

MALTA

ATT Nru. XIII ta' l-1985

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

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

ACT No. XIII of 1985

AN ACT enacted by the Parliament of Malta.

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

Nagħti l-kunsens tiegħi.

AGATHA BARBARA
President

24 ta' Lulju, 1985

ATT Nru. XIII ta' l-1985

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:—

1. Dan l-Att jista' jissejjaħ l-Att ta' l-1985 li jemenda l-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili (Emenda Nru. 2), u għandu jinqara u jiftiehem haġa waħda mal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, hawnhekk iżjed 'il quddiem imsejjaħ "il-liġi prinċipali".

Titolu fil-qosor.

2. Minflok l-artikolu 153 tal-liġi prinċipali għandu jidhrol l-artikolu ġdid li ġej:

Sostituzzjoni ta' l-artikolu 153 tal-liġi prinċipali.

"153. (1) Il-proċediment huwa b'ċitazzjoni, meta l-Qorti tohroġ jew tagħti ordni lill-parti biex tidher quddiemha fil-jum u l-hin stabbilit sabiex tghid għaliex m'għandhiex tiġi milqugħa t-talba miġjuba fiċ-ċitazzjoni.

(2) Meta jiġi stabbilit dak il-jum għandu jittiehed kont taż-żmien meħtieġ biex jingħalqu l-proċeduri ta' skritturi preliminari tal-każ, iżda f'każijiet urġenti l-Qorti tista' tis-tabbilixxi jum biex jinstema' l-każ qabel l-egħluq tal-proċeduri ta' skritturi preliminari."

3. L-artikolu 155 tal-liġi prinċipali għandu jiġi emendat kif ġej:

Emenda ta' l-artikolu 155 tal-liġi prinċipali.

(a) is-subartikoli (4) u (5) tiegħu għandhom jiġu numerati mill-ġdid bhala (5) u (6) rispettivament; u

(b) minnufih wara s-subartikolu (3) tiegħu għandu jizjed is-subartikolu ġdid li ġej:

“(4) Meta jitressqu flimkien diversi kawzi kif provdut fl-artikolu 155A, kull wiehed mill-atturi għandu jikkonferma bil-gurament il-paragrafu jew il-paragrafi ta’ dik id-dikjarazzjoni li jkun fihom il-fatti dwar il-kawża tiegħu.”.

Zieda ta’ artikolu ġdid 155A mal-liġi prinċipali.

4. Minnufih wara l-artikolu 155 tal-liġi prinċipali għandu jiżdied l-artikolu ġdid li ġej:

“Ċitazzjoni ta’ iktar minn kawża waħda.

155A. (1) Żewġ atturi jew iktar jistgħu jressqu l-kawzi tagħhom b’ċitazzjoni waħda jekk fil-kawzi jkun hemm konnessjoni ta’ suġġett, jew meta d-deċiżjoni ta’ waħda mill-kawzi tista’ taffettwa d-deċiżjoni tal-kawża l-oħra jew tal-kawzi l-oħrajn u l-provi b’sustenn għal ċitazzjoni waħda jkunu, b’mod generali, l-istess li jkunu se jingiebu fil-kawża jew fil-kawzi l-oħra. L-oġġett u r-raġuni tal-kawzi għandhom ikunu dikjarati b’mod ċar u sewwa dwar kull attur.

(2) B’danakollu, kull kawża minn dawk imressqin flimkien għandha tinstema’ separatament meta ssir talba għaldaqshekk minn attur għall-kawża tiegħu; u l-Qorti tista’ tordna wkoll li kull kawża tinstema’ separatament jekk ma jkunx spedjenti li l-kawzi ta’ l-atturi kollha jinstemgħu flimkien. Kull ordni bħal dak jista’ jsir f’kull stadju tal-proċedimenti qabel is-sentenza finali.

(3) Meta l-kawzi diversi jitressqu flimkien kif provdut fis-subartikolu (1) ta’ dan l-artikolu, dawn għandhom jittiehdu flimkien sabiex tiġi stabbilita l-kompetenza tal-Qorti, liema kompetenza tipprevali dwar kull kawża separata skond is-subartikolu (2) ta’ dan l-artikolu.”.

Zieda ta’ artikolu ġdid 169A mal-liġi prinċipali.

5. Minnufih wara l-artikolu 169 tal-liġi prinċipali għandu jiżdied l-artikolu ġdid li ġej:

“Kif issir notifika.

169A. Id-dispożizzjonijiet tas-subartikolu (4) ta’ l-artikolu 186 ma japplikawx għan-notifika ta’ xi ċitazzjoni, affidavit u in-nota pprezentata magħha, u kull ordni msemmi fl-artikoli 168 u 169.”.

Zieda ta’ artikolu ġdid 470A mal-liġi prinċipali.

6. Minnufih wara l-artikolu 470 tal-liġi prinċipali għandu jiżdied l-artikolu ġdid li ġej:

“Rikors għal separazzjoni personali jipprojbixxi trasferiment ta’ beni.

470A. (1) F’kull stadju tal-proċediment għas-separazzjoni personali huwa fil-kompetenza tal-Qorti ta’ ġurisdizzjoni kontenzjuża li fuq talba ta’ waħda mill-partijiet miżżewġin tagħmel ordni li jipprojbixxi —

(a) lill-parti l-oħra miżżewġa li tbiegħ, tittrasferixxi jew xort’oħra tiddisponi minn, b’att *inter vivos*, b’titolu oneruż jew gratuwitu, xi beni immobbli jew jeddijiet marbutin ma’ beni immobbli, jew xi azzjonijiet f’xi soċjetà kummerċjali, jekk dawk il-beni, jeddijiet jew azzjonijiet ikunu parti mill-komunjoni ta’ l-akkwisti; jew

(b) il-bejgħ, trasferiment jew disponiment ieħor sew jekk b’titolu oneruż jew gratuwitu, ta’ xi beni immobbli jew jeddijiet marbutin magħhom, li jkunu proprjetà ta’ xi soċjetà kummerċjali li fiha l-parti l-oħra miżżewġa jkollha magġoranza ta’ l-azzjonijiet li jkunu tal-komunjoni, jew

(ċ) il-parti l-oħra miżżewġa milli tagħmel xi dejn li jkun għall-karigu ta' dik il-komunjoni, ukoll jekk dak id-dejn jinħoloq minn xi pleggierija,

u meta jsir dak l-ordni, kull bejgħ, trasferiment jew disponiment ieħor, jew kull dejn li jkun sar wara dak l-ordni u bi ksur ta' dak l-ordni matul iż-żmien li jkunu mexjin il-proċedimenti għal separazzjoni, jkun null u mingħajr effett.

(2) Kull rikors bħal dak għandu jkun fih l-isem u l-kunjom tar-rikorrent u tal-parti l-oħra miżżewġa, il-professjoni, is-sengħa jew stat ieħor tagħhom, isem missierhom, isem ommhom u kunjom xubithom, post tat-twelid u post tar-residenza, u n-numru tal-Karta ta' l-Identità tal-partijiet miżżewġa.

(3) Dak l-ordni għandu man-notifika bil-miktub li tingħata mir-Registratur lid-Direttur tar-Registru Pubbliku, lir-Registratur ta' l-Artijiet u lir-Registratur tas-Socjetajiet Kummerċjali, fi żmien erbgħa u għoxrin siegħa mill-egħmil ta' dak l-ordni, jiġi registrat fil-ktieb rispettiv miżmum għal dan l-għan.

(4) Il-pubbliku jkollu aċċess għal dawk il-kotba.”.

7. Minflok l-artikolu 479B tal-liġi prinċipali għandhom jidhru l-artikoli li ġejjin:

Sostituzzjoni ta' l-artikolu 479B tal-liġi prinċipali.

“Kif issir notifika.

479B. Id-dispożizzjonijiet tas-subartikolu (4) ta' l-artikolu 186 ma japplikawx għan-notifika ta' xi rikors imsemmi f'din it-taqsim.

Reviżjoni ta' digriet ta' manteniment.

479C. Id-digriet u l-ordni msemmija fl-artikolu 479A jistgħu biss jiġu riveduti, mibdula jew revokati fuq rikors lill-Qorti ta' ġurisdizzjoni volontarja jew lill-Qorti ta' ġurisdizzjoni kontenzjuża li quddiemha l-azzjoni għal separazzjoni tkun pendenti, skond il-każ.

Reviżjoni ta' digriet projbitorju ta' trasferiment jew dejn.

479D. (1) Ordni magħmul taħt l-artikolu 470A jista' biss jiġi rivedut, mibdul jew revokat fuq rikors lill-Qorti ta' ġurisdizzjoni kontenzjuża:

Iżda jista' jsir appell minn kull digriet jew ordni msemmi f'dan is-subartikolu, mogħti jew magħmul mill-Qorti ta' ġurisdizzjoni kontenzjuża bl-istess mod u fl-istess żmien bħal digriet interlokutorju ta' dak il-Qorti:

Iżda wkoll appell minn digriet mogħti jew ordni magħmul taħt l-artikolu 470A ma jwaqqafx l-effetti tal-projbizzjoni ta' dak l-ordni jew digriet fil-pendenza ta' l-appell.

(2) Id-dispożizzjonijiet tas-subartikolu (3) ta' l-artikolu 470A għandhom japplikaw għal kull digriet jew sentenza li jirvedu, jibdli jew jirrevokaw ordni magħmul taħt is-subartikolu (1) ta' dak l-artikolu.”.

Dispożizzjoni
transitorja.

8. L-emenda magħmula bl-artikolu 4 ta' dan l-Att għandha tapplika wkoll għal kull proċedimenti pendenti quddiem xi qorti fid-data tal-bidu fis-sehħ ta' dan l-Att, u minkejja kull deċiżjoni fuqhom li ma tkunx saret *res judicata*.

Mgħoddi mill-Kamra tad-Deputati fis-Seduta Nru. 267 ta' 1-10 ta' Lulju, 1985.

DANIEL MICALLEF
Speaker

C. MIFSUD
Skrivan tal-Kamra tad-Deputati

I assent.

(L.S.)

AGATHA BARBARA
President

24th July, 1985

ACT No. XIII of 1985

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, 1985, 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. For section 153 of the principal law there shall be substituted the following: Substitution of section 153 of the principal law.

“153. (1) The procedure is said to be by writ of summons, when the Court issues or gives an order to a party to appear before it on the day and at the hour appointed, in order to show cause why the claim contained in the writ of summons should not be allowed.

(2) In the appointment of such day allowance shall be made for the time required for the preliminary written procedures of the case to be closed, provided that in urgent cases the Court may appoint a day for the trial of the case before the close of the preliminary written procedures.”.

3. Section 155 of the principal law shall be amended as follows: Amendment of section 155 of the principal law

(a) subsections (4) and (5) thereof shall be renumbered respectively as subsections (5) and (6); and

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

“(4) Where several actions are brought together as provided in section 155A, each plaintiff shall confirm on oath the paragraph or paragraphs of such declaration as contain the facts respecting his action.”

4. Immediately after section 155 of the principal law there shall be added the following new section:

Addition of new section 155A to the principal law.

“Cumulative writ of summons.

155A. (1) Two or more plaintiffs may bring their actions by one writ of summons if the actions are connected in respect of the subject-matter thereof, or if the decision of one of the actions might affect the decision of the other action or actions and the evidence in support of one action is, generally, the same to be produced in the other action or actions. The cause and subject-matter of the actions shall be clearly and specifically stated in respect of each plaintiff.

(2) Nevertheless, any of the actions so brought together shall be tried separately at the request of a plaintiff with regard to his action; and the Court may also order that any action be tried separately when it is not expedient that the actions of all the plaintiffs be tried together. Any such order may be made at any stage of the proceedings before final judgement.

(3) Where the several actions are brought forward together as provided in subsection (1) of this section, they shall be taken cumulatively for determining the competence of the Court, which competence shall prevail in respect of any action separated in accordance with subsection (2) of this section.”.

Addition of new section 169A to the principal law.

5. Immediately after section 169 of the principal law there shall be added the following new section:

“Mode of service.

169A. The provisions of subsection (4) of section 186 shall not apply to the service of any writ of summons, the affidavit and note produced therewith, and to any order referred to in sections 168 and 169.”.

Addition of new section 470A to the principal law.

6. Immediately after section 470 of the principal law there shall be added the following new section:

“Application for personal separation prohibits transfer of property.

470A. (1) At every stage of the proceedings for personal separation it shall be competent for the Court of contentious jurisdiction on the demand of any of the spouses by application to make an order prohibiting —

(a) the other spouse from selling, alienating, transferring or otherwise disposing of, by an act *inter vivos*, whether by onerous or gratuitous title, any immovable property, or rights annexed to immovable property, or any shareholding in any commercial partnership, if such property, rights or shareholding are comprised in the community of acquests, or

(b) the sale, alienation, transfer or other disposal, whether by onerous or gratuitous title, of any immovable property or rights annexed thereto, owned by any commercial partnership in which the other spouse has a majority shareholding which pertains to that community,

or

(c) the other spouse from contracting any debt which is a charge on that community, even if such debt arises from any suretyship,

and where such order is made, any sale, alienation, transfer or other disposal, or any debt contracted after that order is made and in contravention of that order during the pendency of the separation proceedings, shall be void and of no effect.

(2) Every such application shall contain the name and surname of applicant and of the other spouse, their profession, trade or other status, father's name, mother's name and maiden surname, place of birth and place of residence, and the Identity Card number of each spouse.

(3) Such order shall upon notice in writing to be given by the Registrar to the Director of the Public Registry, to the Land Registrar and to the Registrar of Commercial Partnerships, within twenty-four hours of the making of that order, be registered in the respective book kept for the purpose.

(4) The said books shall be accessible to the public.”.

7. For section 479B of the principal law there shall be substituted the following sections:

Substitution of section 479B of the principal law.

“Mode of service. 479B. The provisions of subsection (4) of section 186 shall not apply to the service of any application referred to in this Part.

Review of maintenance decree. 479C. The decree and the order mentioned in section 479A may be only reviewed, altered or revoked upon an application to the Court of voluntary jurisdiction or to the Court of contentious jurisdiction before which the action for separation is pending, as the case may be.

Review of decree prohibiting transfers and debts. 479D. (1) An order made under section 470A may only be reviewed, altered or revoked upon an application to the Court of contentious jurisdiction:

Provided that an appeal may be entered from any decree or order referred to in this subsection, given or made by the Court of contentious jurisdiction in the same manner and within the same time as an interlocutory decree of that Court:

Provided further than an appeal from such decree or order shall not suspend the prohibitory effects of that decree or order during the pendency of the appeal.

(2) The provisions of subsection (3) of section 470A shall apply to any decree or judgment reviewing, altering or revoking an order made under subsection (1) of that section.”.

Transitory
provision.

8. The amendment made by section 4 of this Act shall also apply to any proceedings pending before any court of law on the date of the coming into force of this Act and notwithstanding any judgment thereon which has not become *res judicata*.

Passed by the House of Representatives at Sitting No. 267 of the 10th July, 1985.

DANIEL MICALLEF
Speaker

C. MIFSUD
Clerk to the House of Representatives