguished for such reasons by analysing the data of the 2005 Census. The number of PL in 2005 was estimated from the 2005 Census through a similar exercise to that done for the 2011 Census but with fewer simplifying assumptions. Leases up to LM550 (€1,281) were taken into consideration to obtain equivalent brackets. A lease of €1,281 in 2005 would have increased to €1,480 by 2011 as provided in the Schedule of Article 13(1) of Chapter 158 of the Code of Laws.<sup>98</sup> The number of Government owned leased properties in 2005 was worked out from HA administrative data.

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<sup>98</sup> <https://legislation.mt/eli/cap/158/eng/pdf>



The number of PL extinguished due to the death of all occupants between 2005 and 2011 was calculated at the same trend observed for the years post 2011 in the calculations of item (i) above. The trend was obtained by applying the additive error, additive trend and additive seasonality (AAA) version of the Exponential Triple Smoothing (ETS) algorithm in reverse.

The difference between the totals of the two methods was considered as the number of properties which became vacant for reasons other than the death of all occupants between 2005 and 2011. Essentially this was estimated at 1% per year.

### iii Leases extinguished for specific developments since the 2011 Census

Anecdotal evidence reveals that an increasing number of PLs were extinguished in the last years due to various other reasons such as:

i. Some PL were abolished as the occupants became ineligible to continue the PL due to the 2009 legislative amendments (Articles 1531C, F and G of the Civil Code). These deductions would not have been captured in the 2011 Census which was held just one year after the said legislative amendments,

ii. Some tenants who became increasingly worried of the recent legal developments agreed to convert the PL to a non-protected lease, sometimes after undue pressure and coercion by the owners. These tenants shall be eligible to reconvert their lease to a PL through the 2021 legislative amendments, however some PL have since been extinguished for good,

iii. Some owners who desired to redevelop their properties have accommodated the tenants elsewhere at the same rent to be able to do so. The new lease, whilst still at a nominal rent, is not considered a PL.

iv. Tenants are becoming increasingly older and so more likely to have become unable to live on their own. The share of tenants who would have gone to live in a home for the elderly or with their children is therefore likely to have increased during the last 10 years.

While these developments were not quantified a 10% deduction was applied to the number of PL as at 2020 based on the author's assessment of the likely impact.

**Table 8 : Identifying PL – reductions due to death, vacating and other developments<sup>99</sup>**

	Rented unfurnished	Rented furnished	Held by emphyteusis	Total PL at 2011 Census
Leases from Table 7	12,424	992	871	14,287
Less deductions due to the death of all occupants (item i)	1,184	94	83	1,361
Less deductions due to tenants leaving the property (item ii)	1,051	84	74	1,209
Less deductions due to recent developments (item iii)	1,019	81	71	1,172
<b>NET</b>	<b>9,170</b>	<b>733</b>	<b>643</b>	<b>10,545</b>

Based on the above calculations, the total number of leases as at end 2020 is likely to be in the range of 10,545, accommodating 19,184 persons (3.8% of the population). These estimates closely matches those of a study by the National Statistics Office<sup>100</sup>. This found that the number of residences which had a low rent in 2011 and still occupied by the same family is of around 9,700.

Going forward, the numbers will experience attrition. While it is likely that the new legislative mechanism and rent subsidy will give greater certainty to the tenants who would thus be less inclined to move out of the residence; on the other hand, tenants of high value properties may not afford the revised rent at 2% of the value of the property despite the subsidy. These will be offered alternative accommodation and the PL would in such case be extinguished. PLs would progressively be extinguished and the remaining tenants who would by then be enjoying substantial rent subsidy and would be increasingly less likely to move out of their residence.

On this basis it was assumed that while the voluntary vacating could start at 1%, the percentage

<sup>99</sup> Totals do not tally due to rounding.

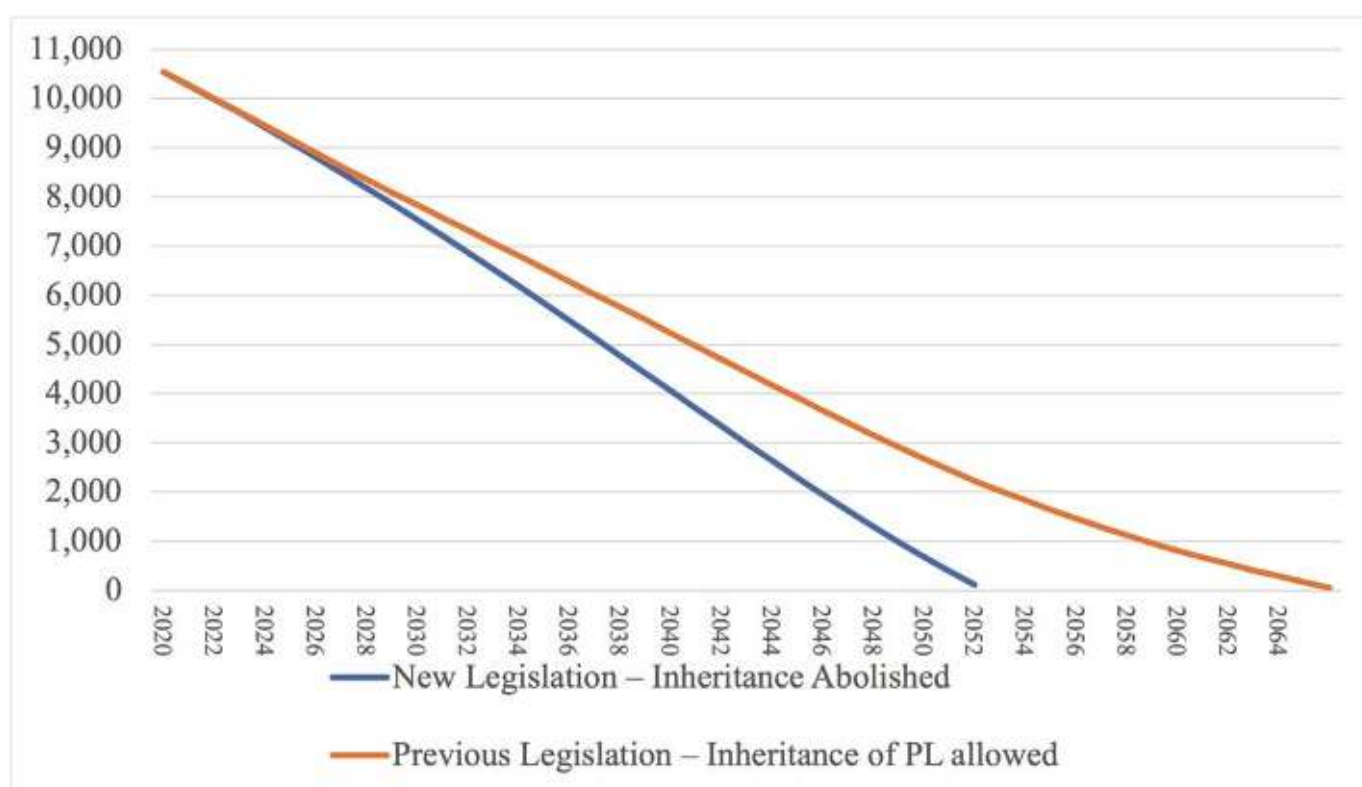
<sup>100</sup> <https://pq.gov.mt/PQWeb.nsf/7561f7daddf0609ac1257d1800311f18/7d2e0046dfa1c125869a002b00e6!OpenDocument>

of PL extinguished due to the voluntary departure of the tenants would decrease substantially once the bulk of court cases would have been settled. This figure was therefore deducted by 10% per year starting from 2026 onwards.

**Table 9 –PLs for the years 2020 – 2055**

Year	New Legislation – Children’s right to inherit the lease abolished	Previous Legislation – Children could inherit the lease upon tenants’ demise <sup>101</sup>	Extinguished PL due to removal of inheritance. Cumulative total for the preceding 5 year period <sup>102</sup>
2011 census	14,287	14,287	
<b>2020</b>	<b>10,545</b>	<b>10,545</b>	
2025	9,113	9,172	59
2030	7,540	7,837	238
2035	5,842	6,546	407
2040	4,056	5,233	473
2045	2,289	3,917	451
2050	681	2,679	369
2055	0	1,641	0
2060	0	811	0
2065	0	171	0

Chart 1 –PLs for the years 2020 – 2055



<sup>101</sup> Under the previous legislation children must have inhabited in the property since 2004 and continued doing so until the tenants’ demise to be eligible for inheritance. Property could only be inherited once after 2009.

<sup>102</sup> Assuming tenants’ children vacate their residence immediately. The new legislation allows them five years to find alternative accommodation.

### 3. Profiling the active protected leases

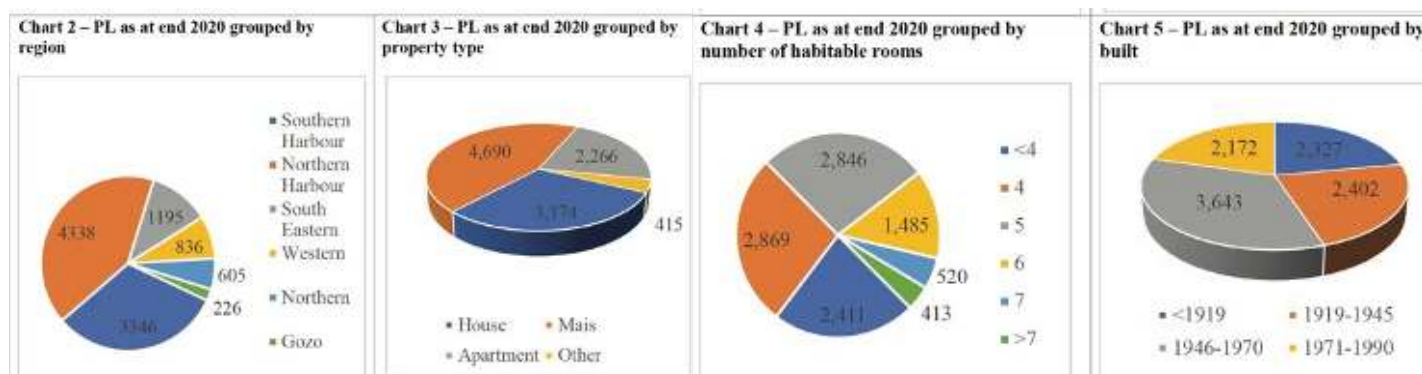
The main tenants had an average age of 72 and the majority of dwellings were inhabited by 1 or 2 persons. The following tables and charts explain the findings of the profile of tenants living in protected leases as derived from the assumptions and calculations made in this study. Table 9 shows the number of protected leases as at the end of December 2020, the number of residents living in each property together with the age of the eldest tenant.

**Table 9: PL as at end 2020 by eldest tenant and number of residents**

No of Residents	<36	36-45	46-55	56-65	66-75	76+	Total No of Leases	No of Residents
1	63	213	423	908	1,451	1,778	4,836	4,836
2	47	156	311	667	1,066	1,306	3,553	7,106
3	21	70	139	298	477	585	1,590	4,770
4	5	18	35	76	122	149	406	1,623
5	1	5	10	21	33	41	111	553
6+	1	2	4	9	15	18	49	295
	138	464	923	1,979	3,164	3,877	<b>10,545</b>	19,184

*Note : Number of residents based on the national average in the 2011 Census according to the age of the reference person (usually the eldest tenant). Figures rounded to the nearest whole number. Totals might not tally due to rounding.*

Chart 2 below illustrates the geographical distribution of PL. The regions are as grouped by the National Statistics Office<sup>103</sup>. Chart 3 shows the composition of PL by type of property. Chart 4 illustrates the distribution of PL according to the number of habitable rooms<sup>104</sup>. Chart 5 illustrates the distribution of PL by the year the properties were built. Calculations of Charts 4 and 5 were based on the the 2011 Census data for all properties in the UR, FR and TR categories.



<sup>103</sup> [https://nso.gov.mt/en/publicatons/Publications\\_by\\_Unit/Documents/02\\_Regional\\_Statistics\\_\(Gozo\\_Office\)/Regional%20Statistics%20MALTA%202017%20Edition.pdf](https://nso.gov.mt/en/publicatons/Publications_by_Unit/Documents/02_Regional_Statistics_(Gozo_Office)/Regional%20Statistics%20MALTA%202017%20Edition.pdf)

<sup>104</sup> Habitable rooms exclude bathrooms, boxrooms, corridors and kitchenettes. (2011 Census concepts and definitions, page xliii)

The profile of the properties are fairly similar too. According to the NSO study, there are 11 localities with more than 300 properties according to the NSO study : Birkirkara, Sliema, Hamrun, Qormi, Gzira, Paola, Zabbar, Marsa, Cospicua, Senglea, Valletta<sup>105</sup>. All these localities lie within the Northern and Southern Harbour regions, which tallies with the findings of this study. The share of each region is nearly identical in the two studies (variance of +/- 2%).

#### 4. Discussion and conclusion

Recent court judgements have deemed that the legal protection granted to tenants who leased their residence before June 1995 is not in line with the Constitution of Malta and hence not valid. This meant that the owners could follow up their case in front of the Constitutional Court with a case in front of the Rent Regulation Board to ask that the tenant be evicted. This would have led to a huge social upheaval for the tenants and a substantial increase in the demand for social housing.

This study aimed to review the history of the protected lease regime and to quantify the number of leases which are afforded security of tenure. This allowed for an initial assessment of the likely impact that the legal developments would have had. Various simplifying assumptions were necessary to derive the figures presented. Two particular assumptions might have had a decisive impact on these figures: the 10% deduction due to various factors which cannot be quantified and the estimation of the rate at which leases are terminated for reasons other than the death of all occupants.

This study also attempted to quantify the number of leases which will be abolished due to the recent legislative amendments which removed tenants' children's right to inherit the lease upon the demise of their parents. In summary, it found that just over 10,000 leases are likely to be active as at 2021, whose tenants have an average age of 70. Children still residing with them would therefore in most cases be over 40 years old. Given their age, tenants' children who have not accumulated substantial savings or other assets will in most cases be unable to finance the purchase of a residence unaided due to the relatively short period remaining in which they could repay a bank loan. Furthermore, should tenants' children opt to continue living with their parents, they would in most cases be pensioners by the time their parents die.

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<sup>105</sup> NSO, 2020, leases with a rent less than €2,000 in the 2011 Census, unpublished research

Maltese culture and the history of its housing market has until recently considered ownership as the more preferable form of housing tenure. Beginning in the 1960's the Government started giving plots to low income earners so that they could build their homes<sup>106</sup>. This policy was retained and used more extensively in the 1970's and 1980's and in the 1990's this policy was substituted with one where new properties were built by the Government and sold at subsidized prices. Furthermore, in the 1970's the Government also invested in a sizeable stock of social housing (Housing Authority Data).

In spite of this, properties with a PL were still cheaper to rent than Government owned properties leased at subsidized prices. Rented PL's were also a cheaper investment than plots given for free by the Government since the beneficiaries had to finance the construction of the plots at their expense. Consequently, many low-income earners were compelled to live in the shabby and old, but cheap, privately rented dwellings<sup>107</sup>

In this context, it is the author's opinion that tenants' children will in many cases require financial assistance to be able to procure an alternative accommodation once their PL is abolished due to the legislative changes which shall no longer allow them to inherit the lease. The findings of this study as reported in table 9 are therefore indicative of the expected increase in demand for assistance due to these legislative changes. In view of the substantial numbers involved, the author recommends that a detailed socio-economic profiling of tenants' children be carried out in order to assess their needs more thoroughly.

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<sup>106</sup> Vakili-Zad C., Housing Policy in Malta (2007)

<sup>107</sup> Vakili-Zad C. Housing Policy in Malta (2007) as interpreted from Mifsud P.V. 1983, "A Study of the History, Location, Allocation, Social Composition and Role of Government Housing in Malta", page 360)



# CHAPTER 7

## THE FIRST YEAR OF THE PRIVATE RESIDENTIAL LEASES ACT: AN ASSESSMENT GOING FORWARD

Kurt Xerri<sup>108</sup>

### Abstract

This chapter aims to present the main policy objectives of the Private Residential Leases Act, which came into force in 2020, and to assess the extent to which these were reached during the first year of the law's existence. This final section is also meant to engage in a dialogue with other studies in this volume, in an attempt to initiate a discussion on the new law, going forward. The chapter will focus, in particular, on the elements of contractual duration, conditions for termination, the registration of leases and a final point on the Adjudicating Panel on Private Residential Leases. The discussion that takes place is meant to explore ways through which the policy could be rendered more flexible in order to encourage compliance, whilst, however, respecting the aims that had been set out in the 2019 white paper and the law of 2020.

**Key words:** Private Residential Leases Act - neutrality of tenure - symmetric market - tenant safeguards - private rented sector reform

### 1. Background to the 2020 reform

The enactment of the Private Residential Leases Act was one of the key measures adopted by the State in the remodelling of its housing policy, which was made to fit its long-term vision for the sector.<sup>109</sup> The latter became necessary as a response to new demographic pressures

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<sup>108</sup> Dr. Kurt Xerri, PhD is a lawyer and he was involved in the drafting of both the 2018 White Paper on the private rental sector as well as the legal framework contained in the Private Residential Leases Act, 2019. The views expressed here represent those of the author and should not be interpreted as representing those of the Housing Authority. Helpful comments by Rachael Marie Scicluna, Marie Briguglio, Brian Micallef, Nathaniel Debono, Reuben Ellul, Romina Fenech and Jake Adam Azzopardi are gratefully acknowledged. Any remaining errors are the author's own.

<sup>109</sup> The regulation of the private rented sector must not be viewed as an isolated or sporadic intervention but as one of the components of wider housing reform comprising schemes aimed to improve both homeownership and rental affordability and the introduction of specialised programmes. See in particular: Galdes, R. "The Vision of Housing in Malta", p. 4 and Scicluna, R.M. "Sustainable Communities, Housing for Tomorrow" in: Parliamentary Secretariat for Social Accommodation & Housing Authority (2019) Sustainable Communities, Housing for Tomorrow: Towards Sustainable Homes and Neighbourhoods [online]. Available at: <https://housingauthority.gov.mt/en/Documents/Schemes/Housing%20Booklet%20Final%20Version.pdf> (Accessed on 31 March 2021).



brought about by both changing internal trends including greater numbers of marital separations, informal household arrangements, co-habitation and solo living, as well as an increase in external migration generated by the recent economic boom, which re-underlined the relevance of the private rented sector and reshaped its function to a tenure that no longer represented a mere short-term housing solution. In this light, Malta was not an exception to the general trend which put the regulation of the private rented sector in the spotlight as a result of rapidly growing rental markets in pressured cities.<sup>110</sup> In fact, whilst rent regulation undoubtedly throws up many challenges, most European countries still see much merit in practicing it.<sup>111</sup> A complete reliance increasingly on private market solutions often results in the “financialisation” housing which gradually disregards the importance of safeguarding the home as a place to live in dignity.<sup>112</sup> The Maltese government was also recently made to revise its clear trajectory towards liberalisation due to the strong political pressures that mounted in recent years, as rental prices rose rapidly when the market was liberalised.

The intervention was made necessary by the reportedly poor standards of the sector<sup>113</sup>, which created deep dissatisfaction among both lessors and lessees and, ultimately, resulted in a high level of distrust between the parties. The State’s role in the 2019 reform was, therefore, inspired by the belief that it was in the lessors’ and lessees’ collective interest to work as partners, rather than adversaries, since they both stood to benefit from an added degree of certainty. The State

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<sup>110</sup> Whitehead, C. & Williams, P. (2018) “Assessing the evidence on Rent Control from an International Perspective”, LSE (London), p. 4.

<sup>111</sup> Robertson, D. & Young, G. (2018) ‘An Evaluation of Rent Regulation Measures within Scotland’s Private Rented Sector: A report to Shelter Scotland’, Shelter (Scotland), p. 36.

<sup>112</sup> United Nations (2017) Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Distr.: General, A/HRC/34/51, p. 4-5.

<sup>113</sup> See: Parliamentary Secretariat for Social Accommodation (2018) ‘Renting as a Housing Alternative: White Paper’ [online].

Available on:

<https://family.gov.mt/PSSA/Documents/White%20Paper%20Booklet%20-%20Rental%20Market,%20EN.pdf>.

Media reports had also been underling both the problem of affordability as well as the quality of accommodation and the difficulties by tenants in accessing beneficial utility tariffs. See inter alia: Peregin, C. (2017) “Malta’s Rent Crisis: Living Nightmares From a Booming Island”, Lovin Malta, [online].

Available at: <https://lovinmalta.com/lifestyle/property/maltas-rent-crisis-living-nightmares-from-a-booming-island/>; Dalli, M. (2014) “‘Tenants in Malta living in fear’, expats say”, Maltatoday, [online]. Available at: [https://www.maltatoday.com.mt/news/national/39085/tenants\\_in\\_malta\\_living\\_in\\_fear\\_say\\_expats#YGMQaSORpNO](https://www.maltatoday.com.mt/news/national/39085/tenants_in_malta_living_in_fear_say_expats#YGMQaSORpNO)

(All accessed on 31 March 2021).

viewed itself more of an intermediary or a regulator, rather than a watchdog. The new legislative framework was, therefore, meant to provide a more secure and stable environment for both investors and users.<sup>114</sup> More importantly, it was firmly based on the Maltese State's contracted obligations to ensure the universal right to adequate housing<sup>115</sup>, the right to the respect of the home<sup>116</sup> and the right to economic, legal and social protection of family life through the provision of family<sup>117</sup> housing, albeit within the boundaries set by the recent jurisprudential evolution of the right to property<sup>118</sup>.

The discussion around the reform of the Maltese rental market may be said to exemplify the global debate on whether, in line with mainstream ideology, housing should be viewed mainly as a commodity i.e. treated as an asset for the accumulation of wealth, or whether it should be reclaimed as a social good.<sup>119</sup> The former understanding requires the highest degree of deregulation in order to encourage trade and maximise profit. On the other hand, a greater emphasis on housing rights requires the implementation of measures such as rent stabilisation and controls in order to be able to guarantee adequate housing conditions for households which opt away from ownership.<sup>120</sup> In this regard, the Private Residential Leases Act has shifted greater weight towards the use of the rented unit as a home, in which tenant could live in security.<sup>121</sup> In so doing, the law distanced itself from the view that landlords and tenants are mere asset-managing entrepreneurs and consumers.<sup>122 123</sup> On the contrary, it recognised the role of the private sector in

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<sup>114</sup> University of Cambridge (2012) *The Private Rented Sector in the New Century - A Comparative Approach*, p. 11.

<sup>115</sup> International Covenant on Economic, Social and Cultural Rights, Article 11.

<sup>116</sup> European Convention on Fundamental Human Rights (ECHR), Article 8.

<sup>117</sup> European Social Charter (Revised), Article 16.

<sup>118</sup> ECHR, Article 1 of the First Protocol.

<sup>119</sup> United Nations (2019) Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context: Guidelines for the Implementation of the Right to Adequate Housing, Dirc.: General, A/HRC/43/43, p. 16

<sup>120</sup> *Ibid.*, p. 9

<sup>121</sup> *Ibid.* United Nations (2017), p. 3.

<sup>122</sup> Rolnik, R. (2013) Late Neoliberalism: The Financialization of Homeownership and Housing Rights, *International Journal of Urban and Regional Research*, 37.3, pp. 1059, 1060

<sup>123</sup> Schwartz, H. & Seabrook, L. (2008) Varieties of Residential Capitalism in the International Political Economy: Old Welfare States and the New Politics of Housing, *Comparative European Politics*, p. 257.

the realisation of the right to housing, by setting minimum standards at which units destined for habitation could be leased out.<sup>124</sup>

## 2. The principal aims of the reform

The principal aim of the Private Residential Leases Act was not that of promoting affordability, particularly, since rather than limiting rental prices it could be addressed through other Housing Authority schemes, including rent subsidies<sup>125</sup> and supply-side measures such as affordable housing projects for middle-income households.<sup>126</sup> The main objective was that of rendering private rentals a more stable form of tenure, capable of representing an alternative to ownership for those households who did not afford or want to purchase property. In so doing, the State would also create a better balance between the three major housing sectors: social or affordable housing, private renting and ownership. This was also done in full adherence to the “neutrality of tenure” principle, which requires that rental tenures should not be treated in national policy and regulation less favourably than homeownership, which is the traditional “reference tenure”.<sup>127</sup>

The initial premise of the Private Residential Leases Act was that “regulation per se is neither good nor bad [but what] matters are the costs and benefits of specific regulations under specific market conditions.”<sup>128</sup> Whilst falling within the State’s discretion, the correct degree of regulation remains an extremely sensitive matter. It is extremely difficult for any country to be actually in equilibrium between regulation and scale, particularly since adjustment to new rules may result to be a lengthy process and because regulation might not work as intended.<sup>129</sup> By continental standards, the regulation introduced in Malta in 2020 may be said be light-touch with measures

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<sup>124</sup> Ibid. United Nations (2019), p. 16-17.

<sup>125</sup> <https://housingauthority.gov.mt/en/Pages/Schemes/Housing-Benefit.aspx>

<sup>126</sup> See: “Editorial: Affordable housing for Communities” (2020) Times of Malta. Available at: <https://timesofmalta.com/articles/view/affordable-housing-for-communities.762399> (Accessed on 31 March 2021).

<sup>127</sup> Schmid, C. U. (2014) ‘Towards a European Role in Tenancy Law and Housing’, TENLAW: Tenancy Law and Housing Policy in Multi-level Europe, p. 12. Available at: [https://www.uni-bremen.de/fileadmin/user\\_upload/fachbereiche/fb6/fb6/Forschung/ZERP/TENLAW/EuropeanRole.pdf](https://www.uni-bremen.de/fileadmin/user_upload/fachbereiche/fb6/fb6/Forschung/ZERP/TENLAW/EuropeanRole.pdf) (Accessed on 2 April 2021).

<sup>128</sup> Turner, B. & Malpezzi, S. (2003) “A review of empirical evidence on the costs and benefits of rent control”, Swedish Economic Policy Review, 10, p. 15.

<sup>129</sup> Ibid. University of Cambridge (2012), p. 84.

primarily aimed at eliminating abuse of a dominant market position<sup>130</sup> and to introduce clear rules and quick and effective extra-judicial remedies. The latter, which had become glaringly absent given the growing size of the sector, was leading to the creation of an element of profound frustration among all the market participants.

The contributions contained in this report show encouraging signs, which demonstrate that to a large degree, the sector did benefit from regulation and that most of the policy aims have been achieved, although, they also illustrate how the Covid-19 pandemic shifted the economic balance between the parties significantly. The following section will discuss three main points raised in other studies in this volume<sup>131</sup> : contractual duration; conditions for termination; the registration of leases; and a final point on the Adjudicating Panel on Private Residential Leases. The recommendations that follow are meant to strengthen the development of the modern private rented sector as it continues to meet the diverse demands of the Maltese market. Most of all, it aims to invite policy researchers and the public in general to a more open discussion on the future of private renting in Malta.

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<sup>130</sup> Reported bad practices included: refusing to enter an agreement in writing, renting for extremely short periods of time, notifying the tenant about the non-renewal of their agreement at the eleventh hour, impeding the tenant from benefiting from discounted water and energy tariffs or denying him or her access to the periodical bills altogether (Xerri, K. (2019) “The Residential Leases Debate”, Times of Malta. Available at: [https:// timesofmalta.com/articles/view/the-residential-leases-debate-kurt-xerri.736661](https://timesofmalta.com/articles/view/the-residential-leases-debate-kurt-xerri.736661) (Accessed on 2 April 2021)).

<sup>131</sup> Debono, N., Ellul, R. & Micallef, B. (2021) An analysis of Private Residential Leases registered with the Housing Authority in 2020; Micallef, B., Debono, N. & Ellul, R. (2021) A framework to assess developments in registered rents; Briguglio, M. (2021) The impact of the 2020 Private Residential Leases Act - Insights from Economics.

### 3. Policy Discussion

The below recommendations bring together some aspects raised in the previous chapters and propose areas where the regulation could be improved, in line with the main objectives and principles that motivated the introduction of the new legal framework.

#### **3.1 Contract duration**

##### **3.1.1 Standard Minimum Term**

The one-year minimum contractual duration was one of the main rules introduced by the Private Residential Leases Act. Whilst the statutory term was set in accordance with the customary period contracted negotiated prior to the introduction of the law, the policy also aimed at incentivising longer leases through fiscal incentives and longer mandatory notice periods for the tenant in case of premature withdrawal from the agreement. Research suggests that longer-term agreements do not necessarily prejudice the lessors' economic position since they carry the advantages of giving greater security to the rental stream and helping them to keep good existing tenants.<sup>132</sup> Medium-to-long-term investment models also reduce costs for the lessor since they eliminate the risk of prolonged vacancies, do away with the need to redecorate or maintain the property between tenancies and most of all reduce agency fees. Malta's minimum term remains very short compared to other EU countries', which generally guarantee a minimum three-year security of tenure to lessees; the ideal degree of regulation suggested by Schmid is, in fact, a guaranteed

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<sup>132</sup> Ball, M. (2010) The UK private rented sector as a source of affordable accommodation. JRF programme paper:

Housing Market Taskforce. York: Joseph Rowntree Foundation, p. 15. This latter point also exposes the potentially conflicting interests between landlords and estate agents. Whilst landlords could gain substantially from medium- to long-term investment, agents would, conversely, stand to gain much less since sequential

default model of 3 years each.<sup>133</sup> Nevertheless, the policy maker's desire in 2020 was that of avoiding any shocks to the market and opting, instead, to incentivise longer leases through more favourable contractual and fiscal conditions.

The data presented in the first section confirms that the standard period in Malta remained that of one year and that two- and three-year agreements do not constitute more than 8% of the total number of contracts. This figure is worthy of further reflection, since it begs the question of whether the assumption landlords are not willing to offer longer leases is correct, and, if so, whether tenants renting in Malta would require, or at least prefer, longer terms. Arguably, the variations in rent triggered by the pandemic will further encourage landlords to enter into agreements which do not exceed the standard term, in the hope that a returning demand for rentals will boost asking prices back to pre-Covid-19 levels.

### **3.1.2 Permissible within-tenancy increases**

In another chapter in this volume<sup>134</sup>, at least two reasons were mentioned as to why landlords might not consider going for a medium-term agreement. The first is the tax rebates, which appear not to have been sufficiently effective in moving the market towards longer-term investment. The second are the increased restrictions applicable to contracts exceeding the one-year term. As to the tax incentives, there appears to be a certain consensus around the fact that the credits need to be revisited in order to induce lessors to rethink their investment strategies. As to leaving the rate of rent increase to the full discretion of the parties, albeit subject to agreement at the point of contract, the main concern would be that of exposing lessees to excessive future rent changes, which would erode the stability and, possibly, also the predictability of their housing arrangements. For instance, a three-year rent agreement which allows the lessor to vary the rent by up to 20% each year may hardly be considered an agreement which gives the sufficient degree of security to the lessee. Nevertheless, it should also be appreciated that the Covid-19 pandemic has introduced a high level of uncertainty among landlords and that when applied to

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short-term leases, along with higher rents, would generate higher commission fees (see: Ibid. Scanlon, K. & Whitehead, C. (2014) *Rent stabilisation: Principles and international experience - A report for the London Borough of Camden*, LSE London, p. 32).

<sup>133</sup> Ibid. Schmid (2014), p. 17.

<sup>134</sup> Ibid. Schmid (2014), p. 17.

the current scenario, the capping of rent increases to a stagnant index of property prices might be having the effect of dissuading landlords from going for longer-term agreements. Removing the capping for increases would, in either case, significantly undermine one of the main goals of the 2020 reform which was that of orienting the market towards three-year agreements with fixed rates of increases. Whilst the pandemic might provide a valid justification for the relaxation of such rules, it could hardly be guaranteed that the legislator would be in a position to re-introduce such controls. Giving parties the discretion to decide the capping themselves, a priori, is, therefore, a change that should be well considered due to the far-reaching implications that it might have on the recent attempts to encourage the market to grow towards a certain direction.

### **3.2 Conditions for termination**

#### **3.2.1 Premature Termination**

One of the more noteworthy findings of one of the chapters in this volume<sup>135</sup> is the fact that whilst there was a high number of registrations, there were also up to 4,138 contracts (14% of the entire number of registered contracts) which were terminated before the expiry of the original date of termination. The numbers certainly reflect the demographic displacements caused by the pandemic, which have encouraged lessees to renegotiate their leases or shop for lower rents. As underlined in another chapter <sup>136</sup>, the reducing demand for rentals has certainly added pressure to landlords who had already, at the beginning of the year, been subjected to the deadweight costs of regulation.

Chapter 5 also sheds light on the fact that the ease with which lessees may withdraw prematurely from the agreement has facilitated this imbalance. In case of a one-year lease, the law currently permits lessees to withdraw without penalty after the lapse of the first six months, provided that they give at least one month's notice. The system allows this flexibility to the lessee in order to prevent situations where lessees would be locked into a long relationship with a non-compliant lessor, as well as to ensure employee mobility. <sup>137</sup> Given that the market conditions have now shifted due to the pandemic, it would appear that this clause is causing the unintended effect of rendering the market more unstable for lessors. The manner in which a lessee may withdraw

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135 Ibid. Micallef, et al (2021) A framework to assess developments in registered rents.

136 Ibid. Briguglio (2021).

137 Ibid. Schmid (2014), p. 17.



from an agreement could be revised in order to provide a longer notice period (e.g. 3 months) or the introduction of more onerous conditions for withdrawal, at least for certain types of leases.

### **3.2.2 Automatic renewal**

As to the automatic renewal, one of the chapters in this volume <sup>138</sup> invites the reconsideration of the termination letter which only serves to re-affirm a date which would have already been agreed by the parties. Nevertheless, the policy seems to have had the desired effect of making lessors express their intention not to renew the contract, at least three months prior to the expiration of the contract. This should have given lessees much greater certainty as to their position for their subsequent year.

As also outlined in the same chapter, administrative data has suggested that during the first part of 2021, up to 20% of cases where the lessor did not serve a notice of termination on the lessee, the lessee had moved out anyway. This might be a factor which might be increasing uncertainty among lessors since they would not receive any confirmation from the lessee on whether they would want to avail himself of the automatic renewal or not. In this regard, the framework could be rendered more symmetric by binding the lessee to provide notice of termination to the lessor, where the former would not want to remain in occupation of the property beyond the originally stipulated period. This would also reduce problems related to the registration of new lessees.

## **3.3 The Registration of leases**

### **3.3.1 Public Availability of Data**

Whilst the previous two headings give reason to the policymaker to re-evaluate certain decisions taken in 2019, other aspects confirm the strong points of this reform and the gaps that the new legislation was capable of filling. The figures recorded confirm the market's need for more certainty and transparency which was positively adhered to by the public. It might suggest an increased level of trust by lessors in the State institutions, which was reportedly lacking particularly due to the continued application of the infamous pre-1995 regimes. <sup>139</sup> The rise in number of

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<sup>138</sup> Ibid. Briguglio (2021).

<sup>139</sup> Vakili-Zad, C. & Hoekstra, J. (2011) "High dwelling vacancy rate and high prices of housing in Malta a mediterranean phenomenon", *J Hous and the built Environ*, 26, p. 450.

subsidy applications received by the Authority might also be a result of increased formalisation of the sector (data to be retrieved from ARMS should also confirm whether more lessees have been granted access to discounted residential tariffs during the past year).

Moreover, as underlined in another chapter <sup>140</sup>, the State is now running an important exercise of data gathering, thereby, providing to the policymaker the necessary tools to shape rental policy. The process of electronic registration of leases has enabled Malta to gather live, reliable information which is now continuously at the State's disposal. It may definitely be stated that rent regulation in Malta has now become much more evidence-based, and less tolerant of facile speculation about the private rented market. <sup>141</sup>

The publication of the data through this report is also, in itself, addressing another major problem which was present before the reform; that of asymmetry of information. Prior to the State's exercise in data collection, information held by private firms was hardly made available and at times even non-existent. This created a significant knowledge deficit among creditors, investors and market participants alike. In the meantime, it was lessors and lessees who were bearing the costs of this lack of information, which was leading to unintended or misguided overpricing of the rental units; the former would have to face longer periods of vacancies whilst the latter would end up overpaying for their use. Misinformation was also the cause of a lot of mistrust and conflict between the lessee-lessor dyad. Together with the added experience of all the market participants, the public availability of this data should now lead to a less haphazard way of setting rents and seeking information about fair market rates. It is reasonable to expect that this evidence-based information will undoubtedly be useful and beneficial for lessors and lessees alike, especially those non-Maltese citizens who wish to seek employment in Malta.

### **3.3.2 Compliance**

Nevertheless, there still appear to be aspects where the policy adopted in 2020 might have room for improvement. It might, for instance, be too early to state that black market tenancies, defined as informal agreements with illegal elements, inducing parties to keep them in a hidden, extra-

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<sup>140</sup> Ibid. Debono et al (2021).

<sup>141</sup> Ibid. Robertson et (2018), p. 28.

legal sphere, have been eliminated.<sup>142</sup> These agreements are represented mostly by parties who would not have registered their contract or else understated the amount of rent which would have been payable to them. In this regard, efforts should be made to clarify consequences for non-compliant parties, particularly the fact that any amounts which are not duly declared in the registered contract cannot be given any legal acknowledgement. This could be done through a dissemination and mainstreaming exercise where such obligations and consequences are made publicly clear, in the light of the legality always pays principle. As stated in other chapters<sup>143</sup>, the awareness campaign could also focus on the requirement to register leases entered into prior to 2020 along with information on the housing benefit scheme offered to lessees by the Housing Authority.

With specific regard to leases entered into prior to 2020, a barrier which is reportedly being faced by both lessees and lessors is the requirement to present an inventory together with a copy of the agreement. Given the fact that lessors could face penalties in case of failure to register the tenancy, the rule could be relaxed with respect to parties who are still bound by pre-2020 agreements.

Perhaps, the market would also benefit from a better explanation on what should be understood by an inventory. The introduction of the inventory was, in fact, one of the key elements in professionalising the Maltese rental market and ensuring more clarity in the case of disputes which may occur at the end of the agreement, such as the retention of the deposit by the lessor. The Authority could make lessees familiar with concepts such as that of materiality i.e. making clear to lessors to list only those items that they believe are material to them. The law could also be clarified in order to allow the Authority to accept the inventory in the simple form of photographs.

### **3.3.3 Enforcement**

Whilst compliance appears to have been strong, with the process of registration being successful in capturing foreigners who are renting as well as a good number of Maltese lessees, there appear to be clusters which are not fully represented by the data. A comparison between the share of

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<sup>142</sup> Ibid. Schmid (2014), p. 10.

<sup>143</sup> Ibid. Briguglio (2021).

foreigners to total locality population in 2019 (Figure 3, Debono et al) and Number of Registered Residential Rent Contracts by Locality (Chart 6, Micallef et al) reveals that registrations were comparatively low in localities where there is a strong non-Maltese presence. A measure to address this anomaly could be a stronger communication effort of this reform, even in languages in which certain migrant communities are more proficient through community leaders and Local Councils.

One may also note that out of 172 tenancies reported, up to 63 were resolved by the end of the year and that the majority of those (68%) ended in the contract being registered. A strong effort should be maintained in ensuring that reporting of cases of non-compliance leads to proper enforcement. This is not only necessary for lessees but even for lessors, since non-compliant lessors are the ones who give the category a bad name.

### **3.4. The Adjudicating Panel on Private Residential Leases**

The Arbitration Panel for minor tenancy disputes was another innovation which the figures prove to have been well-received from the market participants. The reason behind the constitution of this Panel was to provide a more expeditious alternative to minor disputes concerning maintenance, repairs and utilities. Figures relating to the Panel show that not only did parties, particularly lessors, resort to it, but that the Panel has been deciding the disputes within the five-working day period stipulated in the legislation. Between the 8th May and the 31st December of 2020, up to 94 disputes had been submitted, with more than half of these cases (54%), having already been decided. The Panel has certainly been of greater benefit to lessors thus far since more than 80% of the decided cases have gone in their favour. Given the adequate functioning of the Panel, the policymaker ought to explore areas where the competence of the Panel could be refined and expanded as well as to clarify particular areas where it is already applicable.

## **4. Summary of Recommendations**

As suggested in Chapter 5, the main challenge for the Housing Authority is to remain watchful over any imbalances that might appear in this particularly dynamic and fluid market. Whilst the Act appears to have withstood the test of its first year of application, evidence gathered in relation to the last three quarters in particular, lead to the following recommendations.

1. Fiscal arrangements for longer-term leases should be reconsidered since two- and three-year agreements still constitute the minority of registered leases in Malta. In relation to this point, the Authority should also use its data to investigate the preferred contractual duration of tenants living in Malta, and whether they believe that they could benefit from longer contractual periods, such as those of three years.
2. The conditions of premature termination by the lessee which, in a context of dipping rents, have promoted a higher turnover of contracts, should be revisited since these are leading to a strong element of instability for lessors. With regard to the cap on year-on-year increases, it is likely that in the current economically uncertain scenario, a greater degree of contractual freedom would appear plausible. Nevertheless, given the centrality of this rule to the regulatory framework conceived by the 2020 law and the possible recovery of the rental market, it might be considered premature to take such action.
3. The lessee should be bound to provide notice of termination should he decide not to avail himself of the renewal period granted by the law. The Authority should also assess whether the dual objectives of the automatic renewal process, which were those of: i) ensuring timely notice to the lessee in case of the lessor's intention not to renew the agreement, and; ii) enabling the lessor to allow the contract to "roll" automatically into a renewed period without having to enter into a new agreement, have effectively been reached.
4. Communication and outreach should be enhanced among marginalised communities who might not be aware about the system which has been set in place to regulate the rental market.
5. The Authority should undertake to clarify, even through legislative means, the consequences for both parties in case of under-declaration of rent.
6. The inventory requirement for the registration of pre-2020 contracts should be reconsidered due to the obstacles that it is causing for registration. In the meantime, the purpose of the inventory and what should be included in it (principle of materiality).
7. Moreover, the Authority should allow presentation of photographs instead of written

documents in order to facilitate the process of registration.

8. It should be explored whether the competence of Adjudicating Panel could expand into other aspects of the agreement and areas where it is already applicable should be clarified. The Authority should also assess the performance of the Adjudicating Panel during its first year of operation and analyse how the panel was used and how it was received by the parties.

### List of abbreviations

CBM	Central Bank of Malta
Census	Census of Population and Housing 2011
EARS	Estate Agents Rent Survey
HBS	Household Budgetary Survey
NSO	National Statistics Office
SILC	Survey on Income and Living Conditions
GDP	Gross Domestic Product

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