

**Abbozz ta' liġi  
imsejjah**

*Att biex jipprovdi għar-regolamentazzjoni tal-koabitazzjoni.*

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

**1.** (1) It-titolu fil-qosor ta' dan l-Att huwa l-Att tal-2012 dwar Shubija Ċivili u d-Drittijiet u l-Obbligi ta' Koabitanti. Titolu fil-qosor u bidu fis-sehh.

(2) Dan l-Att għandu jidhol fis-sehh fid-data li l-Ministru responsabbli għall-ġustizzja, jistabbilixxi b'avviz fil-Gazzetta, u dati differenti jistgħu jiġu stabbiliti għal skopijiet u għal disposizzjonijiet differenti ta' dan l-Att.

**2.** F'dan l-Att sakemm ir-rabta tal-kliem ma teħtieġx xort' oħra:- Tifsir.

"koabitant" għandha t-tifsira mġhotija lilha skont l-artikolu 3;

"Ministru" tfisser il-Ministru responsabbli għall-ġustizzja.

"qorti" tfisser is-sezzjoni xierqa tal-Qorti Ċivili stabbilita b'regolamenti;

"wild dipendenti" fir-rigward ta' koabitant jew ta' koppja koabitanti, tfisser kull tifel jew tifla illi l-koabitanti huma l-ġenituri tagħhom u li huma:

- (a) taħt it-tmintax-il sena; jew
- (b) għandhom tmintax-il sena jew aktar u qiegħdin:

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(i) jirċievu tagħlim jew taħriġ *full-time* u għandhom anqas minn 23 sena; jew

(ii) mhumiex kapaċi jieħdu hsieb lilhom infushom minhabba f'diżabbilità mentali jew fizika.

Koabitanti.

**3.** (1) Għall-finijiet ta' dan l-Att, koabitant ikun wieħed minn żewġ adulti (kemm tal-istess sess jew tas-sess oppost) li jgħixu flimkien bħala koppja f'relazzjoni intima u stabbli, li ma jgħux minn xulxin fil-grad iprojbiti ta' relazzjoni jew miżżewġin lil xulxin u li minnufih qabel ma relazzjoni tintemm, kemm b'mewt jew b'xort'oħra kien qed jgħix mal-adult l-ieħor bħala koppja għall-perjodu -

(a) ta' sentejn jew aktar, fil-każ meta huma l-ġenituri ta' wieħed jew aktar wild dipendenti, u

(b) ta' ħames snin jew aktar, f'kull każ ieħor.

(2) Biex jiġi determinat jekk żewġ adulti huma jew mhumiex koabitanti, il-qorti għandha tieħu f'kunsiderazzjoni ċ-ċirkustanzi kollha tar-relazzjoni u b'mod partikolari għandha tqis dan li ġej:

(a) it-tul tar-relazzjoni;

(b) il-bazi li fuqha l-koppja tgħix flimkien;

(ċ) il-grad ta' dipendenza finanzjarja ta' wieħed mill-adulti fuq l-ieħor u kull ftehim fir-rigward tal-finanzi tagħhom;

(d) il-grad u n-natura ta' kull arrangament finanzjarju bejn l-adulti inklużi xi xiri kongunt ta' proprjetà jew sehem f'xi art jew l-akkwist kongunt ta' proprjetà personali;

(e) jekk hemmx wieħed jew aktar tfal dipendenti;

(f) jekk wieħed mill-adulti jieħu hsieb jew isostni li t-tfal tal-ieħor; u

(g) il-grad li bih l-adulti jipprezentaw ruhhom bħala koppja lill-ħaddieħor.

(3) Għall-finijiet ta' dan l-artikolu, żewġ adulti huma fil-grad iprojbit ta' relazzjoni jekk ikunu:

(a) axxendenti u dixxendenti f'linja diretta;

(b) aħwa, sew jekk aħwa mill-missier u mill-omm, sew kemm mill-istess missier jew mill-omm biss;

(ċ) persuni li jkunu qraba b' affinità fil-linja diretta; jew

(d) il-persuna li qed tadotta u l-persuna adottata jew dioxdent, jew ir-raġel jew il-mara, tal-persuna adottata.

(4) Bla ħsara għas-subartikolu (1) adult li xort'oħra jikkwalifika bħala koabitant skont dan l-Att m'għandux jitqies bħala koabitant għall-finijiet ta' dan l-Att jekk:

(a) wieħed jew iż-żewġ adulti huwa jew kien, f'xi hin matul ir-relazzjoni kkonċernata, adult li kien miżżewweġ lill-haddieħor, u

(b) fiż-żmien li intemmet ir-relazzjoni kkonċernata, kull adult li huwa jew kien miżżewweġ ma għex mifrud mir-raġel jew il-mara tiegħu għall-perjodu jew perjodi ta' mill-inqas erba' snin matul l-aħħar ħames snin.

**4.** Il-koabitanti jistgħu jagħzlu li jirregolaw il-koabitazzjoni tagħhom billi jidhlu fi shubija ċivili skont l-artikolu 5. Shubija ċivili.

**5.** (1) Shubija ċivili għandha tkun magħmula b'att pubbliku u għandu jiġi maħruġ certifikat ta' shubija ċivili kif preskritt fl-Iskeda ta' dan l-Att. Forum ta' shubija ċivili.

(2) Id-dokument li jikkostitwixxi s-shubija ċivili jista' jipprovdi għal materji finanzjarji matul ir-relazzjoni jew meta tintemm ir-relazzjoni, kemm b'mewt jew xorta oħra.

(3) Id-dokument li jikkostitwixxi s-shubija huwa validu biss jekk il-koabitanti:

(a) ikunu indipendentement irċevew parir legali qabel ma jkunu daħlu fi shubija, jew

(b) ikunu irċevew flimkien parir legali u jkunu ċedew bil-miktub id-dritt ta' parir legali indipendenti.

(4) Id-dokument li jikkostitwixxi s-shubija għandu jkollu:

(a) l-obbligi reċiproċi komuni u individwali tal-partijiet;

(b) fil-każ ta' dipendenza, l-ammonti li għandhom jingħataw lill-parti dipendenti, flimkien mal-mod ta' ħlas;

(ċ) deskrizzjoni tad-dar jew djar fejn il-koabitazzjoni ser tiġi stabbilita u t-titolu legali li bih dik id-dar jew dawk id-djar għandhom ikunu fil-pussess tas-shubija ċivili; u

(d) fil-każ fejn hemm tfal inkomuni il-mod u kif ser jiġu mizmuma, imrobbija u mgħallma:

Izda d-document li jikkostitwixxi s-shubija jista' jvarja sabiex jiġu inklużi t-tfal inkomuni li twieldu wara d-data ta' registrazzjoni tas-shubija sabiex jiġi provdut għaż-żamma, għat-trobbija u għat-tagħlim tagħhom.

(5) Bla ħsara għad-dispożizzjonijiet tas-subartikolu (6), id-dokument li jikkostitwixxi s-shubija jista' jipprovdi li l-ebda wieħed mill-koabitanti ma jista' japplika għar-rimedju kif imsemmi fl-artikolu 7.

(6) Il-Qorti tista' tvarja jew twarrab id-dokument li jikkostitwixxi s-shubija f'ċirkostanzi eċċezzjonali meta l-infurzar tad-dokument jkun ser jikkawża ingustizzja serja.

Arranġamenti  
oħra.

**6.** (1) Il-partijiet jistgħu, fid-dokument li jikkostitwixxi s-shubija, jiftiehm li:

(a) it-tfal ta' waħda mill-partijiet jgħixu magħhom fid-dar jew fid-djar fejn hi stabbilita l-koabitazzjoni; u

(b) il-persuna li hi ddikjarata dipendenti għandha tkompli tircievi mill-parti l-oħra l-istess qligħ mill-assi tas-shubija ċivili li dik il-parti tkun irċeviet qabel it-tmiem tas-shubija.

(2) Meta l-partijiet ma jkunux inkludew fid-dokument originali li jikkostitwixxi s-shubija xi waħda mill-klawzoli ta' hawn fuq, huma jistgħu f'kull hin wara, jiftiehm sabiex jinkludu jew iżidu dawn id-dispożizzjonijiet u d-dokument li jikkostitwixxi s-shubija għandu jkun hekk emendat u registrat.

Rimedju għall-  
koabitant  
ekonomikament  
dipendenti.

**7.** (1) Koabitant jista', bla ħsara għal kull ftehim skont l-artikolu 5, jintavola rikors quddiem qorti, li bih jinnotifika lill-koabitant l-ieħor, sabiex isir ordni skont l-artikoli 8 u 9 jew wieħed minnhom.

(2) Jekk il-koabitant jissodisfa l-qorti li huwa finanzjarjament dipendenti fuq il-koabitant l-ieħor u li d-dipendenza finanzjarja hija riżultat tar-relazzjoni jew mit-tmiem tar-relazzjoni, il-qorti tista', jekk hi hekk sodisfatta, tagħmel dan l-ordni.

(3) Il-qorti, waqt li tiddetermina jekk ordni għandux jingħata jew le, għandha tqis:

(a) iċ-ċirkostanzi finanzjarji, il-ħtigiet u l-obbligi ta'

kull wiehed mill-koabitanti li jezistu mid-data tar-rikors jew li x'aktarx jirrizultaw fil-futur;

(b) bla ħsara għas-subartikolu (5), id-drittijiet u l-benefiċċji ta' xi konjuġi jew il-konjuġi ta' qabel;

(ċ) id-drittijiet u l-benefiċċji ta' kull wild dipendenti jew ta' xi wild minn relazzjoni preċedenti ta' kull wiehed mill-koabitanti;

(d) it-tul tar-relazzjoni bejn il-partijiet, il-baži li fuqha dahlu għar-relazzjoni l-partijiet u l-grad ta' impenn tal-partijiet lejn xulxin;

(e) il-kontribuzzjonijiet li kull wiehed mill-koabitanti għamel jew x'aktarx jagħmel fil-futur prevedibbli għall-harsien tal-koabitanti jew wiehed minnhom, inkluż kull kontribuzzjoni magħmula minnhom għad-dhul, il-ħila ta' qligħ jew il-proprjetà u r-riżorsi finanzjarji tal-iehor;

(f) kull kontribuzzjoni magħmula minn xi wiehed mill-koabitanti sabiex jieħu ħsieb id-dar;

(g) l-effett fuq il-ħila ta' qligħ ta' kull wiehed mill-koabitanti b'konsegwenza tar-responsabbilitajiet li għandu kull wiehed mill-koabitanti matul il-perjodu li fih għexu bħala koppja u l-grad li l-kapaċità ta' qligħ futur tal-koabitant gie imnaqqas minħabba f'li l-koabitant ikun ċeda jew tilef l-opportunità ta' attività bil-qligħ sabiex jieħu ħsieb id-dar;

(h) kull inkapaċità fizika jew mentali tal-koabitanti; u

(i) il-kondotta ta' kull wiehed mill-koabitanti jekk il-kondotta hi b'mod illi, fl-opinjoni tal-qorti, ikun ingust jekk ma tiġiex meqjusa.

(4) Il-qorti tista' tordna li jingħata avviż lil xi persuna oħra li hija tispeċifika u tista' tisma' lill-persuna l-oħra fuq dawn it-termini u fir-rigward ta' dawk l-affarijiet li hija taħseb li huma xierqa fl-interessi tal-gustizzja qabel ma tagħti ordni imsemmija f'dan l-artikolu.

(5) Il-qorti m'għandhiex tagħmel ordni, kif imsemmi f'dan l-artikolu, favur koabitant, liema ordni jaffettwa d-drittijiet ta' xi persuna li l-koabitant l-iehor huwa miżżewweg jew kien miżżewwegg ma', jew xi wild dipendenti.

(6) Il-qorti, fuq rikors magħmul minn wiehed mill-koabitanti,

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jekk tikkonsidra li jkun xieraq, wara li tqis kull bidla fiċ-ċirkostanzi tal-każ u xi evidenza ġdida, inkluż xi varjazzjoni b'ordni ieħor tal-qorti magħmul favur xi persuna li magħha l-koabitant ikun miżżewweġ jew kien miżżewweġ, tista', b'ordni tvarja kull ordni oħra magħmul taħt l-artikolu 8.

Agġustamenti f'ordnijiet ta' proprjetà.

**8.** (1) Ordni magħmul taħt dan l-artikolu jista' jipprovdi għal wiehed jew aktar mill-ħwejjeġ li ġejjin:

(a) it-trasferiment minn wiehed mill-koabitanti lil, jew għall-benefiċċju tal-ieħor jew għal wild dipendenti, ta' proprjetà speċifika li fiha l-koabitant għandu titolu;

(b) il-varjazzjoni għall-benefiċċju ta' wiehed mill-koabitanti jew ta' wild dipendenti bi ftehim kif imsemmi fl-artikolu 5.

(2) Qabel ma tagħmel ordni skont dan l-artikolu, il-qorti għandha tqis jekk, fiċ-ċirkostanzi kollha, ma jkunx prattikabbli għall-ħtiġiet finanzjarji tal-koabitant sabiex jintlaqgħu minn ordni magħmul taħt l-artikolu 9, wara li jkunu ġew meqjusa ċ-ċirkostanzi kollha, inkluż il-possibilità ta' bidla futura fiċ-ċirkostanzi ta' wiehed mill-koabitanti.

Ordnijiet għal manteniment.

**9.** (1) Il-qorti tista', fuq rikors magħmul minn wiehed mill-koabitanti, matul il-ħajja ta' kull wiehed mill-koabitanti, tagħmel wiehed jew aktar mill-ordnijiet li ġejjin:

(a) ordni sabiex wiehed mill-koabitanti jagħti lill-ieħor ħlasijiet fuq perjodu ta' żmien f'ammonti, matul il-perjodu u f'dawk iż-żminijiet, speċifikati fl-ordni;

(b) ordni sabiex wiehed mill-koabitanti jizgura lill-ieħor, għas-sodisfazzjon tal-qorti, ħlasijiet fuq perjodu ta' żmien f'ammonti, matul il-perjodu u f'dawk iż-żminijiet, speċifikati fl-ordni;

(ċ) ordni sabiex wiehed mill-koabitanti iħallas lill-ieħor somma globali jew ħlasijiet tas-somma globali tal-ammont jew tal-ammonti u f'dawk iż-żminijiet speċifikati fl-ordni.

(2) Il-qorti tista' tordna lil koabitant sabiex iħallas somma globali lil koabitant l-ieħor sabiex jintlaħqu kwalunkwe responsabbiltà jew spejjeż mgarrba b'mod raġonevoli minn tal-ewwel sabiex imantni lili nnifsu qabel ma jsir rikors mill-koabitant l-ieħor għal ordni skont is-subartikolu (1).

(3) Ordni skont dan l-artikolu għall-ħlas ta' somma globali

jista' jipprovdi għall-ħlas tas-somma globali b'pagamenti fl-ammonti li jistgħu jiġu speċifikati fl-ordni u jista' jirrikjedi l-ħlas tal-pagamenti biex jiġu garantiti għas-sodisfazzjon tal-qorti.

(4) Il-perjodu speċifikat f'ordni skont is-subartikolu (1)(a) jew (b) m'għandux jibda' qabel id-data tar-rikors għall-ordni u ma għandux jintemm aktar tard mid-data tal-mewt tal-ewwel koabitant.

(5) Ordni magħmul skont subartikolu (1)(a) jew (b) għandu jieqaf milli jkollu effett maż-żwieġ tal-koabitant li l-ordni jkun sar favur tiegħu.

(6) Il-qorti m'għandhiex tagħmel ordni skont dan l-artikolu favur koabitant miżżewweġ.

(7) Id-dispożizzjonijiet tal-artikolu 381(2) tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili għandhom, *mutatis mutandis*, japplikaw fir-rigward ta' kull ordni għall-ħlas ta' manteniment magħmul skont dan l-artikolu. Kap. 12.

**10.** Il-Qorti għandha, meta tkun qed tagħmel ordni taħt dan l-Att, tiżgura li d-drittijiet ta' kull persuna li għandha interess f'dan il-każ, inkluż xi konjuġi jew il-konjuġi ta' qabel u ta' kull wild dipendenti, huma protetti. Drittijiet ta' terzi persuni.

**11.** Kull obbligu assunt minn xi wieħed mill-koabitanti għandu jkun subordinat għad-drittijiet u l-benefiċċji ta' kull konjuġi jew konjuġi ta' qabel u ta' kull wild dipendenti jew ta' kull wild minn relazzjoni preċedenti ta' wieħed mill-koabitanti. Obbligi subordinati.

**12.** Koabitant fi sħubija ċivili għandu jitqies li jkun kerrej għal kull fini u għanijiet tal-liġi fir-rigward ta' kull kirja ta' akkomodazzjoni ta' abitazzjoni fejn il-koabitazzjoni hija stabbilita, li giet kostitwita permezz ta' kuntratt minn xi wieħed mill-koabitanti wara d-dhul fis-seħh ta' dan l-Att. Koabitant għandu jiġi kunsidrat bħala kerrej.

**13.** (1) Sħubija ċivili għandha tintemm bil-mewt ta' wieħed mill-koabitanti. Tmiem.

(2) Sħubija ċivili għandha wkoll tintemm fil-każijiet li ġejjin:

(a) meta l-partijiet jizzewġu lill xulxin;

(b) meta l-partijiet jiftiehm u sabiex itemmu s-sħubija ċivili, permezz ta' att pubbliku;

(c) meta wieħed mill-partijiet jizzewweġ terza persuna;

(d) meta wieħed mill-partijiet jipprezenta att ġudizzjarju

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u jinforma lill-parti l-oħra bit-tmiem tas-shubija ċivili:

Izda t-tmiem għandu jibda' jsehh wara jiġi prezentat l-att ġudizzjarju.

Mewt ta' wiehed mill-koabitanti.

**14.** (1) Fil-każ ta' mewt ta' wiehed mill-koabitanti, il-Qorti tista' tagħmel ordni taħt l-artikoli 8 u 9 fir-rigward ta' xi dipendenti tal-mejjet.

(2) Meta tkun qed tagħmel ordni bħal din, il-Qorti għandha tikkonsidra l-aħjar interessi tad-dipendenti.

(3) L-ordni bħal din għandha madankollu tipprovdi għall-manteniment, it-trobbija, l-edukazzjoni, l-ħarsien u l-post fejn joqgħoq id-dipendenti.

Żmien sabiex jiġu prezentati atti.

**15.** Kull azzjoni magħmula taħt dan l-Att, barra mill-azzjoni magħmula taħt l-artikolu 7(6), għandha ssir fi żmien sentejn minn meta tintemm ir-relazzjoni bejn il-koabitanti, kemm jekk b'mewt jew b'xort'oħra.

Gurisdizzjoni.

**16.** Il-qorti għandha teżerċita l-gurisdizzjoni tagħha biss sabiex tisma' u tiddeċiedi fuq rikors għal ordni ta' rimedju kif imsemmi fl-artikolu 7, jekk iż-żewġ koabitanti konċernati kienu ordinarjament residenti f'Malta matul il-perjodu ta' sena qabel it-tmiem ta' relazzjoni tagħhom, u xi wiehed mill-koabitanti:

(a) kien domiciljat f'Malta fid-data li ġie pprezentat ir-rikors, jew

(b) kien ordinarjament residenti f'Malta għal perjodu ta' sena minnufih qabel ma ġie pprezentat ir-rikors.

Konsegwenzi ta' koabitazzjoni *de facto*.

**17.** (1) Meta l-qorti, fuq talba ta' wiehed mill-koabitanti, meta l-koabitazzjoni mhijiex registrata b'att pubbliku skont l-artikolu 5, issib li wiehed mill-koabitanti huwa responsabbli li kkawża t-tifrik tal-koabitazzjoni mingħajr kawża ġusta jew mingħajr ma pprovda b'mod xieraq għas-sitwazzjoni tal-koabitant l-iehor, il-koabitant imsemmi qabel, għandu jkollu rimedju mingħand il-koabitant imsemmi l-ewwel għad-danni li sofra.

(2) Rimedju skont dan l-artikolu għandu jingħata f'forma ta' manteniment u m'għandux isir fir-rigward ta' perjodu li jaqbez it-tlett snin.

Koabitazzjoni mhux registrata.

**18.** L-ebda att ipprezentat bejn persuni li huma, jew li kienu f'xi żmien koabitanti, ma għandu jiġi kunsidrat null jew nieqes minn xi haġa minħabba raġuni abbażi ta' kawża illegali jew illeċita.



**19.** Ordni għal rimedju msemmi fl-artikolu 7 għandu jsir biss jekk ir-rikors li għalih ikun sar fir-rigward ta' relazzjoni mitmuma, kemm b' mewt jew xort'ohra, wara d-dhul fis-sehh ta' dan l-Att, iżda matul iż-żmien li ż-żewġ persuni jkunu għexu bhala koppja qabel l-imsemmija data, għandha tiġi inkluża għall-finijiet sabiex jiġi kkalkulat jekk il-koabitanti kienux koabitanti skont it-tifsir ta' dan l-Att.

Applikabbiltà.

**20.** Koabitant fi sħubija ċivili registrata għandu jiġi kkunsidrat bhala l-eqreb qarib tal-koabitant l-iehor għall-finijiet ta' kull att ta' stat ċivili.

Koabitanti  
kkunsidrati  
bhala l-eqreb  
qraba.

**21.** Id-disposizzjonijiet tal-Att dwar il-Vjolenza Domestika għandhom *mutatis mutandis* japplikaw hekk iżda li kull referenza fl-imsemmi Att għal "membru domestiku" għandha tinfiem bhala referenza għal koabitant skont it-tifsira ta' dan l-Att.

Applikabbiltà.  
Kap. 481.

**22.** Id-disposizzjonijiet tal-artikoli 633 u 635 tal-Kodiċi Kriminali għandhom *mutatis mutandis* japplikaw għal koabitant fi sħubija ċivili.

Applikabbiltà.  
Kap. 9.

**23.** Il-Ministru jista' jagħmel regolamenti sabiex jimplimenta u sabiex jagħti effett aħjar għad-dispożizzjonijiet ta' dan l-Att u mingħajr hsara għall-ġeneralità ta' dak li ntqal qabel, jista' b'dawk ir-regolamenti, jippreskrivi kull haġa li għandha ssir jew li tista' tiġi preskritta u jipprovd i għal kull haġa konsegwenzjali, inċidentali għal jew konnessa mad-dispożizzjonijiet ta' dan l-Att.

Setgħa biex  
isiru  
regolamenti.

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**SKEDA**  
**(Artikolu 5)**  
**ATT TA' SHUBIJA ĊIVILI**  
**ACT OF CIVIL PARTNERSHIP**

**Data tal-Att:**

**Date of the Act:**

**Numru tal-Att pubbliku:**

**Public deed No:**

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|  |  |  |

**DIKJARAZZJONI MILL-KOMPARENTI:**  
**DECLARATION BY THE PARTIES:**

**Dettalji tal-Komparenti:**  
**Particulars of the Parties:**

*Isem:*

*Name:*

*Isem:*

*Name:*

*Kunjom:*

*Surname:*

*Kunjom:*

*Surname:*

*Data tat-twelid:*

*Date of Birth:*

*Data tat-twelid:*

*Date of Birth:*

*Numru tal-*

*Karta tal-identità:*

*ID card*

*number:*

*Numru tal-*

*Karta tal-identità:*

*ID card*

*number:*

*Ismijiet tal-*

*ġenituri*

*Parents'*

*names*

*Ismijiet tal-*

*ġenituri*

*Parents'*

*names*

**Firem/Signatures:**

\_\_\_\_\_

*Komparenti*

*First Party*

\_\_\_\_\_

*Komparenti*

*Second Party*

\_\_\_\_\_

*Nutar*

*Notary*

\_\_\_\_\_

*Data*

*Date*

**Ghanijiet u raġunijiet**

L-ghanijiet ta' dan l-Abbozz huma sabiex jipprovdi għad-drittijiet u l-obbligi tal-koabitanti li huma kemm imsieħba ċivili kif ukoll għall-koabitazzjoni mhux reġistrata u sabiex jipprovdu għall-materji konnessi bħall-manteniment u d-dipendenza matul u wara t-tmiem tal-koabitazzjoni.

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**A Bill  
entitled**

*AN ACT to provide for the regulation of cohabitation.*

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) The short title of this Act is the Civil Partnerships and Rights and Obligations of Cohabitants Act, 2012.

(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.

Interpretation.

**2.** In this Act, unless the context otherwise requires:

"cohabitant" has the meaning as that assigned to it under article 3;

"court" means the appropriate section of the civil court established by regulations;

"dependent child" in relation to a cohabitant or a couple of cohabitants, means any child of whom both the cohabitants are the parents and who is:

- (a) under the age of 18 years; or
- (b) 18 years of age or over and is:
  - (i) receiving full-time education or instruction and is under the age of 23 years, or

(ii) incapable of taking care of his own needs because of mental or physical disability;

"the Minister" means the Minister responsible for justice.

**3.** (1) For the purposes of this Act, a cohabitant is one of two adults (whether of the same or the opposite sex) who live together as a couple in an intimate and committed relationship, who are not related to each other within the prohibited degrees of relationship or married to each other, and who immediately before the time the relationship ended, whether through death or otherwise, was living with the other adult as a couple for a period:

(a) of two years or more, in the case where they are the parents of one or more dependent children, and

(b) of five years or more, in any other case.

(2) In determining whether or not two adults are cohabitants, the court shall take into account all the circumstances of the relationship, and in particular shall have regard to the following:

(a) the duration of the relationship;

(b) the basis on which the couple live together;

(c) the degree of financial dependence of either adult on the other and any agreements in respect of their finances;

(d) the degree and nature of any financial arrangements between the adults including any joint purchase of property or interest in land or joint acquisition of personal property;

(e) whether there are one or more dependent children;

(f) whether one of the adults cares for and supports the children of the other; and

(g) the degree to which the adults present themselves to others as a couple.

(3) For the purposes of this article, two adults are within a prohibited degree of relationship, if they are:

(a) an ascendant and a descendant in the direct line;

(b) a brother and a sister, whether of the full or half blood;

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(c) persons related by affinity in the direct line; or

(d) the adopter and the adopted person or a descendant, or the husband or wife, of the adopted person.

(4) Notwithstanding the provisions of subarticle (1), an adult who would otherwise qualify as a cohabitant in terms of this Act shall not be deemed to be a cohabitant for purposes of this Act if:

(a) one or both of the adults is or was, at any time during the relationship concerned, an adult who was married to someone else, and

(b) at the time the relationship concerned ends, each adult who is or was married has not lived apart from his spouse for a period or periods of at least four years during the previous five years.

Civil  
partnership.

**4.** Cohabitants may choose to regulate their cohabitation by entering into a civil partnership in terms of article 5.

Form of civil  
partnership.

**5.** (1) A civil partnership shall be constituted by a public deed and a civil partnership certificate shall be issued as prescribed in the Schedule to this Act.

(2) The constitutive document of the civil partnership may provide for financial matters during the relationship or when the relationship ends, whether through death or otherwise.

(3) The constitutive document is valid only if the cohabitants:

(a) have each received independent legal advice before entering into it; or

(b) have received legal advice together and have waived in writing the right to independent legal advice.

(4) The constitutive document shall contain:

(a) the reciprocal common and individual obligations of the parties;

(b) in case of dependence, the amounts which are due to the dependant party, together with the modalities of payment;

(c) a description of the dwelling or dwellings where the cohabitation shall be established and the legal title by which such dwelling or dwellings shall be in the possession of the civil partnership; and

(d) in the case of common children, the manner in which and how they are to be maintained, brought up and educated:

Provided that the constitutive document may be varied so as to include common children born following the registration of the said partnership in order to provide for their maintenance, bringing up and education.

(5) Subject to the provisions of subarticle (6), a constitutive document may provide that neither cohabitant may apply for an order for redress referred to in article 7.

(6) The court may vary or set aside a constitutive document in exceptional circumstances when its enforceability would cause serious injustice.

**6.** (1) The parties may agree in the constitutive document that: Other agreements.

(a) the children of one of the parties live with them in the dwelling or dwellings where the cohabitation is established;

(b) that a person who is declared dependant shall continue to receive from the other party, the same proceeds from the assets of the civil partnership which that party received prior to the termination thereof.

(2) When the parties have not included any of the above provisions in the original constitutive document, they may at any time thereafter agree to include or add these provisions and the constitutive document shall be amended and registered accordingly.

**7.** (1) A cohabitant may, subject to any agreement under article 5, apply to the court, notifying the other cohabitant, for an order under article 8 and, or article 9. Redress for economically dependent cohabitant.

(2) If the cohabitant satisfies the court that he is financially dependent on the other cohabitant and that the financial dependence arises from the relationship or the end of the relationship, the court may, if it is so satisfied, make such an order.

(3) In determining whether or not an order will be made, the court shall have regard to:

(a) the financial circumstances, needs and obligations of each cohabitant existing as at the date of the application or which are likely to arise in the future;

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(b) subject to subarticle (5), the rights and entitlements of any spouse or former spouse;

(c) the rights and entitlements of any dependant child or of any child of a previous relationship of either cohabitant;

(d) the duration of the parties' relationship, the basis on which the parties entered into the relationship and the degree of commitment of the parties to one another;

(e) the contributions that each of the cohabitants made or is likely to make in the foreseeable future to the welfare of the cohabitants or either of them including any contribution made by each of them to the income, earning capacity or property and financial resources of the other;

(f) any contributions made by either of cohabitants in looking after the home;

(g) the effect on the earning capacity of each of the cohabitants of the responsibilities assumed by each of them during the period they lived together as a couple and the degree to which the future earning capacity of a cohabitant is impaired by reason of that cohabitant having relinquished or foregone the opportunity of remunerative activity in order to look after the home;

(h) any physical or mental disability of the cohabitants;  
and

(i) the conduct of each of the cohabitants, if the conduct is such that, in the opinion of the court, it would be unjust to disregard it.

(4) The court may order that notice be given to any other person that it specifies and may hear the other person on the terms and in respect of the matters it thinks fit in the interests of justice before making an order referred to in this article.

(5) The court shall not make an order referred to in this article in favour of a cohabitant that would affect any right of any person to whom the other cohabitant is or was married or of any dependant children.

(6) The court may, on the application made by one of the cohabitants if it considers it proper to do so having regard to any change in the circumstances of the case and to any new evidence, including any variation by another order of the court made in favour



of a person to whom the other cohabitant is or was married, by order vary any order under article 8.

**8.** (1) An order under this article may provide for one or more of the following matters: Property adjustment orders.

(a) the transfer by either of the cohabitants to or for the benefit of the other or of a dependent child, of specified property in which the cohabitant has a title;

(b) the variation for the benefit of either of the cohabitants or of a dependent child of an agreement referred to in article 5.

(2) Before making an order under this article, the court shall have regard to whether in all the circumstances it would be practicable for the financial needs of the cohabitant to be met by an order made under article 9, having regard to all the circumstances, including the likelihood of a future change of circumstances of either of the cohabitants.

**9.** (1) The court may, on application by a cohabitant, during the lifetime of either of the cohabitants, make one or more of the following orders: Orders for maintenance.

(a) an order that either of the cohabitants make to the other the periodical payments in the amounts, during the period and at the times that may be specified in the order;

(b) an order that either of the cohabitants secure to the other, to the satisfaction of the court, the periodical payments of the amounts, during the period and at the times that may be specified in the order;

(c) an order that either of the cohabitants make to the other a lump sum payment or lump sum payments of the amount or amounts and at the time or times that may be specified in the order.

(2) The court may order a cohabitant to pay a lump sum to the other cohabitant to meet any liabilities or expenses reasonably incurred by the former in maintaining himself before the making of an application by the other cohabitant for an order under subarticle (1).

(3) An order under this article for the payment of a lump sum may provide for the payment of the lump sum by instalments of the amounts that may be specified in the order and may require the payment of the instalments to be secured to the satisfaction of the

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court.

(4) The period specified in an order under subarticle (1)(a) or (b) shall not commence before the date of the application for the order and shall end not later than the date of death of the first cohabitant.

(5) An order made under subarticle (1)(a) or (b) shall cease to have effect on the marriage of the cohabitant in whose favour the order was made.

(6) The court shall not make an order under this article in favour of a cohabitant who is married.

Cap. 12.

(7) The provisions of article 381(2) of the Code of Organization and Civil Procedure shall, *mutatis mutandis*, apply in respect of any order for the payment of maintenance made under this article.

Third party rights.

**10.** In making any order under this Act, the court shall ensure that the rights of any other person with an interest in the matter in dispute, including a spouse or former spouse and any dependant children, are safeguarded.

Subordinate obligations.

**11.** Any obligation assumed by any one of the cohabitants shall be subordinate to the rights and entitlements of any spouse or former spouse and of any dependant child or of any child of a previous relationship of either cohabitant.

Cohabitant to be considered as tenant.

**12.** A cohabitant in a civil partnership shall be deemed to be a tenant for all intents and purposes of the law in respect of any lease of dwelling accommodation where the cohabitation is established, contracted by any one of the cohabitants after the coming into force of this Act.

Termination.

**13.** (1) A civil partnership shall be terminated by the death of one of the cohabitants.

(2) The civil partnership shall also be terminated in the following cases:

(a) when the parties contract marriage between themselves;

(b) when the parties agree to terminate the civil partnership, by public deed;

(c) when one of the parties contracts marriage with a third party;

(d) when one of the parties files a judicial act on the other party informing that party of the termination of the civil partnership:

Provided that termination takes effect upon service of the judicial act.

**14.** (1) In the event of the death of one of the cohabitants, the Court may make an order under articles 8 and 9 in respect of any dependant of the deceased. Death of one of the cohabitants.

(2) In making such an order, the Court shall consider the best interests of the dependant.

(3) Such order shall moreover provide for the maintenance, up bringing, education, welfare and the place of dwelling of the dependant.

**15.** Any action under this Act, other than an action under article 7(6), shall, be instituted within two years from the time when the relationship between the cohabitants ends, whether through death or otherwise. Time for filing of actions.

**16.** The court shall only exercise its jurisdiction to hear and determine an application for an order for redress referred to in article 7 if both of the cohabitants concerned were ordinarily resident in Malta throughout the one-year period prior to the end of their relationship, and either of the cohabitants: Jurisdiction.

(a) was domiciled in Malta on the date on which the application is filed, or

(b) was ordinarily resident in Malta for a period of one year immediately preceding the filing of the application.

**17.** (1) Where the court, on the demand of one of the cohabitants, where the cohabitation is not registered by public deed in terms of article 5, finds that one of the cohabitants was responsible for causing the breakdown of the cohabitation without just cause or without appropriately providing for the situation of the other cohabitant, the latter shall have a right to seek redress from the former for damages suffered. Consequences of breakdown of cohabitation.

(2) Redress under this article shall be in the form of maintenance and shall not be in respect of a period in excess of three years.

**18.** No action filed between persons who are or were at any time cohabitants shall be considered to be null or defective by reason Unregistered cohabitation.

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of the ground of illegal or illicit cause.

Applicability.

**19.** An order for redress referred to in article 7 shall only be made if the application for it is made with respect to a relationship that ends, whether by death or otherwise, after the coming into force of this Act, but the time during which two persons lived as a couple before the said date, shall be included for the purposes of calculating whether the cohabitants are cohabitants within the meaning of this Act.

Cohabitants considered next of kin.

**20.** A cohabitant in a registered civil partnership shall be considered as the next of kin of the other cohabitant for the purposes of any acts of civil status.

Applicability.  
Cap. 481.

**21.** The provisions of the Domestic Violence Act shall *mutatis mutandis* apply so however that any reference in the said Act to "household member" shall be construed as a reference to a cohabitant within the meaning of this Act.

Applicability.  
Cap. 9.

**22.** The provisions of articles 633 and 635 of the Criminal Code shall *mutatis mutandis* apply to a cohabitant in a civil partnership.

Power to make regulations.

**23.** The Minister may make regulations to implement and to give better effect to the provisions of this Act and without prejudice to the generality of the foregoing may, by such regulations, prescribe anything that is to be or which may be prescribed and provide for any matter consequential, incidental to or connected with the provisions of this Act.

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**SCHEDULE**  
**(Article 5)**  
**ATT TA' SHUBIJA ĊIVILI**  
**ACT OF CIVIL PARTNERSHIP**

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|--|--|--|--|
| <b>Data tal-Att:</b><br><b>Date of the Act:</b>          |  |  |  |
| <b>Numru tal-Att pubbliku:</b><br><b>Public deed No:</b> |  |  |  |

**DIKJARAZZJONI MILL-KOMPARENTI:**  
**DECLARATION BY THE PARTIES:**

**Dettalji tal-Komparenti:**  
**Particulars of the Parties:**

|  |  |  |  |
|--|--|--|--|
| <i>Isem:</i><br><i>Name:</i>                                   |  | <i>Isem:</i><br><i>Name:</i>                                   |  |
| <i>Kunjom:</i><br><i>Surname:</i>                              |  | <i>Kunjom:</i><br><i>Surname:</i>                              |  |
| <i>Data tat-twelid:</i><br><i>Date of Birth:</i>               |  | <i>Data tat-twelid:</i><br><i>Date of Birth:</i>               |  |
| <i>Numru tal-Karta tal-identità:</i><br><i>ID card number:</i> |  | <i>Numru tal-Karta tal-identità:</i><br><i>ID card number:</i> |  |
| <i>Ismijiet tal-ġenituri</i><br><i>Parents' names</i>          |  | <i>Ismijiet tal-ġenituri</i><br><i>Parents' names</i>          |  |

**Firem/Signatures:**

\_\_\_\_\_  
*Komparenti*  
*First Party*

\_\_\_\_\_  
*Komparenti*  
*Second Party*

\_\_\_\_\_  
*Nutar*  
*Notary*

\_\_\_\_\_  
*Data*  
*Date*

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### **Objects and reasons**

The objects of this Bill are to provide for the rights and obligations of cohabitants in both civil partnerships well as unregistered cohabitation and to provide for connected matters such as maintenance and dependency during cohabitation and after its termination.

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