

MALTA

ATT Nru. XI ta' l-1984

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

ATT biex ikompli jemenda l-Kodiċi ta' Organizzazzjoni u Proċedura Civili, Kap. 15.

ACT No. XI of 1984

AN ACT enacted by the Parliament of Malta.

AN ACT further to amend the Code of Organization and Civil Procedure, Cap. 15.

Naghti l-kunsens tiegħi.

(L.S.)

AGATHA BARBARA
President

23 ta' Mejju, 1984

ATT Nru. XI ta' l-1984

ATT biex ikompli jemenda l-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, Kap. 15.

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:—

Titolu fl-qosor.

1. Dan l-Att jista' jissejjah l-Att ta' l-1984 li jemenda l-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili (Emenda Nru. 2) u għandu jinqara u jftiehem haġa waħda mal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, hawnhekk iżjed 'il quddiem imsejjah "il-liġi prinċipali".

Emenda ta' l-artikolu 306 tal-liġi prinċipali.

2. L-artikolu 306 tal-liġi prinċipali għandu jiġi emendat kif ġej:
- (a) minnufih wara s-subartikolu (1) tiegħu għandu jidhol is-subartikolu ġdid li ġej:

“(1A) Beni mobbli msemija fil-proviso għas-subartikolu (1) ta' l-artikolu 308 jistgħu jinbiegħu f'irkant minkejja li mandat ta' qbid ma jkunx ġie eżegwit fuqhom.”;
 - (b) minnufih wara s-subartikolu (2) tiegħu għandu jidhol il-proviso li ġej:

“Iżda d-dispożizzjonijiet ta' dan is-subartikolu ma japplikawx għal beni mobbli msemija fil-proviso għas-subartikolu (1) ta' l-artikolu 308.”; u
 - (ċ) minnufih wara s-subartikolu (2) tiegħu kif emendat għandu jidhol is-subartikolu ġdid li ġej:

“(2A) Id-dispożizzjonijiet tas-subartikolu (1A) u tal-proviso għas-subartikolu (2) ta' dan l-artikolu, tal-proviso għas-subartikolu (1) u tas-subartikoli (1A) u (1B) ta' l-artikolu 308, tal-proviso għall-artikolu 319, tas-subartikoli (2) u (3) ta' l-artikolu 321, tal-proviso għall-artikolu 325, tas-subartikolu (4) ta' l-artikolu 327, tas-subartikolu (3) ta' l-artikolu 328, tat-tieni proviso għall-artikolu 356 u tat-tieni proviso għall-artikolu 357

dwar il-bejgh f'irkant tal-beni msemmija fil-proviso għas-subartikolu (1) ta' l-artikolu 308 għandhom japplikaw għall-bejgh f'irkant ta' kull beni bhal dawk, mobbli jew immobbli, biss fil-każ li l-Ministru responsabbli għax-xogħol ikun fid-diskrezzjoni assoluta tiegħu b'ordni iddikjara dak il-bejgh mehtieg jew spedjenti għall-ghan soċjali li jipprovdi mpiegi għall-haddiema jew sabiex jinżammu dawk l-impiegi u għall-finijiet ta' dan is-subartikolu l-Ministru qiegħed jingħata s-setgħa li jagħmel dawk l-ordnijiet; dak l-ordni għandu jsir qabel ir-rikors jew it-talba għal dak il-bejgh.”.

3. L-artikolu 308 tal-liġi prinċipali għandu jiġi emendat biż-żieda tas-subartikoli ġodda li ġejjin minnufih wara s-subartikolu (1) tiegħu:

Emenda ta' l-artikolu 308 tal-liġi prinċipali.

“(1A) Meta beni li tagħhom jintalab il-bejgh ikunu jikkonsistu minn jew jinkludu beni immobbli msemmija fil-proviso għas-subartikolu (1) ta' dan l-artikolu, u t-talba tkun għall-bejgh ta' dawk il-beni bhala lukanda, kursal jew fabbrika jew bhala azjenda attiva, dik it-talba għandha, sew jekk ikun hekk imfisser espressament sew jekk le, tfisser talba għall-bejgh tal-beni immobbli u mobbli kollha msemmija f'dak il-proviso, iżda ta' dawk il-beni biss, u f'kull każ bhala dan il-Qorti għandha, mingħajr ebda htieġa oħra tkun xi tkun, tordna l-bejgh tal-beni kollha, mobbli u immobbli, kif imsemmija qabel, bhala beni wiehed u indivisibbli, u dak il-bejgh ikun imsexxi biss skond id-dispożizzjonijiet ta' dan il-Kodiċi dwar il-bejgh fl-irkant ta' beni immobbli daqslikieku dawk il-beni kienu jikkonsistu esklużivament minn beni immobbli wiehed u indivisibbli, u meta l-beni immobbli li jintalab il-bejgh tagħhom ikunu jikkonsistu f'art, bini u amenitajiet oħra li jkunu kontigwi, il-Qorti ma tistax tillimita l-bejgh għal xi parti jew partijiet tagħhom.

(1B) Meta l-bejgh f'irkant huwa biss għal beni mobbli msemmija fil-proviso għas-subartikolu (1) ta' dan l-artikolu, għandhom japplikaw il-proċeduri għal bejgh ta' beni immobbli msemmija f'dak il-proviso.”.

4. Minnufih wara l-artikolu 319 tal-liġi prinċipali għandu jidhol il-proviso ġdid li ġej:

Emenda ta' l-artikolu 319 tal-liġi prinċipali.

“Izda l-beni mobbli msemmija fil-proviso għas-subartikolu (1) ta' l-artikolu 308 għandhom jinbiegħu bhala beni wiehed u indivisibbli.”.

5. L-artikolu 321 tal-liġi prinċipali għandu jiġi emendat kif ġej:

Emenda ta' l-artikolu 321 tal-liġi prinċipali.

(a) l-artikolu għandu jiġi numerat mill-ġdid bhala subartikolu (1); u

(b) minnufih wara għandhom jiżdedu s-subartikoli ġodda li ġejjin:

“(2) F'każ ta' bejgh f'irkant ta' xi beni msemmija fil-proviso għas-subartikolu (1) ta' l-artikolu 308 “tajba biex toffri” tfisser li min jagħmel l-offerta jipproduci lir-Registatur garanzija biżżejjed biex jiżgura l-hlas tal-prezz tal-bejgh.

(3) Meta taht xi liġi persuna tkun tehtieg permess jew liċenza biex takkwista xi wħud mill-beni li jkunu se jinbiegħu f'irkant, dik il-persuna ma titqiesx li hi tajba biex toffri għall-finijiet ta' dan l-artikolu kemm-il darba ma jkollhiex fil-pussess tagħha dak il-permess jew dik il-liċenza fil-hin ta' l-offerta.”.

Dispożizzjoni
transitorja.

6. (1) L-emendi b'dan l-Att li jżidu s-subartikoli (1A) u (2A) u l-proviso għas-subartikolu (2) ta' l-artikolu 306, li jemendaw l-artikoli 308, 319 u 321 tal-liġi prinċipali għandhom jitqiesu li bdew isehħu fit-12 ta' Marzu, 1984, u għandhom japplikaw għal kull talba magħmula wara dik id-data għall-bejgħ f'irkant ta' kull beni msemmija fil-proviso għas-subartikolu (1) ta' l-artikolu 308 tal-liġi prinċipali, ukoll jekk dik it-talba jew xi haġa li għandha x'taqsam magħha, tkun is-suġġett ta' proċeduri ġudizzjarji pendenti quddiem xi Qorti u minkejja kull deċiżjoni fuqha, li ma tkunx saret 'res judicata'.

(2) Minkejja d-dispożizzjonijiet tas-subartikolu (2A) ta' l-artikolu 306 tal-liġi prinċipali, dwar proċeduri għall-bejgħ f'irkant pendenti fil-jum li jahbat minnufih qabel il-bidu fis-sehħ ta' dan l-Att, l-ordni tal-Ministru msemmi fis-subartikolu fuq imsemmi għandu jsir mhux iktar tard minn tliet ijiem qabel dak il-bejgħ.

Mghoddi mill-Kamra tad-Deputati fis-Seduta Nru. 174 tat-22 ta' Mejju, 1984.

DANIEL MICALLEF
Speaker

C. MIFSUD
Skrivan tal-Kamra tad-Deputati

I assent.

(L.S.)

AGATHA BARBARA
President

23rd May, 1984

ACT No. XI of 1984*AN ACT further to amend the Code of Organization and Civil Procedure, Cap. 15.*

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

1. This Act may be cited as the Code of Organization and Civil Procedure (Amendment) (No. 2) Act, 1984, and shall be read and construed as one with the Code of Organization and Civil Procedure, hereinafter referred to as "the principal law".

Short title.

2. Section 306 of the principal law shall be amended as follows:

Amendment of section 306 of the principal law.

(a) immediately after subsection (1) thereof there shall be inserted the following new subsection:

"(1A) Movable property referred to in the proviso to subsection (1) of section 308 may be sold by auction notwithstanding that a warrant of seizure has not been executed thereon.";

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

"Provided that the provisions of this subsection shall not apply to movable property referred to in the proviso to subsection (1) of section 308."; and

(c) immediately after subsection (2) thereof as amended there shall be inserted the following new subsection:

"(2A) The provisions of subsection (1A) and of the proviso to subsection (2) of this section, of the proviso to subsection (1) and of subsections (1A) and (1B) of section 308,

the proviso to section 319, subsections (2) and (3) of section 321, the proviso to section 325, subsection (4) of section 327, subsection (3) of section 328, the second proviso to section 356 and the second proviso to section 357, relating to the sale by auction of the property referred to in the proviso to subsection (1) of section 308 shall apply to the sale by auction of any such property, movable or immovable, only in the case where the Minister responsible for labour shall in his absolute discretion by order declare such sale to be necessary or expedient for the social purpose of providing employment for workers or for maintaining such employment and for the purposes of this subsection the Minister is empowered to make such orders; such order shall be made prior to the application or demand for such sale.”.

Amendment of section 308 of the principal law.

3. Section 308 of the principal law shall be amended by the insertion immediately after subsection (1) thereof, of the following new subsections:

“(1A) Where the property of which the sale is demanded consists of or includes immovable property referred to in the proviso to subsection (1) of this section, and the demand is for the sale of such property as a hotel, a kursaal or a factory or as a going concern, such demand shall, whether or not it is so expressly stated, mean a demand for the sale of all immovable and movable property referred to in that proviso, but only of such property, and in any such case the Court shall, without any further requirement whatsoever, order the sale of all the property, movable and immovable aforesaid, as one and indivisible property, and such sale shall be governed exclusively by the provisions of this Code relating to the sale by auction of immovable property as if such property consisted exclusively of one and indivisible immovable property, and where the immovable property of which the sale is demanded consists of land, buildings and other amenities which are adjacent, the Court may not limit the sale to any part or parts thereof.

(1B) Where the sale by auction is only of movable property referred to in the proviso to subsection (1) of this section, the proceedings for the sale of immovable property referred to in the same proviso shall apply.”.

Amendment of section 319 of the principal law.

4. Immediately after section 319 of the principal law there shall be inserted the following new proviso:

“Provided that the movable property referred to in the proviso to subsection (1) of section 308 shall be sold as one and indivisible whole.”.

Amendment of section 321 of the principal law.

5. Section 321 of the principal law shall be amended as follows:

- (a) the section shall be renumbered as subsection (1); and
- (b) immediately thereafter there shall be added the following new subsections:

“(2) In the case of a sale by auction of any property referred to in the proviso to subsection (1) of section 308, “suitable” means that the bidder produces to the Registrar sufficient guarantee to secure the payment of the price of the sale.

(3) Where under any law a person requires a permit or licence for the acquisition of any of the property to be sold by auction, such person shall not be deemed to be suitable for the purposes of this section unless he is in possession of such permit or licence at the time of the bid.”.

6. (1) The amendments by this Act adding subsections (1A) and (2A) and the proviso to subsection (2) of section 306, and amending sections 308, 319 and 321, of the principal law shall be deemed to have come into force on 12th March, 1984, and shall apply to any demand made after that date for the sale by auction of any property referred to in the proviso to subsection (1) of section 308 of the principal law, even where such a demand or any matter related to it, is the object of judicial proceedings pending before any Court of law and notwithstanding any judgement thereon which has not become ‘res judicata’.

Transitory provision.

(2) Notwithstanding the provisions of subsection (2A) of section 306 of the principal law, in respect of proceedings for the sale by auction already pending on the day immediately preceding the coming into force of this Act, the ministerial order referred to in the said subsection shall be made not later than three days prior to such sale.

Passed by the House of Representatives at Sitting No. 174 of the 22nd May, 1984.

DANIEL MICALLEF
Speaker

C. MIFSUD
Clerk to the House of Representatives