

MALTA

ATT Nru XXXII tal-2021

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

ATT sabiex ikompli jemenda l-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, Kap. 12, bħala parti mir-riforma tal-ġustizzja fl-isfera tal-proċedura ċivili.

ACT No. XXXII of 2021

AN ACT enacted by the Parliament of Malta.

AN ACT to further amend the Code of Organization and Civil Procedure, Cap. 12, as part of the justice reform in the sphere of civil procedure.

Nagħti l-kunsens tiegħi.

(L.S.)

GEORGE VELLA
President

18 ta' Ġunju, 2021

ATT Nru XXXII tal-2021

ATT sabiex ikompli jemenda l-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, Kap. 12, bħala parti mir-riforma tal-ġustizzja fl-isfera tal-proċedura ċivili.

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

1. (1) It-titolu fil-qosor ta' dan l-Att hu l-Att tal-2021 dwar ir-Riforma tal-Ġustizzja tal-Proċedura Ċivili u dan l-Att għandu jinqara u jinftiehem haġa waħda mal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili hawn iżjed 'il quddiem imsejjaħ "il-Kodiċi".

Titolu fil-qosor
u bidu fis-seħh.

Kap. 12.

(2) Dan l-Att għandu jidhol fis-seħh f'dik id-data li l-Ministru responsabbli għall-ġustizzja jista' b'ordni jistabbilixxi fil-Gazzetta u jistgħu jiġu stabbiliti dati differenti għal dispożizzjonijiet u għanijiet differenti ta' dan l-Att.

2. L-artikolu 144 tal-Kodiċi għandu jiġi emendat b'dan li ġej:

Emenda tal-
artikolu 144 tal-
Kodiċi.

(a) fis-subartikoli (1) u (2) tiegħu, il-kliem "għoxrin jum" għandhom jiġu sostitwiti bil-kliem "tletin (30) jum"; u

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

"Indirizz meta hemm hafna partijiet. (3) Meta żewġ (2) partijiet jew iżjed jipprezentaw rikors tal-appell jew risposta flimkien, dawn għandhom, mal-prezentata tal-iskritturi, jiddikjaraw indirizz wiehed fejn għandha titwettaq in-notifika tal-avviż tal-garanzija tal-ispejjeż tal-appell u n-notifika tal-avviż li l-kawża tħalliet għas-sentenza."

Sostituzzjoni tal-artikolu 145 tal-Kodiċi.

3. L-artikolu 145 tal-Kodiċi għandu jiġi sostitwit b'dan l-artikolu ġdid li ġej:

"X'dokumenti għandhom jingiebu. 145. Ma jistgħu jingiebu l-ebda dokumenti godda flimkien mar-rikors, mar-risposta jew mar-replika, hlief bl-awtorizzazzjoni tal-qorti."

Emenda tal-artikolu 147 tal-Kodiċi.

4. L-artikolu 147 tal-Kodiċi għandu jiġi emendat b'dan li ġej:

(a) fis-subartikolu (1) tiegħu, il-kliem "jinbeda s-smiġħ tal-kawża" għandhom jiġu sostitwiti bil-kliem "tingħalaq il-proċedura bil-miktub skont l-artikolu 146,";

(b) is-subartikolu (2) tiegħu għandu jiġi enumerat mill-ġdid bħala s-subartikolu (3) tiegħu u minnufih wara s-subartikolu (1) tiegħu għandu jiġi miżjud dan is-subartikolu (2) ġdid li ġej:

"(2) Il-qorti tista' wkoll permezz ta' digriet titlob lill-partijiet sabiex iwieġbu xi mistoqsijiet li hija jista' jkollha jew inkella illi titlob lill-partijiet sabiex jiċċaraw xi kwistjonijiet li huma meqjusa meħtieġa għall-qorti qabel tagħti s-sentenza tagħha."; u

(ċ) minnufih wara s-subartikolu (3) tiegħu, kif enumerat mill-ġdid, għandu jiġi miżjud dan is-subartikolu (4) ġdid li ġej:

"(4) Xejn fid-dispożizzjonijiet ta' dan l-artikolu m'għandu jzomm lill-qorti milli titlob li jsir smiġħ bil-fomm kif stipulat fl-artikolu 207(5)."

Emenda tal-artikolu 150 tal-Kodiċi.

5. Fis-subartikolu (1) tal-artikolu 150 tal-Kodiċi, il-kliem "Meta dokument ma jiġix miġjub kif stabbilit fl-artikolu 145, dan id-dokument jista' jingiebu biss –" għandhom jiġu sostitwiti bil-kliem "Il-Qorti tal-Appell għandha tħalli li jingiebu dokumenti godda biss –".

Emenda tal-artikolu 152 tal-Kodiċi.

6. L-artikolu 152 tal-Kodiċi għandu jiġi emendat b'dan li ġej:

(a) is-subartikolu (1) tiegħu għandu jiġi sostitwit b'dan is-subartikolu ġdid li ġej:

"(1) Wara li jkun hemm l-għeluq tal-proċedura bil-miktub ir-registratur għandu jivverifika li sar il-ħlas tal-garanzija għall-ispejjeż tal-appell prinċipali u incidentali, u għandu, sakemm ma jkunx hemm ordni tal-qorti li tgħid mod ieħor, jippubblika dawn il-kawzi fil-lista ta' kawzi mħollija għas-sentenza.";

(b) is-subartikoli (2) u (3) tiegħu għandhom jiġu enumerati mill-ġdid bħala s-subartikoli (4) u (5) tiegħu rispettivament, u minnufih wara s-subartikolu (1) tiegħu għandhom jiġu miżjuda dawn is-subartikoli ġodda li ġejjin:

"(2) Ir-registratur għandu jiżgura li l-partijiet jiġu notifikati b'avviż tal-ġurnata meta l-kawża tkun tħalliet għas-sentenza:

Iżda kull waħda mill-partijiet tista' b'nota pprezentata fir-registru teżenta lir-registratur mill-obbligu tan-notifika tal-avviż imsemmi.

(3) In-notifika ta' dan l-avviż għandha ssir skont il-proċedura msemmija fis-subartikoli (1) u (4) tal-artikolu 187 u jekk dan ma jkunx possibbli, in-notifika għandha ssir billi l-uffiċjal inkarigat bin-notifika jwaħħal l-avviż mal-aħħar indirizz mogħti mill-partijiet fl-atti tal-appell."; u

(ċ) fis-subartikolu (5) tiegħu, kif enumerat mill-ġdid, minnufih wara l-kliem "għal raġuni tajba," għandu jiġi miżjud il-kliem "tgħaddi għas-sentenza jew".

7. L-artikolu 153 tal-Kodiċi għandu jiġi sostitwit b'dan l-artikolu ġdid li ġej:

Sostituzzjoni tal-artikolu 153 tal-Kodiċi.

"Nuqqas ta' preżentata ta' skritturi.

153. (1) In-nuqqas ta' preżentata tar-risposta għall-appell jew għall-appell incidentali mhux ta' xkiel għall-parti li kellha l-jedd li tippreżenta dak l-att illi tressaq rikors lill-qorti sabiex tingħata l-jedd li tressaq sottomissjonijiet bil-miktub u li ġġib il-provi dwarhom jekk hija tagħti, fil-fehma tal-qorti, raġuni tajba għan-nuqqas ta' dik il-preżentata fiż-żmien li trid il-liġi.

(2) Dan ir-rikors ma jistax jitressaq jekk ikunu għaddew aktar minn għaxart (10) ijiem minn meta jiġi notifikat l-avviż tal-gurnata ta' meta l-kawża tkun tħalliet għas-sentenza.

(3) Fejn ser isir smiġh tal-appell in-nuqqas tal-preżentata ta' skrittura mhux ta' xkiel għall-parti li kellha l-jedd li tippreżenta dik l-iskrittura illi tidher fis-smiġh tal-kawża u li gġib il-provi tagħha jekk hija tagħti, fil-fehma tal-qorti, raġuni tajba għan-nuqqas ta' dik il-preżentata."

Sostituzzjoni tal-artikolu 207 tal-Kodiċi.

8. L-artikolu 207 tal-Kodiċi għandu jiġi sostitwit b'dan l-artikolu gdid li ġej:

"Proċedura għat-trattazzjoni fil-qorti tal-appell.

207. (1) Hlief għad-dispożizzjonijiet tas-subartikoli (5) u (7), il-proċeduri kollha quddiem qorti tal-appell għandhom isiru bil-miktub.

(2) Il-proċedura bil-miktub għandha titqies magħluqa kif provdut fid-dispożizzjonijiet tal-artikolu 146.

(3) Meta f'risposta għall-appell jitqajmu punti dwar in-nullità jew siwi tal-appell jew jissemmew fatti jew punti ta' liġi li ma tqajmux mill-appellant fir-rikors tal-appell, l-appellant jista' fi żmien tletin (30) jum minn meta jkun ġie notifikat bir-risposta, permezz ta' rikors, jitlob lill-qorti sabiex tawtorizzah jippreżenta kontro-replika li tindirizza biss dawk il-punti li tqajmu għall-ewwel darba fir-risposta għar-rikors tal-appell. Il-qorti għandha, jekk tqis li huwa raġonevoli u espedjenti fiċ-ċirkostanzi, tagħti lill-appellant permess biex jippreżenta l-kontro-replika tiegħu fi żmien li m'għandux jeċċedi t-tletin (30) jum minn meta l-avukat tal-appellant jingħata avviż bil-miktub tad-digriet.

(4) Meta tingħalaq il-proċedura bil-miktub u jsir il-ħlas tal-garanzija għall-ispejjeż tal-appell, il-qorti għandha tghaddi għas-sentenza f'data u ħin li hija tiffissa għal dan l-iskop.

(5) Minkejja d-dispożizzjonijiet tas-subartikolu (4), il-qorti tista' tappunta seduta għas-smiġh tal-kawża jekk tqis li hu meħtieġ li tisma' provi jew sottomissjonijiet bil-fomm mill-partijiet.

(6) Il-garanzija għall-ispejjeż tal-appell għandha tiġi prodotta u depożitata kif provdut fl-artikolu 249 u fin-nuqqas, il-qorti tista' tiddikjara l-appell deżert.

(7) Minkejja d-dispożizzjonijiet tas-subartikoli (1) sa (6) il-kawżi kollha quddiem il-Qorti Kostituzzjonali u l-kawżi kollha quddiem il-Qorti tal-Appell fejn ma kienx hemm smiġh bil-fomm fl-ewwel istanza għandhom jiġu appuntati għas-smiġh bil-fomm.

(8) Is-smiġh bil-fomm għandu jitmexxa hekk:

(a) meta l-appell isir mill-attur biss, jew miż-żewġ partijiet, l-ordni tas-smiġh tal-kawża għandu jkun l-istess kif jingħad fl-artikolu 204(1);

(b) meta l-appell isir mill-konvenut biss, hu għandu jibda biex ifisser fil-qosor ir-raġunijiet ta' aggravju u jitlob it-tħassir jew it-tibdil tas-sentenza appellata, u mbagħad l-ordni tas-smiġh tal-kawża għandu jissokta kif jingħad fl-artikolu 204(1)."

9. L-artikolu 209 tal-Kodiċi għandu jiġi sostitwit b'dan l-artikolu ġdid li ġej:

Sostituzzjoni tal-artikolu 209 tal-Kodiċi.

"Appell jiġi ddikjarat deżert minhabba nuqqas ta' dehra tal-partijiet.

209. Jekk, il-qorti tappunta l-appell għas-smiġh bil-fomm, u wara li l-kawża tissejjaħ għal tliet (3) darbiet, ma tidher ebda waħda (1) mill-partijiet jew mill-avukati tagħhom, inkella jidher biss l-appellat jew l-avukat tiegħu, il-qorti tista' tiddikjara l-appell deżert:

Iżda fuq talba tal-appellant, b'rikors li għandu jiġi pprezentat fi żmien tmint (8) ijiem minn dakinhar li l-appell jiġi ddikjarat deżert, il-qorti għandha tordna li l-kawża tiġi mqiegħda mill-ġdid fuq il-lista biex tiġi mismugħa u maqtugħa, kemm-il darba l-appellant, fiż-żmien hawn fuq imsemmi, jiddepożita l-ammont tal-ispejjeż li jkun saru minhabba n-nuqqas tad-dehra tiegħu."

10. Fis-subartikolu (1) tal-artikolu 226 tal-Kodiċi, il-kliem "għoxrin jum" għandhom jiġu sostitwiti bil-kliem "tletin (30) jum".

Emenda tal-artikolu 226 tal-Kodiċi.

11. Is-subartikolu (1) tal-artikolu 249 tal-Kodiċi għandu jiġi sostitwit b'dan is-subartikolu ġdid li ġej:

Emenda tal-artikolu 249 tal-Kodiċi.

"(1) Sakemm ma jiġix provdut mod ieħor f'xi liġi oħra, fil-każ ta' appell prinċipali jew inċidentali minn sentenzi jew digrieti mogħtija f'kawża mibdija minn rikors maħluf, il-garanzija għall-ispejjeż tal-appell għandha tiġi prodotta u

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depożitata fil-qorti fi żmien tliet (3) xhur minn meta l-appellant jirċievi l-avviż għall-ħlas. Jekk l-appellant ma jigix notifikat b'dan l-avviż, ir-reġistratur għandu, fi żmien għaxart (10) ijiem, jinforma bil-miktub lill-avukat ta' dik il-parti li l-avviż ma giex notifikat u l-avukat għandu jiffirma fuq kopja li rċieva din il-komunika:

Iżda ma għandha tittiehed l-ebda azzjoni kontra l-avukat talli jonqos milli javża lil dik il-parti."

Emenda tal-
artikolu 964 tal-
Kodiċi.

12. Fis-subartikolu (1) tal-artikolu 964 tal-Kodiċi, il-kliem "sitt xhur" għandhom jiġu sostitwiti bil-kliem "tliet (3) xhur".

Dispożizzjoni
tranżitorja.

13. Kawżi li huma differiti *sine die* u appelli li saru qabel id-dhul fis-seħħ ta' dan l-Att għandhom jibqgħu regolati bil-ligi kif kienet qabel id-dhul fis-seħħ ta' dan l-Att.

Mgħoddi mill-Kamra tad-Deputati fis-Seduta Nru 473 tal-14 ta' Ġunju, 2021.

ANĠLU FARRUGIA
Speaker

RAYMOND SCICLUNA
Skrivan tal-Kamra tad-Deputati

I assent.

(L.S.)

GEORGE VELLA
President

18th June, 2021

ACT No. XXXII of 2021

AN ACT to further amend the Code of Organization and Civil Procedure, Cap. 12, as part of the justice reform in the sphere of civil procedure.

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

1. (1) The short title of this Act is the Justice Reform (Civil Procedure) Act, 2021 and this Act shall be read and construed as one with the Code of Organization and Civil Procedure hereinafter referred to as "the Code".

Short title and commencement.
Cap. 12.

(2) This Act shall come into force on such date as the Minister responsible for justice may by notice in the Gazette appoint and different dates may be so appointed for different purposes or provisions of this Act.

2. Article 144 of the Code shall be amended by the following:

Amendment of article 144 of the Code.

(a) in sub-articles (1) and (2) thereof the words "twenty days" shall be substituted by the words "thirty (30) days"; and

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(b) immediately after sub-article (2) thereof there shall be added the following new sub-article:

"Address when there are multiple parties. (3) When two (2) or more parties file an application of the appeal or the reply together, they shall, on filing the written pleading, state a single address for the execution of service of the notice about the security for costs related to the appeal and for the service of the notice that the case was left for sentencing."

Substitution of article 145 of the Code.

3. Article 145 of the Code shall be substituted by the following new article:

"Production of documents. 145. No new documents may be produced together with the application, reply, or rejoinder without authorization from the court."

Amendment of article 147 of the Code.

4. Article 147 of the Code shall be amended by the following:

(a) in sub-article (1) thereof the words "opening of the hearing" shall be substituted by the words "close of written pleadings in line with article 146";

(b) sub-article (2) thereof shall be renumbered as sub-article (3) thereof and immediately after sub-article (1) thereof there shall be added the following new sub-article:

"(2) The court may also by way of a decree demand the parties to answer any questions it might have or else demand the parties to clarify any issues that are deemed necessary for the court before handing down its judgment."; and

(c) immediately after sub-article (3) thereof, as renumbered, there shall be added the following new sub-article:

"(4) Nothing in the provisions of this article shall preclude the court from requesting an oral hearing as provided in article 207(5)."

Amendment of article 150 of the Code.

5. In sub-article (1) of article 150 of the Code, the words "Where any document has not been produced as provided in article 145, its production shall only be allowed –" shall be substituted by the words "The Court of Appeal shall only allow the production of new documents -".

Amendment of article 152 of the Code.

6. Article 152 of the Code shall be amended by the following:

(a) sub-article (1) thereof shall be substituted by the following new sub-article:

"(1) Following the closure of written pleadings, the registrar shall verify the payment of the security for costs related to the principal and incidental appeal, and shall, unless there is a court order stating otherwise, publish these causes in the list of causes set down for judgment.";

(b) sub-articles (2) and (3) thereof shall be renumbered as sub-articles (4) and (5) respectively and immediately after sub-article (1) thereof there shall be added the following new sub-articles:

"(2) The registrar shall ensure that parties are served with a notice of the day when the cause was left for judgment:

Provided that any one of the parties may, by a note filed in the registry, exempt the registrar from the duty of service of such notice.

(3) Service of this notice shall be effected in line with the procedure provided in sub-articles (1) and (4) of article 187 and if such is not possible, service shall be effected by the officer charged with service, by attaching the notice at the last address provided by the parties in the acts of the appeal."; and

(c) in sub-article (5) thereof, as renumbered, immediately after the words "for just cause," there shall be added the words "to proceed to judgment or".

7. Article 153 of the Code shall be substituted by the following new article:

Substitution of article 153 of the Code.

"Default in filing of written pleadings.

153. (1) The default of the filing of a reply to an appeal or cross-appeal shall not debar the party who was entitled to file such act by bringing an application before the court for the purpose of being awarded the right to submit written submissions and to produce evidence thereof provided he gives, in the opinion of the court, a good reason for such default within the time required by law.

(2) Such application may not be brought if more than ten (10) days have elapsed from the service of the notice of the day of when the cause was scheduled for judgment.

(3) Where a hearing of an appeal is to be held, the failure to file written pleadings shall not debar the party who was entitled to file such written pleadings to appear at the hearing of the cause and bring his evidence if he gives, in the opinion of the court, good reason for failure to file such."

Substitution of article 207 of the Code.

8. Article 207 of the Code shall be substituted by the following new article:

"Procedure for trials in appellate court. 207. (1) Save for the provisions of sub-articles (5) and (7), all proceedings before an appellate court shall be conducted in writing.

(2) Written pleadings shall be deemed closed as provided in the provisions of article 146.

(3) When a reply for an appeal raises issues about the nullity or validity of the appeal or mentions facts or points of law which were not raised by the appellant in the appeal application, the appellant may within thirty (30) days from being notified of the reply, by way of application, request the court to authorise him to file a rejoinder to address only those points which were raised for the first time in the reply to the appeal application. The court shall, if it considers it reasonable and expedient in the circumstances, grant leave to the appellant to file his rejoinder within a period, which shall not exceed thirty (30) days from when the appellant's lawyer is given written notice of the decree.

(4) Upon the closing of written pleadings and payment of security for costs related to the appeal, the court shall proceed to judgment on a date and time it sets for this scope.

(5) Notwithstanding the provisions of sub-article (4), the court may set a sitting for hearing of the cause, if it deems fit to hear evidence or oral submissions from the parties.

(6) Security for costs related to appeals shall be produced and deposited as provided in article 249, and in case of default, the court may declare the appeal as abandoned.

(7) Notwithstanding the provisions of sub-articles (1) to (6) all causes before the Constitutional Court and all causes before the Court of Appeal where no oral hearing took place at first instance, shall be appointed for an oral hearing.

(8) The oral hearing shall be conducted as follows:

(a) when the appeal is entered by the plaintiff only, or by both parties, the order of hearing of the cause shall be the same as provided in article 204(1);

(b) when the appeal is entered by the defendant only, he shall commence by briefly stating the grounds of complaint and praying that the judgment appealed from be reversed or varied, and the order of hearing of the cause shall then be as provided in article 204(1)."

9. Article 209 of the Code shall be substituted by the following new article:

Substitution of article 209 of the Code.

"Appeal to be declared abandoned in default of appearance of the parties.

209. If, the court sets an appeal for oral hearing, and after that the cause is called on three (3) times, neither one of the parties nor their advocates appear, or if only the respondent or his advocate appears, the court may declare the appeal abandoned:

Provided that on an application by the appellant, that shall be filed within eight (8) days from such day that the appeal is declared abandoned, the court shall order that the cause be again put on the list for hearing and determination, provided the appellant shall have deposited, within the said time, the amount of costs occasioned by his non-appearance."

10. In sub-article (1) of article 226 of the Code, the words "twenty days" shall be substituted by the words "thirty (30) days".

Amendment of article 226 of the Code.

11. Sub-article (1) of article 249 of the Code shall be substituted by the following new sub-article:

Amendment of article 249 of the Code.

"(1) Unless otherwise provided in any other law, in the case of a principal or incidental appeal from judgments or decrees given in a cause initiated by sworn application, security for costs of the appeal shall be produced and deposited in court within three (3) months from when the appellant receives the

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notice for payment. If the appellant is not served with the said notice, the registrar shall, within ten (10) days, inform in writing the advocate of such party that the notice has not been served, and the advocate shall sign a copy of the receipt of such communication:

Provided that no action shall lie against the advocate for failure to inform any such party."

Amendment of
article 964 of
the Code.

12. In sub-article (1) of article 964 of the Code, the words "six months" shall be substituted by the words "three (3) months".

Transitory
provision.

13. Cases adjourned *sine die* and appeals filed before the coming into force of this Act shall continue to be regulated by the law which was in force before the coming into force of this Act.

Passed by the House of Representatives at Sitting No. 473 of the 14th June, 2021.

ANĠLU FARRUGIA
Speaker

RAYMOND SCICLUNA
Clerk of the House of Representatives

VERŻJONI ELETTRONIKA