

# The Private Rental Market

## in Malta: Landlord

## Perspectives and Regulatory

## Reform

## Position Paper

**Feedback Submitted by:**

Malta Chamber of SMEs

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## List of Abbreviations

**AP** - Adjudicating Panel

**ARMS** – Automated Revenue Management Services Ltd

**HA** – Housing Authority

**LN** – Legal Notice

**MSAA** - Ministry for Social Housing and Affordable Accommodation

**SME** – Small and Medium-sized Enterprise

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## Introduction

The Private Residential Leases Act of 2019, along with its 2024 amendments and related legislative updates, introduced a regulatory framework that mainly favours tenants whilst overlooking several critical issues raised by landlords.

In response to growing concerns within the landlord community, the Landlords Committee, within the Malta Chamber of SMEs has conducted a focused survey to gain a clearer understanding of the experiences and challenges faced by those leasing residential properties under the current legal framework. The survey received 343 unique responses from SME Chamber members, providing a strong and representative sample.

Key findings include:

- 83% of landlords reported that tenants had vacated the property before the contract termination date.
- 50% noted that tenants leave with unpaid utility and/or other pending bills.
- 81% of respondents felt that current eviction procedures are ineffective in deterring tenant defaults.

This feedback highlights a significant imbalance in the system, which fails to reflect the lease agreement as a mutual equal contract between two consenting parties. While various governments have consistently encouraged and incentivised private investment in the residential rental market, separate from social housing, concerns have grown over the decision to place regulatory oversight in the hands of an entity which is also responsible for social and affordable accommodation. This arrangement has contributed to the perception that regulatory powers are disproportionately weighted in favour of tenants.

Despite the rapid growth of the private rental market and the registration of tens of thousands of leases with the Housing Authority (HA), many of the sector's core concerns, particularly regarding

enforcement and eviction remain unaddressed. Current mechanisms are often reactive, lengthy, legally complex and fail to provide landlords and property owners with effective tools to safeguard their contractual rights, even in cases of clear contractual breach.

In response, the SME Chamber's Landlords' Section is putting forward a series of practical and solution-driven proposals, included under 3 main pillars:

- **Pillar 1:** Transferring regulatory oversight of private residential leases to a neutral body, independent of social housing policymaking;
- **Pillar 2:** Upholding the principle that lease agreements should fairly serve the interests of both landlords and tenants;
- **Pillar 3:** Addressing the shortcomings of the current eviction process to ensure it is both timely and enforceable.

The SME Chamber urges policymakers to engage in meaningful dialogue with landlords and other important stakeholders, with the goal of restoring equity, legal clarity and balance within the rental market. A well-structured regulatory framework is essential not only to protect private investment and uphold the rule of law but also to ensure the long-term sustainability, transparency, and credibility of Malta's rental sector.

## **Representation**

The Malta Chamber of SMEs represents the vast majority of small and medium-sized businesses across all sectors of the Maltese economy, making it the leading voice for SMEs nationwide. In response to the growing number of private individuals and businesses investing in residential property for long-let, the SME Chamber established a dedicated Landlords' Section towards the end of 2024.

This fast-developing sector has quickly gathered momentum. A focused committee was set up to address the particular challenges faced by landlords within the current legal framework. The committee meets regularly and stays up to date with developments, sets policy priorities, and shapes proposals that reflect the needs and concerns of landlords across Malta.

To ensure its work is grounded in real experiences, the SME Chamber sought feedback from members of its Landlords' Section both at physical meetings and by way of written responses. These showed a high level of engagement and concern within the sector. In addition, the SME Chamber held two consultation sessions with landlord members to gather further insight and feedback.

### **Key Feedback Included:**

- The imbalance in the legislation in general;
- The limited powers of the HA and the AP against defaulting tenants and tenants who cause malicious damage;
- The long-winded and ineffective eviction process;
- The issue of persons residing in leased property without owners' consent;
- Issues with deposit retention;
- Issues faced by landlords on non-payment of utility bills and breaches of contract.

The SME Chamber has also met with key stakeholders including the Housing Authority, the Ministry for Social Housing and Affordable Accommodation and ARMS Ltd, to raise concerns faced by landlords and to start a constructive discussion aimed at creating a more balanced and equitable regulatory system.

This position paper builds on the work carried out so far by the Landlords' Committee within the Malta Chamber of SMEs. This has been developed in close collaboration with its landlord members and shaped through hands-on experiences faced by landlords. The paper presents a set of practical, evidence-based recommendations to improve the current rules governing private residential leases. The aim remains to ensure a fair and equitable rental market.

## Recommendations

### Separation of Powers

The Ministry for Social Housing and Affordable Accommodation is responsible for providing social housing and helping those who cannot afford their own home. However, it also entrusted with the regulation of private residential leases. This creates a conflict because the Ministry's focus on social housing does not align with the needs of a free-market rental system. Private landlords who invest their own funds in rental properties require a regulatory framework that supports market flexibility and fairness. The SME Chamber suggests transferring the regulation of private leases to a different Ministry, such as one focused on economic development or trade

Additionally, the Housing Authority (HA) apart from monitoring private leases and is also involved in the rental market itself giving rise to a conflict between its regulatory duties and market interests. The HA also holds extensive powers over landlords (imposing penalties, assistance of police-backed entry, initiating criminal proceedings against landlords, filing applications before the Rent Regulation Board against landlords, and representing tenants in legal proceedings in certain cases) with little or no corresponding powers against tenants, suggesting an imbalance in the legal framework.

The SME Chamber Landlords' Section is in favour of establishing an Independent Agency entirely separate from the Ministry for Social Housing and Affordable Accommodation, to assume the Housing Authority's non-social housing responsibilities and ensure impartial oversight of the private rental sector.

#### **1. Ministry for Social Housing and Affordable Accommodation: Conflict in Mission / Mandate**

While the SME Chamber Landlords' Section acknowledges and supports the Ministry's important role in providing social housing and affordable accommodation for those unable to access the

private rental market, it strongly maintains that this function must remain distinct from the regulation of private residential leases. Private landlords operate within a free-market framework, offering their properties under conditions shaped by supply, demand, and negotiated agreements, agreed between parties. Imposing rigid or imbalanced regulations that compromise the principle of market-based negotiation, places an undue burden on property owners who invest their private capital in real estate.

The SME Chamber Landlords' Section believes that neither the Ministry for Social Housing and Affordable Accommodation nor the Housing Authority under its remit should retain direct responsibility for regulating and overseeing private residential leases.

**Current Issue:** The regulation of private residential leases currently falls under the remit of the Ministry for Social Housing and Affordable Accommodation. However, this Ministry's core mission as detailed in the website is to ensure access to adequate housing for all residents in Malta and Gozo. It supports the most vulnerable through social accommodation and assists those in the property market via financial schemes, helping them achieve housing stability.<sup>1</sup> This conflicts directly with the principles underpinning a free-market rental economy. Private lessors, who personally invest in property, require regulatory oversight from a body aligned with economic development and market-based practices, rather than one whose primary mission is the provision of social housing. Although the SME Chamber believes that efforts have been made by the Ministry to try and strike a balance, these may fall short given the direct conflict it faces as directed by its mandate.

**Proposal:** The regulation of private residential leases should be reassigned to a different Ministry or entity, completely separate and autonomous from social housing and affordable accommodation. The SME Chamber believes that responsibility should ideally fall under a ministry responsible for economic development, trade, or enterprise. Such a shift would ensure that private residential leases are governed by a regulatory framework that respects and promotes freedom of contract, market flexibility, and innovation within the rental sector.

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<sup>1</sup> <https://accommodation.gov.mt/ministry/>

## 2. Housing Authority: Conflict of Interest

**Current Issue:** The Housing Authority (HA) apart from monitoring private residential leases, also participates in the rental market itself. This dual function creates a significant conflict of interest, as it may lead to regulatory decisions that favour the Authority's own leasing objectives or those of the Ministry, to the detriment of private landlords.

**Proposal:** The SME Chamber Landlords' Section advocates for the creation of an Independent Agency, wholly autonomous from the Ministry for Social Housing and Affordable Accommodation. This agency would assume all non-social housing functions currently managed by the Housing Authority, providing neutral and impartial oversight of the private rental sector, free from competing interests.

## Reinforcing the principle that a private lease agreement must serve both parties equitably

The current legislative framework governing private residential leases imposes significant limitations on the freedom of contract between lessors and lessees. The law prohibits negotiation on several key contractual elements—such as the payment of specific fees, conditions of property use, deposit retention in the event of breach with regards to the early termination of the contract, lease duration, and lease termination provisions. While tenant protection may be necessary, these restrictions have resulted in a legal regime that disproportionately favours tenants and undermines the mutual autonomy of contracting parties.

This imbalance prevents lessors and lessees from entering into agreements that genuinely reflect their shared interests and the specific circumstances of their arrangements. To encourage a more equitable and market-responsive leasing environment, legislative clauses that unduly restrict or prohibit free negotiation between consenting parties should be re-evaluated and, where appropriate, removed. Allowing greater contractual freedom would enable the creation of tailored lease agreements, while still ensuring that core principles of fairness and legal certainty are preserved.

### **3. Revision of Article 7(1) – Forbidden Clauses**

- **Current Issue:** Article 7(1) of the Private Residential Leases Act lists several prohibited clauses that may not be included in lease agreements. This provision overly constrains freedom of contract, even in cases where both parties willingly and mutually agree to such terms in an arm's-length transaction.
- **Proposal:** To reassess and amend Article 7(1) to align with the principles of the free-market and the doctrine of contractual freedom. The revised article should allow for greater negotiation flexibility, especially in private lease agreements that fall outside the remit of social housing regulation.

#### 4. Reform of the 'Di Fermo' Period – Lease Withdrawal Rights

- **Current Issue:** Under current law, tenants may withdraw from lease agreements after a set portion of the lease term has elapsed (e.g., 50% for one-year contracts). This so-called *di fermo* period undermines the enforceability of lease agreements by providing tenants with an early-exit option without granting the same to landlords.
- **Proposal:** The SME Chamber proposes that the *di fermo* period is either entirely eliminated or allow both parties to negotiate its terms freely. Alternatively, the *di fermo* period introduced, should apply for both parties equally, thus restoring balance and contractual symmetry.

#### 5. Equalisation of Notice Periods

- **Current Issue:** The current legislative framework imposes a three-month notice requirement on landlords, while tenants are only required to provide one month's notice. This creates a clear imbalance, particularly in cases where tenants are problematic, have defaulted on payments, or are in breach of the lease agreement. Such asymmetry undermines landlords' ability to respond effectively to serious issues and protect their property.
- **Proposal:** Members believe that like any other private contract, any notice period should be of equal duration, unless otherwise agreed between the same parties. The SME Chamber supports this principle to ensure clarity, fairness, and alignment with standard contractual practices.

#### 6. Deposit Retention in Cases of Tenant Breach

- **Current Issue:** The law limits the amount a landlord may retain from a tenant's deposit to a maximum of one month's rent in cases of termination by the tenant prior to the end of the *di fermo* period.
- **Proposal:** The Landlords section within the SME Chamber proposes that mutually agreed amounts between landlords and tenants be permitted. Alternatively, the SME Chamber proposes that the permitted maximum retention of deposit be increased from one

month's rent to three months' rent in such cases. Any disputes arising over deposit retention could continue to be referred to the Adjudicating Panel.

## 7. Tenant Accountability for Utilities

- **Current Issue:** Under the current law, landlords are prohibited from disconnecting water and electricity supplies, even in situations where tenants fail to pay their utility bills. This creates an unfair financial burden on landlords. On the other hand, the entity responsible (ARMS) is empowered to stop the service when a given threshold of non-payment has been reached.
- **Proposal 1:** The SME Chamber proposes - the same principle should apply to landlords, and in cases where a tenant has failed to pay the utility bills (having reached a given threshold), the landlord should be entitled to request the entity (ARMS Ltd) to disconnect the supply, without any subsequent repercussions or penalties imposed on the landlord.
- **Proposal 2:** The SME Chamber also proposes that the option of pre-paid utility meters be re-introduced and formally regulated under Maltese law. This system would allow tenants to manage their utility consumption through a top-up mechanism, similar to mobile phone credit systems. Tenants would be able to purchase credit and top up their electricity and water accounts online directly with ARMS Ltd, ensuring that they remain in control of their usage and that no unpaid balances accumulate. This model would offer greater financial protection to landlords, reduce administrative burdens, and promote responsible consumption by tenants.

## 8. Equal Support for Landlords from the Housing Authority

- **Current Issue:** Lessors may face challenges in enforcing their rights against tenants who refuse to leave and/or who occupy properties unlawfully and/or who cause damage to property. The Housing Authority provides financial and legal support to tenants in specific cases, but no comparable assistance is extended to landlords.
- **Proposal:** Ensure that the Housing Authority or any other entity provides the same judicial and financial support to landlords, in appropriate circumstances, particularly in cases involving illegal occupation or significant tenant default, as it does to tenants.

## 9. Strengthening Landlord Control Over Occupancy in Rental Agreements

- **Current Issues:** Whilst landlords have certain obligations regarding the persons residing in their leased property (such as registering with ARMS, reporting to Identita, for insurance purposes, and ensuring adherence to LN 197 of 2024 re: the limitation of persons residing in a premises) there are no specific provisions within the law that allow the landlord to determine who may or may not reside in a property once it has been leased to one or more lessees.
- **Proposal:** The SME Chamber proposes that the current legislation is amended to require that, regardless of whether payment is involved or not, any additional persons residing in the leased property beyond the lessee/s named in the agreement must receive the landlord's prior written consent. In view of this, a landlord may allow additional residents to reside in the property under given special circumstances such as short visits by family and/or friends as long as no regulations are breached and no payment is involved to the tenant by his visitors, and on such terms as agreed between the landlord and tenant in the contract.

## 10. Tailoring Legislation to reflect the Diverse Maltese Property Market

- **Current Issue:** Following the change in Private Residential Leases Act effective as of 1st September 2024, Lessors or sub-lessors must declare the number of residents in a property. There is a maximum capping of 10 residents, with a maximum of 2 per bedroom. For properties with 4 or 5 bedrooms, the unit must have at least 2 bathrooms. This capping does not apply to families. Although in principle the introduction of the capped amount per dwelling brought about more order and compliance, this created certain issues which came as a result of the diverse property portfolio found in Malta and Gozo and certain characteristics of Maltese Properties. The current regulation sets limits on the number of individuals in any bedroom, regardless of the room's size. In cases where a bedroom is significantly larger than the minimum standard (which is very common in Houses of Character), for example, double the size, the room is still restricted to only two occupants. In such instances it would not be always possible (in light of planning regulations) to make structural changes to such properties due to their history and character.

- **Proposal:** In order to maintain the spirit of this legislation and also maintain good living conditions for tenants, it is being proposed that proportionality is applied in such cases. In this case, where a property is at least double the size of the minimum dwelling sizes as per PA DC2015<sup>2</sup> as approved by the Planning Authority (PA), that particular residence can apply a ratio of 1:1.5. As an example, if a two bedroom residence is of a size of at least 180sqm, that particular residence would be able to accommodate 6 tenants instead of 4.

It is also being suggested, that for the time being, the maximum capping of 10 residents is maintained irrespective of the size or number of bedrooms. This approach ensures that space is utilised efficiently while still maintaining appropriate living conditions.

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<sup>2</sup> [https://issuu.com/planningauthority/docs/dc2015\\_851e7b0de470e8](https://issuu.com/planningauthority/docs/dc2015_851e7b0de470e8) - Pg. 102:

- 55SQM for a One Bedroom Housing Unit
- 90sqm for a two-bedroom Housing Unit
- 115sqm for a Three Bedroom Housing Unit

## Enhance the Effectiveness of Eviction Process

The current eviction process is outdated, inefficient, and fails to address key concerns for landlords, particularly in cases of unauthorised occupation or tenant breaches. Despite the introduction of the Private Residential Leases Act, recent amendments have not resolved these issues. To enhance the eviction process, the system must address unauthorised occupation, streamline procedures, and provide landlords with effective tools to enforce their rights.

When the Private Residential Leases Act was introduced, landlords had strong expectations that these shortcomings would be addressed. However, disappointingly, the most recent amendments have failed to remedy this fundamental issue.

Below are the main proposals to improve the eviction process:

### **11. Extension of Powers of the Adjudicating Panel**

- **Current Issue:** The SME Chamber Landlords' Section supports the creation of the Adjudicating Panel as an alternative dispute resolution mechanism to bypass prolonged court procedures. However, the SME Chamber is concerned that the Panel's current powers fall short of addressing key landlord concerns. As an example, the Adjudicating Panel is not authorised to rule on contract termination or eviction, which based on feedback received from members are two of the most pressing issues for landlords. Furthermore, the Adjudicating Panel's financial remit is limited to disputes of under €5,000, even though losses from eviction cases generally exceed this threshold.
- **Proposal:** The SME Chamber therefore proposes to expand the AP's jurisdiction to include the below, thus empowering the AP with the authority to ensure more timely, cost-effective resolutions (for both parties) and help reduce pressure on the judicial system:
  - Contract termination;
  - Eviction orders; and
  - Raising the disputes threshold from €5,000 to €20,000.

## 12. Expediting the Eviction Process

- **Current Issue:** Unfortunately, current eviction procedures remain slow, often taking several months to complete, which besides resulting in financial losses to lessors incentivise tenants to neglect and cause wilful damage to lessors' property during the course of procedures. Additionally, landlords often have their own financial constraints against such properties which need to be honoured.
- **Proposal:** Establish a maximum period by when an eviction decision is issued. The SME Chamber, based on members' feedback believes that any period exceeding one month in duration is excessive. The SME Chamber also proposes that the Authorities should seriously consider strengthening any arm of the Court that deals with eviction.

## 13. Electronic Service of Official and Judicial Notices

- **Current Issue:** The existing methods for delivering judicial letters and court notices are outdated and inefficient, often resulting in tenants easily avoiding receipt of these important communications. This evasion contributes to significant delays in legal processes, prolonging disputes and creating unnecessary burdens for landlords. Modernizing these service methods is essential to ensure timely and effective resolution of legal matters.
- **Proposal:** Legislate for the electronic service of:
  - Judicial letters
  - Court communications
  - Sworn applications
  - Adjudication Panel notifications

These should be delivered to the tenant's verified email address or via their registered account on the Housing Authority's online portal. The law should recognise such service as legally equivalent to physical service, with a presumption of receipt upon successful electronic delivery. This would greatly reduce evasion and administrative delays.

## 14. Intervention in Cases of Unauthorised Occupation

- **Current Issue:** Despite recent legislative changes, landlords continue to face significant challenges when dealing with unlawful occupation of their properties by individuals who do not hold a valid lease or legal title. In such cases, landlords often find themselves powerless to take swift action, as the current legal framework lacks clear and effective mechanisms to address this problem. This leaves property owners vulnerable to prolonged periods of unauthorised occupancy, during which they may suffer financial losses, property damage, and legal complications. To protect landlords' rights and ensure fair and timely resolutions, there is an urgent need for stronger legal provisions that empower authorities to intervene and remove unlawful occupiers promptly.
- **Proposal:** The SME believes that both the Housing Authority (or any other responsible authority) and the Police should be empowered to intervene in cases of unauthorised occupation. By enabling these authorities to act swiftly and decisively, the prompt removal of unlawful occupiers would prevent the exploitation of legal loopholes and ensure that landlords' rights are effectively protected. This would also help reduce the financial and emotional burden on property owners, who often face prolonged periods of uncertainty and loss due to unlawful occupancy. This would ultimately provide a more balanced and fair system for both landlords and tenants, ensuring that properties are occupied only by those with valid legal claims.

## 15. Criminalisation of Unlawful Occupation

**Current Issue:** Some tenants who continue to occupy rental properties without valid contracts, whether due to the expiration of a lease or after having received proper notice

to vacate—may engage in malicious behaviour, including intentional property damage. Such actions often result in significant financial losses and undue psychological stress on lessors. To address this issue, there is a pressing need for stricter enforcement measures and legal consequences for such actions. Imposing penalties and more effective enforcement mechanisms would deter tenants from overstaying or damaging properties and ensure that landlords are adequately protected from such abuses.

- **Proposal:** The SME Chamber proposes the introduction of legislation to criminalise the occupation of properties without a valid legal title. This would deter abuse of rental agreements, particularly overstays, and provide landlords with swift legal recourse to reclaim back their properties. By imposing legal consequences for unlawful occupation, the measure would protect landlords' rights and promote a more balanced and fair rental market.

## 16. Tracing Tenants

- **Current Issue:** Landlords are legally required to inform the relevant authorities of the details of new tenants, in particular of expatriates. However when tenants abscond without notice, landlords are frequently left without adequate authority support to track them down. This lack of assistance often results in significant financial losses and administrative burdens for property owners. To address this issue, there is a need for improved mechanisms that enable landlords to track tenants more effectively, such as enhanced inter-agency cooperation and data-sharing between relevant authorities.
- **Proposal:** Authorities, including the Housing Authority (or any other responsible authority), the Police and Identità, should actively collaborate to assist landlords in locating defaulting tenants. By enhancing inter-agency cooperation and data-sharing, these entities can provide landlords with the necessary support to recover unpaid debts, enforce their legal rights, and fulfill reporting obligations. This can be done with prior consent from the tenants to allow the sharing of data with landlords. This proactive approach would create a more balanced and efficient system, offering landlords the tools they need to protect their rights.

## **Conclusion**

The SME Chamber's Landlords' Section acknowledges the importance of a rental framework that safeguards the rights and responsibilities of both landlords and tenants. However, the current system disproportionately burdens landlords, undermining their ability to manage properties confidently and equitably.

The recommendations outlined in this paper aim to restore a fairer balance. These include the separation of private lease regulation from social housing, the removal of restrictive contractual limitations, and the enhancement of legal mechanisms to address serious issues such as non-payment of rent and utility bills, property damage, and unlawful occupation.

We also call for the elimination of institutional conflicts of interest, a more efficient and timely eviction process, and greater support for landlords, particularly when facing financial or legal hardship.

Implementing these reforms would help establish a rental market that is fair, efficient, and more attractive to private investment, ultimately benefiting landlords, tenants, and the overall housing ecosystem. The SME Chamber remains committed to working collaboratively with the government and all relevant stakeholders to achieve these objectives.