



GOVERNMENT OF MALTA

Government response to the Consultation on the White Paper on Acquisition and Ownership of Agricultural Land Reform

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*Ministry for Agriculture, Fisheries and Animal Rights
Government Farm Ghammieri, Marsa, Malta*

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Executive Summary

Introduction and overview

1. A brief introduction about the subject.

Controlling the acquisition and ownership of land is fundamental to guaranteeing the sustainability of agriculture and food production, as well as the protection of the rural environment. For this reason, whenever there are issues in this area, these not only affect farmers but also have a strong impact on the supply and security of food and the quality of the environment that can be enjoyed by society. When the acquisition and possession of land are not controlled, there is a risk of farmers losing agricultural land, to the detriment of their livelihood, as well as to the country's ability to produce food and safeguard the rural environment.

In the light of recent Court rulings in which Chapter 199 was declared unconstitutional, the Government felt the need to intervene in this area of governance on land ownership. This need also stems from the National Post Pandemic Strategy 2021, which speaks very clearly about the significance of recent legal developments and the danger that they will continue to threaten the resilience of the farming sector and its function with regard to food supply and security. In this regard, in recent months, the Government, through the Ministry responsible for Agriculture, Fisheries and Animal Rights, has been working to reform the legal framework to protect crops. This reform takes into account the international and local contexts and respects the relevant laws, including Article 37 of the Constitution of Malta on the requirement not to be deprived of property and Article 1 of Protocol 1 of the European Convention on Human Rights concerning the right to property.

The aim of the reform is to protect the land in the public interest in a legitimate and proportionate manner so as to do justice to all parties, including the owner, reduce over-speculation, protect areas and above all, support agriculture in the wake of its importance for guaranteeing an ample food supply. Legislative amendments have already been tabled to Chapter 199, which are intended to meet the main objectives of this reform.

Based on the legal framework that binds Malta from both the international and local context, and in light of recent legal developments in the agricultural land market, together with the legislative amendments tabled before Parliament, Government proposed a number of additional measures aimed at protecting Maltese Agricultural Land.

2. The public consultation date.
Include the objective and purpose of the public consultation.

On 4 October 2022, the Government published a White Paper for public consultation with the proposed additional measures.

3. This consultation sought views on the proposed 12 measures being:

- *The setting up of an Authority responsible for agricultural land*
- *The establishment of Agricultural zones*
- *The establishment of a cadaster and sales register*
- *Introduction of a distinction according to the farmers status*
- *Safeguarding the need to cultivate agricultural land*
- *Setting up of an effective system to monitor tenure and sale of agricultural land*
- *Setting up a mechanism to register agricultural land leases*
- *Empower the Authority to act as an intermediary*
- *Ensuring coherence with Planning and Development Policy*
- *Review the mechanism related to allocation of Government-owned agricultural land*
- *Using Tax Measures as incentives to implement the reform*
- *Using Financial Assistance as incentives to implement the reform*

Responses to the consultation and process used to seek stakeholder views

This document is the Government Response to this consultation and sets out the Government's decisions on these matters.

4. The closing date of the public consultation. Which methods were used to receive the feedback. The total amount of responses. From whom you received the feedback.

The public consultation lasted for a period of 6 weeks and ended on the 8th of November 2022. The consultation document was available online and responses were received both electronically and by conventional post. In total there were 195 responses. 182 responses were received by electronic mail and 13 by conventional post.

Feedback from the public was received from various stakeholders which have either a direct or indirect link to the subject of the public consultation. Feedback was received from agriculture related organisations, operators in the processing of agricultural products, local authorities, NGOs, voluntary organisations, civil society, associations, foundations, legal firms, academics, freelance professionals, and other private individuals.

5. *Public consultation meetings which were open to all the public were held on the following dates:*

26th October 2022 – Agriculture Research and Development Farm – Ghammieri

28th October 2022 – Grand Hotel – Mgarr - Gozo

2nd November 2022 - Agriculture Research and Development Farm – Ghammieri

3rd November 2022 - Agriculture Research and Development Farm – Ghammieri

These meetings have also informed our thinking and final decision.

Summary of responses and decisions

The following is a summary of the consultation responses received.

We would like to thank all those who took the time to respond to the consultation and participate in stakeholder meetings around the consultation exercise.

6. Statistics.

- *Total feedback received: 195*
- *Total feedback received by individuals: 182*
- *Total feedback received by organisations: 13*
- *Total feedback received through email: 182*
- *Total feedback received by post: 13*

7. Summary of feedback received.

When looking into the feedback received, 25% consisted in personal queries related to their personal situation. Thus only 147 respondents (75% of the total feedback received) had comments directed towards the proposed reform.

The majority of the 147 respondents were in support of the proposed reform and the 12 proposed measures. Only 5% of the feedback received opposed the proposal.

*Below is a summary of the feedback received from the 147 respondents grouped under **the respective measures** proposed:*

- ***Authority responsible for agricultural land with four main responsibilities as per below***

There was a general concern towards the setting up of a new authority with stakeholder arguing that this work can be taken over by already set up authorities as a new authority will increase public expenditure.

- i. To keep a record of sales, rentals and use of private agricultural land the Maltese Islands;***

The proposal was welcomed without any reservations

- ii. To reinforce the need of ensuring that agricultural land is worked and utilised in line with its agricultural purpose, without undermining the rights that emanate from existing planning policies.***

Recommendations were made to use current models of enforcement to cater for legal loopholes which are present in other legislations.

- iii. To incentivise the acquisition of private agricultural land by genuine farmers who are currently making use of agricultural land leased to them, by giving them a right of precedence to purchase that same land if the owner chooses to sell.***

Arguments were made against this provision implying that it would be unfair towards the landowner. The right of first refusal should also have no impact on the final price of the sale. Notwithstanding most of the respondents were in favour of this proposal.

Financial incentives were also recommended to facilitate the purchase of land by farmers.

iv. To acquire land offered for sale by its owners through a right given to it, so that it may allocate that land to be worked by genuine farmers.

Respondents argued that this proposal should not put any legal pressure on the landowner. Assurance was also sought for the government not to impose the right to buy land with the same price that it was originally bought.

v. It is proposed that the Authority has a board composed of a number of experts in different sectors, representatives of competent authorities, and other interested stakeholders.

Recommendations that the board would have representation from government authorities who already have experience in land management with some stakeholders arguing that the composition of the board should be composed primarily of experts in the field including farmers and representatives of landowners.

- **The establishment of agricultural zones**

Whilst most of the feedback supported this measure, comments made focused on the need to consult with other authorities to ensure coherence with existing policies. Other comments insisted on clear definitions of agricultural land and zones. Concerns were also raised on what will happen if farmers have land that does not fall within the areas established as agricultural zones.

- **The establishment of a cadaster and sales register**

The proposal was welcomed by both authorities and stakeholders with some stakeholder advocating for the need to have this information shared with a register of government owned agricultural land. Recommendations were made to ensure that any existing information that may be used in the setting up of the cadaster is checked as to ensure that the data is reliable.

- **A distinction is made according to the farmers status**

Further clarifications were sought on this aspect as a number of queries were submitted on how such categorisations will be set up. In coming up with definitions, stakeholders were concerned on the delineation between the different categorisations.

- **Safeguarding the need to cultivate agricultural land**

There was a general support for this principal with some concern on the vagueness of the proposal given that no tangible actions are identified.

- **Tenure and sale of agricultural land**

Concerns were raised over the mechanism that will be adopted to implement these measures. Concerns were raised over the legal implications and increased bureaucracy.

- **Registration of agricultural land leases**

Concern was raised in connection with the duration of the leases where it was argued that the term of 8 and 16 years are not adequate given that investments linked agriculture need to be longer to ensure feasibility. On the other hand, other stakeholders argued that the duration of 8 years is a lengthy one and that this should be limited to just a year.

With regards to price controls opposing arguments were made to this approach where some described it as a draconian approach where others justified its intervention. Notwithstanding concern over the setting up of a fair price of agricultural land was raised over the methodology that will be applied. Various factors need to be considered when making this calculation such as agronomic aspects but also the improvements made by the current farmer working the leased land.

- **The Authority as an intermediary**

This measure has been welcomed with support from most of the stakeholders.

- **Coherence with Planning and Development Policy**

This approach was welcomed, and comments were made to ensure that the new authority will not undermine or take on roles which are currently undertaken by different authorities. Notwithstanding, complimentarily with other roles of existing authorities was encouraged. It was also stressed that this authority should be acting independently from other established authorities.

- **Government-owned agricultural land**

This measure was generally supported however concerns over the mechanisms on how the fair price will be calculated was brought up in connection with this measure.

- **Tax Measures**

These measures were also received positively in particular the measure that exempts landowners from inheritance tax. The other measures foreseen under this heading were also generally welcomed with some comments arguing against the use of tax to ensure cultivation of land.

- **Financial Assistance**

Measure was also received positively. Recommendations of involving other government establishments such as the Malta Development Bank were also made. Specific recommendations on how this measure should be implemented were also submitted.

8. Your assessment and the Government's decision (list the Government's decisions).

Having reviewed the submitted feedback our assessment remains that the proposed measures listed in the white paper are generally supported by most of the respondents. Notwithstanding, government is taking note that several queries have been made with regards to the approach that will be taken when implementing the measures proposed.

In view of this and the evidence and opinions from the consultation exercise, the Government has decided to take the decisions as summarised below.

- *Proceed with the implementation of the recommendations made by the white paper*
- *Engage in further discussions with stakeholders and relevant authorities when implementing the measures identified in this white paper.*

Implementation

9. When you intend to implement the decisions

Given that the implementation of the measures identified in the reform revolve around the setting up of the Authority, the government will initiate the implementation of the proposal enlisted in the white paper by focusing on the setting up of Authority.

Contact Details

If you have any questions regarding this response, please contact: publicconsultation.mafa@gov.mt