

MALTA

ATT Nru. XIII ta' l-1984

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

ATT biex jagħmel dispożizzjonijiet godda għal-likwidazzjoni u għall-qsim ta' wirt u biex jipprovdi għal hwejjeġ li għandhom x'jaqsmu miegħu u inċidentali għalih.

ACT No. XIII of 1984

AN ACT enacted by the Parliament of Malta.

AN ACT to make new provisions for the liquidation and partition of inheritances and to provide for matters connected therewith and incidental thereto.

Naghti l-kunsens tiegħi.

(L.S.)

AGATHA BARBARA
President

22 ta' Ġunju, 1984

ATT Nru. XIII ta' l-1984

ATT biex jagħmel dispożizzjonijiet godda għal-likwidazzjoni u għall-qsim ta' wirt u biex jipprovi għal hwejje li għandhom x'jaqsmu miegħu u incidentali għalih.

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

Titolu fil-qosor
u biċċi fis-schh.

1. (1) Dan l-Att jista' jissejjah l-Att ta' l-1984 li jirregola l-Qsim ta' Wirt.

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

Tifsir.

2. F'dan l-Att, kemm-il darba r-rabta tal-kliem ma teħtieġx xort'oħra —

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“beni” tfisser kull haġa jew jedd kif imsemmija fit-*Titlu I* tat-*Taqsim I* tat-*Tieni Ktieb tal-Kodiċi Ċivili*;

“Ministru” tfisser il-Ministru responsabbli għall-*gustizzja*;

“preskritt” tfisser *preskritt b'regolamenti magħmula taħt dan l-Att*;

“Reġistratur” tfisser ir-*Reġistratur tal-Qrati Superjuri*;

“Tribunal” tfisser it-*Tribunal ta' Arbitraġġ* dwar il-Qsim ta' Wirt stabbilit bl-*artikolu 4 ta' dan l-Att*.

“uffiċjal pubbliku” u “servizz pubbliku” għandhom l-istess tifsir kif mogħti lilhom bl-*artikolu 126 tal-Kostituzzjoni ta' Malta*;

3. (1) Meta żewġ persuni jew iktar ikollhom xi beni komuni li jiġu għandhom minn wirt, dawk il-beni jistgħu jkunu sugġetti li jinqasmu skond id-dispożizzjonijiet ta' dan l-Att fuq talba magħmula kif provdut fis-subartikolu (2) ta' dan l-artikolu:

Qasma ta' beni komuni.

Izda ma għandha ssir ebda talba bħal dik hlief wara li jkunu għaddew tliet snin mill-ftuh tas-suċċessjoni.

(2) Dik it-talba tista' ssir b'rikors lit-Tribunal minn wiehed jew aktar mill-komproprietarji li fiż-żmien tal-ftuh tas-suċċessjoni jew ikollhom bejniethom mhux inqas minn hamsin fil-mija ta' l-ishma tal-beni hekk komuni jew flimkien jikkostitwixxu mhux inqas minn hamsin fil-mija tan-numru tal-komproprietarji kollha.

(3) Id-dispożizzjonijiet tas-subartikoli ta' qabel ta' dan l-artikolu jkunu bla hsara għad-dispożizzjonijiet ta' l-artikolu 947 tal-Kodiċi Ċivili.

(4) Izda meta l-azzjoni tingieb quddiem it-Tribunal jew tint-bagħat lilu skond id-dispożizzjonijiet ta' dan l-Att it-Tribunal ikollu sakemm dik l-azzjoni hija pendenti quddiemu, l-gurisdizzjoni esklużiva dwar l-oġġett ta' dik l-azzjoni u ebda azzjoni oħra dwar l-istess talba ma għandha tingieb quddiem xi Qorti ta' l-ewwel grad.

4. (1) Qed jiġi b'dan stabbilit Tribunal li jkun magħruf bħala t-Tribunal ta' Arbitraġġ dwar il-Qsim ta' Wirt.

Tribunal ta' Arbitraġġ.

(2) It-Tribunal għandu jisma' u jiddeċiedi kull talba li tingieb quddiemu skond dan l-Att u kull regolamenti magħmula bis-saħħa tiegħu.

5. (1) It-Tribunal ikun magħmul minn arbitru wiehed jew minn tliet arbitri li jkunu maħtura u li għandhom iservu skond id-dispożizzjonijiet ta' dan l-Att. Hlief meta l-komproprietarji kollha jaqblu li t-Tribunal għandu jkun magħmul minn tliet arbitri, it-Tribunal ikun magħmul minn arbitru wiehed.

Kostituzzjoni tat-Tribunal.

(2) Arbitru jkun wiehed minn lista ta' persuni maħtura mill-President tar-Repubblika li jaġixxi skond il-parir tal-Prim Ministru minn fost persuni li fil-fehma tal-Prim Ministru jkunu idoneji li jaqdu d-dmirijiet u l-funzjonijiet ta' arbitri għall-finijiet ta' dan l-Att.

(3) Persuna tkun skwalifikata milli tinhatar jew li sservi bħala arbitru sakemm tkun membru tal-Kamra tad-Deputati.

(4) L-arbitri joqogħdu fuq it-Tribunal jew skond min imissu jew skond dak it-tqassim ta' dmirijiet u skond dawk id-dispożizzjonijiet dwar min ma jistax iservi u ċirkostanzi oħra, kif il-Ministru jista' jistabbilixxi jew kif jista' jiġi preskritt.

(5) Qabel ma jibda jisma' xi rikors migjub quddiem it-Tribunal, l-arbitru, jekk ma jkollux kariga ġudizzjarja, għandu jieħu għurament li jeżamina u jiddeċiedi r-rikors fedelment, b'imparzjalità u skond dan l-Att; u dak il-għurament jittiehed quddiem il-Qorti ta' l-Appell.

(6) Il-Ministru għandu jinnomina uffiċjal pubbliku biex ikun Segretarju tat-Tribunal, u jista' wkoll iqabbad uffiċjali pubbliċi oħra biex jgħinu lis-Segretarju fil-qadi ta' dmirijietu. Is-Segretarju tat-Tribunal ikollu *mutatis mutandis* dawk is-setgħat u d-dmirijiet li bil-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili huma vestiti fir-Registatur tal-Qrati Superjuri.

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(7) Ir-Registru tal-Qrati Superjuri jkun ir-Registru tat-Tribunal, u l-proċessi kollha tat-Tribunal jinżammu f'dak ir-Registru taħt il-harsien tar-Registatur.

Funzjonijiet ta' arbitri.

6. (1) Persuna mahtura fuq il-lista ta' arbitri għandha sservi għall-perijodu speċifikat fil-ħatra tagħha li jkun perijodu ta' mhux inqas minn tliet snin u jekk ma jiġi speċifikat ebda perijodu bħal dak għandha sservi għal perijodu ta' tliet snin.

(2) Arbitru jista' jitneħħa mill-kariga matul il-perijodu tal-ħatra tiegħu biss fl-istess ċirkostanzi u bl-istess mod bħal Imħallef tal-Orati Superjuri.

(3) Arbitru filwaqt li jkun qiegħed iservi f'każ partikolari għandu, minkejja li jkun intemm il-perijodu tal-ħatra tiegħu, ikompli hekk iservi fil-proċedimenti li fihom ikun qed iservi bħala arbitru sakemm jintemmu dawk il-proċedimenti u wara għall-fini ta' l-interpretazzjoni, korrezzjoni u biex iżid dak li jkun thalla barra f'xi deċiżjoni mogħtija f'dawk il-proċedimenti.

Rikors għal arbitragġ.

7. Rikors lit-Tribunal magħmul kif provdut fl-artikolu 3 ta' dan l-Att għandu jiġi pprezentat fir-Registru tat-Tribunal b'dak il-mod, bil-ħlas ta' dawk id-drittijiet u flimkien ma' dawk id-dokumenti kif jista' jiġi preskritt.

Notifika ta' rikors lill-intimati.

8. (1) Kopja tar-rikors flimkien mad-dokumenti u n-noti pprezentati miegħu għandhom jiġu notifikati lil kull wieħed mill-komproprjetarji intimati,

(2) L-intimati għandhom fi żmien għoxrin jum tax-xogħol min-notifika tar-rikors jipprezentaw risposta għalih li fiha jgħidu l-punti kollha li fuqhom ma jaqblux ma' dak li jkun jinsab fir-rikors jew fid-dokumenti pprezentati miegħu.

Proċessi tal-Qorti jintbagħtu lit-Tribunal.

9. (1) Fejn ikun hemm pendenti quddiem Qorti ta' l-ewwel grad azzjoni għall-qasma ta' beni ereditarji, il-parti jew il-partijiet li bejniet-hom jistgħu, kieku l-kawża ma kenitx pendenti, jagħmlu rikors skond l-artikolu 3 ta' dan l-Att, jistgħu b'nota jew b'noti pprezentati fir-Registru tal-Qorti li quddiemha tkun pendenti l-kawża jitolbu lill-Qorti biex tibgħat il-kawża quddiem it-Tribunal, u l-Qorti għandha ma' dan tordna li l-proċess tal-kawża jintbagħat lit-Tribunal.

(2) Il-prezentata ta' dik in-nota jew ta' dawk in-noti, skond il-każ, titqies li tkun irtir ta' l-azzjoni mill-ġurisdizzjoni ta' dik il-Qorti, u rikors lit-Tribunal għal deċiżjoni fuq it-talba li tkun tinsab fl-att li bih ikunu nbdew il-proċedimenti quddiem il-Qorti:

Iżda ma jithallsu ebda drittijiet tar-registru għax dik l-azzjoni ma tkunx tkomplet.

(3) It-Tribunal għandu jisma' u jiddeċiedi l-kwistjoni mibgħuta lilu kif intqal qabel fil-limiti tat-talba, ta' l-eċċezzjonijiet għaliha u ta' kull kontra talba li tkun saret u fuq il-provi pprezentati skond il-liġi, sew jekk ikunu saru jew ġew ipprezentati quddiem il-Qorti sew quddiem it-Tribunal.

Proċedimenti quddiem it-Tribunal.

10. (1) Ir-rikors, jew l-azzjoni mibgħuta lit-Tribunal taht l-artikolu 9, għandha titqiegħed għas-smieġh f'data kmieni.

(2) It-Tribunal għandu jzomm is-seduti tiegħu u jagħti d-deċiżjoni tiegħu, magħduda kull deċiżjoni preliminari jew parzjali fil-pubbliku, kemm-il darba l-partijiet kollha ma jiftehmux xort'ohra.

(3) It-Tribunal għandu jisma' r-rikorsi skond ir-regoli stabbiliti fil-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili safejn dawn ikunu applikabbli għall-proċedimenti quddiem it-Tribunal u li ma jkunux kontra d-dispożizzjonijiet ta' dan l-Att.

(4) It-Tribunal għandu jiddeċiedi kull kwistjoni quddiemu skond id-dispożizzjonijiet tal-Kodiċi Ċivili dwar il-qsim ta' wirt u ta' kull liġi oħra safejn tkun applikabbli għall-kwistjoni quddiem it-Tribunal, u għandu jiddeċiedi l-ispejjeż skond dan. Dawk l-ispejjeż għandhom jinkludu l-ispejjeż li jkunu saru minn kull parti quddiem il-Qorti ta' l-ewwel grad f'kull kawża li tintbagħat lit-Tribunal skond id-dispożizzjonijiet ta' dan l-Att.

(5) Kull deċiżjoni għandha tkun iffirmata mill-arbitru, u meta jkun hemm tliet arbitri, minn kull wiehed mill-arbitri:

Iżda arbitru li ma jaqbilx m'għandux għalfejn jiffirma d-deċiżjoni, imma dan il-fatt għandu jissema mill-arbitri l-oħra.

(6) Id-deċiżjoni mogħtija mit-Tribunal tkun finali u konkluziva.

(7) Minkejja d-dispożizzjonijiet tas-subartikolu (6) ta' dan l-artikolu, it-Tribunal għandu s-setgħa li f'kull żmien jaġhti, fuq it-talba ta' kull waħda mill-partijiet, interpretazzjoni tad-deċiżjoni jew ta' xi punti deċiżi fiha, u jikkoreġi kull żball f'xi deċiżjoni jew iżid dak li jkun thalla barra mid-deċiżjoni.

11. Il-partijiet jistgħu jidhru quddiem it-Tribunal sew huma nfusom jew jistgħu jkunu rappreżentati kif imiss minn persuna oħra.

Dehra
quddiem
it-Tribunal.

12. (1) Kemm-il darba l-partijiet kollha fil-proċedimenti ta' arbitraġġ ma jiftehmux xort'oħra, it-Tribunal għandu jaġhti d-deċiżjoni mhux iktar tard minn sitt xhur mill-jum li fih l-intimati jkunu ppreżentaw irrisposta tagħhom jew mill-jum li fih ikun għalaq iż-żmien għall-preżentata tar-risposta, skond liema jkun l-ewwel.

Żmien
għall-ghoti ta'
deċiżjoni.

(2) Meta d-deċiżjoni ma tkunx tista' tingħata fiż-żmien imsemmi fis-subartikolu ta' qabel dan, dak iż-żmien jista' jiġi mtawwal għal perijodi oħra, li kull wiehed minnhom ma jkunx itwal minn sitt xhur, fuq it-talba tar-rikorrenti jew mit-Tribunal f'ċirkostanzi eċċezzjonali li għandhom jingħadu espressament u jitniżżlu fil-proċess ta' l-arbitraġġ.

(3) Meta xi perijodu msemmi fis-subartikoli ta' qabel ta' dan l-artikolu ma jkunx għal xi raġuni mgedded kif hemmhekk provdut, il-proċedimenti għandhom jitqiesu li ġew differiti *sine die* u d-dispożizzjonijiet ta' l-artikoli 963 u 964 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili għandhom, *mutatis mutandis*, japplikaw għal dawk il-proċedimenti; u f'kull każ bħal dak il-perijodu msemmi fis-subartikolu (1) ta' dan l-artikolu għandu jibda jgħodd mid-data meta l-kawża terġa' tiġi appuntata.

13. (1) It-Tribunal ikollu dawk is-setgħat li bil-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili huma vestiti fil-Prim'Awla tal-Qorti Ċivili.

Setgħat generali
tat-Tribunal.

(2) Bla ħsara għad-dispożizzjoni ta' qabel ta' dan l-artikolu, it-Tribunal ikollu s-setgħa li jħarrek xhieda u li jaġhti l-gurament, li jahtar esperti biex jirrapportaw fuq ħwejjeġ ta' xorta teknika li jkun hemm fil-kwistjoni, u li jeħtieġ lil kull persuna li fil-fehma tiegħu jkollha tagħrif speċjali fuq xi haġa relevanti, jew fuq xi waħda mill-kwistjonijiet li jirreferi għalihom ir-rikors, jew tal-kwistjoni mibgħuta lit-Tribunal, li tagħti bil-miktub jew xort'oħra u li tikkonferma bil-gurament, dik il-fehma u dawk il-partikolaritajiet dwar ir-rikors, magħdud il-qsim f'ishma ta' kull beni mobbli jew immobbli, kif it-Tribunal jista' jeħtieġ, u jista' jawtorizza lil kull persuna li tagħti l-gurament għal dak l-għan.

Funzjoni
tat-Tribunal.

14. (1) It-Tribunal għandu jagħmel dak li jista' biex iwassal lill-partijiet għal ftehim fuq il-hwejjeġ li dwarhom ikun hemm kwistjoni.

(2) Meta jintlaħaq ftehim l-arbitru għandu jagħmel *procès-verbal* tiegħu u għandu jdaħħal il-ftehim fid-deċiżjoni wara li dak il-*procès-verbal* jiġi ffirmat mill-partijiet jew mir-rappreżentanti legali tagħhom jew xort'oħra jkun aċċettat u jkun hemm qbil dwaru b'att li jkun iffirmat u pprezentat b'nota fir-Registru tat-Tribunal.

Astensjoni jew
rikuża ta'
arbitri.

15. L-arbitru jista' jiġi rikuzat, jew jista' jastjeni, milli joqgħod fit-Tribunal f'kull waħda miċ-ċirkostanzi msemmija fl-artikolu 735 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili; u f'kull każ bħal dak id-dispożizzjonijiet tas-Sub-Title II tat-Title II tat-Tielet Ktieb ta' dak il-Kodiċi għandhom japplikaw safejn ikunu applikabbli u bla ħsara għad-dispożizzjonijiet l-oħra ta' dan l-Att.

Effetti ta'
deċiżjonijiet
tat-Tribunal.

16. (1) L-eżekuzzjoni tad-deċiżjonijiet tat-Tribunal għandha titwettaq bil-mod preskritt fil-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, u tiġi vestita fit-Tribunal innifsu.

(2) Meta d-deċiżjoni tkun teħtieġ att pubbliku, it-Tribunal għandu jahtar Nutar biex jippubblika l-att u kuraturi biex jirrappreżentaw dawk li jonqsu li jidhru fuq l-att, u għandu jistabbilixxi l-post, id-data u l-hin għall-pubblikazzjoni ta' l-att.

Drittijiet ta'
arbitri u ta'
esperti.

17. Id-drittijiet li għandhom jithallsu lill-arbitri u lil kull esperti nominati minnhom għandhom ikunu dawk stabbiliti għal periti legali u periti oħra taħt il-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, u d-dispożizzjonijiet ta' dak il-Kodiċi applikabbli għall-periti għandhom japplikaw għal dawk l-arbitri jew esperti:

Iżda dawk id-drittijiet ma jithallsux lill-arbitri li jkollhom kariga ġudizzjarja jew li jkunu magħżula mis-servizz pubbliku.

Setgħa
għall-egħmil ta'
regolamenti.

18. Il-Ministru jista' minn żmien għal żmien jagħmel regolamenti li jirregolaw il-proċedura tat-Tribunal u bla ħsara għall-ġeneralità ta' dak li ntqal qabel, jista' jagħmel regolamenti li —

(a) jippreskrivu x'għandu jkun fihom ir-rikors lit-Tribunal, ir-risposta għalih, u kull att ieħor ta' proċediment quddiem it-Tribunal, il-mod kif jiġi pprezentat kull att bħal dak, u d-dokumenti li għandhom jiġu pprezentati magħhom;

(b) jippreskrivu l-proċedura għan-notifika ta' kull att lill-parti l-oħra;

(c) jippreskrivu l-proċedura kif tiġi stabbilita mit-Tribunal id-data tas-smieġ tar-rikors u għall-ġhoti ta' l-avviż ta' dik id-data lill-partijiet konċernati;

(d) jippreskrivu d-drittijiet, barra minn dawk provdut għalihom fl-artikolu 17, hłasijiet u spejjeż li għandhom jithallsu dwar kull proċediment quddiem it-Tribunal, magħduda d-drittijiet tar-Registru għad-deċiżjoni jew biex ma tkomplex il-kawża;

(e) jippreskrivu d-drittijiet li għandhom jithallsu lill-persuna dwar id-dehra jew l-assistenza lil parti fil-proċedimenti quddiem it-Tribunal;

(f) jippreskrivu d-dritt li għandu jithallas lir-Registru għall-
ħruġ ta' xi kopji uffiċjali ta' deċiżjoni jew dokument fil-proċess
tat-Tribunal;

(g) jippreskrivu kull haġa oħra li tkun meħtieġa sabiex jit-
wettqu aħjar il-funzjonijiet tat-Tribunal.



Mghoddi mill-Kamra tad-Deputati fis-Seduta Nru. 180 tad-19 ta' Ġunju, 1984.

DANIEL MICALLEF
Speaker

C. MIFSUD
Skrivan tal-Kamra tad-Deputati

I assent.

(L.S.)

AGATHA BARBARA
President

22nd June, 1984

ACT No. XIII of 1984

AN ACT to make new provisions for the liquidation and partition of inheritances and to provide for matters connected therewith and incidental thereto.

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 Partition of Inheritances Act, 1984.

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

Interpretation.

2. In this Act, unless the context otherwise requires —

“Minister” means the Minister responsible for justice;

“prescribed” means prescribed by regulations under this Act;

“property” means any thing or right as is referred to in Title I of Part I of Book Second of the Civil Code;

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“public officer” and “public service” have the same meaning as is assigned to them by section 126 of the Constitution of Malta;

“Registrar” means the Registrar of the Superior Courts;

“Tribunal” means the Partition of Inheritances Tribunal established by section 4 of this Act.

Partition of common property.

3. (1) Where two or more persons hold in common any property deriving to them from an inheritance, such property may be subject to partition in accordance with the provisions of this Act on a demand made as provided in subsection (2) of this section:

Provided that no such demand shall be made except after three years have elapsed from the opening of the succession.

(2) Such demand may be made by application to the Tribunal by one or more co-owners who at the time of the opening of the succession either own between them not less than fifty per centum of the shareholding of the property so held in common or together constitute not less than fifty per centum of the number of all the co-owners.

(3) The provisions of the foregoing subsections of this section shall be without prejudice to the provisions of section 947 of the Civil Code.

(4) Where however an action is brought before or referred to the Tribunal in accordance with the provisions of this Act the Tribunal shall so long as such action is pending before it have exclusive jurisdiction with respect to the subject matter thereof and no other action in respect of the same claim shall be brought before any Court of first instance.

4. (1) There is hereby established a Tribunal to be known as the Arbitration
Tribunal. Partition of Inheritances Tribunal.

(2) The Tribunal shall take cognizance of and decide on any demand brought before it in accordance with this Act and of any regulations made thereunder.

5. (1) The Tribunal shall consist of one or three arbitrators who shall be appointed and shall serve in accordance with the provisions of this Act. Except where all the co-owners agree that it shall consist of three arbitrators, the Tribunal shall consist of one arbitrator. Constitution
of Tribunal.

(2) An arbitrator shall be one of a panel of persons appointed by the President of the Republic acting in accordance with the advice of the Prime Minister from amongst persons who in the Prime Minister's opinion are qualified to carry out the duties and functions of arbitrators for the purposes of this Act.

(3) A person shall be disqualified from being appointed or serving as arbitrator so long as he is a member of the House of Representatives.

(4) The arbitrators shall sit in the Tribunal, either in turn or in accordance with such distribution of duties and subject to such provisions as to inability to serve and other circumstances, as the Minister may establish or as may be prescribed.

(5) Before taking cognizance of any application brought before the Tribunal, the arbitrator, if he does not hold judicial office, shall take an oath to examine and decide the application faithfully, impartially and in accordance with this Act; and such oath shall be taken before the Court of Appeal.

(6) The Minister shall designate a public officer to be Secretary of the Tribunal, and may also detail other public officers to assist the Secretary in the performance of his duties. The Secretary of the Tribunal shall have *mutatis mutandis* such powers and duties as are by the Code of Organization and Civil Procedure vested in the Registrar of the Superior Courts. Cap. 15

(7) The Registry of the Superior Courts shall be the Registry of the Tribunal, and all records of proceedings of the Tribunal shall be retained in such Registry under the custody of the Registrar.

6. (1) A person appointed to the panel of arbitrators shall so serve for the period specified in his appointment being a period of not less than three years, and if no such period is specified he shall serve for a period of three years. Functions of
arbitrators.

(2) An arbitrator may be removed from office during the period of his appointment only in the same circumstances and manner as a Judge of the Superior Courts.

(3) An arbitrator actually serving as such in a particular case shall, notwithstanding the termination of his period of service, continue so to serve on the proceedings in which he is serving as arbitrator until the conclusion of those proceedings and thereafter for the purpose of the interpretation, correction and making good an omission in any award given therein.

Application for arbitration.

7. An application to the Tribunal made as provided in section 3 of this Act shall be filed in the Registry of the Tribunal in such manner, on the payment of such fees and together with such documents as may be prescribed.

Service of application on respondents.

8. (1) A copy of the application together with the documents and notes filed therewith shall be served on each of the respondent co-owners.

(2) The respondents shall within twenty working days of the service of the application file an answer thereto in which they state any points of disagreement with the contents of the application or with the documents filed therewith.

Transmission of Court records to the Tribunal.

9. (1) Where an action for the partition of hereditary property is pending before a Court of first instance, the party or parties who together could, if the case were not so pending, make an application in accordance with section 3 of this Act, may by a note or by notes filed in the Registry of the Court before which the case is pending request the Court to transmit the cause to the Tribunal, and the Court shall thereupon order that the records of the case be transmitted to the Tribunal.

(2) The filing of such note or notes, as the case may be, shall be deemed to be a withdrawal of the action from the jurisdiction of that Court and an application to the Tribunal for a decision on the demand contained in the act commencing the proceedings before the Court:

Provided that no registry fees shall be levied for such discontinuance of the action.

(3) The Tribunal shall hear and decide the matter transmitted to it as aforesaid within the limits of the demand, the pleas thereto and any counterclaim made, and on the evidence presented according to law, whether made or presented before the Court or the Tribunal.

Proceedings before the Tribunal.

10. (1) The application, or the action transmitted to the Tribunal under section 9, shall be set down for hearing at an early date.

(2) The Tribunal shall hold its sittings and deliver its award, including any preliminary or partial award, in public unless all the parties agree otherwise.

(3) The Tribunal shall hear the applications in conformity with the rules laid down in the Code of Organization and Civil Procedure in so far as may be applicable to the proceedings before the Tribunal and not incompatible with this Act.

(4) The Tribunal shall decide any matter before it in accordance with the provisions of the Civil Code relating to the partition of an inheritance and of any other law in so far as applicable to the matter before the Tribunal, and shall award costs accordingly. Such costs shall include the costs incurred by any party before the Court of first instance in any cause which is transmitted to the Tribunal in accordance with the provisions of this Act.

(5) Every award shall be signed by the arbitrator, and where the arbitrators are three by each arbitrator:

Provided that a dissenting arbitrator need not sign the award, but a mention of this fact shall be made by the other arbitrators.

(6) The award delivered by the Tribunal shall be final and conclusive.

(7) Notwithstanding the provisions of subsection (6) of this section, the Tribunal shall have power to give at any time, at the request of any of the parties, an interpretation of the award or of any points determined therein, and to make good any error or omission in any award.

11. The parties may appear before the Tribunal in person or may be duly represented by another person. Appearance before Tribunal.

12. (1) Unless all the parties to the arbitration proceedings agree otherwise, the Tribunal shall give the award not later than six months from the day the respondents have filed their answer or the day on which the time for the filing of the answer expires, whichever is the earlier. Time for delivery of award.

(2) Where the award cannot be delivered within the time mentioned in the preceding subsection, such time may be extended for further periods, each not exceeding six months, at the request of the applicants or by the Tribunal in exceptional circumstances which shall be expressly stated and entered in the records of the arbitration proceedings.

(3) Where any period referred to in the preceding subsections of this section is for any reason not extended as therein provided, the proceedings shall be deemed to have been adjourned to an unspecified date and the provisions of sections 963 and 964 of the Code of Organization and Civil Procedure shall, *mutatis mutandis*, apply to such proceedings; and in any such case the period mentioned in subsection (1) of this section shall commence on the date of the re-appointment of the cause.

13. (1) The Tribunal shall have such powers as are by the Code of Organization and Civil Procedure vested in the Civil Court, First Hall. General powers of the Tribunal.

(2) Without prejudice to the foregoing provision of this section, the Tribunal shall have the power to summon witnesses and to administer the oath, to appoint experts to report on matters of a technical nature involved in the dispute, and to require any person who appears to it to have special knowledge of any relevant matter, or of any of the matters to which the application referred to relates, or of

the matter referred to it, to furnish in writing or otherwise, and to confirm on-oath, such opinion and such particulars relating to the application, including the partition into shares of any things movable or immovable, as the Tribunal may require, and may authorise any person to administer the oath for that purpose.

Function of
the Tribunal.

14. (1) The Tribunal shall endeavour to bring about a compromise between the parties on the issues in dispute.

(2) Where a compromise is reached the Tribunal shall draw up a *proces-verbal* thereof and shall incorporate the compromise in an award after such *proces-verbal* is signed by the parties or by their legal representatives or is otherwise accepted or adhered to by a signed instrument filed with a note in the Registry of the Tribunal.

Abstention or
challenge of
arbitrators.

15. The arbitrator may be challenged, or shall abstain, from sitting in the Tribunal in any of the circumstances set out in section 735 of the Code of Organization and Civil Procedure; and in any such case the provisions of Sub-Title II of Title II of Book Third of that Code shall apply in so far as they are applicable and subject to the other provisions of this Act.

Effects of
awards of
the Tribunal.

16. (1) The enforcement of the awards of the Tribunal shall be carried out in the manner prescribed in the Code of Organization and Civil Procedure, and shall vest in the Tribunal itself.

(2) Where the award requires a public deed, the Tribunal shall appoint a Notary to publish the deed and curators to represent defaulters on the deed, and fix the place, date and time for the publication of the deed.

Arbitrators' and
experts' fees.

17. The fees payable to the arbitrators and to any experts appointed by them shall be those established for legal and other referees under the Code of Organization and Civil Procedure, and the provisions of that Code applicable to referees shall apply to such arbitrators or experts:

Provided that no such fees shall be payable to the arbitrators who hold a judicial office or are selected from the public service.

Power to make
regulations.

18. The Minister may from time to time make regulations governing the proceeding of the Tribunal and, without prejudice to the generality of the foregoing, may make regulations

(a) prescribing the contents of an application to the Tribunal, the answer thereto, and any other written proceedings before the Tribunal, the manner of filing of any such act, and the documents which shall be filed therewith;

(b) prescribing the procedure for the service of any act on the other party;

(c) prescribing the procedure for the fixing by the Tribunal of the date of hearing of the application and for the giving notice of such date to the parties concerned;

(d) prescribing the fees, other than those provided for in section 17, charges and expenses payable in connection with any proceeding before the Tribunal, including Registry fees for the award or for the discontinuance of the cause;

(e) prescribing the fees payable to a person in respect of the appearance or assistance on behalf of a party in the proceedings before the Tribunal;

(f) prescribing the fee payable to the Registry in respect of the issue of any authentic copy of award or document in the records of the Tribunal;

(g) prescribing any other matter that may be necessary for the better carrying out of the functions of the Tribunal.

Passed by the House of Representatives at Sitting No. 180 of the 19th June, 1984.

DANIEL MICALLEF
Speaker

C. MIFSUD
Clerk to the House of Representatives