

MALTA

ATT Nru. XXI ta' l-1993

ATT mahruġ b'liġi mill-Parlament ta' Malta.

ATT biex ikompli jemenda l-Kodiċi Ċivili, Kap. 16.

ACT No. XXI of 1993

AN ACT enacted by the Parliament of Malta.

AN ACT further to amend the Civil Code, Cap. 16.

Naghti l-kunsens tiegħi.

(L.S.)

ĊENSU TABONE
President

20 ta' Awissu, 1993

ATT Nru. XXI ta' l-1993

ATT biex ikompli jemenda l-Kodiċi Ċivili, Kap. 16.

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-1993 li jemenda l-Kodiċi Ċivili (Emenda Nru. 2) u għandu jinqara u jiftiehem hekk waħda mal-Kodiċi Ċivili, hawnhekk iżjed "il-quddiem imsejjah "il-Kodiċi".

Titolu fil-qosor
u bidu fis-sehh.

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

2. Minflok il-kliem "Setgħa tal-Missier" kull fejn u b'liema mod li jkun li jinsabu fil-Kodiċi għandhom jidhlu l-kliem "Setgħa tal-Genituri".

Emenda ġenerali
għall-Kodiċi
fejn jirreferi
għas-setgħa
tal-missier.

3. Minflok l-artikoli 2, 3 u 4 tal-Kodiċi għandu jidhol dan li ġej:

Sostituzzjoni
ta' l-artikoli
2, 3 u 4
tal-Kodiċi.

"Dmirijiet
tal-
miżżewġin
lejn xulxin.

2. (1) Il-liġi tippromwovi l-għaqda u l-istabbiltà tal-familja.

(2) Il-miżżewġin għandhom jeddijiet indaqs u jerfghu responsabbiltajiet indaqs matul iż-żwieġ tagħhom. Għandhom id-dmir li jkunu fidili lejn xulxin u li jicqfu ma' xulxin kemm moralment kif ukoll materjalment.

Dmir għal
kontri-
buzzjoni
għall-
htigiet
tal-familja.

3. Il-partijiet fiż-żwieġ għandhom l-obbligu, kull waħda minnhom skond il-mezzi u l-hila tagħhom, li jaħdmu kemm jekk fid-dar kif ukoll barra mid-dar kif jinhtiegu l-interessi tal-familja, li jmantnu lil xulxin u li jikkontribwixxu għall-htigiet tal-familja.

Id-dar
taż-żwieġ.

3A. (1) Id-dar taż-żwieġ għandha tkun stabbilita f'lok li jintagħżel bi qbil bejn il-miżżewġin skond il-htigiet tal-miżżewġin u l-interess ewlieni tal-familja nnifisha.

(2) Meta d-dar taż-żwieġ, kollha kemm hi jew sehem minnha, tkun tappartjeni fi proprjetà jew b'xi titolu ieħor, lil parti waħda mill-miżżewġin, dik il-parti tista' biss tittrasferixxi b'titolu *inter vivos* is-sehem tagħha fuq id-dar taż-żwieġ:

(a) bil-kunsens tal-parti l-oħra; jew

(b) meta dak il-kunsens ma jinghatax mingħajr raġuni xierqa, bl-awtorità tal-qorti ta' ġurisdizzjoni volontarja; jew

(ċ) b'irkant f'bejgħ ġudizzjarju fuq ta'ba ta' xi kreditur ta' dik il-parti.

(3) Il-parti li ma tkunx tat il-kunsens tagħha għal trasferiment tista' ġġib azzjoni għall-annullament ta' trasferiment li ma jkunx sar skond is-subbartikolu (2) ta' dan l-artikolu, f'għeluq sena minn meta t-trasferiment ikun ġie reġistrat.

Dmir tal-
miżżewġin
lejn l-ulied.

3B. Iż-żwieġ jimponi fuq il-miżżewġin l-obbligu li jiehdu hsieb, imantnu, jgħallmu u jeducaw lill-ulied li jiġu miż-żwieġ skond il-hila, xehtiet naturali u aspirazzjonijiet ta' l-ulied.

Kunjom li
jintuża
mill-
miżżewġin
u mill-
ulied tal-
familja.

4. (1) Il-miżżewġin għandhom maż-żwieġ jiehdu l-kunjom tar-raġel u martu tista' żżid kunjom xubitha miegħu.

(2) Il-mara tista', minflok, tagħżel li żżomm kunjom xubitha li warajh tista' żżid kunjom żewġha.

(3) Ulied iż-żwieġ jiehdu kunjom missierhom, li warajh jistghu jżidu kunjom xubitha ommhom.

(4) Jekk il-mara jkollha l-hsieb li żżomm kunjom xubitha wara ż-żwieġ hija għandha, qabel iż-żwieġ, hekk tiddikjara l-hsieb tagħha qabel il-pubblikazzjoni tat-tnidijiet skond l-Att dwar iż-Żwieġ u għandha tissottoskrivi d-dikjarazzjoni relattiva fl-Att taż-Żwieġ. Dik id-dikjarazzjoni tkun irrevokabbli."

Sostituzzjoni
ta' l-artikolu 6
tal-Kodiċi.

4. Minflok l-artikolu 6 tal-Kodiċi, għandhom jidhlu l-artikoli ġodda li ġejjin:

“Meta
jintemm
id-dmir
ghall-
manteni-
ment.

6. Id-dmir ta' manteniment ta' parti fiż-żwieġ lejn il-parti l-oħra jintemm jekk il-parti l-oħra, wara li tkun telqet mid-dar taż-żwieġ, bla raġuni xierqa ma tkunx trid tmur lura fid-dar.

Nuqqas
ta' qbil
bejn il-
miżżewġin.

6A. (1) Fil-każ ta' nuqqas ta' qbil bejn il-miżżewġin kull parti tista' tirreferi l-kwistjoni għall-ghajnuna tal-qorti ta' ġurisdizzjoni volontarja u l-imħallef li jippresjedi għandu, wara li jisma' lill-miżżewġin u jekk jidhirlu xieraq lil kull wild 'il fuq mill-età ta' erbatax-il sena li jkunu joqogħdu mal-miżżewġin, jipprova jwassal għal ftehim bi qbil dwar dik il-kwistjoni.

(2) Meta dak il-ftehim bi qbil ma jintlahaqx u l-kwistjoni tkun dwar fejn tkun id-dar taż-żwieġ jew il-bdil tagħha jew dwar kwistjonijiet oħra ta' importanza fundamentali, l-imħallef li jippresjedi għandu, jekk hekk mitlub esprssament miż-żewġ partijiet fiż-żwieġ flimkien, jiddeċiedi l-kwistjoni hu nnifsu billi jipprovdi soluzzjoni li fil-fehma tiegħu tkun l-aħjar fl-interessi tal-familja u tal-hajja tal-familja.

(3) Ma jkunx hemm appell mid-deċiżjoni ta' l-imħallef li jippresjedi f'dan il-każ.”.

5. Minflok l-intestatura tas-Sub-Titolu II tat-Titolu I ta' l-Ewwel Ktieb tal-Kodiċi, għandha tidhol l-intestatura li ġejja:

Sostituzzjoni ta'
l-intestatura
tas-Sub-Titolu II
tat-Titolu I ta'
l-Ewwel Ktieb
tal-Kodiċi.

“FUQ IL-JEDDIJET U D-DMIRIJET BEJN AXXENDENTI,
DIXXENDENTI U AĦWA”.

6. Minflok is-subartikolu (1) ta' l-artikolu 7 tal-Kodiċi għandu jidhol dan li ġejj:

Emenda ta'
l-artikolu 7
tal-Kodiċi.

“(1) Il-ġenituri għandhom l-obbligu li jieħdu hsieb, imantnu, ighallmu u jedukaw lil uliedhom bil-mod stabbilit fl-artikolu 3B ta' dan il-Kodiċi.”.

7. Minflok l-artikoli 9, 10 u 11 tal-Kodiċi għandu jidhol dan li ġejj:

Sostituzzjoni ta'
l-artikoli 9, 10 u 11
tal-Kodiċi.

“Dmirijiet
tal-
miżżewġin
lejn xulxin
fl-ghoti ta'
manteni-
ment.

9. Parti fiż-żwieġ ma tistax ma taghtix l-appoġġ morali tagħha lill-parti l-oħra fit-twettiq ta' kull obbligu li dik il-parti l-oħra jkollha lejn id-dixxendenti jew l-axxendenti tagħha.”.

8. Minflok il-paragrafi minn (b) sa (h) ta' l-artikolu 12 tal-Kodiċi, għandu jidhol dan li ġejj:

Emenda ta'
l-artikolu 12
ta' dan
il-Kodiċi.

“(b) il-ġenituri;.

(c) l-axxendenti l-oħra, fl-ordni kif huma mil-liġi msejha għall-wirt ta' dik il-persuna.”.

9. Fis-subartikolu (1) ta' l-artikolu 14 tal-Kodiċi minflok il-kliem minn “fl-artikolu 12:” sal-kliem “fi grad wiehed” għandhom jidhlu l-kliem “fl-artikolu 12”.

Emenda ta'
l-artikolu 14
tal-Kodiċi.

Emenda ta' l-artikolu 16 tal-Kodiċi.

10. L-artikolu 16 tal-Kodiċi għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu l-kliem "jew bi żwieġ" għandhom jithassru; u

(b) fil-proviso għas-subartikolu 2 tiegħu minflok il-kliem "l-missier, l-omm" għandhom jidhlu l-kliem "l-ġenituri".

Emenda ta' l-artikolu 17 tal-Kodiċi.

11. Fis-subartikolu (1) ta' l-artikolu 17 tal-Kodiċi, il-kliem "il-qarib bi żwieġ jew" għandhom jithassru.

Thassir ta' l-artikolu 18 tal-Kodiċi.

12. L-artikolu 18 tal-Kodiċi għandu jithassar.

Emenda ta' l-artikolu 19 tal-Kodiċi.

13. Fis-subartikolu (2) ta' l-artikolu 19 tal-Kodiċi, minflok il-kliem "l-ispejjeż mehtieġa għall-edukazzjoni tagħhom" għandhom jidhlu l-kliem "l-ispejjeż mehtieġa għas-saħħa u għall-edukazzjoni tagħhom"; u fis-subartikolu (1) ta' l-istess artikolu, minflok il-kliem "l-ikel, l-ilbies u l-abitazzjoni" għandhom jidhlu l-kliem "l-ikel, l-ilbies, is-saħħa u l-abitazzjoni".

Emenda ta' l-artikolu 24 tal-Kodiċi.

14. Fl-artikolu 24 tal-Kodiċi, il-kliem "jew bi żwieġ" għandhom jithassru.

Thassir ta' l-artikolu 26 tal-Kodiċi.

15. L-artikolu 26 tal-Kodiċi għandu jithassar.

Emenda ta' l-artikolu 27 tal-Kodiċi.

16. L-artikolu 27 tal-Kodiċi għandu jiġi emendat kif ġej:

(a) il-kliem "jew għad-dota" fin-nota marginali li hemm għalih għandhom jithassru; u

(b) fis-subartikolu (1) tiegħu:

(i) il-kliem "u l-obbligu tal-ġenituri jew tan-nannu li jiddotaw lil binthom jew lil bint uliedhom," għandhom jithassru; u

(ii) minflok il-kliem "l-obbligu l-wiehed jew l-iehor, jew iż-żewġ obbligi huma stabbiliti" għandhom jidhlu l-kliem "dak l-obbligu huwa stabbilit" u minflok il-kliem "mill-obbligu jew mill-obbligi hawn fuq imsemmija" għandhom jidhlu l-kliem "mill-obbligu hawn fuq imsemmi".

Emenda ta' l-artikolu 29 tal-Kodiċi.

17. Fl-artikolu 29 tal-Kodiċi, minflok il-kliem "l-obbligu jew obbligi" kull fejn jinsabu għandhom jidhlu l-kliem "l-obbligu".

Thassir ta' l-artikoli 30 u 31 tal-Kodiċi.

18. L-artikoli 30 u 31 tal-Kodiċi għandhom jithassru.

Sostituzzjoni ta' l-artikolu 32 tal-Kodiċi.

19. Minflok l-artikolu 32 tal-Kodiċi għandu jidhol dan li ġej:

- “Raġunijiet li għalihom il-ġenituri jistgħu jichdu l-manteniment ta’ wliedhom.”
32. Minbarra r-raġuni msemija fl-artikolu 27, ġenituri jew axxendenti ohra jistgħu jichdu l-manteniment litfal jew dixxendenti ohra għal kull wahda mir-raġunijiet li għalihom dixxendent jista’ jiġi diżeredat minn axxendent.”.
20. Fl-artikolu 33 tal-Kodiċi, minflok il-kliem “lil huha, lil ohtha, jew lil qarib bi żwieġ” għandhom jidhlu l-kliem “lil huha jew lil ohtha”. Emenda ta’ l-artikolu 33 tal-Kodiċi.
21. Minflok l-intestatura tas-Sub-Titolu III tat-Titolu I ta’ l-EWWEL KTIEB tal-Kodiċi għandu jidhol dan li ġej:
- “FUQ FIRDA PERSONALI”.**
- Sostituzzjoni ta’ l-intestatura tas-Sub-Titolu III tat-Titolu I ta’ l-Ewwel Ktieb tal-Kodiċi.
22. Minflok il-kliem “Bil-firda tar-raġel u l-mara minn xulxin” li hemm fis-subartikolu (1) ta’ l-artikolu 35, għandhom jidhlu l-kliem “Bil-firda personali”. Emenda ta’ l-artikolu 35 tal-Kodiċi.
23. Fl-artikolu 36 tal-Kodiċi, minflok il-kliem “Il-firda” għandhom jidhlu l-kliem “Il-firda personali”. Emenda ta’ l-artikolu 36 tal-Kodiċi.
24. Minnufih wara s-subartikolu (2) ta’ l-artikolu 37 tal-Kodiċi, għandu jidher is-subartikolu li ġej:
- Emenda ta’ l-artikolu 37 tal-Kodiċi.
- “(3) Izda meta l-qorti ta’ ġurisdizzjoni volontarja tagħti s-setgħa li ssir kawża għal firda personali għal xi wahda mir-raġunijiet imsemmija f’dan is-Sub-Titolu, kull wahda mill-partijiet miżżewġa tista’ tagħmel kawża quddiem il-qorti ta’ ġurisdizzjoni kontenzjuża għall-firda personali jew kontro-talba, għall-istess raġunijiet jew għal kull raġuni ohra hawn fuq imsemmija daqslikieku dik is-setgħa ngħatat liż-żewġ partijiet għar-raġunijiet kollha msemmija.”.
25. Minflok l-artikoli 38 u 39 tal-Kodiċi għandu jidhol dan li ġej:
- Sostituzzjoni ta’ l-artikoli 38 u 39 tal-Kodiċi.
- “Adulterju. 38. Kull parti miżżewġa tista’ titlob il-firda minhabba l-adulterju tal-parti l-ohra.”.
26. Minflok l-artikolu 41 tal-Kodiċi għandu jidhol dan li ġej:
- Sostituzzjoni ta’ l-artikolu 41 tal-Kodiċi.
- “Abbandun. 41. Kull wahda mill-partijiet miżżewġa tista’ wkoll titlob il-firda jekk, għal sentejn jew iżjed, tkun abbandunata mill-ohra, minghajr raġuni tajba.”.
27. Fit-test Inġliż tas-subartikolu (2) ta’ l-artikolu 42 tal-Kodiċi, il-kliem “from bed and board” għandhom jithassru. Emenda ta’ l-artikolu 42 tal-Kodiċi.
28. Minflok l-artikoli 46 u 47 tal-Kodiċi, għandu jidhol dan li ġej:
- Sostituzzjoni ta’ l-artikoli 46 u 47 tal-Kodiċi.

"Dar
taż-żwieġ
pendente
lite.

46. Fiż-żmien li tkun miexja l-kawża tal-firda, kull waħda mill-partijiet, sew jekk attriċi jew konvenuta, tista' titlaq mid-dar taż-żwieġ u tista', sew jekk tkun telqet mid-dar taż-żwieġ u sew jekk le, titlob lill-qorti biex tiddeċiedi liema waħda mill-partijiet għandha toqghod fid-dar taż-żwieġ sakemm tkun miexja dik il-kawża.

Manteniment
pendente
lite.

46A. Fiż-żmien li tkun miexja l-kawża tal-firda, kull waħda mill-partijiet, sew jekk attriċi jew konvenuta, tista' titlob minghand il-parti l-oħra somma għall-manteniment skond il-bżonnijiet tagħha u skond il-mezzi tal-parti l-oħra, u meta jitqiesu wkoll iċ-ċirkostanzi l-oħra kollha tal-partijiet.

Ħsieb
ta' l-ulied.

47. Fiż-żmien li tkun miexja l-kawża l-qorti għandha tagħti dawk l-ordnijiet dwar min jiehu ħsieb it-tfal kif jidhrilha xieraq, u meta tkun qed tagħmel hekk għandha tqis bħala l-iktar konsiderazzjoni importanti l-gid ta' l-ulied."

Emenda ta'
l-artikolu 48
tal-Kodiċi.

29. Is-subartikolu (1) ta' l-artikolu 48 tal-Kodiċi għandu jiġi emendat kif ġej:

(a) minflok il-kliem "fl-artikoli 38, 39 u 41" għandhom jidhlu l-kliem "fl-artikoli 38 u 41";

(b) fil-paragrafu (a) tiegħu minflok il-kliem "fl-artikoli 631, 633," għandhom jidhlu l-kliem "fl-artikoli 631, 633, 633A, "; u

(ċ) minflok il-paragrafu (ċ) tiegħu għandu jidhol dan li ġej:

"(ċ) kull jedd ta' parti miż-żwieġ għan-nofs ta' l-akkwisti illi jkunu saru l-aktar bil-hidma tal-parti l-oħra wara data stabbilita mill-qorti bħala d-data meta l-parti għandha tkun kunsidrata li minnha tkun hatja tal-firda. Għall-finijiet ta' dan il-paragrafu biex jiġi determinat jekk akkwist ikunx sar l-aktar bil-hidma ta' waħda mill-partijiet fiż-żwieġ, għandhom jitqiesu l-kontributi b'kull mod taż-żewġ partijiet skond l-artikolu 3 ta' dan il-Kodiċi."

Thassir ta'
l-artikoli
49 u 50
tal-Kodiċi.

30. L-artikoli 49 u 50 tal-Kodiċi għandhom jithassru.

Emenda ta'
l-artikoli 51 u 52
tal-Kodiċi.

31. Fl-artikolu 51 tal-Kodiċi minflok il-kliem "fl-artikoli 48, 49 u 50 rispettivament" għandhom jidhlu l-kliem "fl-artikolu 48", u minflok il-kliem "ta' dawk l-artikoli" għandhom jidhlu l-kliem "ta' dak l-artikolu"; u fl-artikolu 52 tal-Kodiċi, minflok il-kliem "l-artikoli 48, 49 u 50" għandhom jidhlu l-kliem "l-artikolu 48".

Sostituzzjoni ta'
l-artikoli
minn 54 sa 56
tal-Kodiċi.

32. Minflok l-artikoli minn 54 sa 56 tal-Kodiċi għandu jidhol dan li ġej:

"Obbligu
tal-
manteniment.

54. (1) Il-parti li kontra tagħha tinqata' l-firda mhix mehlusa, minhabba dik il-firda, mill-obbligu tal-manteniment tal-parti l-oħra, meta dan il-manteniment ikollu jingħata skond id-dispożizzjonijiet tas-Sub-Titolu I ta' dan it-Titolu.

(2) L-ammont ta' dak il-manteniment jiġi stabbilit billi jitqiesu l-mezzi tal-parti li tkun obbligata li tagħti manteniment u l-bżonnijiet tal-parti l-oħra, wara li jitqiesu wkoll iċ-ċirkostanzi l-oħra kollha tal-partijiet.

(3) Minkejja kull dispożizzjoni oħra ta' dan il-Kodiċi, meta tiġi deċiża l-firda, il-qorti tista', jekk hekk jidhrilha xieraq fiċ-ċirkostanzi, tordna lill-parti responsabbli għall-manteniment li thallas lill-parti l-oħra, minflok dak il-manteniment kollu jew parti minnu, somma globali, li fil-fehma tal-qorti tkun biżżejjed sabiex il-parti li jkollha tircievi l-manteniment tkun finanzjarjament indipendenti jew inqas dipendenti mill-parti l-oħra, skond il-każ.

(4) Għall-finijiet tas-subartikolu (3) ta' dan l-artikolu, il-qorti għandha, fost iċ-ċirkostanzi, tqis il-possibilità li l-persuna li lilha għandu jithallas manteniment tkunx tista' tircievi taħriġ jew taħriġ mill-ġdid fi professjoni, arti, sengha jew hidma oħra, jew biex tibda jew tkompli hidma li tohloq dħul ta' flus, u tordna l-hlas ta' somma globali għal dak l-iskop.

(5) Il-qorti tista' tordna, skond iċ-ċirkostanzi, li l-hlas tas-somma globali msemmija fis-subartikoli ta' qabel ta' dan l-artikolu jsir f'għadd ta' skadenzi ndaqs jew mhux indaqs mifruxa fuq perijodu ta' żmien xieraq.

(6) Il-qorti tista' wkoll tordna li, minflok dik is-somma globali, imsemmija fis-subartikolu (3) ta' dan l-artikolu, kollha jew parti minnha, il-parti li jkollha thallasha tagħti lill-parti l-oħra proprjetà b'titolu ta' proprjetà jew użufrutt, jew għall-użu jew abitazzjoni.

(7) Meta jkun hemm tibdil li jiġri wara fil-mezzi tal-parti responsabbli għall-manteniment jew il-bżonnijiet tal-parti l-oħra, il-qorti tista', fuq it-talba ta' kull waħda mill-partijiet, tordna li dak il-manteniment jinbidel jew jitwaqqaf skond il-każ. Izda, meta tkun thallset somma globali jew tkun inghatat proprjetà b'sodisfazzjon totali ta' l-obbligu ta' parti li thallas manteniment lill-parti l-oħra, ir-responsabbiltà kollha ta' l-ewwel parti għall-manteniment tat-tieni parti tiegħa. Izda meta s-somma globali tkun thallset jew il-proprjetà tkun inghatat bħala parti biss mill-imsemmi obbligu, il-qorti għandha, meta tordna l-hlas tas-somma globali jew l-ghoti tal-proprjetà, fl-istess hin tistabbilixxi l-parti tal-manteniment li tkun hekk sodisfatta u kull tibdil li jiġri wara għandu f'dan il-każ ikun japplika biss għal dik il-parti li ma tkunx sodisfatta u fl-istess proporzjon għaliha.

Meta tieqaf il-komunjoni ta' l-akkwisti u l-komunjoni l-oħra taht amminis-trazzjoni separata.

55. (1) Meta tagħti s-sentenza tal-firda, il-qorti għandha tordna li l-komunjoni ta' l-akkwisti jew il-komunjoni ta' residwu taht amminis-trazzjoni separata li jkun hemm bejn il-partijiet tispicċa mill-jum li fih is-sentenza tkun finali u konkluziva.

(2) Il-qorti tista' iżda, meta fil-fehma tagħha ċ-ċirkostanzi hekk jehtieġu, tordna li beni li jkunu parti mill-komunjoni ma jinqas mux qabel ma jgħaddi dak iż-żmien wara li tispicċa l-komunjoni li tista' fl-ordni tistabbilixxi.

(3) Kull ordni mogħti mill-qorti skond is-subartikolu (2) ta' dan l-artikolu, jista', għal raġuni tajba, jinbidel jew ikun revokat mill-qorti.

Id-dar taż-żwieġ.

55A. (1) Meta tagħti s-sentenza tal-firda, il-qorti għandha, fuq it-talba ta' xi wahda mill-partijiet, tiddeċiedi skond iċ-ċirkostanzi jekk xi parti minnhom għandhiex toqgħod fid-dar taż-żwieġ.

(2) Il-qorti tista', fuq talba ta' wahda mill-partijiet f'kull żmien, tibdel dik id-deċiżjoni jekk ikun hemm tibdil sostanzjali fiċ-ċirkostanzi.

(3) Id-dispożizzjonijiet tas-subartikolu (2) ta' l-artikolu 3A ta' dan il-Kodiċi ma japplikax fir-rigward ta' miżżewġin li jkunu legalment separati, sakemm il-kurtrarju ma jkunx ġie miftiehem mill-miżżewġin jew ordnat mill-qorti li għandha l-ġurisdiżzjoni li tagħti s-separazzjoni personali; u dak il-ftehim jew ordni ma jkollux seħħ kontra terzi hlief mill-waqt li dak il-ftehim jew ordni jkun ġie mnizzel fir-Registru Pubbliku.

Hsieb ta' l-ulied wara l-firda.

56. (1) Meta tagħti s-sentenza tal-firda, il-qorti għandha wkoll tordna lil liema wahda mill-partijiet għandha tiġi fdata l-kustodja tat-tfal u l-konsiderazzjoni ewlenija tkun il-ġid ta' l-ulied.

(2) Il-qorti tista', jekk tqis li dawk il-miżuri jkunu tassew meħtieġa, u wara li tqis iċ-ċirkostanzi kollha rilevanti, tordna li l-ulied jitqegħdu taht il-kustodja ta' terzi jew f'xorta oħra ta' kura.

(3) Il-qorti tista' tagħti dawk l-ordnijiet fis-sentenza ta' l-firda, ghalkemm fl-ażzjoni għaliha ma tkun saret ebda talba, dwar il-kustodja ta' l-ulied.

(4) Il-qorti tista', f'kull żmien, tirrevoka jew tibdel dawk l-ordnijiet dwar l-ulied, meta l-interessi ta' l-ulied hekk jitolbu.

(5) Il-qorti tista' barra dan, meta ċ-ċirkostanzi hekk jehtieġu, tistabbilixxi li xi hadd mill-ġenituri jew it-tnejn ikunu miċhuda mill-jeddijiet ta' l-awtorità tal-ġenituri għal kollox jew f'parti."

33. Fis-subartikolu (3) ta' l-artikolu 57 tal-Kodiċi, minflok il-kliem "għat-trobbija" għandhom jidhlu l-kliem "għall-ġid".

Emenda
ta' l-artikolu
57 tal-Kodiċi.

34. Minflok il-kliem "Il-firda tal-persuna bejn il-mara u r-raġel tista'", li hemm fis-subartikolu (1) ta' l-artikolu 59 tal-Kodiċi għandhom jidhlu l-kliem "Il-firda personali tista'".

Emenda
ta' l-artikolu
59 tal-Kodiċi.

35. Minflok l-artikolu 62 tal-Kodiċi għandu jidhol li ġej:

Sostituzzjoni
ta' l-artikolu 62
tal-Kodiċi.

"Kunjom
il-mara
wara
s-separazzjoni.

62. (1) Minkejja d-dispożizzjonijiet tas-subartikolu (4) ta' l-artikolu 4 ta' dan il-Kodiċi, il-mara tista' wara s-separazzjoni tagħzel li tirreverti għal kunjom xubitha. F'każ ta' separazzjoni konsenswali, għandha ssir dikjarazzjoni dwar dik l-għażla fl-att pubbliku ta' separazzjoni, u f'każ ta' separazzjoni ġudizzjarja, il-mara għandha tagħmel dik id-dikjarazzjoni b'nota ppreżentata fl-atti tal-kawża qabel is-sentenza.

(2) Il-qorti tista' wkoll, fuq talba tar-raġel li tista' ssir f'kull żmien qabel is-sentenza, tipprojbixxi lill-mara milli tkompli tuża kunjom żewġha wara s-separazzjoni, meta dak l-użu jista' jkun ta' preġudizzju gravi lir-raġel.

Effetti
kwantu
għat-terzi
tas-separazzjoni
personali.

62A. Is-separazzjoni personali ma għandha ebda effett kontra t-terzi hlief minn dak in-nhar li s-sentenza jew il-kuntratt, skond il-każ, jiġi mniżżla fir-Registru Pubbliku. Kull registrazzjoni bħal dik għandha tinkludi riferenza għal kull dikjarazzjoni jew projbizzjoni dwar il-kunjom tal-mara wara s-separazzjoni."

36. Fis-subartikolu (1) ta' l-artikolu 64 tal-Kodiċi, minflok il-kliem "Il-fatt biss li r-raġel u l-mara mifrudin imorru minn rajhom iġhammru flimkien" għandhom jidhlu l-kliem "Jekk ir-raġel u l-mara mifrudin imorru minn rajhom iġhammru flimkien".

Emenda
ta' l-artikolu
64 tal-Kodiċi.

37. Minflok l-artikoli minn 70 sa 72 tal-Kodiċi, għandu jidhol dan li ġej:

Sostituzzjoni
ta' l-artikoli
minn 70 sa 72
tal-Kodiċi.

"Meta
raġel jista'
jiċhad li
jagħraf
it-tifel.

70. (1) Ir-raġel jista' jiċhad li jagħraf it-tifel imnissel matul iż-żwieġ —

(a) jekk jipprova illi, fiż-żmien bejn it-tliet mitt jum u l-mija u tmenin jum qabel it-twelid tat-tifel, hu kien fl-impossibbiltà fiżika li jgħammar ma' martu minhabba li kien bogħod minnha, jew minhabba xi aċċident ieħor; jew

(b) jekk, fiż-żmien hawn fuq imsemmi, kien mifrud *de facto* jew legalment minn martu:

Iżda ma jistax jiċhad lit-tifel jekk matul dak iż-żmien ikun reġa' nġhaqad ma' martu, ukoll jekk temporanjament; jew

(c) jekk jipprova li fiż-żmien hawn fuq imsemmi kien milqut b'impotenza, ukoll jekk dik l-impotenza kienet wahda fit-tnissil; jew

(d) jekk jipprova li fiż-żmien hawn fuq imsemmi martu kienet ghamlet adulterju jew kienet hbiert it-tqala u t-twelid tat-tarbija, u barra minn hekk jipprova xi fatt iehor (li jista' wkoll ikun testijiet u provi ġenetiċi u xjentifiċi) li x'aktarx jeskludu dik il-paternità.

(2) Id-dikjarazzjoni biss ta' l-omm fis-sens li żewġha mhux missier it-tifel ma tkunx biżżejjed biex teskludi l-paternità tar-raġel.

(3) Il-qorti tista', f'kawża għaċ-ċaħda tal-gharfien tat-tarbija, tistieden lill-partijiet kollha jew xi wahda minnhom, kif ukoll lill-wild li l-filjazzjoni tiegħu tkun fid-dubju, sabiex joqogħdu għall-eżamijiet meħtieġa biex tiġi stabbilita kull prova ġenetika li jkollha x'taqsam mal-każ. Il-qorti jkollha l-jedd li tasal għal dawk il-konklużjonijiet li jistgħu jkunu ġustifikati jekk parti ma tkunx trid tagħmel dawk l-eżamijiet. Meta t-tifel li dwar il-filjazzjoni tiegħu jkun hemm kwistjoni jkun minuri, il-qorti stess għandha tistabbilixxi jekk it-tifel jagħmilx l-eżamijiet.”.

Emenda
ta' l-artikolu
73 tal-Kodiċi.

38. Fl-artikolu 73 tal-Kodiċi, minflok il-kliem “tliet xhur” kull fejn jinsabu għandhom jidhlu l-kliem “sitt xhur”.

Emenda ta'
l-artikolu 74
tal-Kodiċi.

39. Fl-artikolu 74 tal-Kodiċi, minflok il-kliem “tliet xhur” kull fejn jinsabu għandhom jidhlu l-kliem “sitt xhur”.

Emenda
ta' l-artikolu
77 tal-Kodiċi.

40. Minflok in-nota marginali għall-artikolu 77 tal-Kodiċi, għandhom jidhlu l-kliem “Impossibbiltà fiżika ta' raġel li jgħammar ma' martu”.

Emenda
ta' l-artikolu
90 tal-Kodiċi.

41. L-artikolu 90 tal-Kodiċi għandu jiġi emendat kif ġej:

(a) is-subartikolu (2) tiegħu għandu jithassar;

(b) is-subartikolu (3) tiegħu għandu jiġi numerat mill-ġdid b'hal s-subartikolu (2) tiegħu; u

(c) fis-subartikolu (2) tiegħu kif numerat mill-ġdid minflok il-kliem “li l-omm, u mhux il-missier għandha teżerċita” għandhom jidhlu l-kliem “li wiehed jew wahda biss mill-ġenituri jeżerċita jew teżerċita”.

Emenda
ta' l-artikolu
92 tal-Kodiċi.

42. Fis-subartikolu (1) ta' l-artikolu 92 tal-Kodiċi, minflok il-kliem “l-kunjom tal-missier” għandhom jidhlu l-kliem “l-kunjom tal-missier, li miegħu jista' jid il-kunjom ta' l-omm”.

Emenda
ta' l-artikolu
93 tal-Kodiċi.

43. Minflok is-subartikolu (2) ta' l-artikolu 93 tal-Kodiċi għandu jidhol dan li ġej:

“(2) L-istess obbligu ghandu l-missier lejn id-dixxendenti legittimi ta' iben jew bint illegittimi li jmutu qablu, jekk il-ġenitur tagħhom li jibqa' haj jew l-axxendenti legittimi tagħhom ma jkunux fi stat li jistghu jagħtu l-manteniment.”.

44. Is-subartikolu (2) ta' l-artikolu 96 tal-Kodiċi għandu jithassar u s-subartikolu (1) li hemm għandu jinżamm bhala l-artikolu shih.

Emenda
ta' l-artikolu
96 tal-Kodiċi.

45. Fl-artikolu 97 tal-Kodiċi minflok il-kliem “il-missier” għandhom jidhlu l-kliem “il-ġenitur”.

Emenda
ta' l-artikolu
97 tal-Kodiċi.

46. Minnufih wara l-artikolu 100 tal-Kodiċi għandu jidhol l-artikolu li ġej:

Zieda ta'
l-artikolu 100A
mal-Kodiċi.

“Prova
genetika.

100A. F'kawzi li għalihom jagħmel riferenza l-artikolu ta' qabel dan, il-qorti tista', bla preġudizzju għal kull prova li jistghu jgħibu l-partijiet skond il-liġi, tistieden lill-partijiet biex jissottomettu għal eżamijiet kif imsemmija fis-subartikolu (3) ta' l-artikolu 70, u bl-istess mod u fl-istess ċirkostanzi tkun tista', f'każ ta' rifjut, tasal għal dawk il-konklużjonijiet kif imsemmija fl-istess subartikolu.”.

47. Fis-subartikolu (2) ta' l-artikolu 110 tal-Kodiċi, minflok il-kliem “l-kunjom tal-missier” għandhom jidhlu l-kliem “l-kunjom tal-missier li miegħu jista' jiżdied il-kunjom ta' l-omm.”.

Emenda
ta' l-artikolu
110 tal-Kodiċi.

48. Il-proviso li hemm għall-paragrafu (a) ta' l-artikolu 121 tal-Kodiċi għandu jithassar.

Emenda
ta' l-artikolu
121 tal-Kodiċi.

49. Minflok l-artikolu 131 tal-Kodiċi għandu jidhol dan li ġej:

Sostituzzjoni
ta' l-artikolu
131 tal-Kodiċi.

“L-iben
sugġett
għas-
setgħa
tal-
ġenituri.

131. (1) L-iben huwa sugġett għas-setgħa tal-ġenituri tiegħu għall-effetti kollha kif stabbiliti bil-liġi.

(2) Hlief f'dawk il-każijiet stabbiliti bil-liġi, din is-setgħa tkun eżerċitata bi ftehim bejn iż-żewġ ġenituri. Wara l-mewt ta' wiehed mill-ġenituri, din tkun eżerċitata mill-ġenitur li jibqa' haj.

(3) F'każ ta' nuqqas ta' qbil bejn il-ġenituri dwar hwejjegħ ta' mportanza partikolari, kull wiehed mill-ġenituri jista' jirrikorri għall-qorti ta' ġurisdizzjoni volontarja fejn juri dawk id-direzzjonijiet li fil-fehma tiegħu jidhirlu xierqa fiċ-ċirkostanzi.

(4) Il-qorti, wara li tkun semgħet lill-ġenituri u lit-tifel jekk dan ikun lahaq l-età ta' erbatax-il sena, għandha tagħmel dawk is-suggerimenti li jidhirlha l-aħjar fl-interessi tat-tifel u l-għaqda tal-familja. Jekk ikompli n-nuqqas ta' qbil bejn il-ġenituri, il-qorti għandha tawtorizza lill-ġenitur li fil-fehma tagħha jkun l-iktar xieraq li jhares l-interessi tat-tifel fii-każ partikolari, li jiddeċiedi l-kwistjoni, bla ħsara għad-dispożizzjonijiet ta' l-artikolu 149.

(5) Fil-każ ta' periklu imminenti jew preġudizzju serju għat-tifel kull wiehed mill-ġenituri jista' jiehu dawk il-miżuri li huma urġenti u li ma jistghux jistennew.

(6) Dwar terzi persuni *in bona fide*, kull wahda mill-partijiet fiż-żwieġ għandha titqies li għemilha kien bil-kunsens tal-parti l-oħra meta teżerċita għemil dwar awtorità tal-ġenituri dwar il-persuna tat-tifel.”.

Emenda
ta' l-artikolu
132 tal-Kodiċi.

50. L-artikolu 132 tal-Kodiċi għandu jiġi emendat kif ġej:

(a) minflok il-kliem “l missieru” fis-subartikolu (1) tiegħu, għandhom jidhru l-kliem “lill-ġenituri tiegħu”; u

(b) minflok is-subartikoli (2) u (3) tiegħu, għandu jidhol dan li ġej:

“(2) Bla hsara għal kull dispożizzjoni oħra tal-liġi dwar l-ingaġġ f'xi forza dixxiplinata, l-iben ma jistax, minghajr il-kunsens tal-ġenituri, jitlaq mid-dar tal-ġenituri, jew mid-dar li l-ġenituri tiegħu jkun għażlulu.

(3) Meta l-iben jitlaq mid-dar minghajr dan il-kunsens, il-ġenituri għandhom jedd isejhulu lura, u jekk ikun mehtieg jitolbu l-ghajnuna tal-Pulizija.”.

Sostituzzjoni
ta' l-artikoli
minn-134 sa 136
tal-Kodiċi.

51. Minflok l-artikoli minn 134 sa 136 tal-Kodiċi għandu jidhol dan li ġej:

“Setgħa
tal-Qorti
li tawtoriz-
za li tifel
jitqiegħed
taht
harsien
alternattiv.

134. (1) Ġenituri li ma jirnexxilhomx irazznu lil binhom jistghu jnehhuh mill-familja, u jagħtuh, skond il-mezzi tal-ġenituri, dak il-manteniment li wiehed ma jistax jgħaddi minghajru.

(2) F'kull każ bhal dan, il-ġenituri jistghu wkoll, jekk ikun mehtieg u malli jiksbu l-awtorizzazzjoni tal-qorti ta' ġurisdizzjoni volontarja, iqiegħdu lit-tifel, għaż-żmien imsemmi fid-digriet, f'xi forma oħra ta' harsien, li l-qorti fiċ-ċirkostanzi jidhrilha xierqa, sabiex huwa, bi spejjeż tal-ġenituri, jithares u jinżamm b'dak il-mod li fil-fehma tal-qorti jkun iwassal għad-dixxiplina u għall-edukazzjoni tat-tifel.

(3) It-talba għal din is-setgħa tista' wkoll issir bil-fomm; u l-qorti għandha tagħti l-ordni mehtieg għaldaqshekk minghajr ebda formalità ta' proċeduri, u minghajr ma tagħti raġunijiet għal dak l-ordni.

Il-ġenituri
jidhru
għall-
ulied.

135. Il-ġenituri jidhru għall-uliedhom, imwielda jew le, fl-atti kollha tal-hajja ċivili.

Setgħa tal-
ġenituri
biex jam-
ministraw.

136. (1) Il-ġenituri flimkien jamministraw il-proprjetà ta' uliedhom, imwielda jew le, hliet dik il-proprjetà li tiġi għand l-ulied bil-kondizzjoni li tkun amministrata biss minn wiehed mill-ġenituri jew minn terzi.

(2) Atti ta' amministrazzjoni ordinarja jistghu, izda, jitwettqu minn kull wiehed mill-ġenituri minghajr l-intervent ta' l-iehor.

(3) L-atti ta' amministrazzjoni straordinarja li għandhom jitwettqu miż-żewġ ġenituri flimkien jinkludu:—

(a) it-trasferiment ta' mobbli minnhom infushom, inkluż vetturi bil-mutur, sabiex il-prezz tagħhom ikun impjegat bi qliegħ;

(b) il-ġbid ta' kapitali li jkunu għalqu;

(ċ) l-ghoti ta' jeddijiet personali għat-tgawdija minn proprjetà immobbli;

(d) l-aċċettazzjoni ta' wirt, legat jew donazzjoni f'isem it-tifel;

(e) il-qsim ta' hwejjeg mobbli minnhom infushom;

(f) atti li jehtiegu l-awtorizzazzjoni tal-qorti skond is-subartikolu (4) ta' dan l-artikolu.

(4) Il-ġenituri ma jistghux jittrasferixxu hwejjeg immobbli jew hwejjeg mobbli għax hekk tqishom il-liġi u li jkunu proprjetà tat-tifel lanqas ma jistghu jissellfu jew jagħmlu dejn iehor f'ismu, jipotekaw jew iwiegħdu l-proprjetà tiegħu, jagħtuha b'garanzija, jidhlu f'xi kompromess, jew jissottomettu kwistjoni għal arbitraġġ, hliet f'każ ta' bżonn, jew ta' hteġa ċara u bis-setgħa tal-qorti u f'kull każ bhal dan, il-qorti tista', fuq talba tal-ġenituri, tawtorizza lil wiehed mill-ġenituri biex jidher għat-tifel fuq l-att relattiv.

(5) Fil-każ ta' nuqqas ta' ftehim bejn il-ġenituri għandhom japplikaw id-dispożizzjonijiet ta' l-artikolu 131.”.

52. L-artikolu 137 tal-Kodiċi għandu jiġi emendat kif ġej:

Emenda ta'
l-artikolu 137
tal-Kodiċi.

(a) fis-subartikolu (1) tiegħu, minflok il-kliem “Il-missier għandu jaċċetta” għandhom jidhlu l-kliem “Il-ġenituri għandhom jaċċettaw”; u

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

“(2) Jekk wiehed mill-ġenituri ma jkunx jista' jew ma jkunx irid jaċċetta dak il-wirt, il-wirt jista' jiġi aċċettat mill-ġenitur l-iehor bis-setgħa tal-qorti. Jekk iż-żewġ ġenituri ma jkunux jistghu jew ma jkunux iridu jaċċettaw dak il-wirt, il-qorti tista', fuq talba tat-tifel jew ta' xi hadd minn qrabatu, tagħti s-setgħa għall-aċċettazzjoni tal-wirt jew lit-tifel innifsu, jekk ikun għalaq l-erbatax-il sena, jew xort'ohra lil kuratur speċjali li jinhatar mill-qorti.”.

Emenda ta' l-artikolu 138 tal-Kodiċi.

53. Fl-artikolu 138 tal-Kodiċi, minflok il-kliem “minn missier” għandhom jidhlu l-kliem “minn kull wiehed mill-ġenituri”.

Sostituzzjoni ta' l-artikoli 139 u 140 tal-Kodiċi.

54. Minflok l-artikoli 139 u 140 tal-Kodiċi, għandu jidhol dan li ġej:

“F’każ li l-interessi ta’ xulxin ma jaqblux.

139. Fil-każ li l-interessi tat-tfal ma jkunux jaqblu ma’ xulxin, jew ma’ ta’ xi wiehed mill-ġenituri tagħhom, il-qorti kompetenti għandha, skond iċ-ċirkostanzi, tahtar kuratur speċjali wiehed jew aktar:

Iżda kull wiehed mill-ġenituri jista’ jirrifjuta li jidher għal wiehed mit-tfal kontra l-iehor jew kontra l-ġenitur l-iehor.

Il-ġenituri jagħtu kont ta’ l-amministrazzjoni.

140. (1) Il-ġenituri għandhom jagħtu lit-tifel, meta dan isir ta’ l-età, kont tal-proprjetà u ta’ l-utili ta’ dawk il-beni li tagħhom ma jkollhomx użufrutt; u tal-proprjetà biss u ta’ l-amministrazzjoni tagħha, tal-beni li tagħhom il-ġenituri jkollhom l-użufrutt legali.

(2) Jekk is-setgħa tal-ġenituri tispiċċa qabel ma t-tifel isir ta’ l-età, il-ġenituri għandhom jagħtu dan il-kont dak inhar li tispiċċa din is-setgħa.

(3) Bla hsara għal kull responsabbiltà tal-ġenitur, kull wiehed mill-ġenituri jista’ jagħti dak il-kont ukoll f’iem il-ġenitur l-iehor.”.

Emenda ta’ l-artikolu 141 tal-Kodiċi.

55. L-artikolu 141 tal-Kodiċi għandu jiġi emendat kif ġej:

(a) minflok il-kliem “il-missier għandu” fin-nota marginali li hemm għalih, għandhom jidhlu l-kliem “il-ġenituri għandhom”;

(b) minflok il-kliem “Il-missier għandu” fis-subartikolu (1) tiegħu, għandhom jidhlu l-kliem “Il-ġenituri għandhom”; u

(ċ) minflok il-kliem “Hu jzomm” fis-subartikolu (2) tiegħu, għandhom jidhlu l-kliem “Huma jzommu”.

Emenda ta’ l-artikolu 142 tal-Kodiċi.

56. L-artikolu 142 tal-Kodiċi għandu jiġi emendat kif ġej:

(a) minflok il-paragrafu (a) tiegħu għandu jidhol dan li ġej:

“(a) il-beni mhollija jew mogħtija lit-tifel bil-kondizzjoni li l-ġenituri jew wiehed minnhom ma jkollhomx l-użufrutt tagħhom:

Iżda din il-kondizzjoni ma tiswix dwar dawk il-beni li jmissu lit-tifel bħala legittima:

Iżda wkoll, meta l-beni jithallew jew jinghataw lit-tifel bil-kondizzjoni li wiehed biss mill-ġenituri ma jkollux l-użufruġ ta' dawk il-beni, dawk il-beni jkunu suġġetti għall-użufruġ tal-ġenitur l-iehor, b'dan illi f'kull każ bhal dan, l-utili ta' dawk il-beni m'għandhomx jidhlu f'komunjoni ta' l-akkwisti li jista' jkun hemm bejn il-ġenitur li jkun iġawdi l-użufruġ u l-ġenitur li jkun eskluż minn dak l-użufruġ"; u

(b) minflok il-paragrafu (c) tiegħu għandu jidhol dan li ġej:

“(c) il-beni li jgħaddu għand it-tifel b'wirt, b'legat jew b'donazzjoni, meta dak il-wirt, legat jew donazzjoni jkunu aċċettati fl-interessi tat-tifel kontra r-rieda tal-ġenituri:

Iżda meta dawk il-beni jkunu aċċettati f'isem it-tifel minn ġenitur wiehed kontra r-rieda tal-ġenitur l-iehor, dawk il-beni jkunu biss suġġetti għall-użufruġ ta' dak il-wiehed mill-ġenituri li jkun aċċetta; b'dan illi f'kull każ bhal dan, l-utili ta' dawk il-beni m'għandhomx jidhlu f'komunjoni ta' l-akkwisti li jista' jkun hemm bejn il-ġenitur li jkun aċċetta dak il-wirt, legat jew donazzjoni kif intqal qabel, u l-ġenitur l-iehor li ma jkunx hekk aċċetta;”.

57. Fl-artikolu 143 tal-Kodiċi u fin-nota marginali tiegħu, minflok il-kelma “missier” kull fejn tinsab, għandha tidhol il-kelma “ġenitur”.

Emenda ta' l-artikolu 143 tal-Kodiċi.

58. L-artikolu 144 tal-Kodiċi għandu jiġi emendat kif ġej:

Emenda ta' l-artikolu 144 tal-Kodiċi.

(a) minflok is-subartikolu (1) tiegħu għandu jidhol dan li ġej:

“(1) L-użufruġ tal-ġenituri jispiċċa bil-mewt tat-tifel jew billi l-ġenituri jew il-ġenituri adottivi skond il-każ, jiżżewġu jew jerġgħu jiżżewġu.”; u

(b) minnufih wara s-subartikolu (2) tiegħu għandu jiżdied is-subartikolu li ġej:

“(3) Meta l-użufruġ jintemm dwar biss wiehed mill-ġenituri, l-utili tal-beni suġġetti għal dak l-użufruġ m'għandhomx jidhlu f'komunjoni ta' l-akkwisti bejn il-ġenitur li dwaru l-użufruġ ma jkunx intemm u l-ġenitur li dwaru dan ikun intemm.”.

59. Minflok l-artikoli minn 145 sa 148 tal-Kodiċi għandu jidhol dan li ġej:

Sostituzzjoni ta' l-artikoli minn 145 sa 148 tal-Kodiċi.

“Meta ġenituri jkomplu jgawdu beni meta jintemm l-użufruġ.

145. Jekk jintemm l-użufruġ, u l-ġenituri, jew xi wiehed minnhom, ikomplu jew ikomplu jgawdu l-beni tat-tifel li jkun joqgħod mal-ġenituri jew ma' xi wiehed minnhom minghajr setgħa iżda minghajr oppożizzjoni min-naħa tat-tifel, inkella bis-setgħa iżda minghajr il-kondizzjoni espressa li jinghata l-kont ta' l-utili, dawk il-ġenituri jew ġenitur jew il-verrieta ta' dawk il-ġenituri jew dak il-ġenitur, skond il-każ, ma jkollhomx hlief li jgħaddu l-utili li jkun hemm fiż-żmien tat-talba, minghajr l-obbligu li jagħtu kont ta' dawk l-utili li sa dak iż-żmien setgħu kienu ikkunsmati.

Mewt eċċ.
ta' wiehed
mill-ġenitri.

146. (1) Jekk wiehed mill-ġenituri jmut, is-setgħa tal-ġenituri tgħaddi biss għand il-ġenitur li jibqa' haġ dwar it-tfal tiegħu u l-beni tagħhom, magħduda beni li jgħaddu għand it-tfal mill-beni tal-ġenitur mejjet u minn kull kawża oħra wara li jkun miet l-ewwel ġenitur.

(2) Id-dispożizzjonijiet tas-subartikolu (1) ta' dan l-artikolu għandhom japplikaw ukoll meta wiehed mill-ġenituri jkun tilef jew tnehhitlu s-setgħa ta' ġenitur, jew ma jkunx jista', minhabba li jkun nieqes jew minhabba impediment ieħor, jeżerċità l-jeddijiet tas-setgħa ta' ġenitur.

(3) Jekk wiehed mill-ġenituri jkun tnehhietli biss il-jedd ta' l-użufrutt, dak il-jedd jgħaddi għand il-ġenitur i-
ieħor wahdu.

(4) Meta wiehed mill-ġenituri jitnehhietli l-użufrutt, l-utili ta' dak l-użufrutt m'għandux jidhol f'xi komunjoni ta' l-akkwisti li jkun hemm bejn dak il-ġenitur u l-
ġenitur l-ieħor li ma jkunx tnehhietli l-użufrutt.

Meta
ġenitur
jerga'
jiżżewwieg
u jkompli
jamministra
l-proprjetà.

147. (1) Jekk wiehed mill-ġenituri, meta jerga' jiżżewwieg, ikompli jamministra l-proprjetà ta' uliedu, sew jekk ikompli jeżerċita l-jedd tas-setgħa tal-ġenitur u sew jekk le, żewġ jew mart il-ġenitur ikun responsabbli *in solidum* għall-amministrazzjoni kemm ta' qabel kif ukoll ta' wara.

(2) Id-dispożizzjonijiet ta' dan l-artikolu japplikaw għal ġenitur adottiv meta jiżżewwieg jew meta jerga' jiżżewwieg.”.

Emenda ta'
l-artikolu 150
tal-Kodiċi.

60. L-artikolu 150 tal-Kodiċi għandu jiġi emendat kif ġej:

(a) minflok il-paragrafu (d) tiegħu għandu jidhol dan li ġej:

“(d) jekk it-tifel, bil-kunsens tal-ġenituri, jitlaq mid-dar tal-ġenituri u jmur jgħix għal rasu;” u

(b) fil-paragrafu (e) tiegħu, minflok il-kliem “jekk il-missier jonqos li jagħmel” għandhom jidhlu l-kliem “jekk il-ġenituri jonqsu li jagħmlu”, u minnufih wara l-kliem “fl-artikoli 2038 u 2039;” għandhom jidhlu l-kliem “hekk iżda meta wiehed biss mill-ġenituri jkun naqas li jagħmel dik ir-registrazzjoni, is-setgħa tal-ġenituri ma tispicċax dwar il-ġenitur li ma jkunx hekk naqas;”.

Emenda ta'
l-artikolu 151
tal-Kodiċi.

61. Fl-artikolu 151 tal-Kodiċi u fin-nota marginali għalih, minflok il-kelma “missier” kull fejn tinstab għandha tidhol il-kelma “ġenitur”.

Emenda ta'
l-artikolu 152
tal-Kodiċi.

62. Minflok il-kelma “missier” kull fejn tinstab fl-artikolu 152 tal-Kodiċi u fin-nota marginali għalih, għandha tidhol il-kelma “ġenitur”.

Emenda ta'
l-artikolu 153
tal-Kodiċi.

63. Fl-artikolu 153 tal-Kodiċi u fin-nota marginali li hemm għalih, minflok il-kelma “missier” kull fejn tinstab, għandha tidhol il-kelma “ġenitur”.

64. L-artikolu 154 tal-Kodiċi għandu jiġi emendat kif ġej:

Emenda ta'
l-artikolu 154
tal-Kodiċi.

(a) minflok il-kelma “missier” kull fejn tinsab, għandha tidhol il-kelma “ġenitur”;

(b) fil-paragrafu (d) tas-subartikolu (1) tiegħu, minflok il-kliem “it-tifel”, għandhom jidhlu l-kliem “it-tifel”; u

(ċ) minnufih wara l-paragrafu (d) tas-subartikolu (1) tiegħu għandu jidhol il-paragrafu li ġej:

“(e) jekk il-ġenitur jonqos li jaqdi xi wiehed mill-obbligi msemmija fl-artikolu 3B favur it-tifel.”.

65. L-artikolu 251 tal-Kodiċi għandu jiġi emendat kif ġej:

Emenda ta'
l-artikolu 251
tal-Kodiċi.

(a) minflok il-kliem “il-Formoli I, J, K, L, M, N, O u P” li hemm fis-subartikolu (2) tiegħu, għandhom jidhlu l-kliem “il-Formoli I, J, K, L, O u P”;

(b) minnufih wara s-subartikolu (2) tiegħu għandu jidhol dan li ġej:

“(2A) (a) Estratti ta’ atti tat-twelid u ta’ registrazzjonijiet fir-reġistru ta’ persuni adottati għandhom jinħarġu fuq il-Formoli I jew J murija fit-Taqsima II ta’ l-Iskeda li tinsab ma’ dan il-Kodiċi.

(b) Għall-finijiet ta’ l-estratti mahruġa skond il-paragrafu (a) ta’ dan is-subartikolu registrazzjonijiet fir-reġistru ta’ persuni adottati jingħataw numru konsekuttiv li jkompli ma’ l-aħhar numru ta’ l-atti tat-twelid registrati fis-sena tat-twelid tal-persuna adottata, jew wiehed minn dawk in-numri mholli għal hekk mid-Direttur u li jkun relattiv għas-sena tat-twelid tal-persuna adottata, liema numri ma jingħatawx lil atti tat-twelid. L-imsemmija sena għandha wkoll tkun indikata.

(ċ) Il-fatt li numri jkunu, skond il-paragrafu (b) ta’ dan is-subartikolu, imhollija għar-registrazzjoni ta’ persuni adottati, ikun sigriet u konfidenzjali. Lista ta’ dawk in-numri għandha tingħata biss lid-dipartiment tal-Gvern li għandu x’jaqsam man-nazzjonalità, lill-Uffiċċju tal-Passaporti, lill-Kummissjoni Elettorali u lir-Reġistratur taż-Żwieġ li jkunu marbutin bl-istess segretezza u konfidenzjalità.”

66. Minflok il-paragrafu (f) ta’ l-artikolu 623 tal-Kodiċi, għandu jidhol dan li ġej:

Emenda ta'
l-artikolu 623
tal-Kodiċi.

“(f) jekk, fil-każ ta’ iben jew bint jew dixxendent ieħor, hu jew hi tagħmilha ta’ prostituta pubblika minghajr konnivenza tat-testatur.”.

Emenda ta' l-artikolu 631 tal-Kodiċi.

Zieda ta' artikolu ġdid 633A mal-Kodiċi.

67. Minflok il-kliem “Min mir-raġel” li hemm fis-subartikolu (1) ta' l-artikolu 631 tal-Kodiċi, għandhom jidhlu l-kliem “Bla hsara għad-dispożizzjonijiet ta' l-artikolu 633A, min mir-raġel”.

68. Minnufih wara l-artikolu 633 tal-Kodiċi, għandu jżidded l-artikolu ġdid li ġej:

“Jedd ta' abitazzjoni. 633A. (1) Min jibqa' haj mill-miżżewġin ikollu jedd li jabita fil-post li jkun jintuża bħala r-residenza prinċipali ta' dak li jibqa' haj meta tmūt il-parti l-oħra, meta dak il-post ikun proprjetà assoluta ta' jew miżmum b'enfitewsi mill-parti li tmūt jew waħedha jew flimkien ma' min jibqa' haj.

(2) Kemm mill-post hu suġġett għall-jedd ta' abitazzjoni ma jkunx limitat minhabba li, wara l-mewt ta' l-ewwel parti, il-parti l-oħra tkun tehtieg parti nqas mill-post.

(3) Għall-finijiet ta' l-artikolu 631 ta' dan il-Kodiċi l-post li jkun suġġett għall-jedd ta' abitazzjoni taht dan l-artikolu jithalla barra mill-wirt tal-parti li tmūt li fuqu l-parti li tibqa' hajja jkollha l-użufrutt tan-nofs.

(4) Fiċ-ċirkostanzi msemija fl-artikolu 633, il-jedd imsemmi fis-subartikolu (1) ta' dan l-artikolu jkun b'zieda mal-jedd tal-parti li tibqa' hajja moghti bl-imsemmi artikolu 633.

(5) Il-jedd moghti bis-subartikolu (1) ta' dan l-artikolu iġġodd ukoll meta dak il-jedd ikollu l-effett li jnaqqas, matul il-hajja tal-parti li tibqa' hajja, il-leġittima jew xi sehem mill-mewt tal-parti li tmūt riżervata għal xi persuna oħra.

(6) Meta kreditur tal-parti li tmūt jinforza l-jedd tiegħu fuq il-post li jkun suġġett għall-jedd taht dan l-artikolu, jew meta l-verrieta li jkunu aċċettaw il-wirt bil-benefiċċju ta' l-inventarju jbiegħu dak il-post biex jithallas xi dejn dovut minn dak il-wirt, u f'kull każ ikun hemm beni oħra tal-wirt minn fejn ikunu jistgħu jithallsu dawk id-djun, il-parti li tibqa' hajja jkollha jedd titlob, fi żmien sena mill-bejgħ, danni minghand il-verrieta tal-parti li tmūt, jew minghand il-verrieta tal-parti li tmūt li jkunu aċċettaw bil-benefiċċju ta' l-inventarju li ma jkunu għamlu xejn biex dawk id-djun jithallsu minn beni oħra.

(7) Il-miżżewġin jistgħu, qabel jew wara ż-żwieġ, jiftiehmu skond dan il-Kodiċi, ikun liema jkun ir-reġim patrimonjali li għandu jirregola l-proprjetà tagħhom, li jeskludu jew li jnaqqsu l-jedd kompetenti ta' min minnhom jibqa' haj wara l-iehor skond dan l-artikolu.

(8) Il-jedd ta' abitazzjoni moghti f'dan l-artikolu jispiċċa malli l-parti li tibqa' hajja terġa' tiżżewweġ.”.

69. Fis-subartikolu (1) ta' l-artikolu 634 tal-Kodiċi, il-kliem “u, meta l-mara tibqa’ hajja wara żewġha, fid-dotarju,” għandhom jithassru. Emenda ta’
l-artikolu 634
tal-Kodiċi.

70. L-artikolu 636 tal-Kodiċi għandu jiġi emendat kif ġej: Emenda ta’
l-artikolu 636
tal-Kodiċi.

(a) minflok il-kliem “l-artikoli 631 u 633” għandhom jidhlu l-kliem “l-artikoli 631, 633 u 633A”;

(b) minflok il-kliem “l-artikoli 48, 49, 50, 51 u 52” li hemm fil-paragrafu (a) tiegħu, għandhom jidhlu l-kliem “l-artikoli 48, 51 u 52”; u

(ċ) minnufih wara l-kliem “l-artikoli 631 u 633,” li hemm fil-paragrafu (b) tiegħu, għandhom jidhlu l-kliem “jew il-jedd ta’ abitazzjoni msemmi fl-artikolu 633A,”.

71. L-artikoli 638 u 639 tal-Kodiċi għandhom jithassru. Thassir ta’
l-artikoli
638 u 639
tal-Kodiċi.

72. Fl-artikolu 646 tal-Kodiċi minflok il-kliem “L-ishma li jmissu lil min jibqa’ haj mir-raġel u l-mara” għandhom jidhlu l-kliem “Bla hsara għad-dispożizzjonijiet ta’ l-artikolu 633A, l-ishma li jmissu lil min jibqa’ haj mir-raġel u l-mara”. Emenda ta’
l-artikolu 646
tal-Kodiċi.

73. Minflok l-artikolu 825 tal-Kodiċi għandu jidhol dan li ġej: Sostituzzjoni ta’
l-artikolu 825
tal-Kodiċi.

“Jeddijiet ta’ min mill-miżżewġin jibqa’ haj meta l-ichot ihalli tfal.

825. Meta l-parti li tmurt thalli tfal jew dixxendenti minn dawk imsemmijin fl-artikolu 631, il-parti li tibqa’ hajja jkollha biss il-jeddijiet mogħtija taht id-dispożizzjonijiet ta’ l-imsemmija artikolu u ta’ l-artikoli 632, 633A, 634 u 635, u d-dispożizzjonijiet ta’ l-artikolu 637 għandhom ukoll japplikaw.”.

74. Fis-subartikolu (1) ta’ l-artikolu 826 tal-Kodiċi minflok il-kliem “bhal dawk imsemmija fl-artikolu 631 —” għandhom jidhlu l-kliem “bhal dawk imsemmija fl-artikolu 631, min jibqa’ haj ikollu dritt għall-jedd ta’ abitazzjoni msemmi fl-artikolu 633A, u dwar il-beni tal-persuna li tmurt li ma jkunux suġġetti għal dak il-jedd ta’ abitazzjoni —”. Emenda ta’
l-artikolu 826
tal-Kodiċi.

75. Minflok il-kliem “l-artikoli 48, 49, 50, 51 u 52” li hemm fl-artikolu 829 tal-Kodiċi għandhom jidhlu l-kliem “l-artikoli 48, 51 u 52”. Emenda ta’
l-artikolu 829
tal-Kodiċi.

76. Minnufih wara l-artikolu 971 tal-Kodiċi għandu jidhol dan li ġej: Zieda ta’
artikolu
gdid 971A
mal-Kodiċi.

“Tifel ‘il fuq mill-età ta’ sittax-il sena jista’ jiftah u jhaddem kont f’bank.

971A. Minkejja kull dispożizzjoni ta’ dan il-Kodiċi, tifel li jkun għalaq is-sittax-il sena jista’ jiddepożita flus f’kont f’bank miftuħ mit-tifel f’ismu, u kull flus depożitati f’kull kont bhal dak jistgħu jkunu rtirati biss minn dak it-tifel minkejja li dawk il-flus jistgħu jkunu suġġetti għall-amministrazzjoni, użufrutt jew awtorità ta’ xi persuna oħra. Għall-finijiet kollha tal-liġi tifel, dwar il-ftuh u thaddim ta’ xi kont bhal dak, jitqies li hu ta’ l-età.”.

Sostituzzjoni ta' l-artikoli minn 1236 sa 1238 tal-Kodiċi.

77. Minflok l-artikoli minn 1236 sa 1238 tal-Kodiċi, għandu jidhol dan li ġej:

"Kitba taż-żwieġ.

1236. Hlief għal dawk li huma l-akkwisti msemmija fis-Sub-Titolu III ta' dan it-Titolu, il-liġi ma tistabbilixxi ebda soċjetà jew komunjon ta' beni bejn il-miżżewġin.

L-gharajjes jistghu jagħmlu ftehim li ma jkunx kontra l-ghemil xieraq, eċċ.

1237. (1) Izda, l-gharajjes jistghu jagħmlu kull ftehim ieħor, li ma jkunx kontra l-ghemil xieraq, jew kontra r-regoli li jinsabu f'dan l-artikolu jew fl-artikoli li jiġu wara ta' dan il-Kodiċi.

(2) Il-miżżewġin jistghu, fi ftehim li jsir qabel iż-żwieġ jew wara, jiftiehm li l-beni li jinkisbu matul iż-żwieġ tagħhom jibqgħu separati jew li jkunu regolati b'komunjoni ta' residwu taht amministrazzjoni separata taht is-Sub-Titolu ta' dan it-Titolu, u, bla hsara għas-subartikolu (3) ta' dan l-artikolu, ebda soċjetà jew komunjon ta' beni ma tista', b'mod ġenerali, tkun stabbilita bejn il-miżżewġin hlief kif imsemmi f'dan l-artikolu jew fl-artikolu 1236.

Kap. 168.

(3) Il-miżżewġin jistghu, mingħajr ma jirrikorru għal qorti, sew wehedhom jew ma' xi hadd ieħor, u tkun liema tkun is-sistema li jirregola l-beni tagħhom, jagħmlu soċjetà b'responsabbiltà limitata taht l-Ordinanza dwar Soċjetajiet Kummerċjali; jeddijiet għall-votazzjoni li jkunu marbuta ma' ishma registrati f'isem parti miżżewġa jkunu eżerċitati mill-parti li f'isimha l-ishma jkunu registrati. Il-proprjetà ta' l-ishma f'dik is-soċjetà tibqa' regolata skond is-sistema li jirregola l-beni tal-miżżewġin.

Certu ftehim ma jistax isir.

1238. (1) L-gharajjes ma jistghu jagħmlu ebda ftehim fejn wiehed minnhom ikun stabbilit kap tal-familja, jew ftehim biex jitnehhew jew jitnaqqsu xi wiehed mill-jeddijiet li jiġu mis-setgħa tal-ġenituri, jew kontra d-dispożizzjonijiet tal-liġi dwar l-età tal-minuri, jew kontra xi dispożizzjoni tal-liġi li fiha xi projbizzjoni.

(2) Madankollu, xi ftehim illi l-ulied kollha, jew xi whud minnhom, għandhom jitrabbew fir-religjon ta' xi wiehed mill-miżżewġin ikun validu."

Emenda ta' l-artikolu 1240 tal-Kodiċi.

78. Fis-subartikolu (2) ta' l-artikolu 1240 tal-Kodiċi, il-kliem "dota jew ta'" għandhom jithassru.

Sostituzzjoni ta' l-artikolu 1241 tal-Kodiċi.

79. Minflok l-artikolu 1241 tal-Kodiċi għandu jidhol dan li ġej:

"Kitba taż-żwieġ magħmula minn minuri.

1241. Tghodd il-kitba taż-żwieġ magħmula minn minuri bil-kunsens tal-ġenituri jew tal-ġenitur li jkun qed jeżerċita s-setgħa tal-ġenitur, jew jekk iż-żewġ ġenituri jkunu assenti, mejta, interdetti jew imġienenen, bl-awtorizzazzjoni tal-qorti."

80. L-artikolu 1244 tal-Kodiċi għandu jiġi emendat kif ġej:

Emenda ta'
l-artikolu 1244
tal-Kodiċi.

(a) is-subartikolu (3) tiegħu għandu jiġi numerat mill-ġdid b'hal subartikolu (4) tiegħu; u

(b) minnufih wara s-subartikolu (2) tiegħu għandu jidhol is-subartikolu ġdid li ġej:

“(3) Kull ftehim li bil-liġi ma jistax isir qabel iż-żwieġ lanqas ma jista' jsir wara ż-żwieġ.”.

81. Is-Sub-Titolu I u II tat-Titolu V tat-Taqsima II tat-Tieni Ktieb tal-Kodiċi, għandhom jithassru, u minflokhom jidhol dan li ġej:—

Sostituzzjoni
tas-Sub-Titoli I
u II tat-Titolu
V tat-Taqsima
II tat-Tieni
Ktieb
tal-Kodiċi.

“Sub-Titolu I

ISTITUZZIONIJET TAD-DOTA U DOTARJU

Tnehhija ta' l-istituzzjonijiet. 1248. L-istituzzjonijiet tad-Dota u tad-Dotarju huma b'dan imnehhija.”.

82. Minflok is-Sub-Titolu III, IV u V tat-Titolu V tat-Taqsima II tat-Tieni Ktieb tal-Kodiċi għandu jidhol dan li ġej:

Sostituzzjoni
tas-Sub-Titoli
III, IV u V
tat-Titolu V
tat-Tieni Ktieb
tal-Kodiċi.

“Sub-Titolu III

FUQ IL-KOMUNJONI TA' L-AKKWISTI

Iż-żwieġ igib il-komunjoni ta' l-akkwisti. 1316. (1) Iż-żwieġ li jsir f'Malta igib *ipso jure* bejn il-miżżewġin, il-komunjoni ta' l-akkwisti, meta ma jkunx hemm ftehim xort'oħra b'att pubbliku.

(2) Iż-żwieġ li jsir barra minn Malta minn nies li, wara jiġi joqogħdu f'Malta, igib ukoll bejniethom il-komunjoni ta' l-akkwisti, għal dawk il-beni li huma jakkwistaw wara li jaslu f'Malta.

Il-komunjoni ta' l-akkwisti tista' ssir wara iż-żwieġ. 1317. Il-miżżewġin jistgħu wkoll wara ż-żwieġ, bl-awtorizzazzjoni tal-qorti, jistabbilixxu l-komunjoni ta' l-akkwisti li, bil-kitba taż-żwieġ jew b'att ieħor kienet giet eskluża, jew iħassru dik il-komunjoni ta' l-akkwisti stabbilita b'kuntratt jew bis-saħħa tal-liġi.

Ma jistax ikun hemm deroga mid-dispożizzjonijiet. 1318. Il-miżżewġin ma jistgħux jidderogaw mid-dispożizzjonijiet ta' dan il-Kodiċi safejn dawn jirreferu għall-komunjoni ta' l-akkwisti.

Meta tibda
u tispicča
l-komun-
joni.

1319. Il-jedd ta' kull parti miżżewġa għall-komunjoni ta' l-akkwisti jibda, bla hsara ta' xi dispożizzjoni oħra tal-ligi, minn dak inhar taż-żwieġ u jispiċċa malli jinħall iż-żwieġ.

Beni tal-
komunjoni
ta'
l-akkwisti.

1320. Fil-komunjoni ta' l-akkwisti jidhlu —

(a) dak kollu li ż-żewġ partijiet miżżewġa jakkwistaw bix-xogħol jew bil-hidma tagħhom;

(b) il-frottijiet tal-beni tal-partijiet miżżewġa, maghduda l-frottijiet tal-beni tad-dota jew suġġetti għal fedekommess, sew jekk il-beni kienu għand ir-raġel jew il-mara minn qabel iż-żwieġ, sew jekk ikunu missew lil parti minnhom wara b'wirt, b'donazzjoni, jew b'titolu ieħor, basta ma jkunux ingħataw jew thallew bil-kondizzjoni li l-frottijiet tagħhom m'għandhomx jidhlu fl-akkwisti;

(ċ) bla hsara għal xi dispożizzjoni oħra tal-Kodiċi li ma taqbilx, il-frottijiet ta' dawk il-beni tat-tfal li huma suġġetti għall-użu frutt legali tal-missier jew ta' l-omm;

(d) kull beni akkwistati bi flus jew hwejjeg oħra li jkunu ġejjin mill-akkwisti, ukoll jekk l-akkwist ta' dawk il-beni ikun sar f'isem parti waħda mill-miżżewġin;

(e) kull beni akkwistati bi flus jew hwejjeg oħra li waħda mill-partijiet miżżewġin kellha minn qabel iż-żwieġ, jew li, wara ż-żwieġ, missew lilha b'donazzjoni, b'wirt, jew b'titolu ieħor, ukoll jekk dawk il-beni jkunu hekk akkwistati f'isem dik il-parti, bla hsara tal-jedd tagħha li tiehu lura l-ispejjeż li tkun għamlet għall-akkwist ta' dawk il-beni;

(f) rebħ bix-xorti li jmiss lil parti waħda jew liż-żewġ miżżewġin, u dak is-sehem ta' teżor misjub minn parti minnhom, u li skond il-ligi jmiss lil min isib it-teżor, sew jekk dik il-parti tkun sabet it-teżor fil-fond tagħha, jew fil-fond tal-parti l-oħra, jew fil-fond ta' terzi;

Iżda dak is-sehem ta' teżor li jmiss lis-sid tal-fond jibqa' kollu għal dik il-persuna li fil-fond tagħha t-teżor ikun instab.

Preżun-
zjoni dwar
l-akkwisti.

1321. (1) Il-beni kollha li l-miżżewġin ikollhom jew parti minnhom ikollha, jitqiesu li jagħmlu parti mill-akkwisti sakemm ma jkunx ippruvat xort'oħra.

(2) Iżda ma jidhlux fl-akkwisti l-beni li missew b'xi titolu lil waħda mill-partijiet miżżewġa qabel iż-żwieġ, minkejja li l-beni setghu ġew għand dik il-parti biss wara ż-żwieġ.

Amminis-
trazzjoni
tal-
komunjoni
ta'
l-akkwisti.

1322. (1) L-amministrazzjoni ordinarja ta' l-akkwisti u l-jedd li wiehed iħarrek jew jiġi mħarrek dwar dik l-amministrazzjoni ordinarja imissu lil kull waħda mill-partijiet miżżewġa.

(2) Il-jedd li jitwettqu l-atti ta' amministrazzjoni straordinarja, u l-jedd li wiehed iharrek jew jiġi mharrek dwar dawk l-atti jew li ssir xi transazzjoni dwar xi atti jkunu li jkunu, imissu liż-żewġ miżżewġin flimkien.

(3) Dawn li ġejjin huma l-atti ta' amministrazzjoni straordinarja:

(a) atti fejn jeddijiet reali fuq beni immobbli jkunu akkwistati, mahluqa jew trasferiti;

(b) atti li jholqu jew jolqtu l-ipoteka ta' beni;

(c) atti fejn ikun hemm qsim ta' beni;

(d) atti li jagħtu jedd ta' użu u, jew, tgawdija ta' proprjetà immobbli;

(e) donazzjonijiet barra minn dawk imsemmija fil-paragrafu (a) tas-subartikolu (2) ta' l-artikolu 1753;

(f) li tissellef jew tislef flus, barra minn depożitu ta' flus f'kont f'bank;

(g) l-akkwist ta' proprjetà mobbli jew ta' xi jedd ta' użu jew tgawdija ta' xi proprjetà mobbli jew immobbli li l-prezz tiegħu ma jithallasx mal-konsenja jew qabel; iżda dan ma japplikax għal xi dejn magħmul għall-htigiet tal-familja skond il-paragrafu (c) ta' l-artikolu 1327, jew għall-kiri ta' mobbli jew immobbli meta l-prezz tiegħu jkun moderat meta tqabblu mal-kondizzjoni tal-familja u l-kirja tkun għal żmien qasir;

(h) il-kuntratt għal xi garanzija;

(i) l-ghoti ta' plegg;

(j) is-shubija b'responsabbiltà mhux limitata f'soċjetà kummerċjali, jew is-sottoskrizzjoni għal xi ishma li ma jkunux imhallsa kollha jew l-akkwist tagħhom f'soċjetà b'responsabbiltà limitata;

(k) it-trasferiment ta' negozju kif ukoll it-trasferiment ta' xi sehem f'soċjetà kummerċjali barra minn kumpannija pubblika;

(l) kull att li jholq privileġġ speċjali skond il-paragrafu (b) ta' l-artikolu 2010; u

(m) kull att ta' rexissjoni ta' xi att imsemmi fil-paragrafi (a) u (c) ta' dan is-subartikolu, u kull att ta' dikjarazzjoni magħmula *inter vivos* li permezz tagħha jiġi rikonoxxut jew rinunzjat xi jedd fuq beni immobbli.

(4) Kull flus depożitati f'bank għall-kreditu ta' persuna miżżewġa jistgħu jkunu rtirati biss minn dik il-persuna minghajr ma l-bank joqghod jara jekk dawk il-flus humiex tal-komunjoni ta' l-akkwisti jew le.

(5) Kull wahda mill-partijiet miżżewġa tista', b'att pubbliku jew b'kitba privata awtentikata skond l-artikolu 634 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, tahtar lill-parti l-oħra jew lil xi persuna oħra, bħala l-mandatarju tagħha dwar atti ta' amministrazzjoni straordinarja u transazzjoni.

(6) In-nutar li jippubblika att pubbliku kif imsemmi fis-subartikolu (5) ta' dan l-artikolu, u l-avukat jew in-nutar li jawtentikaw kitba privata kif imsemmija fl-istess subartikolu, għandu f'kull każ iwissi 'l parti fiż-żwieġ li tkun qed hekk tahtar mandatarju, bl-importanza u l-konsegwenzi ta' dik il-hatra, u għandha fl-att pubbliku jew il-kitba privata, skond il-każ, tiddikjara li tkun hekk wissiet lill-parti fiż-żwieġ.

Cahda
jew nuqqas
ta' kunsens.

1323. (1) Jekk parti mill-miżżewġin tiċhad il-kunsens tagħha għal att ta' amministrazzjoni straordinarja, il-parti l-oħra tista' titlob lill-qorti kompetenti ta' ġurisdizzjoni kontenzjuża biex tagħti l-awtorizzazzjoni tagħha meta l-att ta' l-amministrazzjoni straordinarja jkun meħtieġ fl-interessi tal-familja:

Iżda l-partijiet jistgħu, f'każijiet bħal dan, jagħżlu li jadottaw il-proċeduri kontemplati fl-artikolu 6A biex twassalhom għal ftehim jew biex ikun hemm arbitraġġ bejniethom.

(2) Jekk wahda mill-partijiet tkun barra minn Malta jew jekk ikun hemm xi impediment iehor dwar wahda mill-partijiet u f'kull każ ma jkunx hemm awtorizzazzjoni b'att pubbliku jew b'kitba privata kkonfermata skond l-artikolu 634 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, il-parti l-oħra tista' twettaq dawk l-atti meħtieġa ta' amministrazzjoni straordinaria ta' l-akkwisti li skond il-ligi jkunu jeħtieġu l-kunsens taż-żewġ partijiet, u li l-qorti ta' ġurisdizzjoni volontarja tista' tagħti l-awtorizzazzjoni b'mod speċifiku; b'dan li l-qorti ma tistax f'dawn il-każijiet tawtorizza l-atti meħtieġa kollha ta' amministrazzjoni straordinarja b'mod generali.

(3) Ir-registrazzjoni meħtieġa bl-artikolu 996 jew 2033, skond il-każ, dwar xi att li jittrasferixxi l-proprjetà jew xi jedd reali fuq proprjetà immobbli, u kull ipoteka jekk generali jew speċjali għandhom iġibu wkoll isem il-parti l-oħra wkoll daqsliekeu l-parti l-oħra kienet parti fl-atti tat-trasferiment jew fl-ipoteka, u meta dik ir-registrazzjoni ssir f'isem parti wahda biss mill-miżżewġin, din għandha dwar terzi, tapplika biss dwar il-parti li f'isimha tkun registrata.

Amminis-
trazzjoni
ta'
kummerċ,
negozju,
eċċ.

1324. Atti normali ta' ġestjoni ta' kummerċ, negozju jew professjoni li jkunu qed jiġu eżerċitati minn parti wahda biss mill-miżżewġin, ikunu vestiti biss f'dik il-parti li fil-fatt tkun qed teżerċita dak il-kummerċ, negozju jew professjoni anke fejn daww l-atti kieku ma kenux magħmula in relazzjoni ma' dik is-sengħa, negozju jew professjoni kienu jikkostitwixxu amministrazzjoni straordinarja.

Esklużjoni
ta' parti
mill-ammin-
istrazzjoni
tal-
komunjonijoni.

1325. (1) Il-qorti kompetenti ta' ġurisdizzjoni kontenzjuża tista' fuq talba ta' parti fiż-żwieġ tordna li l-parti l-oħra tkun eskluża jew b'mod ġenerali jew limitat għal għanijiet jew atti partikolari, mill-amministrazzjoni tal-komunjonijoni ta' l-akkwisti, meta l-parti l-aħħar imsemmija:

- (a) ma' jkollhiex hila tamministra; jew
- (b) tkun amministrat hażin il-komunjonijoni;

u f'kull każ bħal dan l-amministrazzjoni tal-komunjonijoni ta' l-akkwisti tghaddi, sal-limiti ta' l-esklużjoni ta' dik il-parti, għand il-parti li ma tkunx hekk eskluża.

(2) Il-parti li tkun giet hekk eskluża mill-amministrazzjoni ta' l-akkwisti tista', jekk ma jkunux għadhom jeżistu r-raġunijiet li għalihom giet eskluża, titlob lill-qorti sabiex tirreintegrha fl-amministrazzjoni.

(3) Kull ordni magħmul skond dan l-artikolu għandu jkun notifikat fi żmien erbgħa u għoxrin siegħa mir-Registatur lid-Direttur tar-Registru Pubbliku li għandu jżomm dan f'registru speċjali u jżomm indiċi għalih. Daww l-ordnijiet għandu jkun fihom il-partikolaritajiet kollha taż-żewġ miżżewġin kif mehtieġa għal noti ta' iskrizzjoni taħt l-Att dwar ir-Registru Pubbliku u għandhom jibdwew isehhu, dwar terzi, minn dik ir-registrazzjoni.

(4) Bla hsara għal kull ordni magħmul skond is-subartikolu (1) ta' dan l-artikolu, fil-każ ta' interdizzjoni jew inkapaċitazzjoni ta' wahda mill-partijiet miżżewġa u sakemm tispicċa dik l-interdizzjoni jew inkapaċitazzjoni, dik il-parti tkun eskluża mill-amministrazzjoni ta' l-akkwisti u f'kull każ bħal dan l-amministrazzjoni ta' l-akkwisti tkun vestita biss fil-parti li ma tkunx hekk eskluża.

Atti
mwettqa
mingħajr
il-kunsens
mehtieġ.

1326. (1) Atti li jehtieġu l-kunsens taż-żewġ partijiet miżżewġa iżda li jitwettqu minn parti wahda mingħajr il-kunsens tal-parti l-oħra jistgħu jkunu annullati fuq it-talba tal-parti l-aħħar imsemmija meta daww l-atti jkunu dwar it-trasferiment jew il-holqien ta' jedd reali jew personali fuq proprjetà immobbli; u meta daww l-atti jkunu dwar proprjetà mobbli dawn jistgħu jkunu annullati biss meta l-jeddijiet fuqhom ikunu ngħataw b'titolu gratuwitu.

(2) Kull azzjoni għal annullament tista' tittiehed biss mill-parti li kien mehtieg il-kunsens tagħha u fiż-żmien perentorju ta' tlett snin:

(a) mid-data minn meta dik il-parti saret taf bl-att, jew

(b) mid-data tar-registrazzjoni, meta dak l-att jehtieg registrazzjoni, jew

(c) mid-data li tintemm il-komunjoni ta' l-akkwisti,

skond liema tkun l-ewwel data.

(3) Minkejja d-dispożizzjonijiet tas-subartikolu (2) ta' dan l-artikolu, il-jedd mogħti bis-subartikolu (1) ta' dan l-artikolu lil parti li titlob annullament ta' att jispiċċa malli jagħlqu tliet xhur mill-jum li fih ikun notifikat l-att lil dik il-parti bil-mezz ta' att ġudizzjarju, kemm-il darba dik il-parti ma tkunx bdiet azzjoni għal dak l-annullament.

(4) Il-parti li ma tkunx bdiet l-azzjoni għal annullament fiż-żmien stabbilit u li ma tkunx irratifikat l-att espressament jew taċitament, b'danakollu tkun tista' tiehu azzjoni biex iġġiegħel lill-parti l-oħra tirreintegra l-komunjoni ta' l-akkwisti jew, meta dan ma jkunx jista' jsir, tagħmel tajjeb għad-danni li jkunu ġġarbu.

(5) Bla hsara għad-dispożizzjonijiet ta' qabel ta' dan l-artikolu, meta f'xi att li jkun jehtieg il-kunsens tal-parti l-oħra u li jkun dwar mobbli, parti ta'xi waħedha, il-parti l-oħra ma tkunx tista' titlob annullament ta' l-att; meta iżda, il-parti l-oħra ma tkunx ratifikat dak l-att, espressament jew taċitament, dik il-parti tkun tista' tiehu azzjoni biex iġġiegħel lill-parti li tkun aġixxit waħedha tirreintegra l-komunjoni ta' l-akkwisti, jew meta dan ma jkunx jista' jsir, tagħmel tajjeb għad-danni li jkunu ġġarbu.

(6) Id-dispożizzjonijiet ta' dan l-artikolu jkunu bla hsara għal kull jedd li parti miżżewġa għandha taht dan il-Kodiċi jew xi liġi oħra.

Djun li jmorru fuq il-komunjoni.

1327. Bla hsara għad-dispożizzjonijiet ta' l-artikolu 1329, il-beni li jkunu parti mill-komunjoni ta' l-akkwisti jbatu biss id-djun li ġejjin:

(a) il-piżijiet u l-obbligi marbutin mal-beni skond l-att li bihom ikunu akkwistati;

(b) l-ispejjeż u l-obbligi li jkunu saru għall-amministrazzjoni ta' l-akkwisti, hlief dawk l-ispejjeż li jsiru b'atti li jehtiegu l-kunsens taż-żewġ partijiet miżżewġa iżda li jsiru minn parti waħda minghajr il-kunsens tal-parti l-oħra;

(c) l-ispejjeż u l-obbligi, ukoll jekk isiru separatament, għall-htigiet tal-familja maghduda dawk għall-edukazzjoni u t-trobbija ta' l-ulied;

(d) kull obbligu li jintrabtu għalih flimkien iż-żewġ miżżewġin;

(e) djun li jkollhom x'jaqsmu mat-tiswijiet ordinarji tal-beni ta' xi wahda mill-partijiet fiż-żwieġ, li l-utili tagħha huma maghdudin fl-akkwisti;

(f) kull dejn jew indennizz dovut bħala rimedju ċivili minn xi wahda mill-partijiet fiż-żwieġ meta dak l-indennizz ma jkunx dovut bħala rimedju ċivili dwar reat jkun sar bir-rieda.

Kredituri
ta' parti
partikolari.

1328. Kredituri ta' parti partikolari fiż-żwieġ jigu wara l-kredituri tal-komunjoni ta' l-akkwisti, kemm-il darba ma jkollhomx raġuni legittima għal preferenza.

Obbligaz-
zjonijiet
li jsiru
separata-
ment
minn parti
wahda.

1329. (1) Bla hsara għad-dispożizzjonijiet li ġejjin ta' dan l-artikolu, il-kredituri ta' parti fiż-żwieġ għal djun li ma tbatihomx il-komunjoni ta' l-akkwisti, sew jekk id-dejn ikun sar qabel iż-żwieġ jew wara, jistgħu, meta dawk il-kredituri ma jkunux jistgħu jissodisfaw it-talba tagħhom kontra l-beni parafernali ta' dik il-parti, jinforzaw it-talba tagħhom *in subsidium* kontra l-beni li jkunu parti mill-komunjoni ta' l-akkwisti iżda biss sal-valur li dik il-parti jkollha mill-komunjoni ta' l-akkwisti.

(2) Bla hsara għall-jedd tal-parti miżżewġa lid-debitur li jitlob separazzjoni ġudizzjarja tal-beni, il-parti miżżewġa lid-debitur ma jkollhiex jedd topponi għal att li jinforza kreditu kontra xi beni tad-debitur jew tal-komunjoni ta' l-akkwisti hliet meta l-beni li fuqhom tkun qed issir l-eżekuzzjoni jkunu beni parafernali ta' dik il-parti miżżewġa lid-debitur.

Meta l-beni
parafernali
jkunu
suggetti
għad-djun
tal-
komunjoni.

1330. Meta l-beni tal-komunjoni ta' l-akkwisti ma jkunux biżżejjed biex jithallsu d-djun li jkunu piż fuqhom, il-kredituri ta' dik il-komunjoni jistgħu jinforzaw it-talba tagħhom *in subsidium* kontra l-beni parafernali tal-miżżewġin:

Iżda meta:

(a) id-dejn jew indennizz ikun dovut bħala rimedju ċivili dwar reat magħmul bir-rieda minn xi wahda mill-partijiet fiż-żwieġ; jew

(b) id-dejn jinholoq mill-eżercizzju ta' senġha, negozju jew professjoni kif imsemmi fl-artikolu 1324;

il-kredituri ma jistgħux jinfurzaw it-talba tagħhom kontra l-beni parafernali tal-parti miżżewġa li ma tkunx hi li minhabba fiha nholqot it-talba, iżda jistgħu f'dawn il-każijiet jinfurzaw it-talba tagħhom sal-limitu ta' kull parti li tibqa' ma tithallasx mill-beni tal-komunjoni ta' l-akkwisti, kontra l-beni parafernali tal-parti li minhabba fiha nholqot it-talba.

Hlasijiet
u radd lura
ta' flus.

1331. (1) Kull wahda mill-partijiet fiż-żwieġ għandha tagħti lura lill-komunjoni ta' l-akkwisti kull somma ta' flus jew il-valur ta' kull oġġett li parti tista' tkun haġet mill-akkwisti biex thallas djun li ma jaqgħux taht id-dispożizzjonijiet ta' l-artikolu 1327, kemm-il darba ma turix li l-att kien wiehed vantaġġjuż għall-komunjoni jew ikun sar biex jinqdew il-htigiet tal-familja.

(2) Kull wahda mill-partijiet fiż-żwieġ għandha jedd li tithallas lura kull somma ta' flus jew il-valur ta' kull oġġett li jkunu ttiehdu mill-beni parafernali tagħha meta daww il-flus ikunu ntefqu jew dak l-oġġett ikun intuża dwar dejn jew investiment tal-komunjoni ta' l-akkwisti.

(3) Parti fiż-żwieġ li tkun kreditur tal-komunjoni ta' l-akkwisti tista' titlob li tingħata beni tal-komunjoni sal-valur tal-kreditu tagħha. Il-hlas lura mill-beni tal-komunjoni ta' l-akkwisti jsir l-ewwel billi jingħataw flus, imbagħad mobbli u fl-ahharnett immobbli.

(4) Dan il-hlas lura għandu jsir meta tispiċċa l-komunjoni ta' l-akkwisti: iżda l-qorti tista' tawtorizza li kull hlas lura bhal dan isir f'data qabel meta l-interessi tal-familja hekk jehtieġu jew jippermettu.

Qsim
gudizzjarju
ta' beni.

1332. (1) Il-qsim ġudizzjarju ta' beni jista' jiġi dikjarat:

(a) ma' l-interdizzjoni jew l-inkapaċità ta' wahda mill-partijiet fiż-żwieġ; jew

(b) meta s-sitwazzjoni diżordinata ta' wahda mill-partijiet fiż-żwieġ jew l-imġieba tagħha dwar l-amministrazzjoni ta' l-akkwisti tipperikola l-interessi tal-komunjoni ta' l-akkwisti, jew tal-familja jew tal-parti li titlob il-qsim ġudizzjarju tal-beni; jew

(ċ) meta wahda mill-partijiet fiż-żwieġ tonqos sostanzjalment fid-dmir li tagħti sehemha għall-htigiet tal-familja skond l-artikolu 3 ta' dan il-Kodiċi; jew

(d) meta wahda mill-partijiet fiż-żwieġ tkun giet eskluża mill-amministrazzjoni skond l-artikolu 1325, jew b'mod ġenerali jew sostanzjalment.

(2) Il-qsim ġudizzjarju ta' beni jista' jintalab biss minn wahda mill-partijiet fiż-żwieġ jew mir-rappreżentanti leġittimi tagħha; hekk iżda li dak il-qsim ma jistax jintalab mill-parti jew mir-rappreżentanti tal-parti li minhabba fiha jkunu nqalghu r-raġunijiet għal qsim ġudizzjarju msemmija fil-paragrafi (b) jew (ċ) tas-subartikolu (1) ta' dan l-artikolu.

(3) Meta l-qsim ġudizzjarju jkun intalab mill-parti eskluża mill-amministrazzjoni tal-komunjoni ta' l-akkwisti skond il-paragrafu (d) tas-subartikolu (1) ta' dan l-artikolu, il-qorti għandha, meta l-qsim ġudizzjarju jgħib telf finanzjarju lill-parti l-oħra, tordna lill-parti li titlob il-qsim ġudizzjarju li thallas kumpens lill-parti l-oħra għat-telf li din setgħet garrbet minhabba l-qsim.

(4) (a) Fis-sentenza li tiddikjara l-qsim ġudizzjarju ta' beni, il-qorti għandha tordna li l-komunjoni ta' l-akkwisti bejn il-partijiet tispiċċa mill-jum li fih is-sentenza tkun finali u konkluziva.

(b) Il-qorti tista' iżda, bla ħsara għal kull jedd akkwistat minn terzi, tordna li s-sentenza tibda tghodd qabel id-data li fiha jkun gie ppreżentat l-att tal-kawża li tkun giet deċiża.

(ċ) Il-kredituri ta' kull wahda mill-partijiet mizzewġa jew tal-komunjoni ta' l-akkwisti jistgħu jimpunjaw il-qsim dikjarat mill-qorti, ukoll jekk dan ikun ingħata seħh, jekk il-qsim ikun inkiseb b'qerq tal-jeddijiet tagħhom.

(5) Il-qorti tista', meta fil-fehma tagħha ċ-ċirkostanzi hekk jehtiegu, tordna li l-beni li jkunu parti mill-komunjoni ta' l-akkwisti ma jinqas qabel ma jgħaddi dak iż-żmien, wara li tispiċċa l-komunjoni ta' l-akkwisti, li tista' tistabbilixxi.

(6) Kull ordni mogħti mill-qorti bis-saħħa tas-subartikolu (5) ta' dan l-artikolu, jista', jekk tingħata raġuni tajba, jinbidel jew ikun revokat mill-qorti.

(7) It-talba għal qsim ġudizzjarju ta' beni ma twaqqafx xi azzjoni li tinforza xi dejn tal-komunjoni ta' l-akkwisti.

(8) Meta tkun giet ippreżentata talba għall-qsim ta' beni, kreditur ta' wahda mill-partijiet mizzewġa jista' jibda jew ikompli proċedimenti biex jinforza t-talba tiegħu kontra l-beni tal-komunjoni ta' l-akkwisti u f'kull każ b'hal dan il-

parti miżżewġa lid-debitur tista' titlob li nofs ir-rikavat mill-bejgħ ta' kull oġġett tal-komunjoni ta' l-akkwisti jibqa' depożitat fil-qorti akkont tas-sehem fil-komunjoni ta' l-akkwisti tal-parti miżżewġa lid-debitur; hekk iżda li jekk dawk id-depożiti jkunu iktar mis-sehem ta' dik il-parti fil-komunjoni ta' l-akkwisti dik is-somma li tkun depożitata iktar tibqa' għall-kreditu tal-parti debitorici u tista' tiġi sekwestrata mill-kredituri tagħha.

(9) Kull sentenza li tordna qsim ġudizzjarju ta' beni ma jkollhiex sehh kontra terzi hlief mill-jum li fih dik is-sentenza tkun registrata fir-Registru Pubbliku.

Qsim tal-komunjoni.

1333. Il-qsim tal-komunjoni ta' l-akkwisti għandu jsir billi nofs il-beni u l-passiv tal-komunjoni jinqasmu nofs kull wiehied bejn il-miżżewġin.

Sub-Titolu IV

FUQ IL-BENI PARAERNALI

Definizzjoni ta' proprjetà parafernali.

1334. (1) Meta l-komunjoni ta' l-akkwisti jew il-komunjoni tar-residwu taht amministrazzjoni separata jkunu jeżistu bejn il-miżżewġin, il-beni kollha li ma jaqghux taht il-paragrafi minn (a) sa (f) ta' l-artikolu 1320 jew ma jkunux dotali huma parafernali. Meta l-beni tal-miżżewġin ikunu miżmuma bis-sistema ta' beni separati, il-beni kollha li m'humiex dotali huma parafernali.

(2) L-amministrazzjoni tal-beni parafernali tkun b'mod esklużiv f'idejn dik il-parti fiż-żwieġ li tagħha jkunu l-beni.

(3) Sabiex il-familja jkollha għajnuna, il-miżżewġin għandhom l-ewwel jużaw id-dhul li jinkiseb minn beni komuni qabel id-dhul li jkun esklużivament ta' parti minnhom, u l-ewwel għandhom jużaw il-kapital li jkun parti mill-beni komuni jew mill-komunjoni ta' l-akkwisti qabel il-kapital li jkun esklużivament ta' wahda mill-partijiet.

Meta parti fiż-żwieġ tahtar lill-parti l-oħra bħala agent.

1335. Meta parti fiż-żwieġ tahtar lill-parti l-oħra bħala agent biex tamministra l-beni parafernali tagħha, it-tieni parti tkun responsabbli lejn l-ewwel parti bl-istess mod bħal agent ieħor, b'dan iżda li dik il-parti tkun obbligata li

taghti kont ta' l-utili jekk hekk jinghad espressament fil-mandat.

Meta parti fiz-żwieġ igawdi beni minghajr awtorità jew b'awtorità iżda minghajr kondizzjoni li taghti kont ta' l-utili.

1336. (1) Meta parti fiz-żwieġ tkun gawdiet il-beni parafernali tal-parti l-oħra, minghajr awtorità, iżda minghajr oppożizzjoni, dik il-parti jew il-verrieta ta' dik il-parti, għandhom, malli jispicċa ż-żwieġ jew ma' l-ewwel talba tal-parti li l-beni jkunu proprjetà tagħha, ikunu biss obbligati li jgħaddu l-utili eżistenti, u m'għandhomx jagħtu kont ta' l-utili li jkunu ntużaw sa dak iż-żmien.

(2) L-istess għandu japplika meta dik il-parti tkun gawdiet dawk il-beni b'awtorità iżda minghajr il-kondizzjoni espressa li taghti kont ta' l-utili.

Meta parti fiz-żwieġ igawdi l-beni minkejja oppożizzjoni.

1337. Meta parti fiz-żwieġ tkun gawdiet il-beni tal-parti l-oħra minkejja oppożizzjoni, l-ewwel parti tkun responsabbli għall-utili kollha li jkunu jeżistu u li jkunu ntużaw.

Sub-Titolu V

FUQ IL-KOMUNJONI TA' RESIDWU TAHT AMMINISTRAZZJONI SEPARATA

Komunjoni ta' residwu taht amministrazzjoni separata.

1338. (1) Meta għarajjes f'kitba taż-żwieġ jistipulaw li l-beni akkwistati minnhom matul iż-żwieġ għandhom ikunu regolati bis-sistema ta' komunjoni ta' residwu taht amministrazzjoni separata għandhom japplikaw id-dispożizzjonijiet li ġejjin ta' dan is-Sub-Titolu.

(2) Il-beni li jkunu regolati bis-sistema ta' komunjoni ta' residwu taht amministrazzjoni separata huma l-beni li jaqgħu taht il-paragrafi minn (a) sa (f) ta' l-artikolu 1320.

Kif ikunu registrati akkwisti.

1339. (1) Taht is-sistema ta' komunjoni ta' residwu taht amministrazzjoni separata l-akkwisti li jsiru minn kull wahda mill-partijiet fiz-żwieġ matul iż-żwieġ tagħhom jinżammu u jkunu amministrati mill-parti li tkun għamlet dawk l-akkwisti u, bla ħsara għal-limitazzjonijiet li jinsabu f'dan is-Sub-Titolu, għandhom, dwar terzi, ikunu trattati minn dik il-parti daqslikieku dik il-parti kienet is-sid esklussiv tagħhom.

(2) Meta taht is-sistema ta' komunjoni ta' residwu taht amministrazzjoni separata beni jinkisbu mill-partijiet fiz-żwieġ flimkien, dawn ikunu amministrati flimkien. Is-sehem ta' kull parti f'dawk il-beni tista' tiġi biss trasferita *inter vivos* bil-kunsens tal-parti l-oħra, jew, meta dak il-kunsens jinżamm minghajr raġuni, bl-awtorizzazzjoni tal-qorti ta' ġurisdizzjoni volontarja, jew b'bejgħ b'irkant għudizzjarju fuq il-talba tal-kreditur ta' dik il-parti.

Kif tispicċa l-komunjon ta' residwu taht amministrazzjoni separata.

1340. (1) Il-komunjon ta' residwu taht amministrazzjoni separata għandha, sakemm ma tintemmx qabel bil-kunsens tal-partijiet fiż-żewġ b'att pubbliku bl-awtorizzazzjoni tal-qorti, tispicċa max-xoljiment taż-żwieġ; taht l-istess ċirkostanzi, *mutatis mutandis*, li japplikaw għall-komunjon ta' l-akkwisti taht il-paragrafi (b) u (ċ) tas-subartikolu (1) ta' l-artikolu 1332; u mas-separazzjoni legali tal-miżżewġin.

(2) Is-subartikoli (2), (4), (8) u (9) ta' l-artikolu 1332 għandhom japplikaw *mutatis mutandis* meta x-xoljiment tal-komunjon ta' residwu taht amministrazzjoni separata jkun dikjarat b'sentenza tal-qorti.

Kif ikun meqjus ir-residwu.

1341. (1) Meta tispicċa b'liema mod ikun il-komunjon tar-residwu taht amministrazzjoni separata, ir-residwu li għandu jittiehed kont tiegħu minn kull waħda mill-partijiet fiż-żwieġ għandu jinkludi kull spiza li ssir minn dik il-parti biss fl-interess tagħha mill-beni regolati minn dik il-komunjon u li jkun f'idejn dik il-parti, u jkun sugġett għattnaqqs ta' kull ammont imħallas mill-beni parafernali ta' dik il-parti għal djun ta' dik il-parti dwar il-beni f'idejn dik il-parti u regolati bis-sistema ta' komunjon ta' residwu taht amministrazzjoni separata, kif ukoll il-passiv li jkun għadu ma tħallasx minn dik il-parti li jkun sar dwar dawk il-beni.

(2) Għandu jitnaqqas mir-residwu kif stabbilit fis-subartikolu (1) kull dejn parafernali tal-parti fiż-żwieġ li jkun aktar mill-beni parafernali ta' dik il-parti.

(3) Dak li jibqa' bil-mod stabbilit fis-subartikolu (2) ikun, sakemm mhux debitu, ir-residwu finali ta' dik il-parti fiż-żwieġ. Jekk ir-riżultat ikun debitu għandu jitqies li ma jkun hemm ebda residwu finali għal dik il-parti.

(4) Meta r-residwu finali ta' waħda mill-partijiet miżżewġa ikun iktar mir-residwu tal-parti l-oħra, jew meta parti waħda biss ikollha residwu finali, għandu jinghata lill-parti bl-inqas residwu jew mingħajr residwu finali, skond il-każ, daqstant mir-residwu finali tal-parti bl-akbar residwu finali jew bl-uniku residwu finali li jkun mehtieg sabiex kull waħda mill-partijiet ikollha sehem indaqs tal-beni li jiffurmaw ir-residwu finali taż-żewġ partijiet fiż-żwieġ.

Meta dejn ma jkunx parafernali.

1342. (1) Għall-finijiet tas-subartikolu (2) ta' l-artikolu 1341 kull dejn li m'huwix imsemmi hawn taht huwa dejn parafernali:—

(a) il-piżijiet u l-obbligi marbutin mal-beni skond l-att li bihom ikunu akkwistati;

(b) l-ispejjeż u l-obbligi li jkunu saru fl-amministrazzjoni ta' l-akkwisti;

(ċ) l-ispejjeż u l-obbligi wkoll jekk ikunu saru separatament, għall-htigiet tal-familja magħduda dawk għall-edukazzjoni u t-trobbija ta' l-ulied;

(d) djun li jkollhom x'jaqsmu mat-tiswijiet ordinarji ta' beni parafernali tal-parti li l-utili tagħhom ikunu inklużi fl-utili regolati mill-komunjoni ta' residwu taht amministrazzjoni separata;

(e) kull dejn jew indennizz dovut bħala rimedju ċivili mill-parti fiż-żwieġ, meta dak l-indennizz ma jkunx dovut bħala rimedju ċivili dwar reat li jkun sar bir-rieda.

Jeddijiet
ta' terzi.

1343. (1) Terzi jistgħu biss jeżerċitaw il-jeddijiet tagħhom kontra dik il-parti fiż-żwieġ li tkun għamlet il-kuntratt jew id-dejn magħhom.

(2) Malli tispiċċa l-komunjoni ta' residwu taht amministrazzjoni separata u wara li jingħata r-residwu finali, il-kredituri ta' kull parti fiż-żwieġ jistgħu iżda, dwar kull dejn li jkun sar magħhom qabel ma tkun spiċċat il-komunjoni ta' residwu taht amministrazzjoni separata, jitolbu *in subsidium* kontra l-parti l-oħra sa l-ammont, jekk ikun hemm, tal-beni tar-residwu finali tal-parti debitriċi mogħtija lill-parti l-oħra.

Trasferi-
menti
gratuwiti.

1345. (1) Meta bejn il-miżżewġin ikun hemm is-sistema ta' komunjoni ta' residwu taht amministrazzjoni separata, parti fiż-żwieġ ma tistax tittrasferixxi *inter vivos* xi beni tagħha b'titolu gratuwitu mingħajr il-kunsens tal-parti l-oħra.

(2) Is-subartikolu (1) ta' dan l-artikolu ma japplikax għal donazzjonijiet ta' valur moderat meta jitqiesu l-kondizzjoni tal-partijiet u ċ-ċirkostanzi l-oħra kollha.

(3) Azzjoni għall-annullament ta' att ta' trasferiment b'titolu gratuwitu tista' tittiehed biss mill-parti li l-kunsens tagħha kien meħtieġ u fiż-żmien perentorju ta' tlett snin:

(a) mid-data li fiha dik il-parti saret taf bl-att, jew

(b) mid-data tar-registrazzjoni, meta dak l-att jeħtieġ registrazzjoni, jew

(ċ) mid-data li tispiċċa l-komunjoni ta' residwu taht amministrazzjoni separata,

skond liema tkun l-ewwel data.

Atti magħ-
mulin bi
skop ta'
qerq.

1345A. (1) Meta parti fiż-żwieġ tagħmel xi att bil-ħsieb li tqarra bil-parti l-oħra u ċċaħhadha mill-jeddijiet kompetenti li jkollha meta tispiċċa l-komunjoni ta' residwu taht amministrazzjoni separata, dik il-parti l-oħra tista' teżerċita l-azzjoni maħsuba fl-artikolu 1144 ta' dan il-Kodiċi daqs-likieku kienet kreditur.

Dak il-jedd ikun personali għall-parti l-aħħar imsemmija jew għall-verrieta tagħha u ma jkunx jista' jiġi eżerċitat mill-kredituri tal-parti.

(2) Ma tista' tittiehed ebda azzjoni taht dan l-artikolu malli jagħlaq hames snin:

(a) mid-data li fiha l-parti ssir taf bl-att, jew

(b) mid-data tar-registrazzjoni, meta dak l-att jehtieg registrazzjoni, jew

(c) mid-data li tispicċa l-komunjoni ta' residwu taht amministrazzjoni separata.

skond liema tkun l-ewwel data.”.

Thassir ta' l-artikolu 1933 tal-Kodiċi.

83. L-artikolu 1933 tal-Kodiċi għandu jithassar.

Emenda ta' l-artikolu 2019 tal-Kodiċi.

84. Fis-subartikolu (3) ta' l-artikolu 2019 tal-Kodiċi, minflok il-kliem “omm terġa' tiżżewweġ”, il-kliem “żewġ l-omm” u l-kliem “l-omm tkompli” għandhom jidhlu rispettivament il-kliem “ġenitur jerga' jiżżewweġ”, il-kliem “żewġ jew mart il-ġenitur” u l-kliem “l-ġenitur ikompli” rispettivament.

Emenda tat-Taqsim II ta' Tieni Skeda li tinsab mal-Kodiċi.

85. It-Taqsim II ta' l-Iskeda li tinsab mal-Kodiċi għandha tiġi emendata kif ġej:—

(a) fit-tarf t'isfel ta' l-Att ta' Żwieġ li hemm fil-Formula E tagħha, qabel l-isparju mholli għall-firma tar-raġel u tal-mara għandu jidhol dan li ġej:

“Jien hawn taht iffirmata (il-mara) niddikjara li nagħzel li:

* niehu l-kunjom tar-raġel

* inżomm kunjom xubiti wara ż-żwieġ.

(* hassar fejn ma japplikax).”;

(b) minflok il-Formuli I u J li jinsabu fiha, għandhom jidhlu l-Formuli I u J murija fl-Iskeda li tinsab ma' dan l-Att;

(c) fil-Formula K li tinsab fiha, taht il-kliem “Data taż-żwieġ” għandhom jidhlu l-kliem “Il-mara għażlet li żżomm kunjom xubitha maż-żwieġ (hassar fejn ma japplikax)”;

(d) fil-Formula L li tinsab fiha, taht il-kliem “Data taż-żwieġ” għandhom jidhlu l-kliem “Il-mara għażlet li żżomm kunjom xubitha maż-żwieġ (hassar fejn ma japplikax)”;

(e) il-Formuli M u N li jinsabu fiha ghandhom jithassru; u

(f) minnufih wara l-Formula P li tinstab fiha, ghandha tidhol il-Formula Q murija fl-Iskeda li tinsab ma' dan l-Att.

86. L-artikolu 338 tal-Kodiċi Kriminali ghandu jiġi emendat kif ġej: Emenda tal-Kodiċi Kriminali.

(a) minflok il-paragrafu (y) tiegħu ghandu jidhol dan li ġej:

“(y) bhala ġenitur ihalli lil uliedu fil-bżonn, jew bhala parti fiż-żwieġ thalli lill-parti l-oħra fil-bżonn, minhabba hajja bla qies jew nuqqas ta' kont għax-xogħol;

(b) minnufih wara l-paragrafu (ii) tiegħu, ghandu jiżdied il-paragrafu li ġej:

“(jj) meta ordnat jew ordnata mill-qorti biex jagħti jew tagħti aċċess lil wild taht il-kustodja tiegħu jew tagħha, jirrifjuta jew tirrifjuta li jagħmel jew tagħmel hekk minghajr raġuni xierqa;”.

87. Il-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili ghandu jiġi emendat kif ġej: Emenda tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili.

(a) fis-subartikolu (3) ta' l-artikolu 381 tiegħu, minflok il-kliem “meta dan il-kreditur ikun il-mara” ghandhom jidhlu l-kliem “meta l-kreditur ikun waħda mill-partijiet fiż-żwieġ”, u minnufih wara l-kliem “tas-subartikolu (1) ta' dan l-artikolu” ghandhom jidhlu l-kliem “jew tas-salarju ta' xi persuna”;

(b) fis-subartikolu (2) ta' l-artikolu 382 tiegħu, minflok il-kliem “dovut lil mart” ghandhom jidhlu l-kliem “dovut lil mart jew żewġ”;

(c) fil-proviso għall-artikolu 470 tiegħu minnufih wara l-kliem “għall-ghoti ta' digriet li jordna l-hlas ta' dik is-somma” ghandhom jiżdiedu l-kliem “jew talba lill-qorti biex b'digriet tistabbilixxi liema waħda mill-partijiet fiż-żwieġ, jekk il-każ, ghandha matul il-proċedimenti tibqa' tghix fid-dar matrimonjali”;

(d) l-artikolu 470A tiegħu ghandu jithassar;

(e) minflok in-nota marginali għall-artikolu 480 tiegħu, minflok il-kliem “manteniment provviżorju” ghandhom jidhlu l-kliem “manteniment provviżorju eċċ.”;

(f) l-artikolu 481B tiegħu ghandu jithassar;

(g) minnufih wara l-kliem “gew magħmula quddiemu u” fis-subartikolu (2) ta' l-artikolu 634 tiegħu, ghandhom jidhlu l-kliem “, meta l-persuna ma tkunx taf tiffirma isimha,”; u

(h) minnufih wara l-artikolu 875 għandu jidhol dan li ġej:

“Mandat
f’każi ta’
separazzjoni
personali.

875A (1) Meta parti fiż-żwieġ tkun għamlet jew tkun se tagħmel quddiem il-qorti ta’ ġurisdizzjoni kontenzjuża kawża għal separazzjoni personali, il-parti tista’ titlob lil dik il-qorti li tohrog mandat ta’ inibizzjoni:

(a) kontra l-parti l-oħra fiż-żwieġ fejn ma thallix lil dik il-parti l-oħra li tbiegħ, tneħhi, tittrasferixxi jew tiddisponi *inter vivos* sew b’titolu oneruż jew gratuwitu xi ishma f’xi soċjetà kummerċjali jekk daww l-ishma jkunu parti mill-komunjoni ta’ l-akkwisti; jew

(b) kontra xi soċjetà li fiha l-parti l-oħra jkollha maġġoranza ta’ l-ishma li jkunu tal-komunjoni ta’ l-akkwisti milli tbiegħ, tneħhi, tittrasferixxi jew xort’oħra tiddisponi sew b’titolu oneruż jew gratuwitu, xi proprjetà immobbli jew jeddijiet marbutin magħha li tkun proprjetà ta’ dik is-soċjetà kummerċjali; jew

(ċ) kontra l-parti l-oħra fiż-żwieġ milli tagħmel xi dejn jew garanzija li tkun ta’ piż fuq il-komunjoni ta’ l-akkwisti.

(2) It-talba msemmija fis-subartikolu (1) ta’ dan l-artikolu tista’ ssir f’kull żmien wara li rikors ikun ipprezentat quddiem il-qorti ta’ ġurisdizzjoni volontarja biex tawtorizza li jsiru proċedimenti ġuridici għal separazzjoni u sakemm tinghata s-sentenza finali għal dik l-azzjoni ta’ separazzjoni.

(3) Jekk il-mandat jinħareġ qabel ma’ l-azzjoni għal-separazzjoni tingħieb quddiem il-qorti ta’ ġurisdizzjoni kontenzjuża, il-parti li tkun għamlet it-talba għall-hruġ tal-mandat għandha fi żmien erbat ijiem min-notifika ta’ l-eżekuzzjoni tiegħu jew fi żmien għaxart ijiem mill-hruġ tal-mandat, tibda l-azzjoni quddiem il-qorti ta’ ġurisdizzjoni kontenzjuża għal separazzjoni personali meta l-qorti ta’ ġurisdizzjoni volontarja tkun awtorizzata dik l-azzjoni. Jekk meta johrog il-mandat ma tkunx inghatat l-awtorizzazzjoni, l-imsemmija azzjoni għandha tinbeda fi żmien erbat ijiem minn dik l-awtorizzazzjoni.

(4) Jekk l-azzjoni ma tinbediex fiż-żminijiet imsemmija fis-subartikolu (3) il-mandat ma jkollu ebda effett.

(5) Il-mandat, jekk qabel ma jkunx revokat, jibqa’ jsehh sad-data tas-sentenza finali fl-azzjoni għal separazzjoni personali. Il-qorti iżda tista’ tiddeċiedi li l-mandat jibqa’ jsehh għal perijodu ieħor jew perijodi oħra ta’ mhux iżjed minn sitt xhur-il wiehded sakemm tkun likwidata l-komunjoni ta’ l-akkwisti. L-imsemmi mandat jieqaf mis-sehh jekk l-imsemmija azzjoni jew ir-rikors għall-awtorizzazzjoni quddiem il-qorti ta’ ġurisdizzjoni volontarja jkun irtirat jew abbandunat.

(6) Mandat mahruġ taht dan l-artikolu ma japplikax għall-kostituzzjoni ta' xi jedd fuq, jew tnehhija jew trasferiment ta' xi beni li jsir fuq ordni ta' xi qorti.

(7) Meta mandat jipprojbixxi l-bejgħ, tnehhija, trasferiment jew disponiment ieħor ta' proprjetà immobbli r-rikors għandu jkun fih il-partikolaritajiet kollha dwar il-persuna jew is-soċjetà li kontra tagħha jkun qed isir li bil-liġi huma mehtieġa għar-registrazzjoni ta' trasferiment ta' proprjetà immobbli minn dik il-persuna jew soċjetà fir-Registru Pubbliku. Meta l-mandat jirreferi għal mobbli speċifiċi, ir-rikors għandu jiddeskrivihom bil-mod provdut fl-Att dwar ir-Registru Pubbliku dwar noti ta' iskrizzjoni.

Kap. 56

(8) Dak il-mandat għandu mal-hruġ tiegħu u għall-ispejjeż tar-rikorrent, ikun notifikat fi żmien erbgħa u ghoxrin siegħa mir-Registratur lid-Direttur tar-Registru Pubbliku, lir-Registratur ta' l-Artijiet u lir-Registratur tas-Soċjetajiet Kummerċjali li għandhom minnufih jirreġistrawh f'kotba miżmuma għal hekk. Dawk il-kotba jkollhom indiċi u jkunu aċċessibbli għall-pubbliku. Il-mandat ikun ukoll notifikat lil kull persuna indikata mir-rikorrent.

(9) Mar-registrazzjoni tal-mandat mid-Direttur tar-Registru Pubbliku, kull bejgħ, tnehhija, trasferiment jew disponiment ieħor ta' proprjetà immobbli li għaliha jirreferi l-mandat u li ma jkunx qabel registrat fir-Registru Pubbliku jew fir-Registru ta' l-Artijiet, ikun null u minghajr effett. It-trasferiment ta' xi ishja magħmul mir-Registratur tas-Soċjetajiet wara r-registrazzjoni tal-mandat ikun bl-istess mod null.

(10) Meta l-mandat ikun notifikat kif imiss, kull obligazzjoni msemmija fil-paragrafu (ċ) tas-subartikolu (1) ta' dan l-artikolu li ssir wara dik in-notifika minn dik il-parti fiż-żwieġ li kontra tagħha jkun inħareġ il-mandat favur il-persuna notifikata bil-mandat tkun nulla u minghajr effett, u dan bla hsara għal xi responsabbiltà għal disprezz tal-qorti skond dan il-Kodiċi.

(11) Il-parti fiż-żwieġ li kontra tagħha jinħareġ il-mandat kif ukoll kull soċjetà msemmija fil-mandat u kull persuna li turi nteress jistgħu f'kull żmien b'rikors jitolbu lill-qorti biex tirrevoka jew tibdel il-mandat taht dan l-artikolu.”.

88. Minflok il-paragrafu (d) tas-subartikolu (1) ta' l-artikolu 36 ta' l-Att dwar ir-Registrazzjoni ta' Artijiet għandu jidhol dan li ġej:

“(d) li, bħala persuna miżżewġa lil sid registrat ta' art jew ipoteka registrata, tehtieġ li tissalvagwarda kull dritt fuq dik l-art jew ipoteka registrata naxxenti bis-saħħa ta' kull liġi li tirregola r-relazzjonijiet matrimonjali; jew”.

Emenda
għall-Att
dwar ir-
Registrazzjoni
ta' Artijiet
Kap. 296.

Dispożizzjonijiet
transitorji.

89. (1) Bla hsara għad-dispożizzjonijiet tas-subartikoli li ġejjin, id-dispożizzjonijiet ta' dan l-Att m'għandhomx jolqtu:

(a) xi sentenza li kienet finali u konkluziva mal-bidu fis-sehh ta' dan l-Att;

(b) xi obligazzjoni li tkun saret legittimament f'isem il-komunjoni ta' l-akkwisti qabel il-bidu fis-sehh ta' dan l-Att u kull responsabbiltà li tkun ittiehdet qabel il-bidu fis-sehh ta' dan l-Att li f'dak iż-żmien kienet piż fuq il-komunjoni ta' l-akkwisti, kif ukoll kull responsabbiltà fuq il-komunjoni ta' l-akkwisti wara l-bidu fis-sehh ta' dan l-Att u skond xi ftehim li jkun sar qabel il-bidu fis-sehh ta' dan l-Att.

(2) Kull azzjoni għal ċahda ta' paternità tkun sugġetta għal-limitazzjonijiet ta' żmien u għar-raġunijiet għal ċahda mahsuba f'dan il-Kodiċi kif emendat b'dan l-Att ukoll meta l-legittimità ta' tifel imwieled qabel il-bidu fis-sehh ta' dan l-Att kienet kontestata, kemm-il darba l-azzjoni ma tkunx estinta skond il-Kodiċi kif kien fis-sehh qabel il-bidu fis-sehh ta' dan l-Att.

(3) Is-subartikolu (1) ta' l-artikolu 4 tal-Kodiċi kif emendat b'dan l-Att għandu japplika għal mara li tkun iżżewġet qabel il-bidu fis-sehh ta' dan l-Att kemm-il darba u sakemm ma tikkonsenjax jew tiehu hsieb li tikkonsenja lill-Uffiċċju tar-Registatur Pubbliku, il-Formula Q li tinsab fit-Taqsima II ta' l-Iskeda li tinsab ma' dan il-Kodiċi fejn turi li tagħzel li terġa' tiehu kunjom xubitha. Dik in-nota ma tkunx tista' ssir wara li jgħaddu sitt xhur mill-bidu fis-sehh ta' dan l-Att u meta tkun konsenjata fl-Uffiċċju tar-Registatur Pubbliku id-Direttur għandu jirreġistרה fi ktieb miżmum għal hekk, li għalih għandu jzomm indiċi taht kunjom xubitha u kunjom ir-raġel tagħha.

(4) Meta qabel il-bidu fis-sehh ta' dan l-Att tkun ġiet dikjarata mill-qorti separazzjoni legali bejn il-miżżewġin jew il-partijiet fiż-żwieġ ikunu hekk ftehm u ma jkunx sar providiment għax-xoljiment tal-komunjoni ta' l-akkwisti bejn il-partijiet, id-dispożizzjonijiet ta' dan il-Kodiċi kif kien issehh qabel il-bidu fis-sehh ta' dan l-Att għandhom ikomplu japplikaw dwar dik il-komunjoni ta' l-akkwisti:

Iżda l-partijiet fiż-żwieġ jistgħu, b'att pubbliku li jsir bl-awtorizzazzjoni tal-qorti kompetenti ta' ġurisdizzjoni volontarja jiftiehm li jtemmu l-komunjoni skond il-Kodiċi kif emendat b'dan l-Att, u jekk ma jsirx dak il-ftehim kull waħda mill-partijiet fiż-żwieġ tista', b'ċitazzjoni ppreżentata kontra l-parti l-oħra, titlob lill-qorti li ttemm dik il-komunjoni skond il-Kodiċi kif emendat kif intqal qabel.

(5) L-effetti patrimonjali ta' żwieġ ċelebrat qabel il-bidu fis-sehh ta' dan l-Att għandhom jiġu regolati b'kull kitba taż-żwieġ li kienet teżisti bejn il-miżżewġin, iżda f'kitba taż-żwieġ bħal dik kull riferenza b'mod ġenerali għas-sistema ta' komunjoni ta' l-akkwisti, għandha titqies li tkun riferenza għall-komunjoni ta' l-akkwisti skond id-dispożizzjonijiet tal-Kodiċi kif emendat b'dan l-Att.

(6) F'nuqqas ta' kitba taż-żwieġ, l-effetti patrimonjali ta' żwieġ ċelebrat qabel il-bidu fis-seħħ ta' dan l-Att għandhom jiġu regolati bid-dispożizzjonijiet tal-Kodiċi kif emendat b'dan l-Att.

(7) Fejn il-mara ma kenitx, qabel il-bidu fis-seħħ ta' dan l-Att, parti għal kuntratt li minnu tniisel dejn kif imsemmi fil-paragrafu (b) tas-subartikolu (1) ta' dan l-artikolu, hi ma tkunx marbuta li tikkontribwixxi għal dak id-dejn b'izjed minn sehemha fil-komunjoni ta' l-akkwisti.

(8) Meta l-komunjoni ta' l-akkwisti li kienet teżisti bis-saħħa ta' kitba taż-żwieġ qabel il-bidu fis-seħħ ta' dan l-Att tkompli tapplika bejn il-partijiet fiż-żwieġ wara l-bidu fis-seħħ ta' dan l-Att, ir-raġel ma jistax ibiegh, inehhi, jittrasferixxi jew xort'ohra jiddisponi *inter vivos* minn xi proprjetà immobbli li tkun parti mill-komunjoni ta' l-akkwisti minghajr il-kunsens ta' martu. Kull bejgħ, aljenazzjoni, trasferiment jew disponiment mir-raġel minghajr il-kunsens ta' martu jkun jista' jiġi annullat minn martu fiż-żmien u bil-mod stabbilit bl-artiklu 1326 tal-Kodiċi kif emendata b'dan l-Att. Ir-raġel għandu, barra minn hekk, iżomm lil martu mgħallfa fuq l-affarijiet tal-komunjoni u jikkonsultaha dwar il-mod ta' l-amministrazzjoni tal-komunjoni u jekk dan, b'mod sostanzjali, jonqos li jgħarrafha jew jikkonsultaha jitqies li jkun amministra hażin l-akkwisti għall-fini ta' l-artikolu 1332 tal-Kodiċi.

(9) Kull kitba taż-żwieġ li tkun isseħħ qabel il-bidu fis-seħħ ta' dan l-Att tista' tiġi mibdula b'kitba taż-żwieġ li ssir wara li permezz tagħha l-miżżewġin jagħzlu li l-ġid ta' bejniethom ikun regolat bis-sistema tal-komunjoni ta' l-akkwisti, tal-komunjoni tar-residwu taht amministrazzjoni separata jew taht is-sistema tas-separazzjoni tal-beni skond il-Kodiċi kif emendat b'dan l-Att.

(10) Kull dota jew dotarju li jkunu ġew kostitwiti qabel il-bidu fis-seħħ ta' dan l-Att dwar żwieġ li jkun sar qabel il-bidu fis-seħħ ta' dan l-Att ikompli jgħoddu wara l-bidu fis-seħħ ta' dan l-Att u jkompli jkunu regolati bid-dispożizzjonijiet tal-Kodiċi kif kienu jseħhu qabel il-bidu fis-seħħ ta' dan l-Att; iżda meta dota kienet kostitwita li tinkludi beni preżenti u futuri dik id-dota tkun limitata biss għal dawk il-beni li kienu saru parti minnha qabel il-bidu fis-seħħ ta' dan l-Att.

(11) Meta dota tkun ġiet kostitwita, darba biss jew suċċessivament, b'legat jew b'dispożizzjoni testamentarja jew b'att ieħor li jibda jahdem *causa mortis* li jkunu bdew isehhu qabel il-bidu fis-seħħ ta' dan l-Att, iżda li jirreferu għal żwieġ li ma jkunx għadu sar qabel il-bidu fis-seħħ ta' dan l-Att dak il-legat jew dispożizzjoni ohra għandhom ikompli japplikaw daqslikieku kienu legat lill-mara bil-hsieb li din tkun se tiehu l-hajja miżżewġa.

(12) Kull ordni mogħti qabel il-bidu fis-seħħ ta' dan l-Att minn xi qorti taht l-artikolu 470A tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili kif fis-seħħ qabel il-bidu fis-seħħ ta' dan l-Att, għandu jkompli jiġi regolat b'dak il-Kodiċi kif fis-seħħ qabel il-bidu fis-seħħ ta' dan l-Att.

SKEDA

(Artikolu 85)

"FORMULA I
(Artikolu 251)

Jiena, hawn taht iffirmat, b'dan niċċertifika illi dan li ġej huwa ESTRATT veru mir-registrazzjoni Nru. tas-sena fir-Reġistri ta' l-Istat Ċivili dwar Atti tat-Twelid u r-Registru ta' Persuni Adottati miżmuma fl-Uffiċċju tar-Registru Pubbliku, il-Belt Valletta, Malta/ir-Rabat Għawdex, skond id-dispożizzjonijiet tal-Kodiċi Ċivili (Kap. 16).

Post tat-twelid	Data tat-twelid	Isem il-wild	Sess	Isem u Kunjom u post tat-twelid tal-missier	Isem u Kunjom u post tat-twelid ta' l-omm

UFFIĊĊJU TAR-REĠISTRU PUBBLIKU – MALTA/GĦAWDEX

DIRETTUR

**“FORMULA J
(Artikolu 251)**

Jiena, hawn taht iffirmat, b'dan niċċertifika illi dan li ġej huwa ESTRATT veru mir-Registrazzjoni Nru. tas-sena fir-Registri ta' l-Istat Ċivili dwar Atti tat-Twelid u r-Registru ta' Persuni Adottati miżmuma fl-Uffiċċju tar-Registru Pubbliku, il-Belt Valletta, Malta/ir-Rabat, Ghawdex, skond id-dispożizzjonijiet tal-Kodiċi Ċivili (Kap. 16).

Post tat-twelid:

Data tat-twelid:

Isem u Kunjom:

Sess:

UFFIĊĊJU TAR-REGISTRU PUBBLIKU – MALTA/GHAWDEX

DIRETTUR

FORMULA Q
(Att ta' l-1993 li jemenda l-Kodiċi Ċivili (Emenda Nru. 2))
DIKJARAZZJONI TA' UŻU TA' ISEM

Partikolaritajiet dwar	Isem u Kunjom	Età	Post tat-Twelid	Isem u kunjom il- ġenituri tal-partijiet fiż-żwieġ u jekk hajjin jew mejtin
Ir-raġel		snin		
Il-mara				
Post taż-żwieġ	Data taż-żwieġ			
	jum	xahar	sena	
Nru. ta' l-Att taż-Żwieġ	Nota: Meta ż-żwieġ ma jkunx registrat fir-Registru Pubbliku għandha tingiebb prova għas-sodisfazzjon tad-Direttur.			
Jien hawn taht iffirmata niddikjara li naghzel li nuża kunjom xubiti.				

Firma tal-mara

Ippreżentata fi
minn

I assent.

(L.S.)

ĈENSU TABONE
President

20th August, 1993

ACT No. XXI of 1993

AN ACT further to amend the Civil Code, Cap. 16.

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.

1. (1) This Act may be cited as the Civil Code (Amendment) (No. 2) Act, 1993, and shall be read and construed as one with the Civil Code, hereinafter referred to as “the Code”.

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

General
amendment
to the Code
referring to
paternal
authority.

2. For the words “Paternal Authority” wherever and however they appear in the Code, there shall be substituted the words “Parental Authority”.

Substitution
of sections
2, 3 and 4
of the Code.

3. For sections 2, 3 and 4 of the Code, there shall be substituted the following:

“Reciprocal
duties
of spouses.

2. (1) The Law promotes the unity and stability of the family.

(2) The spouses shall have equal rights and shall assume equal responsibilities during marriage. They owe each other fidelity and moral and material support.

Duty to
contribute
towards
needs of
the family.

3. Both spouses are bound, each in proportion to his or her means and of his or her ability to work whether in the home or outside the home as the interest of the family

requires, to maintain each other and to contribute towards the needs of the family.

Matrimonial
home.

3A. (1) The matrimonial home shall be established where the spouses may by their common accord determine in accordance with the need of both spouses and the overriding interest of the family itself.

(2) Where the matrimonial home is wholly or in part owned or otherwise held under any title by one of the spouses, such spouse may only alienate by title *inter vivos* his or her right over the matrimonial home:

- (a) with the consent of the other spouse; or
- (b) where such consent is unreasonably withheld, with the authority of the court of voluntary jurisdiction; or
- (c) in a judicial sale by auction at the instance of any creditor of such spouse.

(3) The party who has not given his or her consent to a transfer, may bring an action for the annulment of a transfer which has not been effected in accordance with subsection (2) of this section, within one year from the registration of the transfer.

Duty of
spouse
towards
children.

3B. Marriage imposes on both spouses the obligation to look after, maintain, instruct and educate the children of the marriage taking into account the abilities, natural inclinations and aspirations of the children.

Surname
to be used
by spouse
and
children
of the
family.

4. (1) The spouses shall on marriage adopt the surname of the husband after which the wife may add her maiden surname.

(2) The wife may, instead, choose to retain her maiden surname after which she may add her husband's surname.

(3) The children of the marriage shall take the surname of their father, after which they may add the maiden surname of the mother.

(4) Where the wife intends to retain her maiden surname after marriage she shall, before marriage, so declare her intention when applying for the publication of the banns in accordance with the Marriage Act and shall subscribe the appropriate declaration in the Act of Marriage. Such declaration shall be irrevocable.”.

4. For section 6 of the Code, there shall be substituted the following sections:

Substitution
of section 6
of the Code.

Cessation
of duty to
supply
main-
tenance.

Disagree-
ment
between
the spouses.

6. The duty of one spouse to maintain the other shall cease if the latter, having left the matrimonial home, without reasonable cause refuses to return thereto.

6A. (1) In case of any disagreement either spouse may apply to the court of voluntary jurisdiction for its assistance and the presiding judge, after hearing the spouses and if deemed opportune any of the children above the age of fourteen years residing with the spouses, shall seek to bring about an amicable settlement of such disagreement.

(2) Where such amicable settlement is not attained and the disagreement relates to the establishment or change of the matrimonial home or to other matters of fundamental importance, the presiding judge, if so requested expressly by the spouses jointly, shall determine the matter himself by providing the solution which he deems most suitable in the interest of the family and family life.

(3) No appeal shall in this case lie from the pronouncement of the presiding judge.”.

Substitution
of the heading
of Sub-Title II
of Title I
of Book First
of the Code.

5. For the heading of Sub-Title II of Title I of Book First of the Code, there shall be substituted the following:

“OF THE MUTUAL RIGHTS AND DUTIES OF
ASCENDANTS, DESCENDANTS, BROTHERS AND
CHILDREN”.

Amendment
of section 7
of the Code.

6. For subsection (1) of section 7 of the Code there shall be substituted the following:

“(1) Parents are bound to look after, maintain, instruct and educate their children in the manner laid down in section 3B of this Code.”.

Substitution
of sections 9, 10
and 11 of the Code.

7. For sections 9, 10 and 11 of the Code, there shall be substituted the following:

“Duties of
spouses
towards
each other
in the
provision
of main-
tenance.

9. A spouse shall not withhold his or her moral support to the other in any obligation such other spouse may have towards his or her descendants or ascendants.”.

Amendment
of section 12
of the Code.

8. For paragraphs (b) to (h) of section 12 of the Code, there shall be substituted the following:

“(b) the parents;

(c) the other ascendants in the same order in which they would according to law be vested with the succession of the claimant.”.

- 9.** In subsection (1) of section 14 of the Code for the words from “such claimants:” to the words “same degree” there shall be substituted the words “such claimants”. Amendment of section 14 of the Code.
- 10.** Section 16 of the Code shall be amended as follows: Amendment of section 16 of the Code.
- (a) in subsection (1) thereof the words “of affinity” shall be deleted; and
- (b) in the proviso to subsection (2) thereof, for the words “is the father, mother, or” there shall be substituted the words “are the parents, or”.
- 11.** In subsection (1) of section 17 of the Code, the words “a person related by affinity, or” shall be deleted. Amendment of section 17 of the Code.
- 12.** Section 18 of the Code shall be repealed. Repeal of section 18 of the Code.
- 13.** In subsection (2) of section 19 of the Code, for the words “expenses necessary for their education”, there shall be substituted the words “expenses necessary for health and education”; and in subsection (1) of the same section, for the words “food, clothing and habitation” there shall be substituted the words “food, clothing, health and habitation”. Amendment of section 19 of the Code.
- 14.** In section 24 of the Code, the words “of affinity” shall be deleted. Amendment of section 24 of the Code.
- 15.** Section 26 of the Code shall be deleted. Repeal of section 26 of the Code.
- 16.** Section 27 of the Code shall be amended as follows: Amendment of section 27 of the Code.
- (a) the words “or assign dowry” in the marginal note thereto, shall be deleted; and
- (b) in subsection (1) thereof:
- (i) the words “, and the obligation of the parent or grandfather to assign a dowry to the daughter or grand daughter,” shall be deleted; and
- (ii) for the words “either of such obligations is or both obligations are” there shall be substituted the words “such obligation is” and for the words “such obligation or obligations” there shall be substituted the words “such obligation”.
- 17.** In section 29 of the Code, for the words “obligation or obligations” wherever they occur, there shall be substituted the word “obligation”. Amendment of section 29 of the Code.
- 18.** Sections 30 and 31 of the Code shall be repealed. Repeal of sections 30 and 31 of the Code.

Substitution of
section 32
of the Code.

19. For section 32 of the Code there shall be substituted the following:

“Grounds on which parents may refuse maintenance to children. **32.** Besides the ground referred to in section 27, parents or other ascendants may refuse maintenance to children or other descendants on any of the grounds on which an ascendant may disinherit a descendant.”.

Amendment of
section 33
of the Code.

20. In section 33 of the Code, for the words “brother, sister or other person related to him by affinity” there shall be substituted the words “brother or sister”.

Substitution of
heading of
Sub-Title III
of Title I of
Book First
of the Code.

21. For the heading of Sub-Title III of Title I of BOOK FIRST of the Code, there shall be substituted the following:

“OF PERSONAL SEPARATION”.

Amendment of
section 35
of the Code.

22. For the words “separation from bed and board” in subsection (1) of section 35, there shall be substituted the words “personal separation”.

Amendment of
section 36
of the Code.

23. In section 36 of the Code, for the words “Separation from bed and board” there shall be substituted the words “Personal Separation”.

Amendment of
section 37
of the Code.

24. Immediately after subsection (2) of section 37 of the Code, there shall be added the following subsection:

“(3) Where, however, leave to proceed for personal separation on any of the grounds as are mentioned in this Sub-Title is granted by the court of voluntary jurisdiction, it shall be lawful for either spouse to bring a suit before the court of contentious jurisdiction or a counter claim for personal separation on the same or any other of the said grounds as if such leave referred to both spouses on all the said grounds.”.

Substitution of
sections 38
and 39
of the Code.

25. For sections 38 and 39 of the Code there shall be substituted the following:

“Adultery. **38.** Either of the spouses may demand separation on the ground of adultery on the part of the other spouse.”.

Substitution of
section 41
of the Code.

26. For section 41 of the Code there shall be substituted the following:

“Desertion. **41.** Either of the spouses may also demand separation if, for two years or more, he or she shall have been deserted by the other, without good grounds.”.

Amendment of
section 42
of the Code.

27. In the English text of subsection (1) of section 42 of the Code, the words “from bed and board” shall be deleted.

Substitution of
sections 46
and 47
of the Code.

28. For sections 46 and 47 of the Code, there shall be substituted the following:

"Matrimonial
home
*pendente
lite*."

46. During the pendency of the action for separation, either spouse, whether plaintiff or defendant, may leave the matrimonial home and may, whether or not he or she has left the matrimonial home demand that the court shall determine who of the spouses if any shall reside in the matrimonial home during the pendency of such action.

Maintenance
*pendente
lite*.

46A. During the pendency of the action for separation, either spouse, whether plaintiff or defendant, may demand from the other spouse a maintenance allowance in proportion to his or her needs and the means of the other spouse, and taking into account also all other circumstances of the spouses.

Care of
children.

47. During the pendency of the action the court shall give such directions concerning the custody of the children as it may deem appropriate, and in so doing the paramount consideration shall be the welfare of the children."

29. Subsection (1) of section 48 of the Code shall be amended as follows:

Amendment of
section 48
of the Code.

(a) for the words "sections 38, 39 and 41" there shall be substituted the words "sections 38 and 41";

(b) in paragraph (a) thereof for the words "section 631, 633," there shall be substituted the words "sections 631, 633, 633A,"; and

(c) for paragraph (c) thereof there shall be substituted the following:

"(c) any right which he or she may have to one moiety of the acquests which may have been made by the industry chiefly of the other spouse after a date to be established by the court as corresponding to the date when the spouse is to be considered as having given sufficient cause to the separation. For the purposes of this paragraph in order to determine whether an acquest has been made by the industry chiefly of one party, regard shall be had to the contributions in any form of both spouses in accordance with section 3 of the Code."

30. Sections 49 and 50 of the Code shall be repealed.

Repeal of
sections 49
and 50
of the Code.

31. In section 51 of the Code for the words "sections 48, 49 and 50 respectively" there shall be substituted the words "section 48", and for the words "of those sections" there shall be substituted the words "of that section"; and in section 52 of the Code for the words "sections 48, 49 and 50" there shall be substituted the words "section 48".

Amendment of
sections 51 and 52
of the Code.

32. For sections 54 to 56 of the Code there shall be substituted the following:

Substitution
of sections
54 to 56
of the Code.

"Obligation
for
main-
tenance.

54. (1) The spouse against whom the separation is pronounced shall not, as a result of such separation, be relieved from the obligation of supplying maintenance to the other spouse, where, according to the provisions of Sub-Title I of this Title, such maintenance is due.

(2) The amount of such maintenance shall be determined having regard to the means of the spouse bound to supply maintenance and the needs of the other spouse, taking into account also all other circumstances of the spouses.

(3) Notwithstanding any other provision of this Code, on separation being pronounced, the court may if it deems it appropriate in the circumstances, order the spouse liable to supply maintenance to pay to the other spouse, in lieu of the whole or part of such maintenance, a lump sum, which the court deems sufficient in order to make the spouse to whom maintenance is due financially independent or less dependent of the other spouse, as the case may be.

(4) For the purposes of subsection (3) of this section, the court shall, among the circumstances, consider the possibility of the person to whom maintenance is due, of receiving training or retraining in a profession, art, trade or other activity or to commence or continue an activity which generates an income, and order the lump sum for that purpose.

(5) The court may direct, according to circumstances, that the payment of a lump sum referred to in the previous subsections of this section, be made by equal or unequal instalments spread over a reasonable period of time.

(6) The court may also direct that in lieu of all or part of the lump sum referred to in subsection (3) of this section, the spouse liable thereto shall assign to the other spouse property in ownership or in usufruct, use or habitation.

(7) Where there is a supervening change in the means of the spouse liable to supply maintenance or the needs of the other spouse, the court may, on the demand of either spouse, order that such maintenance be varied or stopped as the case may be. Where however, a lump sum or an assignment of property has been paid or made in total satisfaction of the obligation of a spouse to supply maintenance to the other spouse, all liability of the former to supply maintenance to the latter shall cease. Where instead the lump sum or assignment of property has been paid or made only in partial satisfaction of the said obligation, the court shall, when ordering such lump sum payment or assignment of property, determine at the same time the portion of the maintenance satisfied thereby and any supervening change shall in that case be only in respect of the part not so satisfied and in the same proportion thereto.

Cessation
of
community
of acquests
and
community
of residue
under
separate
adminis-
tration.

55. (1) On separation being pronounced the court shall direct that the community of acquests or the community of residue under separate administration existing between the parties shall cease as from the day on which the judgement becomes *res judicata*.

(2) The court may however where in its opinion circumstances so warrant direct that an asset or assets comprised in the community be not partitioned before the lapse of such period after the cessation of the community as it may in its direction determine.

(3) Any direction given by the court in virtue of subsection (2) of this section, may on good cause being shown, be changed or revoked by the court.

Matrimonial
home.

55A. (1) On separation being pronounced, the court shall on the demand of either of the spouses, decide according to circumstances whether any one of them shall be entitled to reside in the matrimonial home.

(2) The court may, on the demand of either spouse, vary at any time such decision if there is a substantial change in circumstances.

(3) The provisions of subsection (2) of section 3A of this Code shall not apply in the case of spouses who are legally separated, unless the contrary is not agreed to between the spouses or is ordered by the court having jurisdiction to pronounce the personal separation; and such agreement or order shall only be effective in regard to third parties as from the date when the deed or order is registered in the Public Registry.

Custody of
the children
after
separation.

56. (1) On separation being pronounced the court shall also direct to which of the spouses custody of the children shall be entrusted, the paramount consideration being the welfare of the children.

(2) It shall be lawful for the court, if it considers such measures to be strictly necessary, having regard to all relevant circumstances, to direct that the children be placed in the custody of third parties or in alternative forms of care.

(3) It shall be lawful for the court to give any such directions in the judgement of separation, although in the action relating thereto no demand has been made respecting the custody of the children.

(4) The court may, at any time, revoke or vary such directions respecting the children, where the interests of the children so require.

(5) The court may moreover where circumstances so require, determine that one or both of the parents shall be deprived wholly or in part of the rights of parental authority."

Amendment of
section 57
of the Code.

33. In subsection (3) of section 57 of the Code, for the words “the education of” there shall be substituted the words “the welfare of”.

Amendment of
section 59
of the Code.

34. For the words “Separation from bed and board” in subsection (1) of section 59 of the Code there shall be substituted the words “Personal separation”.

Substitution
of section 62
of the Code.

35. For section 62 of the Code there shall be substituted the following:

“Surname of
wife after
separation.

62. (1) Notwithstanding the provisions of subsection (4) of section 4 of this Code, the wife may, on separation, choose to revert to her maiden surname. In the case of a consensual separation, a declaration of such choice shall be made in the public deed of separation, and in the case of a judicial separation, by a note filed in the records of the case before final judgement.

(2) The court may also, at the request of the husband which may be made at any time before judgement, prohibit the wife from continuing to use the husband's surname after separation, where such use may cause grave prejudice to the husband.

Effects of
separation
in regard to
third parties.

62A. Personal separation shall only be operative in regard to third parties from the day on which the judgement or the public deed, as the case may be, shall have been registered in the Public Registry. Any such registration shall include a reference to any declaration or prohibition with regard to the surname of the wife after the judgement.”.

Amendment of
section 64
of the Code.

36. In subsection (1) of section 64 of the Code, for the words “The mere fact of voluntary cohabitation”, there shall be substituted the words “Voluntary cohabitation”.

Substitution of
sections 70 to 72
of the Code.

37. For sections 70 to 72 of the Code, there shall be substituted the following:

“Where
husband
may
repudiate
child.

70. (1) The husband can repudiate a child conceived in wedlock —

(a) if he proves that during the time from the three hundredth day to the one-hundred-and-eightieth day before the birth of the child, he was in the physical impossibility of cohabiting with his wife on account of his being away from her, or some other accident; or

(b) if he proves that during the said time he was *de facto* or legally separated from his wife:

Provided that he may not repudiate the child if there has been, during that time, a reunion, even if temporary between him and his wife; or

(c) if he proves that during the said time he was afflicted by impotency, even if such impotency was only an impotency to generate; or

(d) if he proves that during the said time the wife had committed adultery or that she had concealed the pregnancy and the birth of the child, and further produces evidence of any other fact (which may also be genetic and scientific tests and data) that tends to exclude such paternity.

(2) The declaration alone of the mother to the effect that the husband is not the father of the child shall not be sufficient to exclude the paternity of the husband.

(3) The court may in an action of disavowal invite all or any of the parties including the child whose filiation is in dispute to submit to the tests necessary to establish the genetic proof that may be relevant to the case. The court shall be entitled to draw such inferences as may be justified by the refusal to submit to such tests. Where the child whose filiation is in dispute is a minor, the court itself shall determine whether the child shall submit to the tests.”.

38. In section 73 of the Code, for the words “three months” wherever they occur, there shall be substituted the words “six months”. Amendment of section 73 of the Code.

39. In section 74 of the Code, for the words “three months” wherever they occur there shall be substituted the words “six months”. Amendment of section 74 of the Code.

40. For the marginal note to section 77 of the Code, there shall be substituted the words “Husband’s physical impossibility of cohabitation”. Amendment of section 77 of the Code.

41. Section 90 of the Code shall be amended as follows: Amendment of section 90 of the Code.

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

(b) subsection (3) thereof shall be renumbered as subsection (2) thereof; and

(c) in subsection (2) thereof as renumbered for the words “that the mother and not the father, shall exercise” there shall be substituted the words “that only one of the parents shall exercise”.

42. In subsection (1) of section 92 of the Code, for the words “his surname” there shall be substituted the words “his surname, to which may be added the surname of the mother”. Amendment of section 92 of the Code.

43. Subsection (2) of section 93 of the Code shall be substituted by the following: Amendment of section 93 of the Code.

“(2) The father is under a like liability in regard to the legitimate descendants of the predeceased illegitimate son or daughter, if their surviving parent or their legitimate ascendants are unable to provide for her.”.

Amendment of
section 96
of the Code.

44. Subsection (2) of section 96 of the Code shall be deleted and the present subsection (1) shall be retained as the whole section.

Amendment of
section 97
of the Code.

45. In section 97 of the Code for the word "father" there shall be substituted the word "parent".

Addition of
section 100A
to the Code.

46. Immediately after section 100 of the Code there shall be added the following section:

"Genetic
proof.

100A. In causes to which the preceding section makes reference, the court may, without prejudice to any evidence that may be produced by the parties according to law, invite the parties to submit to examinations as referred to in subsection (3) of section 70, and in the same manner and in the same circumstances may, in case of refusal, draw such inferences as mentioned in that subsection."

Amendment of
section 110
of the Code.

47. In subsection (2) of section 110 of the Code, for the words "of the father" there shall be substituted the words "of the father, to which may be added the surname of the mother."

Amendment of
section 121
of the Code.

48. The proviso to paragraph (a) of section 121 of the Code shall be deleted.

Substitution of
section 131
of the Code.

49. For section 131 of the Code there shall be substituted the following:

"Child
subject
to parental
authority.

131. (1) A child shall be subject to the authority of his parents for all effects as by law established.

(2) Saving those cases established by law, this authority is exercised by the common accord of both parents. After the death of one parent, it is exercised by the surviving parent.

(3) In case of disagreement between the parents on matters of particular importance, either parent may apply to the court of voluntary jurisdiction indicating those directions which he or she considers appropriate in the circumstances.

(4) The court, after hearing the parents and the child if the latter has reached the age of fourteen years, shall make those suggestions which it deems best in the interests of the child and the unity of the family. If the disagreement between the parents persists, the court shall authorise the parent whom it considers more suitable to protect the interests of the child in the particular case, to decide upon the issue, saving the provisions of section 149.

(5) In the case of an imminent danger of serious prejudice to the child either parent may take such measures which are urgent and cannot be postponed.

(6) With regard to third parties in good faith, each of the spouses shall be deemed to act with the consent of the other where he or she performs an act relative to parental authority relative to the person of the child.”.

50. Section 132 of the Code shall be amended as follows:

Amendment of
section 132
of the Code.

(a) for the words “his father” in subsection (1) thereof, there shall be substituted the words “his parents”; and

(b) for subsections (2) and (3) thereof, there shall be substituted the following:

“(2) Saving any other provision of law respecting enlistment in any disciplined force, it shall not be lawful for a child, without the consent of the parents, to leave the parental house, or such house as his parents may have appointed for him.

(3) Where the child leaves the house without such consent, the parents shall have the right to recall him, and, if necessary, demand the assistance of the Police.”.

51. For sections 134 to 136 of the Code there shall be substituted the following:

Substitution of
sections 134
to 136
of the Code.

“Power
of the
court to
authorise
child
to be
placed in
alternative
care.

134. (1) It shall be lawful for the parents, if they are unable to control the child, to remove him from the family, assigning to him, according to the means of the parents, such maintenance as is strictly necessary.

(2) In any such case, the parents may also, where necessary and upon obtaining the authority of the court of voluntary jurisdiction, place the child, for such time as is stated in the decree, in some alternative form of care, which the court will according to circumstances consider suitable, to be, at the expense of the parents, cared for and treated in such manner as the court may deem conducive to the discipline and education of the child.

(3) The demand for such authority may be made even verbally; and the court shall make the necessary order thereon without any formal proceedings, and without giving its reasons therefor.

Parents
to be
represent-
atives
of the
children.

135. The parents jointly represent their children, whether born or to be born, in all civil matters.

Parents’
power
of
adminis-
tration.

136. (1) The parents jointly administer the property of their children, whether born or to be born, except such as has devolved on such children on condition that it shall be administered solely by one of the parents or by third parties.

(2) Acts of ordinary administration may however be performed by either of the parents without the intervention of the other.

(3) Acts of extraordinary administration which must be performed by the parents jointly include:—

(a) the alienation of movables by nature, including motor vehicles for the object of profitably investing the proceeds thereof;

(b) the collection of capitals that may become due;

(c) the granting of personal rights of enjoyment over immovable property;

(d) the acceptance of an inheritance, legacy or donation in the name of the child;

(e) the partition of movables by nature;

(f) acts which require the authorisation of the court in terms of subsection (4) of this section.

(4) The parents may not alienate immovables or movables by operation of law belonging to the child nor may they contract loans or other debt, on his behalf hypothecate or pledge his property, enter into a suretyship, enter into any compromise, or submit a dispute to arbitration except in case of necessity, or manifest utility and with the authority of the court and in any such case the court may, at the request of the parents, authorise one only of the parents to represent the child on the relative deed.

(5) In case of disagreement between the parents the provisions of section 131 shall apply.”.

Amendment of
section 137
of the Code.

52. Section 137 of the Code shall be amended as follows:

(a) in subsection (1) thereof, for the words “by the father” there shall be substituted the words “by the parents”; and

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

“(2) If one of the parents is unable or unwilling to accept such inheritance, the inheritance may be accepted by the other parent with the authority of the court. If both parents are unable or unwilling to accept such inheritance the court may, upon the demand of the child or of any of his relatives, authorise the acceptance thereof either by the child himself, if he has attained the age of fourteen years, or otherwise by a special curator to be appointed by the court.”.

Amendment of
section 138
of the Code.

53. In section 138 of the Code, for the words “by the father” there shall be substituted the words “by either parent”.

54. For sections 139 and 140 of the Code, there shall be substituted the following:

Substitution of
sections 139
and 140
of the Code.

"Conflicting
interests.

139. In case of conflicting interests between the children, or between the children and either parent, the competent court shall, according to circumstances, appoint one or more special curators:

Provided that it shall be lawful for either parent to decline to represent any of the children against another or against the other parent.

Parents
to render
account
of adminis-
tration.

140. (1) The parents are bound to render to the child, on the latter attaining majority, an account of the property and the fruits of those things of which they have not the usufruct; and of the property only and of the administration thereof in regard to things of which they have the legal usufruct.

(2) If parental authority ceases before the child attains majority the parents shall render the account on the date of such cessation.

(3) Without prejudice to any liability of the parent, either parent may render such account on behalf also of the other parent."

55. Section 141 of the Code shall be amended as follows:

Amendment of
section 141
of the Code.

(a) for the words "father has" in the marginal note thereto, there shall be substituted the words "the parents have";

(b) for the words "The father shall have" in subsection (1) thereof, there shall be substituted the words "The parents shall have"; and

(c) for the words "He shall retain" in subsection (2) thereof, there shall be substituted the words "They shall retain".

56. Section 142 of the Code shall be amended as follows:

Amendment of
section 142
of the Code.

(a) for paragraph (a) thereof there shall be substituted the following:

"(a) property bequeathed or given to the child on condition that the parents or either of them shall not have the usufruct thereof:

Provided that any such condition shall be inoperative in regard to property reserved to the child by way of legitim:

Provided further that where the property is bequeathed or given to the child on condition that only one of the parents shall not have the usufruct thereof, such property shall be subject to the usufruct of the other parent, so however that in any such case, the fruits of such property shall not be comprised in any community of acquests subsisting between the parent enjoying the usufruct and the parent excluded therefrom"; and

(b) for paragraph (c) thereof there shall be substituted the following:

"(c) property devolved on the child by inheritance, legacy or donation where such inheritance, legacy or donation has been accepted in the interests of the child against the wishes of the parents:

Provided that where such property has been accepted on behalf of the child by one parent against the wishes of the other parent, such property shall be subject to the usufruct of only that parent who made the acceptance; so however that in any such case, the fruits of such property shall not be comprised in any community of acquests subsisting between the parent accepting such inheritance, legacy or donation as aforesaid, and the parent who has not so accepted;"

Amendment of
section 143
of the Code.

57. In section 143 of the Code and in the marginal note thereto, the word "father" whenever it occurs, shall be substituted with the word "parents".

Amendment of
section 144
of the Code.

58. Section 144 of the Code shall be amended as follows:

(a) for subsection (1) thereof, there shall be substituted the following:

"(1) The usufruct of the parents shall cease on the death of the child or on the marriage or remarriage of the parents or the adoptive parents, as the case may be."; and

(b) immediately after subsection (2) thereof there shall be added the following subsection:

"(3) Where the usufruct ceases in respect only of one of the parents, the fruit of the property subject to such usufruct shall not be comprised in any community of acquests subsisting between the parent in respect of whom the usufruct has not ceased, and the parent in respect of whom it has so ceased.".

Substitution
of sections
145 to 148
of the Code.

59. For sections 145 to 148 of the Code there shall be substituted the following:

"Where
parents
continue
to enjoy
property
on
cessation
of
usufruct.

145. Where the usufruct ceases, and the parents, or either of them, continue or continues to enjoy the property of the child living with the parents or either of them without authority but without opposition on the part of the child, or with authority but without the express condition of rendering an account of the fruits, such parents or parent or the heirs of such parents or parent as the case may be shall only be bound to deliver the fruits existing at the time of the demand, and shall not be bound to account for such fruits as may have been consumed up to that time.

Death
etc.
of one
of the
parents.

146. (1) In the event of the death of one of the parents, parental authority shall vest solely in the surviving parent in respect of his or her children and their property, including property devolving on the children from the property of the deceased parent and from any other cause after the death of the predeceased parent.

(2) The provisions of subsection (1) of this section shall also apply where one of the parents has forfeited or been deprived of parental authority, or cannot, because of absence or other impediment, exercise the rights of parental authority.

(3) If either of the parents is deprived of the right of usufruct only, such right shall vest in the other parent alone.

(4) Where one parent is deprived of the usufruct, the fruits of such usufruct shall not be comprised in any community of acquests subsisting between that parent and the parent who has not been so deprived."

Where parent
remarries and
continues to
administer
property.

147. (1) If a parent, on remarriage, continues to administer the property of the children, whether or not such parent still exercises the right of parental authority, the spouse of the parent shall be held liable *in solidum* with such parent for the administration both preceding and subsequent to the marriage.

(2) The provisions of this section shall apply to an adoptive parent on marriage or remarriage."

60. Section 150 of the Code shall be amended as follows:

Amendment of
section 150
of the Code.

(a) for paragraph (d) thereof there shall be substituted the following:

"(d) if the child, with the consent of the parents, has left the parental home and set up a separate domestic establishment:"; and

(b) in paragraph (e) thereof, for the words "if the father fails to make" there shall be substituted the words "if the parents fail to make", and immediately after the words "sections 2038 and 2039;" there shall be added the following words "so however that where only one parent has failed to make such registration, parental authority shall not cease in relation to the parent who has not so failed;".

Amendment of
section 151
of the Code.

61. In section 151 of the Code and in the marginal note thereto, for the word "father" wherever it occurs there shall be substituted the word "parent".

Amendment of
section 152
of the Code.

62. For the word "father" wherever it occurs, in section 152 of the Code and in the marginal note thereto, there shall be substituted the word "parent".

Amendment of
section 153
of the Code.

63. In section 153 of the Code and in the marginal note thereto, for the word "father" wherever it occurs, there shall be substituted the word "parent".

Amendment of
section 154
of the Code.

64. Section 154 of the Code shall be amended as follows:

(a) for the word "father" wherever it occurs, there shall be substituted the word "parent";

(b) in paragraph (d) of subsection (1) thereof, for the words "of the child", there shall be substituted the words "of the child;"; and

(c) immediately after paragraph (d) of subsection (1) thereof there shall be inserted the following paragraph:

"(e) if the parent fails to perform any of the obligations set out in section 3B in favour of the child."

Amendment of
section 251
of the Code.

65. Section 251 of the Code shall be amended as follows:

(a) for the words "Forms I, J, K, L, M, N, O and P" in subsection (2) thereof, there shall be substituted the words "Forms I, J, K, L, O and P";

(b) immediately after subsection (2) thereof there shall be inserted the following:

"(2A) (a) Extracts of acts of birth and of entries in the Adopted Persons Register shall be issued in the Forms I or J shown in Part II of the Schedule to this Code.

(b) For the purpose of the extracts issued in terms of paragraph (a) hereof entries in the Adopted Persons Register shall be given consecutive numbers which follow the

last number of the acts of birth registered in the year of birth of the adopted person, or one of such numbers reserved for the purpose by the Director and relative to the year of birth of the adopted person, which numbers shall not be allotted to acts of birth. The said year shall also be indicated.

(c) The fact that certain numbers have, according to paragraph (b) of this subsection, been reserved for registration of adopted persons, shall be kept secret and confidential. A list of such numbers shall only be given to the department of Government dealing with nationality, the Passport Office, the Electoral Commission and the Marriage Registrar who shall be bound by the same secrecy and confidentiality.”.

66. For paragraph (f) of section 623 of the Code, there shall be substituted the following: Amendment of section 623 of the Code.

“(f) if, in the case of a son or daughter or other descendant, he or she publicly prostitutes him or herself without the connivance of the testator.”.

67. For the words “Where a deceased spouse” in subsection (1) of section 631 of the Code, there shall be substituted the words “Subject to the provisions of section 633A, where a deceased spouse”. Amendment of section 631 of the Code.

68. Immediately after section 633 of the Code, there shall be added the following section: Addition of section 633A to the Code.

“Right of habitation.

633A. (1) The surviving spouse shall be entitled to the right of habitation over the tenement occupied as the principal residence by the said surviving spouse at the time of the decease of the predeceased spouse, where the same tenement is held in full ownership or emphyteusis by the deceased spouse either alone or jointly with the surviving spouse.

(2) The extent of the tenement subject to the right of habitation shall not be limited on the grounds that, after the death of the predeceased spouse the surviving spouse requires a lesser part of the tenement.

(3) For the purposes of section 631 of this Code the tenement subject to the right of habitation under this section shall be excluded from the estate of the deceased over which the surviving spouse has the usufruct of one half part.

(4) In the circumstances referred to in section 633, the right referred to in subsection (1) of this section shall be in addition to the right conferred on the surviving spouse by the said section 633.

(5) The right conferred in subsection (1) of this section shall subsist even where such right has the effect of reducing, during the lifetime of the surviving spouse, the legitim or any portion of the estate of the deceased spouse reserved to any other person.

(6) Where a creditor of the deceased spouse enforces his right over the tenement subject to the right under this section, or where the heirs who have accepted the inheritance with the benefit of inventory sell such tenement in satisfaction of any debt due by the inheritance, and in either case there exists other assets of the inheritance with which such debts may be satisfied, the surviving spouse shall have a right to demand, within one year of the sale, damages from the heirs of the deceased spouse, or from the heirs of the deceased spouse who have accepted with the benefit of inventory who shall not have taken any possible action to pay such debts out of the other assets.

(7) The spouses may, in a pre nuptial or post nuptial agreement, in accordance with this Code, whichever patrimonial regime is to regulate their property, exclude or reduce the right competent to the surviving spouse in virtue of this section.

(8) The right of habitation conferred in this section shall cease on the remarriage of the surviving spouse.”.

Amendment of
section 634
of the Code.

69. In subsection (1) of section 634 of the Code, the words “and, where the surviving spouse is the wife, in the dower,” shall be deleted.

Amendment of
section 636
of the Code.

70. Section 636 of the Code shall be amended as follows:

(a) for the words “sections 631 and 633” there shall be substituted the words “section 631, 633 and 633A”;

(b) for the words “section 48, 49, 50, 51 and 52” in paragraph (a) thereof, there shall be substituted the words “sections 48, 51 and 52”; and

(c) immediately after the words “sections 631 and 633,” in paragraph (b) thereof, there shall be inserted the words “or the right of habitation referred to in section 633A,”.

71 Sections 638 and 639 of the Code shall be repealed.

Repeal
of sections
638 and 639
of the Code.

72. In section 646 of the Code for the words "The portion due to the spouse" there shall be substituted the words "Without prejudice to the provisions of section 633A, the portion due to the spouse".

Amendment of
section 646
of the Code.

73. For section 825 of the Code there shall be substituted the following:

Substitution of
section 825
of the Code.

"Rights
competent
to
surviving
spouse
of person
leaving
children.

825. Where the deceased leaves such children or descendants as are mentioned in section 631, the surviving spouse shall only have the rights granted under the provisions of the said section and of sections 632, 633A, 634 and 635, and provisions of section 637 shall also apply."

74. In subsection (1) of section 826 of the Code for the words "as are mentioned in Section 631 —" there shall be substituted the words "as are mentioned in section 631, the surviving spouse shall be entitled to the right of habitation referred to in section 633A, and with regard to the property of the deceased spouse not subject to such right of habitation —".

Amendment of
section 826
of the Code.

75. For the words "sections 48, 49, 50, 51 and 52" in section 829 of the Code there shall be substituted the words "sections 48, 51 and 52".

Amendment of
section 829
of the Code.

76. Immediately after section 971 of the Code there shall be inserted the following:

Addition of new
section 971A
to the Code.

"Child
over
sixteen
years
may open
and
operate
bank
account.

971A. Notwithstanding any provision of this Code, a child who has attained the age of sixteen years may deposit money in an account opened by the child in his or her own name with any bank, and any money deposited in any such account may only be withdrawn by such child notwithstanding that such money may be subject to the administration, usufruct or authority of any other person. For all purposes of law the child shall with regard to the opening and operation of any such account be considered a major."

77. For sections 1236 to 1238 of the Code, there shall be substituted the following:

Substitution
of sections
1236 to 1238
of the Code.

"Marriage
contracts.

1236. Except with regard to the acquisitions referred to in Sub-Title III of this Title, no partnership or community of property between the spouses is established by law.

Parties
may enter
into other
agreements
not
contrary
to morals,
etc.

1237. (1) It shall, however, be lawful for the future spouses to enter into any other agreement, which is not contrary to morals, or inconsistent with the rules contained in this and the following sections of the Code.

(2) The spouses may, in an ante-nuptial or post-nuptial contract agree that their property acquired during their marriage shall remain separate or that it shall be governed by the system of community of residue under separate administration under Sub-Title V of this Title, and without prejudice to subsection (3) hereof, no partnership or community of property in general, may be established between the spouses except that referred to in this section or in section 1236.

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(3) The spouses may, without the intervention of any court, whether alone or with others, and whatever system regulates their property, form a limited liability company under the Commercial Partnerships Ordinance; voting rights attached to shares registered in the name of a spouse shall be exercised by the spouse in whose name the shares are registered. The ownership of the shares in any such company shall remain governed in accordance with the system governing the property of the spouses.

Certain
agreements
may not
be made.

1238. (1) It shall not be lawful for the future spouses to enter into any agreement whereby either of them is established as head of the family, or into any agreement in derogation of any of the rights deriving from parental authority, or of the provisions of law relating minority, or of any prohibitory rule of law.

(2) Nevertheless, any stipulation that all the children, or any of them, shall be brought up in the religion of either of the spouses shall be valid."

Amendment of
section 1240
of the Code.

78. In subsection (2) of section 1240 of the Code, the words "dowry or" shall be deleted.

Substitution of
section 1241
of the Code.

79. For section 1241 of the Code there shall be substituted the following:

"Marriage
agreements
by minor.

1241. Marriage agreements entered into by a minor with the consent of the parents or parent exercising parental authority, or where both parents are absent, dead, interdicted or of unsound mind, with the authority of the court, are valid."

Amendment of
section 1244
of the Code.

80. Section 1244 of the Code shall be amended as follows:

(a) subsection (3) thereof shall be renumbered as subsection (4) thereof; and

(b) immediately after subsection (2) thereof there shall be inserted the following new subsection:

“(3) Any agreement prohibited by law in respect of a pre-nuptial agreement is also prohibited in any post-nuptial agreement.”.

81. Sub-Titles I and II of Title V of Part II of Book Second of the Code, shall be repealed, and substituted by the following:

Substitution of
Sub-Titles
I and II of
Title V of
Part II of
Book Second
of the Code.

“Sub-Title I

OF THE INSTITUTES OF DOWRY AND DOWER

Abolition
of institutes. 1248. The institutes of Dowry and Dower are hereby abolished.”.

82. For Sub-Titles III, IV and V of Title V of Part II of Book Second of the Code there shall be substituted the following:

Substitution of
Sub-Titles III,
IV, V of Title V
of Part II of
Book Second
of the Code.

“Sub-Title III

OF THE COMMUNITY OF ACQUESTS

Marriage
produces
community
of
acquests. 1316. (1) Marriage celebrated in Malta shall, in the absence of an agreement to the contrary by public deed, produce *ipso jure* between the spouses the community of acquests.

(2) Marriage celebrated outside Malta by persons who subsequently establish themselves in Malta, shall also produce between such persons the community of acquests with regard to any property acquired after their arrival.

Community
of
acquests
may be
established
after
marriage. 1317. It shall be competent to the spouses, even after the celebration of the marriage, with the authority of the court, to establish the community of acquests which in virtue of the marriage contract or other act had been excluded, or to cause the cessation of the community of acquests established by contract or by operation of law.

Provisions
may not
be
derogated
from. 1318. It shall not be lawful for the spouses to derogate from the provisions of this Code in so far as they relate to the community of acquests.

When
community
begins
and
terminates. 1319. The right of each of the spouses to the community of acquests shall, saving any other provision of the law, commence from the day of the celebration of the marriage and terminate on the dissolution thereof.

Assets of
community
of acquests. 1320. The community of acquests shall comprise —
(a) all that is acquired by each of the spouses by the exercise of his or her work or industry;

(b) the fruits of the property of each of the spouses, including the fruits of property settled as dowry or subject to entail, whether the husband or wife possessed the property since before the marriage, or whether the property has come to either of them under any succession, donation, or other title, provided such property shall not have been given or bequeathed on condition that the fruits thereof shall not form part of the acquests;

(c) saving any other provision of this Code to the contrary, the fruits of such property of the children as is subject to the legal usufruct of the father or of the mother;

(d) any property acquired with moneys or other things derived from the acquests, even though such property is so acquired in the name of only one of the spouses;

(e) any property acquired with moneys or other things which either of the spouses possesses since before the marriage, or which, after the celebration of the marriage, have come to him or her under any donation, succession, or other title, even though such property may have been so acquired in the name of such spouse, saving the right of such spouse to deduct the sum disbursed for the acquisition of such property;

(f) fortuitous winnings made by either or both spouses, and such part of a treasure trove found by either of the spouses, as is by law assigned to the finder, whether such spouse has found the treasure trove in his or her own tenement, or in the tenement of the other spouse, or of a third party:

Provided that such part of the treasure trove as is granted to the owner of the tenement shall belong entirely to the party in whose tenement the treasure trove is found.

Presumption
with regard
to acquests. 1321. (1) All the property which the spouses or one of them possess or possesses shall, in the absence of proof to the contrary, be deemed to be part of the acquests.

(2) Any property, however, which may have come to either of the spouses under any title anterior to the marriage shall not be included in the acquests, notwithstanding that such spouse may have been vested with the possession of the property only after the marriage.

Adminis-
tration
of the
community
of
acquests.

1322. (1) The ordinary administration of the acquests and the right to sue or to be sued in respect of such ordinary administration, shall vest in either spouse.

(2) The right to exercise acts of extraordinary administration, and the right to sue or be sued in respect of such acts or to enter into any compromise in respect of any act whatsoever, shall vest in the two spouses jointly.

(3) Acts of extraordinary administration are the following:

(a) acts whereby real rights over immovable property are acquired, constituted or alienated;

(b) acts constituting or affecting hypothecation of property;

(c) acts whereby immovable property is partitioned;

(d) acts granting rights of use and, or, enjoyment over immovable property;

(e) donations other than those referred to in paragraph (a) of subsection (2) of section 1753;

(f) borrowing or lending of money, other than the deposit of money in an account with a bank;

(g) the acquisition of movable property or of any right of use or enjoyment over movable or immovable property the consideration for which is not paid on, or prior to, delivery; provided that this shall not apply to any debt incurred for the needs of the family in terms of paragraph (c) of section 1327, or to the hiring of movables or immovables when the consideration therefor is moderate in relation to the condition of the family and the duration of the lease is for a short period;

(h) the contracting of any suretyship;

(i) the giving of a pledge;

(j) the entering with unlimited liability in a commercial partnership, or the subscribing to or acquisition of any shares in a limited liability company which are not fully paid up;

(k) the transfer of a business concern as well as the transfer of any share in a commercial partnership other than a public company;

(l) any act that may give rise to a special privilege in terms of paragraph (b) of section 2010; and

(m) any act of rescission of any act referred to in paragraphs (a) and (c) of this subsection, and any act of declaration made *inter vivos* whereby any real right over immovables is acknowledged or renounced.

(4) Any money deposited in a bank to the credit of a married person may only be withdrawn by such married person and the bank shall not enquire whether such money belongs to the community of acquests or not.

(5) Either spouse may, by means of a public deed or a private writing duly attested in terms of section 634 of the Code of Organisation and Civil Procedure, appoint the other spouse or any other person, as his or her mandatory with regard to acts of extraordinary administration and compromise.

(6) The notary publishing a public deed as is referred to in subsection (5) of this section, and the advocate or notary public attesting a private writing as referred to in the same subsection, shall in each case warn the spouse so appointing a mandatory of the importance and consequence of such appointment and shall in the public deed or the private writing, as the case may be, declare that he has so warned the spouse.

Refusal
or absence
of consent.

1323. (1) If one of the spouses refuses his or her consent to an act of extraordinary administration, the other spouse may apply to the competent court of contentious jurisdiction for authorisation when the act of extraordinary administration is necessary in the interests of the family:

Provided that the parties may, in such cases, choose to adopt the procedures contemplated in section 6A to arrive at an agreement or to have an arbitration between them.

(2) If one of the spouses is away from Malta or if there exists any other impediment in respect of one of the spouses and in either case there exists no authorisation by public deed or by private instrument duly attested in terms of section 634 of the Code of Organisation and Civil Procedure, the other spouse may perform such necessary acts of extraordinary administration of the acquests which in terms of law require the consent of both spouses, and which the court of voluntary jurisdiction may specifically authorise; so however that the court may not in such cases authorise the performance of all necessary acts of extraordinary administration generally.

(3) The registration required by section 996 or 2033 as the case may be, in respect of any act alienating the ownership or any real right over immovable property, and any hypothecation whether general or special shall contain also the name of the other spouse as if such other spouse were a party to the deed of alienation or hypothecation, and where such registration is made in the name of one spouse only it shall in respect of third parties be operative only in relation to the spouse in whose name it is registered.

Administration
of trade,
business
etc.

1324. Normal acts of management of a trade, business or profession being exercised by one of the spouses, shall vest only in the spouse actually exercising such trade, business or profession even where those acts, had they not been made in relation to that trade, business or profession, would have constituted extraordinary administration.

Exclusion
of a
spouse
from the
administration
of the
community.

1325. (1) The competent court of contentious jurisdiction may at the request of a spouse order the exclusion of the other spouse either generally or limitedly for particular purposes or acts, from the administration of the community of acquests, where the latter spouse:

- (a) is not competent to administering; or
- (b) has mismanaged the community;

and in any such case the administration of the community of acquests shall to the extent to which such spouse has been excluded, vest exclusively in the spouse not so excluded.

(2) The spouse who has been so excluded from administering the acquests may, if the grounds upon which he or she has been excluded no longer subsist, request the court to reinstate such spouse in the administration.

(3) Any order made in terms of this section shall be notified within twenty-four hours by the Registrar to the Director of the Public Registry who shall keep the same in a special register and keep a special index thereof. Such orders shall contain all particulars of both spouses as are required for notes of enrolment under the Public Registry Act and shall become operative with regard to third parties upon such registration.

(4) Without prejudice to any order made in terms of subsection (1) of this section, in the case of the interdiction or incapacitation of one of the spouses and until such interdiction or incapacitation ceases, such spouse shall be excluded from the administration of the acquests and in any such case the administration of the acquests shall vest solely in the spouse not so excluded.

Acts
performed
without
the
necessary
consent.

1326. (1) Acts which require the consent of both spouses but which are performed by one spouse without the consent of the other spouse may be annulled at the request of the latter spouse where such acts relate to the alienation or constitution of a real or personal right over immovable property; and where such acts relate to movable property they may only be annulled where the rights over them have been conferred by gratuitous title.

(2) An action for annulment may only be instituted by the spouse whose consent was required and within the peremptory term of three years from:

(a) the date when such spouse became aware of the act, or

(b) the date of registration, where such act is registerable, or

(c) the date of termination of the community of acquests,

whichever is the earliest.

(3) Notwithstanding the provisions of subsection (2) of this section, the right given by subsection (1) of this section to a spouse to request the annulment of an act shall lapse at the expiration of three months from the day on which notice of the act shall have been given to such spouse by means of a judicial act, unless within such time of three months such spouse shall have instituted an action for such annulment.

(4) The spouse who has not instituted the action for annulment within the stipulated time and who has not expressly or tacitly ratified the act, shall nevertheless have an action to compel the other spouse to reintegrate the community of acquests or, where this is not possible, to make good the loss suffered.

(5) Saving the preceding provisions of this section, where in any act which requires the consent of the other spouse and which relates to movables, a spouse has acted unilaterally, there shall be no right competent to the other spouse to demand the annulment of the act; where however, the other spouse has not ratified such act, whether expressly or tacitly, such spouse shall have an action to compel the spouse who has acted unilaterally to reintegrate the community of acquests, or where this is not possible, to make good the loss suffered.

(6) The provisions of this section shall be without prejudice to any right competent to a spouse under this Code or any other law.

Debts
chargeable
to the
community.

1327. Saving the provisions of section 1329, the assets forming part of the community of acquests shall be charged only with the following debts:

- (a) the burdens and obligations which encumber the assets under the act of their acquisition;
- (b) the expenses and obligations incurred in the administration of the acquests, except such expenses as are incurred by acts which require the consent of both spouses but which are performed by one spouse only without the consent of the other spouse;
- (c) the expenses and obligations, even if incurred separately, for the needs of the family including those for the education and upbringing of the children;
- (d) every obligation which is contracted by the spouses jointly;
- (e) debts relating to the ordinary repairs of the property of either of the spouses, the fruits of which are included in the acquests; and
- (f) any debt or indemnity due as a civil remedy by either spouse where such indemnity is not due as a civil remedy in respect of any offence wilfully committed.

Creditors
of a
particular
spouse.

1328. Creditors of a particular spouse shall, unless they enjoy a lawful cause of preference, rank after the creditors of the community of acquests.

Obligations
separately
contracted
by
either
spouse.

1329. (1) Subject to the following provisions of this section, the creditors of a spouse for debts which are not chargeable to the community of acquests whether such debt has arisen before or after the marriage, may, when such creditors cannot satisfy their claim against the paraphernal property of such spouse, enforce their claim *in subsidium* against the assets forming part of the community of acquests but only to the extent of the value of the share which such spouse has in the community of acquests.

(2) Saving the right of the debtor's spouse to seek the judicial separation of property, the debtor's spouse shall not have a right to oppose an act enforcing the credit against any property of the debtor or of the community of acquests except where the property upon which execution is being attempted is the paraphernal property of such debtor's spouse.

Where
paraphernal
property
is subject
to the
debts
of the
community.

1330. When the assets of the community of acquests are insufficient to satisfy the debts which burthen it, the creditors of such community may enforce their claim *in subsidium* against the paraphernal property of the spouses:

Provided that where:

(a) the debt is due as a civil remedy in respect of a wilful offence committed by either spouse; or

(b) the debt is one arising out of the exercise of a trade, business or profession as is referred to in section 1324;

the creditors may not enforce their claim against the paraphernal property of the spouse who has not given rise to the claim, but may in such cases enforce their claim to the extent of any part remaining unsatisfied by the assets of the community of acquests, against the paraphernal property of the spouse giving right to such claim.

Reimbur-
sement
and
restitution.

1331. (1) Each of the spouses is bound to reimburse the community of acquests with any sum of money or the value of any thing which he or she may have appropriated from the acquests to satisfy debts which do not fall under the provisions of section 1327, unless he can show that the act was one which was advantageous to the community or was performed to satisfy the needs of the family.

(2) Each one of the spouses has a right to be reimbursed with any sum of money or the value of any thing which has been taken from his or her paraphernal property where such money or thing was spent or consumed in connection with a debt or an investment of the community of acquests.

(3) The spouse who is a creditor of the community of acquests may demand to be assigned property of the community up to the value of his or her credit. The reimbursement from the property of the community of acquests shall be made first by assigning money, then other movables and finally immovables.

(4) These reimbursements are to be made at the termination of the community of acquests: provided that the court may allow that any such reimbursements take place at an earlier date when the interest of the family so require or permit.

Judicial
separation
of property.

1332. (1) The judicial separation of property may be pronounced:

(a) upon the interdiction or incapacitation of one of the spouses; or

(b) where the disordered state of affairs of one spouse or his or her conduct in relation to the administration of the acquests jeopardises the interest of the community of acquests, or of the family or of the spouse requesting the judicial separation of property; or

(c) where one of the spouses fails substantially in his or her duty to contribute to the needs of the family in accordance with section 3 of this Code; or

(d) where one of the spouses has been excluded from the administration in terms of section 1325, either generally or to a great extent.

(2) The judicial separation of property may only be demanded by either spouse or by his or her lawful representatives; so however that such separation may not be demanded by the spouse or the representatives of the spouse who has given rise to the causes for judicial separation referred to in paragraphs (b) or (c) of subsection (1) of this section.

(3) Where the judicial separation has been demanded by the spouse excluded from the administration of the community of acquests in terms of paragraph (d) of subsection (1) of this section, the court shall, where the judicial separation causes financial damage to the other spouse, order the spouse demanding judicial separation to pay compensation to the other party for the loss that such party may have suffered because of the separation

(4) (a) In the judgement pronouncing the judicial separation of property, the court shall direct that the community of acquests between the spouses shall cease as from the day on which the judgement becomes *res judicata*.

(b) The court may however, without prejudice to any right legally acquired by any third party, direct that the judgement shall operate retrospectively to the date of the filing of the judicial act introducing the cause upon which judgement is given.

(c) The creditors of either spouse or of the community of acquests may impeach the separation pronounced by the court, even though it may have been given effect to, if such separation has been obtained in fraud of their rights.

(5) The court may where in its opinion circumstances so warrant direct that the property comprised in the community of acquests be not partitioned before the lapse of such period after the cessation of the community of acquests as it may determine.

(6) Any direction given by the court in virtue of subsection (5) of this section, may, on good cause being shown, be changed or revoked by the court.

(7) The demand for the judicial separation of property shall not stay any action enforcing any debt of the community of acquests.

(8) Where a demand for the judicial separation of property has been filed, a creditor of a particular spouse may proceed or continue proceedings enforcing his claim against property of the community of acquests and in any such case the spouse of the debtor may demand that half the proceeds of the sale of any object belonging to the community of acquests shall remain deposited in court on account of the share in the community of acquests of the spouse of the debtor so however that if such deposits exceed the share of such spouse in the community of acquests any sum so deposited in excess shall remain to the credit of the debtor spouse and be attachable by his creditors.

(9) Any judgement ordering the judicial separation of property shall not be operative against third parties except from the day on which such judgement shall have been registered in the Public Registry.

Partition
of the
community.

1333. The partition of the community of acquests shall be made by assigning one half of the assets and liabilities comprised in the community to each of the spouses.

Sub-Title IV

OF PARAPHERNAL PROPERTY

Definition
of
paraphernal
property.

1334. (1) Where the community of acquests or the community of residue under separate administration operates between the spouses, all property which is not included in paragraphs (a) to (f) of section 1320 or is not dotal is paraphernal. Where the property of the spouses is held under the system of separate property all property which is not dotal is paraphernal.

(2) The management of paraphernal property shall appertain exclusively to the spouse to whom such property belongs.

(3) For the support of the family, the spouses shall first use income deriving from common property before income belonging to one of them exclusively, and they shall first use capital which is their common property or belongs to the community of acquests before the capital belonging exclusively to one of the spouses.

Where
a spouse
appoints
other
spouse
as agent.

1335. Where one of the spouses appoints the other spouse as his or her agent to manage his or her paraphernal property, the latter spouse shall be liable to the first spouse in the same manner as any other agent, so however that such spouse shall only be obliged to render an account for the fruits if this is expressly stated in the mandate.

Where
a spouse
enjoys
property
without
authority
or with
authority
but without
condition
of accounting
for fruit.

1336. (1) Where a spouse has enjoyed the paraphernal property of the other spouse, without authority, but without opposition, that spouse or the heirs of that spouse, upon the dissolution of the marriage or upon the first demand of the spouse to whom the property belongs, shall only be bound to deliver the existing fruit, and shall not be accountable for fruits which shall have been consumed up to that time.

(2) The same rule shall apply where such spouse has enjoyed such property with authority but without the express condition of accounting for the fruits.

Where
spouse
enjoys
property
in spite of
opposition.

1337. Where a spouse has enjoyed the property of the other spouse in spite of opposition, he shall be answerable for all fruit existing and consumed.

Sub-Title V

OF COMMUNITY OF RESIDUE UNDER SEPARATE ADMINISTRATION

Community
of residue
under
separate
administration.

1338. (1) Where the future spouses in a marriage contract stipulate that the property acquired by them during marriage shall be governed by the system of community of residue under separate administration the following provisions of this Sub-Title shall apply.

(2) The assets which shall be governed by the system of community of residue under separate administration shall be all the assets falling under paragraphs (a) to (f) of section 1320.

How
acquisitions
are
registered.

1339. (1) Under the system of community of residue under separate administration the acquisitions made by each of the spouses during the marriage shall be held and administered by the spouse by whom such acquisitions are made, and subject to any limitations contained in this Sub-Title shall, in relation to third parties, be dealt with by such spouse as if such spouse were the exclusive owner thereof.

(2) Where under the system of community of residue under separate administration property is acquired by the spouses jointly, it shall be administered jointly. The share of each spouse in such property may only be alienated *inter vivos*, with the consent of the other spouse, or where such

consent is unreasonably withheld, with the authority of the court of voluntary jurisdiction, or in a judicial sale by auction at the instance of any creditor of such spouse.

Termination
of community
of residue
under
separate
administration.

1340. (1) The community of residue under separate administration shall, unless terminated earlier by mutual consent by public deed with the authority of the court, terminate upon the dissolution of the marriage; under the same circumstances, *mutatis mutandis*, as apply for community of acquests under paragraphs (b) and (c) of subsection (1) of section 1332; and upon the legal separation of the spouses.

(2) Subsections (2), (4), (8) and (9) of section 1332 shall apply *mutatis mutandis* where the dissolution of community of residue under separate administration is declared by judgement of the court.

Calculation
of residue.

1341. (1) At the termination of the community of residue under separate administration, howsoever happening, the residue to be accounted for by each spouse shall include any expense made by that spouse solely in his or her interest out of assets governed by the community and held by that spouse, and shall be subject to the deduction of any amount paid out with paraphernal property of that spouse for debts of that spouse relating to assets held by that spouse and governed by the system of community of residue with separate administration, as well as liabilities still outstanding by that spouse incurred in respect of such assets.

(2) From the residue as determined in subsection (1) there shall be deducted any paraphernal debts of the spouse which are in excess of that spouse's paraphernal assets.

(3) The result as determined in subsection (2) shall if it is not a debit constitute the final residue of that spouse. If the result is in debit there shall be considered to be no final residue for that spouse.

(4) Where the final residue of one spouse is greater than the final residue of the other spouse or where only one spouse has a final residue, there shall be assigned to the spouse with the lesser final residue or with no final residue, as the case may be, as much of the final residue of the spouse with the greater final residue or with the only final residue as is necessary so that each spouse may have an equal share of assets forming the final residue of both spouses.

Where
debt
is not
paraphernal.

1342. (1) For the purpose of subsection (2) of section 1341 any debt which is not one mentioned hereunder is a paraphernal debt:—

(a) the burthens and obligations which encumber the assets under the act of their acquisition;

(b) the expenses and obligations incurred in the administration of the acquests;

(c) the expenses and obligations even if incurred separately for the needs of the family including those for the education and upbringing of the children;

(d) debts relating to the ordinary repairs of paraphernal property of the spouse the fruits of which are included in the assets governed by the community of residue under separate administration;

(e) any debt or indemnity due as a civil remedy by a spouse where such indemnity is not due as a civil remedy in respect of any offence wilfully committed.

Rights
of third
parties.

1343. (1) Third parties may only exercise their rights against the spouse who has contracted with, or incurred the debt towards, them.

(2) At the termination of the community of the residue under separate administration and after the assignment of any final residue, the creditors of one spouse may however in relation to any debt due to them arising before the termination of the community of residue under separate administration, claim *in subsidium* against the other spouse up to the amount if any of the assets of the final residue of the debtor spouse assigned to the other.

Gratuitous
alienations.

1345. (1) Where the system of community of residue under separate administration operates between the spouses, a spouse may not transfer *inter vivos* any of his assets under gratuitous title except with the consent of the other spouse.

(2) Subsection (1) of this section shall not apply to donations of moderate value regard being had to the condition of the parties and all other circumstances.

(3) An action for annulment of act of alienation under gratuitous title may only be instituted by the spouse whose consent was required and within the peremptory term of three years from:

(a) the date when such spouse became aware of the act, or

(b) the date of registration, when such act is registerable, or

(c) the date of termination of the community of residue under separate administration,

whichever is the earliest.

Acts
performed
with intention
to defraud.

1345A. (1) Where a spouse performs an act with the intention to defraud the other spouse of the potential rights competent on the termination of the community of residue under separate administration such other spouse may exercise the action contemplated in section 1144 of this Code as if he or she were a creditor.

Such right shall be personal to the latter spouse or his or her heirs and is not exercisable by the creditors of the spouse.

(2) An action under this section shall be prescribed by the lapse of five years from:

(a) the date when such spouse became aware of the act, or

(b) the date of registration, where such act is registerable, or

(c) the date of termination of the community of residue under separate administration,

whichever is the earliest.”.

Repeal of
section 1933
of the Code.

83. Section 1933 of the Code shall be deleted.

Amendment of
section 2019
of the Code.

84. In subsection (3) of section 2019 of the Code, for the word “mother” and the word “step-father” wherever they occur, there shall be substituted respectively the words “parent” and “step-parent” respectively.

Amendment of
Part II of
Schedule to
the Code.

85. Part II of the Schedule to the Code shall be amended as follows:—

(a) at the foot of the Act of Marriage in Form E therein, before the space allotted for the signature of the husband and wife, there shall be inserted the following:

“I the undersigned (the wife) declare that I choose to:

- * adopt the surname of my husband
- * retain my maiden surname after marriage.
- * (delete where not applicable);

(b) for the Forms I and J therein, there shall be substituted the Forms I and J as shown in the Schedule to this Act;

(c) in Form K therein below the words "Date of Marriage" there shall be inserted the words "The wife chose to retain her surname on marriage (delete where not applicable)";

(d) in Form L therein below the words "Date of Marriage" there shall be inserted the words "The wife chose to retain her surname on marriage (delete where not applicable)"; and

(e) the Forms M and N therein shall be deleted; and

(f) immediately after Form P therein, there shall be added the Form Q, as shown in the Schedule to this Act.

86. Section 338 of the Criminal Code shall be amended as follows:

Amendment
of the
Criminal
Code.

(a) for paragraph (y) thereof there shall be substituted the following:

"(y) being a parent or a spouse, leaves his children or spouse in want, whether in consequence of his or her disorderly living or indolence;" and

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

"(jj) when ordered by a court to allow access to a child in his or her custody, refuses without just cause to give such access;"

87. The Code of Organisation and Civil Procedure shall be amended as follows:

Amendment of
the Code of
Organisation
and Civil
Procedure.

(a) in subsection (3) of section 381 thereof, for the words "where such creditor is the wife" there shall be substituted the words "where such creditor is the spouse", and immediately after the words "subsection (1) of this section" there shall be inserted the words "or of the salary of any person";

(b) in subsection (2) of section 382 thereof, for the words "due to the wife", there shall be substituted the words "due to the spouse";

(c) in the proviso to section 470 thereof immediately after the words "a decree ordering the payment of such allowance" there shall be added the words "or a demand for the court to determine by decree who of the spouses, if any, shall during the pendency of the proceedings continue to reside in the matrimonial home";

(d) section 470A thereof shall be deleted;

(e) for the marginal note of section 480 thereof, for the words "provisional maintenance" there shall be substituted the words "provisional maintenance etc.";

(f) section 481B thereof shall be deleted;

(g) immediately after the words "or set in his presence and" in subsection (2) of section 634 thereof, there shall be inserted the words ", where the person cannot sign his name,"; and

(h) immediately after section 875 there shall be inserted the following:

"Warrant
in cases
of personal
separation.

875A. (1) Where a spouse has brought or intends to bring before the court of contentious jurisdiction, a suit for personal separation, the spouse may request such court to issue a warrant of prohibitory injunction:

(a) against the other spouse restraining such other spouse from selling, alienating, transferring or disposing *inter vivos* whether by onerous or gratuitous title any shareholding in any commercial partnership if such shareholding is comprised in the community of acquests; or

(b) against any commercial partnership in which the other spouse has a majority shareholding which pertains to the community of acquests from selling, alienating, transferring or otherwise disposing by onerous or gratuitous title, any immovable property or rights annexed thereto owned by that commercial partnership; or

(c) against the other spouse from contracting any debt or suretyship which is a charge on the community of acquests.

(2) The demand referred to in subsection (1) of this section may be made at any time after filing the application before the court of voluntary jurisdiction for leave to proceed juridically for separation and until final judgement has been given in any such action for separation. The demand may also be made where it is the other spouse who has made the said application for leave to proceed or who has in fact so proceeded.

(3) Where the warrant is issued before the action for separation is brought before the court of contentious jurisdiction, the spouse who shall have demanded the issue of the warrant shall, within four working days from delivery of the notice of its execution, or within ten days from the issue of the warrant, bring an action before the court of contentious jurisdiction for personal separation where leave has been

given for such action in court of voluntary jurisdiction. Where at the time of the issue of the warrant no such leave has been granted, the said action shall be brought within four working days from the grant of such leave.

(4) If the action is not brought within the times stated in subsection (3) the warrant shall have no further effect.

(5) The warrant shall unless previously revoked continue to have effect up to the date of the final judgement in the action for personal separation. The court may, however, determine that the warrant shall remain effective for a further period or periods not exceeding six months each until the community of acquests is liquidated. The said warrant shall also cease to have effect if the said action or the application for the grant of leave before the court of voluntary jurisdiction is withdrawn or abandoned.

(6) A warrant issued under this section shall not apply to the constitution of any right on, or alienation or transfer of any property made pursuant to any court order.

(7) Where a warrant prohibits the sale, alienation, transfer or other disposal of immovable property the application shall contain all the particulars relating to the person or partnerships against whom it is directed that are required by law in respect of the registration of a transfer of immovable property by such person or partnership in the Public Registry. Where the warrant refers to specific immovables, the application shall describe them in the manner provided for in the Public Registry Act, in respect of notes of enrolment.

Cap. 56.

(8) Such warrant shall upon its issue and at the expense of the applicant, be served by the Registrar within twenty-four hours on the Director of the Public Registry, the Land Registrar and the Registrar of Commercial Partnerships who shall forthwith register the same in books kept for the purpose. Such books shall be indexed and accessible to the public. It shall also be served upon any person indicated by the applicant.

(9) Upon registration of the warrant by the Director of the Public Registry, any sale, alienation, transfer or disposal of immovable property to which the warrant refers and not previously registered in the Public Registry or the Land Registry, shall be void and of no effect. The transfer of any shareholding made after the registration of the warrant by the Registrar of Partnership shall likewise be void.

(10) When the warrant is duly served, any obligation referred to in paragraph (c) of subsection (1) of this section contracted after such service by the spouse against

whom the warrant is issued in favour of the person served with the warrant shall be void and of no effect, and this without prejudice to any liability for contempt of court under this Code.

(11) The spouse against whom the warrant is issued as well as any partnership referred to in the warrant and any person showing an interest may at any time by application request the court to revoke or vary the warrant under this section.”.

Amendment of
the Land
Registration
Act.
Cap. 296.

88. For paragraph (d) of subsection (1) of section 36 of the Land Registration Act, there shall be substituted the following:

“(d) who, being the spouse of a registered proprietor of land or a charge, requires to protect any right over the registered land or charge, arising in virtue of any law regulating matrimonial relationship; or”.

Transitory
provisions.

89. (1) Subject to the provisions of the next following subsections, the provisions of this Act shall not affect:

(a) any judgement which has become *res judicata* on the coming into force of this Act;

(b) any obligation lawfully contracted on behalf of the community of acquests before the coming into force of this Act and any liability incurred before the coming into force of this Act which was then at the charge of the community of acquests as well as any liability attaching on the community of acquests after the coming into force of this Act and pursuant to any agreement entered into before the coming into force of this Act.

(2) The action for disavowal of paternity shall be subject to the time limits and the grounds of disavowal contemplated in the Code as amended by this Act even where the legitimacy of a child born before the coming into force of this Act is impugned unless the action is already extinguished in accordance with the Code as in force before the coming into force of this Act.

(3) Subsection (1) of section 4 of the Code as amended by this Act shall apply to a wife who has married prior to the coming into force of this Act unless and until she delivers or causes to be delivered to the Public Registry Office, the Form Q contained in Part II of the Schedule to the Code showing that she is opting to reassume her maiden surname. Such note may not be made after the lapse of six months after the coming into force of this Act and when delivered to the Public Registry office the Director shall register the same in a book kept for the purpose, for which he shall keep an index under the wife's maiden surname and that of her husband.

(4) Where before the coming into force of this Act a legal separation between the spouses has been pronounced by the court or has been agreed to by contract between the spouses and no provision has been made for the dissolution of the community of acquests existing between the spouses, the provisions of the Code as in force before the coming into force of this Act with regards to the community of acquests shall continue to apply:

Provided that the spouses may by public deed entered into with the authority of the competent court of voluntary jurisdiction agree to terminate the community in accordance with the Code as amended by this Act, and failing such agreement either of the spouses may by writ of summons filed against the other spouse pray the court to terminate such community in accordance with the Code as amended as aforesaid.

(5) The patrimonial effects of a marriage celebrated before the coming into force of this Act shall be governed by any marriage contract existing between the spouses, but any general reference in such marriage contract to the system of the community of acquests shall be deemed to be a reference to the community of acquests in accordance with the provisions of this Code as amended by this Act.

(6) In the absence of any marriage contract, the patrimonial effects of a marriage celebrated before the coming into force of this Act shall be governed by the provisions of this Code as amended by this Act.

(7) Where the wife was not, prior to the coming into force of this Act, party to a contract giving rise to a liability as is mentioned in paragraph (b) of subsection (1) of this section, she will not be bound to contribute to such liabilities beyond her share in the community of acquests.

(8) Where the community of acquests as existing by virtue of a marriage contract before the coming into force of this Act continues to operate between the spouses after the coming into force of this Act, the husband may not sell, alienate, transfer or otherwise dispose *inter vivos* of any immovable property comprised in the community of acquests without the consent of his wife. Any sale, alienation, transfer or disposal by the husband without the consent of the wife shall be annulable by the wife within the period established in, and in accordance with, section 1326 of the Code as amended by this Act. He shall moreover keep her informed of the affairs of the community and consult her on the manner of administration of the community and substantial failure to inform or consult shall be deemed to be mismanagement of the acquests for the purpose of section 1328 of the Code as in force before the coming into force of this Act.

(9) Any marriage contract existing before the coming into force of this Act may be altered by a subsequent marriage contract whereby they elect to have their property regulated by the system of community of acquests, the community of residue under separate administration, or by the system of separate property, in accordance with the Code as amended by this Act.

(10) Any dowry or promise of dower constituted before the coming into force of this Act in respect of a marriage celebrated before the coming into force of this Act shall continue to be operative after the coming into force of this Act and shall continue to be regulated by the provisions of the Code as in force before the coming into force of this Act; where however a dowry was constituted to include present and future property such dowry shall be limited only to that property as shall have come to form part of it before the coming into force of this Act.

(11) Where a dowry has been constituted, once only or successively, by a legacy in a testamentary disposition or other instrument operating *causa mortis* which came into effect before the coming into force of this Act, but the marriage to which it refers has not been celebrated before the coming into force of this Act such legacy or other disposition shall continue to operate as if it were a legacy to the wife in contemplation of her taking married life.

(12) Any order given before the coming into force of this Act, by any court under section 470A of the Code of Organisation and Civil Procedure as in force before the coming into force of this Act, shall continue to be regulated by that Code as in force before the coming into force of this Act.

SCHEDULE

(Section 85)

"FORM I (Section 251)

I, the undersigned, do hereby certify that the following is a true EXTRACT from entry No of the Year in the Civil Status records relative to Acts of Birth and the Adopted Persons' Register kept in the Public Registry Office, Valletta, Malta/Victoria, Gozo, in accordance with the provisions of the Civil Code (Cap. 16).

Place of birth	Date of birth	Name of the child	Sex	Name and Surname and place of birth of the father	Name and Surname and place of birth of the mother

PUBLIC REGISTRY OFFICE – MALTA/GOZO

DIRECTOR

**"FORM J
(Section 251)**

I, the undersigned, do hereby certify that the following is a true Extract from entry No of the year in the Civil Status Records relative to Acts of Birth and the Adopted Persons' Register kept in the Public Registry Office, Valletta, Malta/Victoria, Gozo, in accordance with the provisions of the Civil Code (Cap. 16).

Place of birth:

Date of birth:

Name and Surname:

Sex:

PUBLIC REGISTRY OFFICE – MALTA/GOZO

DIRECTOR

FORM Q

A 1110

(Civil Code (Amendment) (No. 2) Act, 1993)

DECLARATION ON USE OF NAME

Particulars respecting The husband The wife	Name and Surname	Age	Place of Birth	Name and surname of parents of spouse and whether living or dead
		years		
Place of marriage		Date of marriage day month year		
No. of Act of Marriage		<u>Note:</u> Where the marriage is not registered in the Public Registry evidence to the satisfaction of the Director must be produced.		
I, the undersigned, declare that I opt to use my maiden surname.				

Signature of wife

Filed on
by

Passed by the House of Representatives at Sitting No. 172 of the 27th July, 1993.

LAWRENCE GONZI
Speaker

RICHARD J. CAUCHI
Clerk to the House of Representatives.

