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MALTA

KAMRA TAD-DEPUTATI

ABBOZZ ta' Ligi mressaq mill-Onorevoli Austin Gatt, M.P., Ministru tal-Ġustizzja u Gvern Lokali u moqri għall-Ewwel Darba fis-Seduta tas-26 ta' Lulju, 1999.

ATT biex jemenda l-Att ta' l-1996 dwar l-Arbitraġġ.

RICHARD J. CAUCHI
Skrivan tal-Kamra tad-Deputati

HOUSE OF REPRESENTATIVES

A BILL introduced by the Honourable Austin Gatt, M.P., Minister of Justice and Local Government and read the First time at the Sitting of the 26th July, 1999.

AN ACT to amend the Arbitration Act, 1996.

RICHARD J. CAUCHI
Clerk to the House of Representatives

ABBOZZ TA' LIĠI msejjah

ATT biex jemenda l-Att ta' l-1996 dwar l-Arbitraġġ.

IL-PRESIDENT, bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqgħa f' dan il-Parlament, u bl-awtorità ta' l-istess, hareġ b'liġi dan li ġej:—

1. (1) Dan l-Att jista' jissejjah l-Att ta' l-1999 li jemenda l-Att dwar l-Arbitraġġ, u għandu jinqara u jiftiehem haġa waħda ma' l-Att ta' l-1996 dwar l-Arbitraġġ, hawnhekk iżjed 'il quddiem imsejjah "l-Att prinċipali".

Titolu fil-qosor
u bidu fis-sehh.

Att II ta' l-1996.

(2) Dan l-Att għandu jibda jsehh f'dik id-data li l-Ministru responsabbli għall-ġustizzja jista' jstabbilixxi b'avviż fil-Gazzetta u dati differenti jistgħu jiġu hekk stabbiliti għal dispożizzjonijiet u għanijiet differenti ta' dan l-Att.

2. Minnufih wara tmiem it-tifsira ta' "ftehim ta' arbitraġġ" fl-artikolu 2 ta' l-Att prinċipali għandu jidhol dan il-proviso li ġej:

Emenda ta'
l-artikolu 2 ta'
l-Att prinċipali.

"Izda:

(a) id-dispożizzjonijiet ta' l-Artiklu 7 tal-Mudell ta' Liġi għandu jitqies li jkun ġie mħares jekk il-ftehim ta' arbitraġġ ikun jinsab f'dokument li jingħadda minn parti waħda lill-parti l-oħra jew minn terza parti liż-żewġ partijiet u, jekk ma tkunx saret xi oġġezzjoni dwar dan fi żmien tletin ġurnata mill-wasla tad-dokument;

(b) ir-referenza f'kuntratt bil-miktub ghal dokument li jkun fih klawżola ta' arbitraġġ jikkostitwixxi ftehim ta' arbitraġġ sakemm ir-referenza tkun tali li taghmel lil dik il-klawżola parti mill-kuntratt;

(ċ) ftehim ta' arbitraġġ jiġi wkoll konkluz bil-hruġ ta' polza ta' kargu, jekk din ikun fiha referenza espressa ghal klawżola ta' arbitraġġ f'*charter party*;"

Emenda ta'
l-artikolu 4 ta'
l-Att prinċipali.

3. Minnufih wara s-subartikolu (3) ta' l-artikolu 4 ta' l-Att prinċipali ghandu jżied dan is-subartikolu ġdid li ġej:

“(4) Fit-twettiq tal-funzjonijiet taghhom taht dan l-Att il-membri kollha tal-Bord ghandhom iwettqu l-funzjonijiet taghhom skond l-arbitriju individwali taghhom u m'ghandhomx ikunu sugġetti ghad-direzzjoni jew kontroll ta' xi persuna jew awtorita` ohra.”

Emenda ta'
l-artikolu 6 ta'
l-Att prinċipali.

4. L-artikolu 6 ta' l-Att prinċipali ghandu jiġi emendat kif ġej:

(a) id-dispożizzjoni preżenti ghandha tiġi enumerata mill-ġdid bhala s-subartikolu (1) ta' l-artikolu;

(b) fis-subartikolu (1) kif enumerat mill-ġdid, il-kliem “u b'dawk il-patti u l-kondizzjonijiet li l-Ministru jista' jqis li jkunu xierqa” ghandhom jithassru; u

(ċ) minnufih wara s-subartikolu (1) kif enumerat mill-ġdid ghandu jidhol dan is-subartikolu ġdid li ġej:

“(2) Il-membri tal-Bord ikollhom jedd ghal dik ir-rimunerazzjoni u dawk l-*allowances* li l-Ministru jista' jistabilixxi minn żmien ghal żmien.”

Emenda ta'
l-artikolu 9 ta'
l-Att prinċipali.

5. L-artikolu 9 ta' l-Att prinċipali ghandu jiġi emendat kif ġej:

(a) minnufih fi tmiem is-subartikolu (1) tieghu, ghandhom jżiedu l-kliem “F” dak li ghandu x'jaqsam mal-funzjonijiet tieghu taht dan l-Att, ir-Registatur ikollu s-setgħa li jaghti l-ġuramenti, inkluża minghajr preġudizzju għall-ġeneralita` ta' dak hawn aktar qabel imsemmi s-setgħa li jinghataw il-ġuramenti tal-kariga li jistgħu jinhtiegu li jittiehdu minn arbitri jew minn kull persuna ohra involuta fil-proċedimenti ta' l-arbitraġġ taht kull liġi li tista' ssir taht dan l-Att.”; u

(b) minnufih wara s-subartikolu (3) tieghu, ghandu jżied dan is-subartikolu li ġej:

“(4) Ir-Registratur ghandu wkoll iwettaq kull funzjoni li tista’ tigi lilu delegata bil-miktub mill-Bord minn żmien ghal żmien.”.

6. L-artikolu 10 ta’ l-Att prinċipali ghandu jiġi emendat kif ġej: Emenda ta’ l-artikolu 10 ta’ l-Att prinċipali.

(a) fil-paragrafu (ii) tas-subartikolu (1) tiegħu, il-kliem “, bi ftehim mal-Ministru,” ghandhom jithassru;

(b) fis-subparagrafu (b) tal-paragrafu (ii) tas-subartikolu (1) tiegħu, minnufih wara l-kliem “u l-htigiet” ghandhom jidhlu l-kliem “(inkluż kull dritt li jithallas għaldaqstant)”; u

(ċ) fis-subartikolu (4) tiegħu, minflok il-kliem “il jintghamel minn mhux aktar minn hames membri, inkluż iċ-*Chairman* taċ-Ċentru,” ghandhom jidhlu l-kliem “li jkollu bhala president iċ-*Chairman* taċ-Ċentru,”.

7. Minnufih wara s-subartikolu (3) ta’ l-artikolu 13 ta’ l-Att prinċipali ghandu jiddied dan is-subartikolu ġdid li ġej: Emenda ta’ l-artikolu 13 ta’ l-Att prinċipali.

“(4) Kull eċċess ta’ dhul fuq l-ispiza taċ-Ċentru ghandu, bla hsara għal dawk id-direttivi li l-Ministru jista’, wara konsultazzjoni mal-Ministru responsabbli għall-finanzi, minn żmien għal żmien jagħti, jiġi applikat miċ-Ċentru għall-għemil ta’ fondi ta’ riserva biex dawn jintużaw għall-għanijiet taċ-Ċentru; u, minghajr preġudizzju għall-ġeneralita` tas-setgħat mogħtija lill-Ministru b’dan is-subartikolu, kull direttiva li tingħata mill-Ministru kif hawn aktar qabel imsemmi tista’ tordna t-trasferiment lill-Gvern, jew l-applikazzjoni b’dak il-mod li jista’ jiġi hekk speċifikat fid-direttiva, ta’ xi parti minn kull dhul bhal dak.”.

8. L-artikolu 14 ta’ l-Att prinċipali ghandu jiġi emendat kif ġej: Emenda ta’ l-artikolu 14 ta’ l-Att prinċipali.

(a) is-subartikolu (2) tiegħu ghandu jithassar; u

(b) is-subartikolu (1) tiegħu ghandu jiġi enumerat mill-ġdid bhala d-dispożizzjoni shiħa tiegħu.

9. L-artikolu 15 ta’ l-Att prinċipali ghandu jiġi emendat kif ġej: Emenda ta’ l-artikolu 15 ta’ l-Att prinċipali.

(a) fis-subartikolu (1) tiegħu, minflok il-kliem “bis-sahħa tas-subartikolu (1) ta’ l-artikolu 14” ghandhom jidhlu l-kliem “bis-sahħa ta’ l-artikolu 14”; u

(b) minflok is-subartikolu (2) tiegħu ghandu jidhol dan li ġej:

“(2) Għall għanijiet ta’ dan l-Att, tilwima tinkludi kull kontroversja jew pretensjoni li titnissel mill-ftehim jew li jkollha x’taqsam miegħu, jew il-ksur jew it-temm jew l-invalidità tal-ftehim jew in-nuqqas ta’ tharis tal-ftehim.”.

Emenda ta’
l-artikolu 16 ta’
l-Att prinċipali.

10. Fis-subartikolu (1) ta’ l-artikolu 16 ta’ l-Att prinċipali, minflok il-kelma “hibitual” fit-test Inġliż għandha tidhol il-kelma “habitual”, minflok il-kliem “jkun hekk twassal.” għandhom jidhlu l-kliem “jkun hekk twassal:”, u minnufih fi tmiemu għandu jiżdied dan il-proviso li ġej:

“Iżda ċ-Ċentru jista’, permezz ta’ regoli li jsiru taht dan l-Att, jipprovi għal modi oħra ta’ notifika u jagħmel provvedimenti dwar meta għandu jitqies li tkun saret in-notifika.”.

Emenda ta’
l-artikolu 17
ta’ l-Att
prinċipali.

11. L-artikolu 17 ta’ l-Att prinċipali għandu jiġi emendat kif ġej:

(a) minnufih wara l-kliem “(hawnhekk iżjed ’il quddiem imsejha “l-intimat”)” fis-subartikolu (1) tiegħu, għandhom jiżdiedu l-kliem “, u kull proċedura u kull deċiżjoni li tinghata wara bis-sahha tagħhom f’xi arbitraġġ li din it-Taqsima tirreferi għalih, għandhom ikunu nulli u bla effett u mhux esegwibbli jekk l-avviż ta’ arbitraġġ relattiv ma jkunx ġie ppreżentat fiċ-Ċentru”; u

(b) fis-subartikolu (2) tiegħu, minflok il-kliem “għand l-intimat.” għandhom jidhlu l-kliem “għand l-intimat:”, u minnufih fi tmiemu għandu jiżdied dan il-proviso li ġej:

“Iżda għall-għanijiet ta’ l-artikoli 843, 846, 849, 867 u 875 tal-Kodiċi ta’ Organizzazzjoni u Proċedura Ċivili, il-proċedimenti ta’ l-arbitraġġ taht din it-Taqsima għandhom jitqiesu li jinbdew mal-preżentata ta’ l-avviż ta’ arbitraġġ għand ir-Registratur.”.

Żieda ta’
l-artikolu 21A
għdid ma’ l-Att
prinċipali.

12. Minnufih wara l-artikolu 21 ta’ l-Att prinċipali għandu jidhol dan l-artikolu għdid li ġej:

“Partijiet
diversi.

21A. (1) Meta jkun hemm diversi partijiet, sew bhala rikorrenti sew bhala intimati, ir-rikorrenti diversi, solidalment, u l-intimati diversi, solidalment, għandhom jagħmlu proposta lill-parti l-oħra sabiex jinhatar arbitru skond ma hemm fl-artikolu 20 jew għandhom jahtru arbitru skond ma hemm fl-artikolu 21, skond il-kaz.

(2) Meta t-tilwima tkun se tiġi riferita lil arbitru uniku u meta jkun hemm partijiet diversi, sew bhala rikorrenti sew bhala intimati, ir-rikorrenti diversi, solidalment, u l-

intimati diversi, solidament, jistghu jaslu ghal ftehim mal-parti l-oħra dwar l-ghazla ta' arbitru uniku li jiġi mahtur skond ma hemm fl-artikolu 20.

(3) Fin-nuqqas ta' nomina solidali bħal dik, meta t-tilwima tkun se tiġi riferita lil tliet arbitri u meta l-partijiet kollha ma jkunux jistgħu jaqblu dwar metodu ta' kif għandu jintgħamel it-Tribunal ta' l-Arbitraġġ, iċ-*Chairman* jista' fuq talba ta' parti waħda jew l-oħra jahtar lil kull membru tat-Tribunal ta' l-Arbitraġġ u jsemmi lil wiehed minnhom biex jagħmilha ta' arbitru li jippresjedi.”.

13. Minflok il-kliem “l-artikolu 20 jew 21” fis-subartikolu (1) ta' l-artikolu 22 ta' l-Att prinċipali għandhom jidhlu l-kliem “l-artikolu 20, 21 jew 21A”.

Emenda ta' l-artikolu 22 ta' l-Att prinċipali.

14. Minflok is-subartikolu (1) ta' l-artikolu 28 ta' l-Att prinċipali, għandu jidhol dan li ġej:

Emenda ta' l-artikolu 28 ta' l-Att prinċipali.

“(1) L-ilsien li għandu jintuza fil-proċedimenti għandu jkun, kemm-il darba l-partijiet ma jaqblux xort'oħra, il-Malti.”.

15. Minflok il-kliem “hmistax-il jum” fis-subartikolu (3) ta' l-artikolu 38 ta' l-Att prinċipali, għandhom jidhlu l-kliem “ghoxrin jum”.

Emenda ta' l-artikolu 38 ta' l-Att prinċipali.

16. Fis-subartikolu (2) ta' l-artikolu 44 ta' l-Att prinċipali, minflok il-kliem “fil-lok fejn isir l-arbitraġġ” għandhom jidhlu l-kliem “u titqies li qed tinghata fil-lok miftiehem bejn il-partijiet bħala l-lok ta' l-arbitraġġ, jew, fin-nuqqas ta' ftehim, fil-lok li jiġi stabbilit mit-Tribunal ta' l-Arbitraġġ”.

Emenda ta' l-artikolu 44 ta' l-Att prinċipali.

17. Minflok l-artikolu 51 ta' l-Att prinċipali, għandu jidhol dan li ġej:

Sostituzzjoni ta' l-artikolu 51 ta' l-Att prinċipali.

“Tariffa ta' drittijiet.

51. It-tribunal ta' l-arbitraġġ għandu jistabbilixxi d-drittijiet u l-ispejjeż skond dik it-tariffa ta' drittijiet li ċ-Ċentru jista' jagħmel minn żmien għal żmien.”.

18. Fis-subartikolu (1) ta' l-artikolu 53 ta' l-Att prinċipali, minflok il-kliem “fil-paragrafi (a), (b), (ċ) u (f)” għandhom jidhlu l-kliem “fil-paragrafi (a), (b) u (ċ)”.

Emenda ta' l-artikolu 53 ta' l-Att prinċipali.

19. Minflok l-artikolu 59 ta' l-Att prinċipali għandu jidhol dan li ġej:

Sostituzzjoni ta' l-artikolu 59 ta' l-Att prinċipali.

“Kapitlu VIII tal-Mudell ta’ Ligi ma japplikax. 59. Il-Kapitlu VII ta’ dan l-Att dwar l-Gharfien u l-Eżekuzzjoni ta’ Deċiżjonijiet ta’ Arbitraġġ Barranin ghandu jkun japplika ghal deċiżjonijiet ta’ arbitraġġ barranin u l-Kapitlu VIII tal-Mudell ta’ Ligi m’ghandux ikun japplika.”.

Emenda ta’ l-artikolu 60 ta’ l-Att prinċipali.

20. L-artikolu 60 ta’ l-Att prinċipali ghandu jiġi emendat kif ġej:

(a) is-subartikolu (2) tiegħu ghandu jithassar u s-subartikolu (1) tiegħu ghandu jiġi enumerat mill-ġdid bħala d-dispożizzjoni shiha tiegħu; u

(b) minflok il-kliem minn “b’mod differenti minn kif maħsub fil-Mudell ta’ Ligi,” sal-kliem “arbitraġġ domestiku,” ghandhom jidhlu l-kliem “b’mod differenti minn kif maħsub fil-Mudell ta’ Ligi, u l-partijiet ma jkunux għażlu liema regoli kellhom jirregolaw l-arbitraġġ, f’dak il-każ ghandhom japplikaw id-dispożizzjonijiet tat-Taqsima IV ta’ dan l-Att.”.

Sostituzzjoni ta’ l-artikolu 61 ta’ l-Att prinċipali.

21. Minflok l-artikolu 61 ta’ l-Att prinċipali ghandu jidhol dan l-artikolu ġdid li ġej:

“Deċiżjonijiet internazzjonali taht l-artikolu 60 m’ghandhomx ikunu registrati miċ-Ċentru. 61. Meta skond l-artikolu 60, ikunu japplikaw id-dispożizzjonijiet tat-Taqsima IV ta’ l-Att, il-htieġa msemija fis-subartikolu (1) ta’ l-artikolu 70 ta’ dan l-Att ghar-rigward tar-registrazzjoni tad-deċiżjoni miċ-Ċentru, ma ghandhiex tun tapplika.”.

Emenda ta’ l-artikolu 62 ta’ l-Att prinċipali.

22. Fl-artikolu 62 ta’ l-Att prinċipali, minflok il-kliem “Bla hsara ghad-dispożizzjonijiet ta’ l-artikolu 61,” ghandhom jidhlu l-kliem “Minkejja d-dispożizzjonijiet ta’ l-artikolu 59,”.

Emenda ta’ l-artikolu 65 ta’ l-Att prinċipali.

23. L-artikolu 65 ta’ l-Att prinċipali ghandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, minflok il-kliem “Kemm-il darba l-partijiet” ghandhom jidhlu l-kliem “Salvi d-dispożizzjonijiet ta’ l-artikolu 80 ta’ dan l-Att, kemm-il darba l-partijiet”; u

(b) fis-subartikolu (2) tiegħu minflok il-kliem “erbatax-il jum” ghandhom jidhlu l-kliem “tletin jum”, u l-kliem “tar-Registratur u” ghandhom jithassru.

Emenda ta’ l-artikolu 70 ta’ l-Att prinċipali.

24. L-artikolu 70 ta’ l-Att prinċipali ghandu jiġi emendat kif ġej:

(a) fis-subartikolu (3) tieghu, minflok ill-kliem “għandha tagħmel digriet” għandhom jidhlu l-kliem “għandha biss tiddeċiedi”;

(b) fis-subartikolu (4) tieghu minflok il-kliem “bil-mezz ta’ att ġudizzjarju tar-reġistrazzjoni” għandhom jidhlu l-kliem “bil-mezz ta’ att ġudizzjarju dwar it-talba għar-reġistrazzjoni”; u

(ċ) minnufih wara s-subartikolu (4) tieghu, għandhom jiżdiedu dawn is-subartikoli li ġejjin:

“(5) Għall għanijiet ta’ dan l-artikolu u ta’ l-artikoli 57 u 73 ta’ dan l-Att, il-Qorti ta’ l-Appell ikun magħmul bil-mod provdut fis-subartikolu (6) ta’ l-artikolu 41 tal-Kodiċi ta’ Organizzazzjoni u Proċedura Ċivili.

(6) Kull rikors taht dan l-artikolu għandu jiġi ttrattat bil-maġhluq u jithallew jidhlu biss fil-qorti matul is-smigh il-partijiet u l-avukati u prokuraturi legali tagħhom.

(7) Id-deċiżjoni tal-Qorti għandha żżomm shih il-konfidenzjalità ta’ l-arbitraġġ u għandha tiżvela biss dawk il-fatti li jistgħu jkunu meħtieġa sabiex dik id-deċiżjoni tkun tista’ tiftiehem u tkun esegwibbli mill-partijiet.

(8) L-ispejjeż ta’ l-appell ikunu skond ma tiddeċiedi l-Qorti ta’ l-Appell u jkunu dak l-ammont li jiġi stabbilit mir-Registratur tal-Qrati.

(9) Il-Bord imwaqqaf taht l-artikolu 29 tal-Kodiċi ta’ Organizzazzjoni u Proċedura Ċivili jista’ jagħmel regoli li jkunu jirrigwardaw rikorsi quddiem il-Qorti ta’ l-Appell taht dan l-artikolu u jistabbilixxi d-drittijiet li għandhom jithallsu meta jsiru dawk ir-rikorsi.”.

25. Minflok l-artikolu 72 ta’ l-Att prinċipali għandu jidhol dan li ġej:

Sostituzzjoni ta’ l-artikolu 72 ta’ l-Att prinċipali.

“Registrazzjoni għand u miċ-Centru.

72. (1) Meta skond dan l-Att tkun meħtieġa r-registrazzjoni ta’ xi deċiżjoni jew dokument għand iċ-Ċentru, dik ir-registrazzjoni għandha ssir billi dik id-deċiżjoni jew dak id-dokument, jew kopja awtentika tagħhom, jiġu depożitati għand ir-Registratur flimkien ma’ kull hlas li minn żmien għal żmien jista’ jiġi preskritt għal dik ir-registrazzjoni.

(2) Ir-Registratur għandu jiċhad li jirregistra deċiżjoni jew dokument jekk dawn ma jkunux konformi ma’

xi dispożizzjoni ta' dan l-Att jew tar-regoli maghmula miċ-Ċentru li jkollhom x'jaqsmu ma' l-Att.

(3) Fil-każ ta' arbitraġġ domestiku, li jsir skond it-Taqsima IV ta' dan l-Att id-dispożizzjonijiet tas-subartikoli (2), (3), (4) u (5) ta' l-artikolu 38, u dawk ta' l-artikolu 70 u ta' l-artikolu 71 ghandhom japplikaw biss u l-proċedimenti jkunu validi biss meta, qabel il-bidu tal-proċedimenti, il-ftehim ta' l-arbitraġġ jiġi registrat ghand iċ-Ċentru skond l-artikolu 17 ta' dan l-Att.

(4) (a) Ir-Registratur m'għandux jirreġistra deċiżjoni jekk matul hmistax-il jum min-notifika tat-talba għar-registrazzjoni ta' dik id-deċiżjoni lill-partijiet l-oħra involuti, dawk il-partijiet ikunu ppreżentaw oġġezzjoni kontra r-registrazzjoni ta' dik id-deċiżjoni fiċ-Ċentru u jkunu bdew azzjoni skond ma hemm fl-artikolu 70 ta' dan l-Att sabiex jikkontestaw il-validita' ta' dik id-deċiżjoni.

(b) Meta wara proċeduri skond il-paragrafu (a) ta' dan is-subartikolu il-Qorti ta' l-Appell ma tilqax il-kontestazzjoni, dik is-sentenza għandha tiġi registrata fiċ-Ċentru flimkien ma' kopja tad-deċiżjoni fuq talba tal-persuna li tkun trid ir-registrazzjoni.

(5) Malli d-deċiżjoni tkun giet registrata fiċ-Ċentru, id-deċiżjoni ssir wahda konkluziva u vinkolanti u ma tkunx tista' tiġi kontestata.

(6) Kull oġġezzjoni għar-registrazzjoni ta' deċiżjoni li l-Qorti ta' l-Appell tiddeċiedi li tkun frivola jew vessatorja tirrendi lill-parti li tagħmel dik l-oġġezzjoni responsabbli għall-hlas lil dik il-parti li tkun qed titlob ir-registrazzjoni tagħha, ta' penali ta' mhux anqas minn 100 lira u mhux aktar minn 5000 lira, hekk kif jiġi stabbilit mill-Qorti ta' l-Appell.”.

Sostituzzjoni ta' l-artikolu 73 ta' l-Att prinċipali.

26. Minflok l-artikolu 73 ta' l-Att prinċipali għandu jidhol dan li ġej:

“Ċhid ta' registrazzjoni ta' dokument.

73. (1) Meta r-registratur jiċhad li jirreġistra xi dokument, sew wara li ssir oġġezzjoni sew xort'oħra, il-parti li tkun qed titlob ir-registrazzjoni tista', fi żmien tletin jum minn dak iċ-ċhid, titlob lill-Qorti ta' l-Appell, permezz ta' rikors, li tordna lir-registratur jaċċetta dik ir-registrazzjoni, u d-deċiżjoni ta' dik il-qorti għandha tkun wahda finali u

konklużiva. Dik l-applikazzjoni ghandha tigi notifikata lill-partijiet l-oħra fl-arbitraġġ u lir-registratur.

(2) Il-fatt li dokument ikun gie aċċettat ghar-registrazzjoni miċ-Ċentru ma ghandux jipprekludi li tista' tigi kontestata l-validità ta' dak id-dokument taht kull dispożizzjoni ta' dan l-Att.”.

27. Fl-artikolu 74 ta' l-Att prinċipali –

Emenda ta' l-artikolu 74 ta' l-Att prinċipali.

(a) minflok il-kelma “Schedule” fit-test Inġliż tas-subartikolu (1) tiegħu, ghandha tidhol il-kelma “Schedule”, u minnufih wara l-kliem “li tinsab ma' dan l-Att” ghandhom jidhlu l-kliem “(kif inhuma sugġetti għal dawk ir-rizervi jew dikjarazzjonijiet kif setghu saru minn Malta meta din saret parti f' dawk it-trattati u kif dawn jinsabu fit-Tieni Skeda)”;

(b) is-subartikolu (4) tiegħu ghandu jithassar.

28. Fis-subartikolu (1) ta' l-artikolu 75 ta' l-Att prinċipali, minflok il-kliem “kull kwistjoni mehtieġa” ghandhom jidhlu l-kliem “kull tilwima mehtieġa”.

Emenda ta' l-artikolu 75 ta' l-Att prinċipali.

29. Minnufih wara l-artikolu 79 ta' l-Att prinċipali ghandhom jiżdedu dawn l-artikoli godda li ġejjin:

Żieda ta' l-artikoli 80 u 81 godda ma' l-Att prinċipali.

“Kmammar ta' l-Arbitraġġ.

80. (1) Minkejja xi dispożizzjoni ta' din il-liġi jew ta' xi liġi oħra, id-dispożizzjonijiet ta' dan l-artikolu ghandu jkollhom sehh ghar-rigward ta' dak kollu li jinsab regolat b'dan l-artikolu.

Att XXV ta' l-1995.

(2) Kull individwu, jew individwi, sew jekk inhu kkunsidrat bhala residenti f'Malta sew jekk mhuwiex għall-ghanijiet ta' xi liġi, jista' jikkostitwixxi Kamra ta' l-Arbitraġġ fl-għamla ta' kumpannija ta' responsabbiltà limitata taht l-Att ta' l-1995 dwar il-Kumpanniji: b'dan illi d-dispożizzjonijiet ta' l-imsemmi Att ghandu jkollhom sehh ghar-rigward ta' Kamra ta' l-Arbitraġġ kif emendati, modifikati jew sostitwiti bid-dispożizzjonijiet ta' dan l-artikolu. Dawk il-kumpanniji kollha ghandhom ikunu jinkludu bhala parti minn isimhom il-kliem “Ċentru ta' Arbitraġġ”.

(3) L-ghanijiet ta' Kamra ta' l-Arbitraġġ ghandhom ikunu limitati sabiex dawn jipprovdu s-servizzi ta' rappreżentanza li hemm imsemmi fl-artikolu 18 ta' dan l-Att lil partijiet f'arbitraġġ internazzjonali kummerċjali taht it-Taqsima V ta' dan l-Att, u servizzi bhala arbitri f'arbitraġġi

simili: iżda dawk l-arbitraġġi ghandhom, minkejja li ma jkunux arbitraġġi domestiċi, jkunu reġistrati maċ-Ċentru skond l-artikolu 17 ta' dan l-Att. Ċentru ta' Arbitraġġ ma ghandu jirċievi ebda qligh, profitt jew dhul li jkun hliet id-drittijiet dovuti ghal servizzi mogħtija kif hawn aktar qabel imsemmija, iżda li wiehed jirċievi dhul incidental konness ma' dawk is-servizzi ma ghandux jitqies bhala ksur ta' din ir-regola.

(4) Kull membru ta' Kamra ta' l-Arbitraġġ ghandu jkun ukoll direttur tagħha, u kull direttur ghandu jkun legalment responsabbli għas-servizzi mogħtija mill-Kamra ta' l-Arbitraġġ skond u konformi mas-subartikolu (3) ta' dan l-artikolu. Meta jmut xi wiehed mill-membri jew meta xi membru jiġi skwalifikat milli jagħmilha ta' direttur ta' kumpannija taħt id-dispożizzjonijiet ta' l-artikolu 142 ta' l-Att ta' l-1995 dwar il-Kumpanniji, is-sehem parteċipattiv li dak il-membru jkollu ghandu jiġi mifdi, u jekk wara dak il-fidi l-Kamra ta' l-Arbitraġġ tonqos milli tadempixxi l-htigiet ta' l-Att ta' l-1995 dwar il-Kumpanniji għar-rigward tal-kostituzzjoni ta' kumpannija, għaldaqstant dik il-Kamra ta' l-Arbitraġġ għandha tiġi stralċjata.

(5) Is-Segretarju tal-Kamra ghandu jkun persuna li, għal żmien mhux interrott ta' tliet snin, kienet wahda mill-persuni li ġejjin:

Kap. 12.

(i) persuna li jkollha l-*warrant* ta' avukat taħt il-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili; jew

Kap. 281.

(ii) persuna li jkollha l-*warrant* ta' *accountant* pubbliku ċertifikat jew ta' *accountant* u uditur pubbliku ċertifikat taħt l-Att dwar il-Professjoni ta' l-*Accountancy*; jew

(iii) *associate*, membru jew *fellow* ta' istituzzjoni professjonali jew ta' korp simili li jkun rikonoxxut miċ-Ċentru għall-ghanijiet ta' dan l-artikolu; jew

(iv) persuna li tkun xort'ohra rikonoxxuta miċ-Ċentru bhala persuna daqsinsew xi wahda mill-persuni hawn aktar qabel imsemmija.

(6) L-istralċjar ta' Kamra ta' l-Arbitraġġ ghandu jsir mis-Segretarju tagħha taħt is-sorveljanza taċ-Ċentru, u ċ-Ċentru jkollu jedd li:

(a) jinnomina segretarju unikament għall-ghan ta' dan is-subartikolu, meta dik il-Kamra ta' l-Arbitraġġ ma jkollhiex segretarju jew meta s-segretarju tal-Kamra ta' l-Arbitraġġ ma jkunx qieghed imexxi sew l-istralċ;

(b) jiddikjara li Kamra ta' l-Arbitraġġ tkun giet stralċjata u dan b'mod totali, u malli jsir dan dik il-Kamra ta' l-Arbitraġġ għandha tiġi mhassra minn fuq ir-registru mir-Registatur tal-Kumpanniji minghajr il-htieġa ta' ebda formalità oħra.

(7) Kamra ta' l-Arbitraġġ għandha tkun registrata maċ-Ċentru skond dawk ir-regoli li jistgħu isiru miċ-Ċentru għall-ghanijiet ta' dan is-subartikolu, u ma tistax tibda bl-attivitajiet tagħha qabel ma din tkun giet hekk registrata. Ir-registrazzjoni tkun sugġetta għal dawk id-drittijiet ta' kull sena jew drittijiet oħra hekk kif dawn jistgħu jiġu stabbiliti miċ-Ċentru.

(8) Ma tithallas ebda taxxa taht l-Att ta' l-1993 dwar it-Taxxa fuq Dokumenti u Trasferimenti għar-rigward ta' xi dokument li jkollu x'jaqsam ma' xi transazzjoni dwar xi sehem parteċipattiv f'Kamra ta' l-Arbitraġġ. Att XVII ta' l-1993.

(9) L-Att dwar il-Kontroll fuq il-Kambju m'għandu jkun japplika għal ebda haġa li jkollha x'taqsam mal-kostituzzjoni tal-Kamra ta' l-Arbitraġġ, jew ma' xi transazzjoni jew operazzjoni li tkun u li jkollha x'taqsam ma' Kamra ta' l-Arbitraġġ jew ma' l-ishma parteċipattivi tagħha. Kap. 233.

(10) Għall-ghanijiet ta' l-Att dwar it-Taxxa fuq l-*Income* u ta' l-Att ta' l-1994 dwar l-Amministrazzjoni tat-Taxxa, ir-rata ta' taxxa fuq l-*income* li għandha tingabar fuq xi distribuzzjonijiet magħmulin mill-Kamra ta' l-Arbitraġġ għandha tkun dik kontemplata fis-subartikolu (8) ta' l-artikolu 56 ta' l-Att dwar it-Taxxa fuq l-*Income*, u membru ta' dik il-Kamra li ma jkunx residenti f'Malta u jkun qieghed jirċievi distribuzzjoni bħal dik ikollu jedd, *mutatis mutandis*, għall-benefiċċju kontemplat fil-paragrafu (a) tas-subartikolu (4) ta' l-artikolu 48 ta' l-Att ta' l-1994 dwar l-Amministrazzjoni tat-Taxxa. Kap. 123. Att XVIII ta' l-1994.

(11) Iċ-Ċentru jista' jagħmel regoli sabiex id-dispożizzjonijiet ta' dan l-artikolu jkunu jistgħu jitwettqu ahjar u jista', b'mod partikolari iżda minghajr pregudizzju għall-generalità ta' dak hawn aktar qabel imsemmi, b'regoli bħal dawk:

(a) jipprovdi ghar-registrazzjoni ta' Kamra ta' l-Arbitraġġ skond ma hemm fis-subartikolu (7) ta' dan l-artikolu; u

(b) jirregola l-imġieba, dmirijiet u obbligi ta' Kamra ta' l-Arbitraġġ.

Il-Gvern hu awtorizzat jaċċedi għal Trattati. Kap. 304.

81. Għall-ghanijiet ta' l-Att dwar ir-Ratifika ta' Trattati, il-Gvern hu b'dan awtorizzat jaċċedi għat-trattati li hemm fit-Tieni u t-Tielet Skedi li jinsabu ma' dan l-Att.”.

Emenda ta' l-Ewwel Skeda li tinsab ma' l-Att prinċipali.

30. L-Ewwel Skeda li tinsab ma' l-Att prinċipali għandha tigi emendata kif ġej:

(a) fit-test Inġliż tal-paragrafu (ċ) ta' l-Artiklu 2 tagħha, minflok il-kelma “count” għandha tidhol il-kelma “court”; u

(b) minnufih wara l-paragrafu (2) ta' l-Artiklu 34 tagħha, għandhom jiżdiedu dawn il-paragrafi li ġejjin:

“(3) Rikors għat-twarrib ma jistax isir wara li jkun skadew tliet xhur mid-data meta l-parti li tagħmel dak ir-rikors tkun irċeviet id-deċiżjoni jew, jekk it-talba tkun saret taht l-Artiklu 33, mid-data meta dik it-talba tkun giet determinata mit-tribunal ta' l-arbitraġġ.

(4) Meta l-qorti tigi mitluba twarrab deċiżjoni, din tista', meta jkun hekk xieraq u tigi hekk mitluba tagħmel minn xi parti, tissospendi l-proċedimenti ta' twarrib għal perijodu ta' żmien li jiġi stabbilit minnha sabiex tagħti lit-tribunal ta' l-arbitraġġ opportunità li jkompli l-proċedimenti ta' l-arbitraġġ jew li jaġixxi b'dak il-mod li, fil-fehma tat-tribunal ta' l-arbitraġġ, ikun inehhi kull bażi għat-twarrib.”.

Emenda tat-Tieni Skeda li tinsab ma' l-Att prinċipali.

31. Minnufih fi tmiem l-Artiklu XVI fit-Tieni Skeda li tinsab ma' l-Att prinċipali għandu jiżdied dan li ġej:

**“Dikjarazzjoni magħmula minn Malta
meta saret membru tal-Konvenzjoni tan-Nazzjonijiet Uniti
dwar l-għarfien u l-eżekuzzjoni ta' Deċiżjonijiet ta' Arbitraġġ
Barranin
(New York 1958)**

1. Skond id-dispożizzjonijiet rilevanti tal-Konvenzjoni, Malta sejra tapplika l-Konvenzjoni biss għall-għarfien u l-eżekuzzjoni ta' deċiżjonijiet li jkunu ngħataw fit-territorju ta' Stat Kontraenti iehor.

2. Il-Konvenzjoni tapplika biss fir-rigward ta' Malta ghar-rigward ta' kull ftehim ta' arbitraġġ konkluz wara d-data ta' aċċessjoni ta' Malta għall-Konvenzjoni u ta' deċiżjonijiet li jitnisslu minnhom li jinghataw wara d-data ta' aċċessjoni ta' Malta għall-Konvenzjoni.”.

32. Is-subartikolu (1) ta' l-Artiklu 52 tat-Tielet Skeda li tinsab ma' l-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tat-Tielet Skeda li tinsab ma' l-Att prinċipali.

(a) il-paragrafu (d) tiegħu għandu jiġi enumerat mill-ġdid bħala l-paragrafu (e), u

(b) minnufih wara l-paragrafu (c) tiegħu, għandu jizjed dan il-paragrafu ġdid li ġej:—

“(d) li kien hemm varjanza gravi minn regola ta' proċedura fundamentali; jew”.

33. Fir-Raba' Skeda li tinsab ma' l-Att prinċipali, il-partiti 1, 2 u 3 fit-Tieni Kolonna hekk kif jikkorrispondu mal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili (Kap. 12), fl-Ewwel Kolonna tagħha għandhom jiġu enumerati mill-ġdid bħala l-partiti 2, 3 u 4 tagħha rispettivament, u minnufih qabel il-partita 2 kif enumerata mill-ġdid għandha tidhol din il-partita ġdida li ġejja:—

Emenda tar-Raba' Skeda li tinsab ma' l-Att prinċipali.

“1. minflok il-paragrafu (d) ta' l-artikolu 253 għandu jidhol dan li ġej:—

“(d) id-deċiżjonijiet ta' arbitri reġistrati skond l-Att ta' l-1996 dwar l-Arbitraġġ.”.

Għanijiet u Raġunijiet

L-għan ta' l-Abbozz hu sabiex jemenda l-Att ta' l-1996 dwar l-Arbitraġġ biex dan isir kompatibbli ma' l-iżviluppi fil-prattika ta' l-Arbitraġġ li għaw miż-żmien meta sar liġi.

**A BILL
entitled**

AN ACT to amend the Arbitration Act, 1996.

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:-

Short title and commencement.
Act II of 1996.

1. (1) This Act may be cited as the Arbitration (Amendment) Act, 1999, and shall be read and construed as one with the Arbitration Act, 1996, hereinafter referred to as "the principal Act".

(2) This Act shall come into force on such date as the Minister responsible for justice may by notice in the Gazette establish and different dates may be so established for different provisions and different purposes thereof.

Amendment of section 2 of the principal Act.

2. Immediately after the end of the definition of "arbitration agreement" in section 2 of the principal Act there shall be inserted the following proviso:

"Provided that:

(a) the provisions of Article 7 of the Model Law shall be deemed to have been complied with if the arbitration agreement is contained in a document transmitted from one party to the other party or by a third party to both parties and, if no objection was raised thereto within thirty days of the receipt of the document;

(b) the reference in a written contract to a document containing an arbitration clause constitutes an arbitration agreement provided that the reference is such as to make that clause part of the contract;

(c) an arbitration agreement is also concluded by the issuance of a bill of lading, if the latter contains an express reference to an arbitration clause in a charter party;”.

3. Immediately after subsection (3) of section 4 of the principal Act there shall be added the following new subsection: Amendment of section 4 of the principal Act.

“(4) In the exercise of their functions under this Act all the members of the Board shall exercise their functions in their individual judgement and shall not be subject to the direction or control of any other person or authority.”.

4. Section 6 of the principal Act there shall be amended as follows: Amendment of section 6 of the principal Act.

(a) the present provision shall be renumbered as subsection (1) thereof;

(b) the words “and on such terms and conditions as the Minister may deem appropriate” in subsection (1) thereof as renumbered shall be deleted; and

(c) immediately after subsection (1) as renumbered there shall be added the following new subsection:

“(2) The members of the Board shall be entitled to such remuneration and allowances as the Minister may from time to time determine.”.

5. Section 9 of the principal Act shall be amended as follows: Amendment of section 9 of the principal Act.

(a) immediately at the end of subsection (1) thereof there shall be added the following words “In connection with his functions under this Act, the Registrar shall have power to administer oaths, including without prejudice to the generality of the aforesaid the power to administer Oaths of Office that may be required to be taken by Arbitrators or any other person involved in arbitration proceedings under any rule made under this Act.”; and

(b) immediately after subsection (3) thereof there shall be added the following subsection:

“(4) The Registrar shall also perform any function that may be delegated to him in writing by the Board from time to time.”.

Amendment of section 10 of the principal Act.

6. Section 10 of the principal Act shall be amended as follows:

(a) in paragraph (ii) of subsection (1) thereof, the words “, with the concurrence of the Minister,” shall be deleted;

(b) in subparagraph (b) of paragraph (ii) of subsection (1) thereof immediately after the word “requirements” there shall be inserted the words “(including any fees payable therefor)”; and

(c) in subsection (4) thereof, for the words “of not more than five persons, including the Chairman of the Centre,” there shall be substituted the words “to be presided by the Chairman of the Centre,”.

Amendment of section 13 of the principal Act.

7. Immediately after subsection (3) of section 13 of the principal Act, there shall be added the following subsection:

“(4) Any excess of revenue over the expenditure of the Centre shall, subject to such directives as the Minister, after consultation with the Minister responsible for finance, may from time to time give, be applied by the Centre to the formation of reserve funds to be used for the purposes of the Centre; and, without prejudice to the generality of the powers given to the Minister by this subsection, any direction given by the Minister as aforesaid may order the transfer to the Government, or the application in such manner as may be specified in the direction, of any part of such revenues.”.

Amendment of section 14 of the principal Act.

8. Section 14 of the principal Act shall be amended as follows:

(a) subsection (2) thereof shall be deleted; and

(b) subsection (1) thereof shall be renumbered as the whole provision.

Amendment of section 15 of the principal Act.

9. Section 15 of the principal Act shall be amended as follows:

(a) in subsection (1) thereof, for the words “under subsection (1) of section 14” there shall be substituted the words “under section 14”; and

(b) for subsection (2) thereof there shall be substituted the following:

“(2) For the purpose of this Act, a dispute shall include any controversy or claim arising out of or relating to the agreement, or the breach termination or invalidity thereof or failure to comply therewith.”.

10. In subsection (1) of section 16 of the principal Act, for the word “hibitual”, there shall be substituted the word “habitual”, for the words “it is so delivered.” there shall be substituted the words “it is so delivered:”, and immediately at the end thereof there shall be added the following proviso:

Amendment of section 16 of the principal Act.

“Provided that the Centre may by rules under this Act provide for other modes of service and make provision relating to when service is deemed to have been made.”.

11. Section 17 of the principal Act shall be amended as follows:

Amendment of section 17 of the principal Act.

(a) immediately after the words “(hereinafter called “the respondent”)” in subsection (1) thereof, there shall be added the words “, and any procedures and any award pursuant thereto in any arbitration to which this Part refers, shall be null and void and unenforcable if the relative notice of arbitration shall not have been filed with the Centre”;

(b) in subsection (2) thereof, for the words “by the respondent. “there shall be substituted the words “by the respondent:”, and immediately at the end thereof there shall be added the following proviso:

“Provided that for the purposes of sections 843, 846, 849, 867 and 875 of the Code of Organization and Civil Procedure, arbitral proceedings under this Part shall be deemed to commence upon the filing of the notice of arbitration with the Registrar.”.

12. Immediately after section 21 of the principal Act there shall be added the following new section:

Addition of new section 21A to the principal Act.

“Multiple parties.

21A. (1) Where there are multiple parties, whether as claimant or as respondent, the multiple claimants, jointly, and the multiple respondents, jointly, shall make a proposal to the other party for an arbitrator to be appointed pursuant to section 20 or shall appoint an arbitrator pursuant to section 21, as the case may be.

(2) Where the dispute is to be referred to a sole arbitrator and where there are multiple parties, whether as claimant or as respondent, the multiple claimants, jointly, and the multiple respondents, jointly, may reach an agreement with the other party on the choice of a single arbitrator to be appointed pursuant to section 20.

(3) In the absence of such joint nomination, where the dispute is to be referred to three arbitrators and where all parties are unable to agree to a method for the constitution of the Arbitral Tribunal, the Chairman may on the request of either of the parties appoint each member of the Arbitral Tribunal and shall designate one of them to act as presiding arbitrator.”.

Amendment of section 22 of the principal Act.

13. For the words “section 20 or 21” in subsection (1) of section 22 of the principal Act there shall be substituted the words “sections 20, 21 or 21A”.

Amendment of section 28 of the principal Act.

14. For subsection (1) of section 28 of the principal Act, there shall be substituted the following:

“(1) The language to be used in the proceedings shall, unless the parties agree otherwise, be Maltese.”.

Amendment of section 38 of the principal Act.

15. For the words “fifteen days” in subsection (3) of section 38 of the principal law, there shall be substituted the words “twenty days”.

Amendment of section 44 of the principal Act.

16. In subsection (2) of section 44 of the principal Act, for the words “and shall be made at the place of arbitration” there shall be substituted the words “and shall be deemed to be delivered at the place agreed by the parties as the place of arbitration, or, in the absence of agreement, determined by the Arbitral Tribunal”.

Substitution of section 51 of the principal Act.

17. For section 51 of the principal Act, there shall be substituted the following:

“Tariff of fees.

51. The arbitral tribunal shall determine fees and costs in accordance with such tariff of fees as shall be made by the Centre from time to time.”.

Amendment of section 53 of the principal Act.

18. In subsection (1) of section 53 of the principal Act, for the words “paragraphs (a), (b), (c) and (f)” there shall be substituted the words “paragraphs (a), (b) and (c)”.

19. For section 59 of the principal Act there shall be substituted the following:

Substitution of section 59 of the principal Act.

"Chapter VIII of the Model Law not to apply.

59. Part VII of this Act on the Recognition and Enforcement of Foreign Awards shall apply to foreign arbitration awards and Chapter VIII of the Model Law shall not apply."

20. Section 60 of the principal Act shall be amended as follows:

Amendment to section 60 of the principal Act.

(a) subsection (2) thereof shall be deleted and subsection (1) thereof shall be renumbered as the whole provision; and

(b) for the words from "than in accordance with the Model Law," to the words "shall apply.", there shall be substituted the following "than in accordance with the Model Law, and the parties have not chosen the rules that are to govern the arbitration, then the provisions of Part IV of this Act, shall apply."

21. For section 61 of the principal Act there shall be substituted the following new section:

Deletion of section 61 of the principal Act.

"International awards under section 60 not to be registered with Centre.

61. Where in accordance with section 60, the provisions of Part IV of the Act apply, the requirement in subsection (1) of section 70 of this Act with regard to registration of the award with the Centre shall not apply."

22. In section 62 of the principal Act, for the words "Subject to the provisions of section 61," there shall be substituted the words "Notwithstanding the provisions of section 59,".

Amendment to section 62 of the principal Act.

23. Section 65 of the principal Act shall be amended as follows:

Amendment of section 65 of the principal Act.

(a) in subsection (1) thereof, for the words "Unless the parties" there shall be substituted the words "Saving the provisions of section 80 of this Act, unless the parties"; and

(b) in subsection (2) thereof for the words "fourteen days" there shall be substituted the words "thirty days", and the words "the Registrar and" shall be deleted.

24. Section 70 of the principal Act shall be amended as follows:

Amendment of section 70 of the principal Act.

(a) in subsection (3) thereof, for the words "shall only decree" there shall be substituted the words "shall only determine";

(b) in subsection (4) thereof, for the words "by judicial act of the registration" there shall be substituted the words "by judicial act of the request for registration"; and

(c) immediately after subsection (4) thereof, there shall be added the following subsections:

"(5) For the purposes of this section and sections 57 and 73 of this Act, the Court of Appeal shall be composed in the manner provided in subsection (6) of section 41 of the Code of Organization and Civil Procedure.

(6) All applications under this section shall be held *in camera* and only the parties thereto and their advocates and legal procurators shall be allowed in the court during the hearing.

(7) The judgement of the Court shall preserve the confidentiality of the arbitration and shall only reveal such facts as may be necessary to make the same intelligible and enforceable by the parties.

(8) The cost of the appeal shall be in the discretion of the Court of Appeal and shall be a sum fixed by the Registrar of the Courts.

(9) The Board established under section 29 of the Code of Organization and Civil Procedure may make rules concerning applications to the Court of Appeal under this section and prescribe the fees to be paid on such applications."

25. For section 72 of the principal Act there shall be substituted the following:

Substitution of section 72 of the principal Act.

"Registration with and by the Centre.

72. (1) Where the registration of any award or document under this Act is required to be made with the Centre, the award or document, or an authentic copy thereof, shall be deposited with the registrar together with such fee as may from time to time be prescribed for such registration.

(2) The registrar shall refuse to register an award or a document if the same does not comply with any of the provisions of this Act or of the rules made by the Centre relative to such Act.

(3) In the case of a domestic arbitration, conducted under Part IV of this Act, the provisions of subsections (2), (3), (4) and (5) of section 38, section 70 and section 71 shall only apply and the proceedings shall only be valid where prior to the commencement of the proceedings, the arbitration agreement is registered by the Centre in accordance with section 17 of this Act.

(4) (a) The registrar shall not register an award if, within fifteen days from the notice of the request for registration of that award on the other parties thereto, such parties shall have filed an objection against the registration of the said award with the Centre and have taken action in accordance with section 70 of this Act to challenge the validity of such an award.

(b) Where, following procedures in accordance with paragraph (a) hereof, the Court of Appeal does not uphold the challenge, such judgment shall be registered with the Centre together with a copy of the award upon the request of the person seeking registration.

(5) Upon its registration with the Centre the award shall be final and binding and may not be challenged.

(6) Any objection to the registration of an award which the Court of Appeal determines to be frivolous or vexatious shall render the party making such objection liable to pay the party requesting its registration a penalty of not less than one hundred liri and not more than five thousand liri, to be determined by the Court of Appeal.”

26. For section 73 of the principal Act there shall be substituted the following:

Substitution of section 73 of the principal Act.

“Refusal to register document.

73. (1) Where the registrar refuses the registration of any document, whether upon an objection or otherwise, the party requesting registration may, within thirty days from such refusal, request the Court of Appeal, by application, to order the registrar to accept such registration, and the decision of the said court shall be final and binding. Such application shall be served on the other parties to the arbitration and on the registrar.

(2) The fact that a document has been accepted for registration by the Centre shall not preclude the challenge of the validity of such document under any provision of this Act.”

27. In section 74 of the principal Act –

Amendment of section 74 of the principal Act.

(a) for the word “Scedule” in subsection (1) thereof, there shall be substituted the word “Schedule”, and immediately after the words “are applicable” therein, there shall be inserted the words “(subject to such reservations or declarations as may have been made by Malta on its becoming a party to such treaties and as are contained in the Second Schedule)”; and

(b) subsection (4) thereof shall be deleted.

Amendment of section 75 to the principal Act.

28. In subsection (1) of section 75 of the principal Act, for the words "any question required to be determined" there shall be substituted the words "any dispute required to be determined".

Addition of new sections 80 and 81 to the principal Act.

29. Immediately after section 79 of the principal Act there shall be added the following new sections:

"Arbitration Chambers.

80. (1) Notwithstanding any provision of this or any other law the provisions of this section shall have effect with regard to the matters regulated thereby.

Act XXV of 1995.

(2) Any individual, or individuals, whether considered to be resident in Malta or not for the purposes of any law, may constitute an Arbitration Chamber in the form of a limited liability company under the Companies Act, 1995: so however that the provisions of the said Act shall have effect in relation to an Arbitration Chamber as amended, modified or substituted by the provisions of this section. All such companies shall comprise as part of their name the words "Arbitration Chamber".

(3) The objects of an Arbitration Chamber shall be limited to providing services of representation referred to in section 18 of this Act to parties in international commercial arbitration under Part V of this Act, and services as arbitrators in such arbitration: provided that such arbitrations are, notwithstanding that they are not domestic arbitrations, registered with the Centre in accordance with section 17 of this Act. An Arbitration Chamber shall not receive any gains, profits or income whatsoever except fees for services rendered as aforesaid, but the receipt of incidental services connected with the said services shall not be deemed to infringe this rule.

(4) Each member of an Arbitration Chamber shall also be a director thereof, and each director shall be responsible at law for the services rendered by the Arbitration Chamber pursuant to subsection (3) of this section. On the death of a member or when such member is disqualified from acting as a director of a company under the provisions of section 142 of the Companies Act, 1995, the share belonging to such member shall be redeemed, and if following such redemption the Arbitration Chamber fails to meet the requirements of the Companies Act, 1995 regarding the constitution of a company, then the Arbitration Chamber shall be liquidated.

(5) The Secretary of the Chamber shall be a person who, for an uninterrupted period of three years, has been any of the following:

(i) a person holding the warrant of advocate under the Code of Organization and Civil Procedure; or Cap. 12.

(ii) a person holding the warrant of a certified public accountant or a certified public accountant and auditor under the Accountancy Profession Act; or Cap. 281.

(iii) an associate, member, or fellow of a professional institute or similar body recognised by the Centre for the purposes of this section; or

(iv) is otherwise recognised by the Centre as a person comparable to any of the persons aforesaid.

(6) The liquidation of an Arbitration Chamber shall be carried out by its secretary under the supervision of the Centre, and the Centre shall be entitled to:

(a) nominate a secretary solely for the purpose of this subsection, where the Arbitration Chamber does not have a secretary or where the secretary of the Arbitration Chamber is not properly conducting the liquidation;

(b) declare that an Arbitration Chamber has been liquidated and fully wound up, whereupon the Arbitration Chamber shall be struck off the register by the Registrar of Companies without the need of any further formalities.

(7) An Arbitration Chamber shall be registered with the Centre in accordance with such rules as may be made by the Centre for the purposes of this subsection and may not commence its activities until it has been so registered. Registration shall be subject to such annual or other fees as may be established by the Centre.

(8) No duty shall be payable under the Duty on Documents and Transfers Act, 1993 on any document relating to any transaction in relation to any share in an Arbitration Chamber. Act XVII of 1993.

(9) The Exchange Control Act shall not apply to any matter relating to the constitution of an Arbitration Chamber, or to any transaction or operation whatsoever relating to an Arbitration Chamber or to its shares. Cap. 233.

(10) For the purposes of the Income Tax Act and the Income Tax Management Act, 1994, the rate of income tax chargeable upon any distributions made by an Arbitration Chamber shall be that contemplated in subsection (8) of section 56 of the Income Tax Act, and a member thereof if not resident in Malta receiving such a distribution shall be entitled to the benefit contemplated in paragraph (a) of subsection (4) of section 48 of the Income Tax Management Act, 1994.

(11) The Centre may make rules for the better carrying out of any of the provisions of this section and may, in particular, but without prejudice to the generality of the foregoing, by any such rules:

(a) provide for the registration of an Arbitration Chamber in accordance with subsection (7) hereof; and

(b) regulate the conduct, duties and obligations of an Arbitration Chamber.

Government
authorised
to accede to
Treaties.
Cap. 304.

81. For the purposes of the Ratification of Treaties Act, the Government is hereby authorised to accede to the treaties contained in the Second and Third Schedules to this Act.”

Amendment of
First Schedule
to the principal Act.

30. The First Schedule to the principal Act shall be amended as follows:

(a) in paragraph (c) of Article 2 thereof for the word “count” there shall be substituted the word “court”; and

(b) immediately after paragraph (2) of article 34 thereof there shall be added the following paragraphs:

“(3) An application for setting aside may not be made after three months have elapsed from the date on which the party making that application had received the award or, if a request had been made under article 33, from the date on which that request had been disposed of by the Arbitration Tribunal.

(4) The court, when asked to set aside an award, may, where appropriate and so requested by a party, suspend the setting aside proceedings for a period of time determined by it in order to give the arbitral tribunal an opportunity to resume the arbitral proceedings or to take such action as in the arbitral tribunal’s opinion will eliminate the grounds for setting aside.”

31. Immediately at the end of Article XVI in the Second Schedule to the principal Act there shall be added the following: Amendment of
Second Schedule
to the principal Act.

**“Declaration made by Malta
on its becoming a member to the United Nations Convention
on the recognition and enforcement of Foreign Arbitral Awards
(New York 1958)**

1. In accordance with the relevant provisions of the Convention, Malta will apply the Convention only to the recognition and enforcement of awards made in the territory of another Contracting State.

2. The Convention only applies in regard to Malta with respect to arbitration agreements concluded after the date of Malta’s accession to the Convention and awards pursuant thereto made after the date of Malta’s accession to the Convention.”.

32. Subarticle (1) of Article 52 of the Third Schedule to the principal Act shall be amended as follows: Amendment of the
Third Schedule to
the principal Act.

(a) paragraph (d) thereof shall be renumbered as paragraph (e); and

(b) immediately after paragraph (c) thereof, there shall be added the following new paragraph:

“(d) that there has been a serious departure from a fundamental rule of procedure; or”.

33. In the Fourth Schedule to the principal Act, items 1, 2 and 3 in the Second Column as corresponding to the Code of Organization and Civil Procedure (Cap. 12), in the First Column thereof shall be renumbered as items 2, 3 and 4 thereof respectively, and immediately before item 2 as renumbered there shall be inserted the following new item:— Amendment of the
Fourth Schedule to
the principal Act.

“1. For paragraph (d) of section 253 there shall be substituted the following:—

(d) the awards of arbitrators registered in accordance with the Arbitration Act, 1996.”.

Objects and Reasons

The purpose of the Bill is to amend the Arbitration Act, 1996 to make it compatible with developments in the practice of Arbitration that have occurred since its enactment.