

ABBOZZ TA' LIGI

MSEJJAH

ATT biex jipprovdi ghax-xoljiment ta' zwigijiet.

IL-PRESIDENT bil-parir u l-kunsens tal-Kamra tad-Deputati imlaqqgħa f'dan il-Parlament, u bl-awtorita' ta' l-istess, hareg b'ligi dan li gej:-

1. Dan l-Att jista' jissejjah tal-1995 dwar ix-Xoljiment ta' Zwigijiet.

2. (1) Il-Qorti ta' gurisidzzjoni kontenjuza għandha tiddikjara li kuntratt ta' zwieg huwa xolt meta tistabbilixxi li tezisti xi wahda mir-ragunijiet imsemmija fl-Artiklu 3 għal tali xoljiment.

(2) Is-sentenza li tiddikjara x-xoljiment iggib fit-tmiem ir-rabta taz-zwieg u l-effetti civili tiegħu, ikun liema jkun il-mod li bih ikun gie celebrat, u dan mid-data meta l-istess sentenza ssir res judicata, hlief għall-obbligi ta' manteniment u dwar il-qsim tal-komunjoni tal-akkwisti jew fuq il-Komunjoni ta'residwu taht amministrazzjoni separata, li jistgħu jigu decizi jew fl-istess kawza jew jigu riservati għal decizjoni b'azzjoni separata.

3. Ix-xoljiment ta' zwieg għandu jigi dikjarat għal wahda minn dawn ir-ragunijiet:-

(a) meta l-partijiet ikun ilhom separati għal aktar minn hames snin, kemm jekk is-separazzjoni tkun b'sentenza, jew b'kuntratt jew de facto;

(b) meta l-parti konvenuta tkun ghexet "more uxorio" ma' persuna ohra ghal aktar minn sentejn;

(c) meta l-partijiet ikun separati jew ghexu separatament ghal aktar minn sentejn, u ma jkunx hemm tfal miz-zwieg;

(d) meta l-parti konvenuta tigi pruvata li kellha relazzjoni incestuza jew omosesswali, anke qabel iz-zwieg izda mhux maghrufa mill-parti l-ohra, jew tkun instabet hatja ta' reati sesswali minn qorti ta' gurdizzjoni kriminali;

(e) meta z-zwieg ma jkunx gie kunsmat;

4. (1) Iz-zmenijiet imsemmija fl-Artiklu 3 jitqiesu interrotti b'kull rikonciljazzjoni, imqar jekk temporanja, kemm-il darba l-partijiet ikunu iddecidew li jergghu jibdew jghixu flimkien.

(2) Meta jkun hemm interuzzjoni, il perijodu totali tas-separazzjoni ghandu jitqies, u z-zmenijiet imsemmija ghandhom jizdiedu b'nofs iehor taz-zmien originali imsemmi fl-Artiklu 3.

(3) Iz-zmenijiet jitqies sad-data tas-sentenza.

(4) Iz-zmenijiet jitqiesu li jiddekorru:-

(a) mid-data tad-digriet li jawtorizza l-bidu tal-proceduri ta' separazzjoni jew biex isir il-kuntratt ta' separazzjoni, meta s-separazzjoni tkun gudizzjarja jew konsenswali;

(b) mid-data li fiha l-partijiet ghexu flimkien taht l-istes saqaf, fil-kaz ta' separazzjoni de facto.

5. Parti mizzewga ma tistax iggib 'il quddiem l-azzjoni ghax-xoljiment billi tallega li hi stess ilha tghix "more uxorio" ma' persuna ohra gha; aktar minn sentejn, jew ghal xi raguni ohra imsemmija fl-Artiklu 3(d) fuq kondotta attribwibbli ghaliha stess.

6. (1) Il-Qorti tista' tordna lil kull wahda mill-partijiet, kemm jekk attrici jew konvenuta, li tghaddi manteniment lill-parti l-ohra, jew bi hlas fix-xahar jew f'somma li tiffissa li tithallas f'darba.

(2) Id-dritt tal-manteniment jispicca hekk kif dik il-parti li favur taghha jkun gie deciz jghaddi ghal zwieg iehor jew jghix "moe uxorio" ma' persuna ohra.

(3) Il-provvedimenti tal-Kodici Civili dwar it-tmiem u d-divizzjoni tal-komunjoni tal-akkwisti jew tal-komunjoni ta residwu taht amminstrazzjoni separata ghandhom jigu applikati mill-Qorti, meta hekk mitluba minn kull wahda mill-partijiet.

7. Meta hemm tfal miz-zwieg, il-Qorti ghandha tiddeciedi skond l-Artiklu 56 tal-Kodici Civili rigward il-kura u l-kustodja tat-tfal, jekk ma jkunx diga` mahsub ghalhekk fis-sentenza jew il-kuntratt ta' separazzjoni bejn il-partijiet, u tista` wkoll tvarja kull decizjoni jew ftehim ta'qabel f'sentenza ta' separazzjoni jew kuntratt ta' separazzjoni.

8. Meta l-fatti jkunu ammessi minn xi wahda mill-partijiet, jew il-parti konvenuta ma tikkontestax it-talbiet attrici, il-Qorti ghandha tiddeciedi skond il-talba.

9. Huwa, pero`, fid-diskrezzjoni tal-Qorti li tipprova li tirrikoncilja l-partijiet, u ghal din irraguni tista` tiddiferixxi l-kawza ghal zmien ta' mhux aktar minn xahrejn.

10. Meta tinghata s-sentenza ta' xoljiment ta' zwieg, u ssir res giudicata, ir-Registratur tal-Qrati ghandu jippresenta nota ghar-registrazzjoni lid-Direttur tar-Registru Pubbliku sabiex is-sentenza relativa tigi annotata fuq ic-certifikat taz-zwieg tal-partijiet.

#### Ghanijiet u Ragunijiet

L-ghan ta' dan l-abbozz huwa li jipprovdi rimedju civili ghal dawk il-partijiet li jqisu li z-zwieg tagghom ghandu jigu xolt, u dan biss ghal dak li jirrigwarda l-effetti civili taz-zwieg.

A Bill

entitled

An Act to make provision for the dissolution of marriages.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same as follows:-

1. This Act may be cited as the Marriages (Dissolution) Act, 1995.

2.(1) The court of contentious jurisdiction shall declare the marriage contract of the parties to be dissolved when it establishes that any one of the grounds mentioned in Section 3 subsists for a declaration of dissolution.

(2) The judgment dissolving the marriage, in whatever manner solemnized, shall terminate the marriage bond and all its civil effects from the date when the judgment becomes res judicata, except for the obligations of maintenance and the partition of the community of acquests or the community of residue under separate administration which may be decided in the same judgment or which may be reserved for a decision on a separate action.

3. The dissolution of a marriage contract shall be declared for any one of the following grounds-

(a) when the parties had been separated for more than five years, whether such separation was judicially declared, or effected by contract, or de facto;

(b) when the defendant had cohabited "more uxorio" with another person for at least two years;

(c) when the parties have been separated or lived separately for at least two years and there are no children to the marriage.

(d) when the defendant is proved to have had an incestuous or homosexual relation, even prior to marriage and not known to the other spouse, or has been found guilty of any sexual offence by a Court of Criminal jurisdiction.

(e) when the marriage had not been consummated.

4.(1) The times established in Section 3 shall be deemed interrupted by any reconciliation, even though temporary, provided that the parties had decided to resume cohabitation as husband and wife.

(2) When there has been any interruption, the total period of separation shall be taken into account, and the said times shall be extended by an additional one half of the original period of separation mentioned in Section 3,

(3) The said times shall be calculated until judgment is delivered.

(4) The said times shall be deemed to run:-

(a) from the date of the decree of authorisation to start separation proceedings or to proceed to a consensual separation when the separation is judicial or contractual;

(b) from the day when the parties last lived under the same roof, in the case of de facto separation.

5. A spouse may not sue for the dissolution of the marriage alleging his own cohabitation "more uxorio" for more than two years, or any of the grounds mentioned in Section 3(d) attributable to his own conduct.

6.(1) The Court may order either spouse, whether plaintiff or defendant to supply maintenance to the other party, either by monthly payments or by settling an amount to be paid only once.

(2) The right of maintenance shall cease as soon as the party in favour of whom it is granted contracts another marriage or lives "more uxorio" with another person.

(3) The provisions of the Civil Code concerning the termination and partition of the community of acquests or the community of residue under separate administration shall be applied by the Court, if so requested by either party.

7. Where there are children to the marriage, the Court shall decide according to Section 56 of the Civil Code regarding the care and custody of the children, if no provision had already been made in the judgment or contract of separation of the spouses, or may vary any decision or agreement established previously in the judgment pronouncing separation or the contract of separation.

8. Where the facts in issue are admitted by any of the parties, or the defendant does not contest the

claims of the plaintiff, the Court shall decide according to the claim.

9. It shall, however, be within the discretion of the Court to attempt to reconcile the parties, and for this reason may adjourn the case for a period not longer than two months.

10. When judgment is delivered dissolving a marriage, and it has become res judicata, the Registrar of the Courts shall deliver a note for registration to the Director of the Public Registry so that the relative judgment may be annotated on the marriage certificate of the parties.

#### Objects and Reasons.

The Object of the Bill is to provide a civil remedy in this cases where the parties deem that their marriage should be dissolved, and this solely with reference to the civil effects of marriage.