

ABBOZZ TA' LIĠI
msejjah

ATT biex jemenda l-Kodiċi Ċivili u sabiex jipprovdi għal hwejjeġ li għandhom x'jaqsmu ma' jew li huma anċillari għalihom

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

1. (1) It-titolu ta' dan l-Att hu l-Att tal-2011 li jemenda l-Kodiċi Ċivili (Emenda Nru 2) u dan l-Att għandu jinqara u jinftiehem haġa waħda mal-Kodiċi Ċivili, hawnhekk iżjed 'il quddiem imsejjaħ "il-Kodiċi".

Titolu u bidu fis-sehh.
Kap. 16.

(2) Dan l-Att għandu jidhlo fis-sehh f'dik id-data li l-Ministru responsabbli għall-ġustizzja jista' b'avviż fil-Gazzetta jistabbilixxi, u dati differenti jistgħu jiġu hekk stabbiliti għal disposizzjonijiet differenti jew għal għanijiet differenti ta' dan l-Att.

2. L-artikolu 4 tal-Kodiċi għandu jiġi emendat kif ġej:

Jemenda l-artikolu 4 tal-Kodiċi.

(a) fis-subartikolu (2) tiegħu minflok il-kliem "li warajh tista' żżid kunjom żewġha." għandhom jiġu sostitwiti l-kliem "li warajh tista' żżid kunjom żewġha:" u minnufih wara għandu jiżdied dan il-*proviso* ġdid li ġej:

"Izda fil-każ fejn mara tkun iżżewġet qabel l-4 ta' Frar, 2005, hi tkun tista' tiegħu mill-ġdid kunjom żewġha li jkun miet qabilha jekk kemm-il darba hija tissottometti l-Formula S li tinsab fit-Taqsima II tal-Ewwel Skeda li tinsab ma' dan il-Kodiċi lill-Uffiċċju tar-Registru Pubbliku, liema formula għandu jkun fiha dikjarazzjoni li hi qegħda tagħzel li tiegħu mill-ġdid kunjom żewġha li jkun miet qabilha. Dik id-dikjarazzjoni ma tkunx tista' ssir wara li tghaddi sena mill-1 ta' Jannar, 2012 u meta tkun

konsenjata lill-Uffiċċju tar-Registru Pubbliku, id-Direttur għandu jzomm indiċi bil-kunjom ta' żewġha li miet qabilha kif ukoll l-kunjom tal-aħħar raġel tagħha. Din id-dikjarazzjoni magħmula permezz tal-Formula S għandha tkun irrevokabbli.";

(b) fis-subartikolu (3) tiegħu minflok il-kliem "kunjom xubut ommhom jew kunjom żewġha li jkun miet qabilha." għandhom jiġu sostitwiti l-kliem "kunjom xubut ommhom jew kunjom żewġha li jkun miet qabilha:" u minnufih wara għandu jiżdied dan il-*proviso* ġdid li ġej:

"Izda s-subartikolu (3) għandu japplika għall-ulied li jiġu miż-żwieġ li twieldu qabel is-7 ta' Awwissu 2007, kemm-il darba huma ma jkunux issottomettew lill-Uffiċċju tar-Registru Pubbliku, il-Formula T li tinsab fit-Taqsima II tal-Ewwel Skeda ma' dan il-Kodiċi, li biha huma jagħmlu dikjarazzjoni li fil-ħajja soċjali tagħhom huma ziedu kunjom xubut ommhom jew kunjom żewġha li jkun miet qabilha wara l-kunjom ta' missierhom li jkunu assumew mat-twelid tagħhom. Dik id-dikjarazzjoni ma tkunx tista' ssir wara li tgħaddi sena mill-1 ta' Jannar, 2012 u meta tkun konsenjata lill-Uffiċċju tar-Registru Pubbliku, id-Direttur għandu jniżżel annotazzjoni ta' din id-dikjarazzjoni f'kull fl-att tal-istat ċivili tal-persuna li tagħmel dik id-dikjarazzjoni. Din id-dikjarazzjoni magħmula permezz tal-Formula T għandha tkun irrevokabbli:

Izda wkoll fil-każ fejn it-tfal huma taħt it-tmintax-il sena d-dikjarazzjoni msemija hawn qabel, magħmula permezz tal-Formula T, għandha ssir mill-ġenituri jew, jekk iż-żewġ ġenituri huma mejta, mit-tutor jew kuraturi tagħhom.";

(ċ) minnufih wara s-subartikolu (6) tiegħu għandu jiżdied dan is-subartikolu ġdid li ġej:

"(7) It-tfal naturali jew adottati tal-persuni li jissottomettu l-Formula T imsemmija fis-subartikolu (3), lill-Uffiċċju tar-Registru Pubbliku jistgħu, mhux iżjed tard mill-1 ta' Jannar, 2013, jissottomettu wkoll lill-Uffiċċju tar-Registru Pubbliku, il-Formula U li tinsab fit-Taqsima II tal-Ewwel Skeda ma' dan il-Kodiċi, fejn jiddikjaraw li jkunu jridu jużaw l-istess kunjom ta' missierhom kif debitament annotat fl-atti tal-istat ċivili skont id-disposizzjonijiet tas-subartikolu (3). Meta jirċievi dik il-

formula d-Direttur tar-Registru Pubbliku għandu jnizzel annotazzjoni ta' din id-dikjarazzjoni f'kull att tal-istat ċivili tal-persuna li tagħmel dik id-dikjarazzjoni. Din id-dikjarazzjoni magħmula permezz tal-Formula U għandha tkun irrevokabbli."

3. Fis-subartikolu (1) tal-artikolu 62 tal-Kodiċi minnufih wara l-kliem "għal kunjom xubitha" għandhom jiżdiedu l-kliem "jew għal kunjom żewġha li jkun miet qabilha".

Jemenda l-artikolu 62 tal-Kodiċi.

4. L-artikolu 70 tal-Kodiċi għandu jiġi emendat b'dan li ġej:

Jemenda l-artikolu 70 tal-Kodiċi.

(a) is-subartikolu (3) tiegħu għandu jiġi mħassar; u

(b) minnufih wara s-subartikolu (4) tiegħu għandu jiżdied dan is-subartikolu ġdid li ġej:

"(5) Mingħajr hsara għad-disposizzjonijiet tat-tieni proviso tal-artikolu 73, jekk fis-sentenza tagħha l-Qorti Ċivili (Sezzjoni tal-Familja) tiddikjara illi r-raġel mhux il-missier naturali tat-tifel, din għandu jkollha l-effett li tibdel il-kunjom tat-tifel minn dak tar-raġel għall-kunjom xubitha l-omm."

5. Minnufih wara l-artikolu 70 tal-Kodiċi għandu jiżdied dan l-artikolu ġdid li ġej:

Iżid l-artikolu ġdid 70A mal-Kodiċi.

"Parentela naturali.

70A. (1) Meta tkun meħtieġa l-kjarifika tal-parentala naturali tat-tifel-

(a) il-missier jista' jeħtieġ lill-omm u lit-tifel;

(b) l-omm tista' teħtieġ lill-missier u lit-tifel; u

(c) it-tifel jista' jeħtieġ liż-żewġ ġenituri,

li jagħtu l-kunsens tagħhom għal test ġenetiku dwar il-paternità u li jaċċettaw li jittieħdilhom kampjun ġenetiku xieraq għat-test skont id-disposizzjonijiet tal-liġi vigenti.

(2) Meta jsir rikors minn persuna li għandha dritt tikkjarifika, il-Qorti Ċivili (Sezzjoni tal-Familja) għandha tissostitwixxi l-kunsens li ma ingħatax u għandha tordna li jittieħed il-kampjun.

(3) Il-Qorti Ċivili (Sezzjoni tal-Familja) għandha tissospendi l-proċeduri jekk u sakemm il-kjarifika tirriżulta f'effett kontrarju konsiderevoli għall-aħjar interessi tat-tifel minuri, liema effett ma jkunx raġonevoli għal dak it-tifel minuri, ukoll meta wiehed jikkonsidra l-ansjetajiet tal-persuna li għandha d-dritt għall-kjarifika.

(4) Persuna li tkun tat il-kunsens tagħha għal test ġenetiku ta' paternità u li tkun ipprovdiet kampjun ġenetiku tista' titlob, li l-persuna li għandha d-dritt għall-kjarifika li jkun sar fuqha test ta' paternità, tippermetti l-ispezzjon tar-rapport ta' dak it-test ġenetiku ta' paternità jew li tipprovdi kopja tiegħu. Il-Qorti Ċivili (Sezzjoni tal-Familja) għandha tiddeċiedi tilwimiet li jinqalghu minn talba li ssir taht is-subartikolu (1).".

Jemenda l-artikolu 77D tal-Kodiċi.

6. Fl-artikolu 77D tal-Kodiċi minflok il-kliem "biex jiġi sostitwitu ruħhom għal eżamijiet kif imsemmija fl-artikolu 70(3)" għandhom jiġu sostitwiti l-kliem "biex jiġi sostitwitu ruħhom għal eżamijiet kif imsemmija fl-artikolu 70A", u fin-nota marginali tiegħu minflok il-kliem "70(3)" għandhom jiġu sostitwiti l-kliem "70A".

Jemenda l-artikolu 84 tal-Kodiċi.

7. L-artikolu 84 tal-Kodiċi għandu jiġi sostitwit b'dan li ġej:

"Ma hemmx preskrizzjoni għall-azzjoni.

84. Mingħajr hsara għad-dispożizzjonijiet tal-artikolu 81, ma hemmx preskrizzjoni għall-azzjoni għal tifel biex jiġi stabbilixxi l-filjazzjoni proprja tiegħu."

Iżid l-artikolu ġdid 86A mal-Kodiċi.

8. Minnufih wara l-artikolu 86 tal-Kodiċi għandu jiżdied dan l-artikolu ġdid li ġej:

"Talba ġudizzjarja.

86A.(1) L-omm ta' iben imnissel jew imwieled barra miż-żwieġ li ma jiġix magħruf mill-missier, u dak l-istess tifel, jistgħu f'kull żmien iressqu talba ġudizzjarja biex tiġi stabbilita l-paternità tat-tifel u biex il-qorti tordna r-reġistrazzjoni ta' dik il-paternità fl-atti tal-istat ċivili relattivi.

(2) It-talba ġudizzjarja msemmija fis-subartikolu (1) tista' wkoll titmexxa mill-werrieta jew mid-dixxendenti tat-tifel jekk ikunu jeżistu l-istess ċirkostanzi bħal dawk imsemmija fl-artikolu 85."

9. L-artikolu 100A tal-Kodiċi għandu jiġi sostitwit b'dan li ġej:

Iżid l-artikolu ġdid 100A mal-Kodiċi.

"Prova ġenetika. 100A. F'kawżi li għalihom jagħmel riferenza dan is-Sub-Titolu, il-qorti tista', mingħajr hsara għal kull prova li jistgħu jgħibu l-partijiet skont il-liġi, teħtieġ lill-partijiet biex jissottomettu għal eżamijiet kif imsemmija fl-artikolu 70A, u fl-istess mod u fl-istess ċirkostanzi."

10. L-artikolu 239 tal-Kodiċi għandu jiġi emendat kif ġej:

Jemenda l-artikolu 239 tal-Kodiċi.

(a) is-subartikolu (2) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(2) Kopja ta' att, registrata kif provdut fis-subartikolu (1) u trasmessa lid-Direttur b'kull mezz elettroniku, jew kull kopja vera tagħha, għandha titqies li tkun kopja vera u awtentika għall-finijiet kollha tal-liġi sakemm din tkun iffirmata mid-Direttur li jirċeviha."; u

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

"(3) Għall-finijiet ta' dan l-artikolu l-firma tad-Direttur tista' wkoll tkun firma elettronika skont it-tifsira mogħtija lilha fl-Att dwar il-Komunikazzjonijiet u Transazzjonijiet Elettroniċi."

Kap. 426.

11. L-artikolu 251 tal-Kodiċi għandu jiġi emendat kif ġej:

Jemenda l-artikolu 251 tal-Kodiċi.

(a) fis-subartikolu (1) tiegħu minnufih wara l-kliem "u estratti tagħhom, iffirmati" għandhom jidhlu l-kliem "b'mod manwali jew elettroniku kif imfisser fl-Att dwar il-Komunikazzjonijiet u Transazzjonijiet Elettroniċi,"

(b) fit-tieni *proviso* tas-subartikolu (3) tiegħu minflok il-kliem "Izda wkoll f'kopja jew f'estratt ta' xi att tat-twelid registrat qabel ma jkun fis-seħħ dan il-proviso -" għandhom jiġu sostitwiti l-kliem "Izda wkoll f'estratt ta' xi att tat-twelid-"; u

(ċ) fil-paragrafu (d) tas-subartikolu (3) tiegħu minflok il-kliem "għandha tibqa'" għandhom jiġu sostitwiti l-kliem "m'għandhiex titniżżel".

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Jemenda l-
artikolu 252 tal-
Kodiċi.

12. Fl-artikolu 252 tal-Kodiċi minnufih wara l-kliem "ukoll iċ-ċertifikati ffirmati mid-Direttur" għandhom jiżdiedu l-kliem ", b'mod manwali jew elettroniku kif imfisser fl-Att dwar il-Komunikazzjonijiet u Transazzjonijiet Elettroniċi".

Jemenda l-
artikolu 257A
tal-Kodiċi.

13. L-artikolu 257A tal-Kodiċi għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu minflok il-kliem "tista' tagħmel azzjoni ġudizzjarja" għandhom jiġu sostitwiti l-kliem "tista' tressaq rikors quddiem il-Qorti Ċivili (Sekond'Awla)";

(b) fis-subartikolu (2) tiegħu, minnufih wara l-kliem "s-sentenza tagħha," għandhom jiżdiedu l-kliem "sakemm ma jkunx ġie ppreżentat rapport mediku bil-ġurament";

(ċ) is-subartikolu (3) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(3) Kull azzjoni kontra d-Direttur tar-Registru Pubbliku għandha ssir b'rikors."

Jemenda l-
artikolu 257B tal-
Kodiċi.

14. L-artikolu 257B tal-Kodiċi għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu l-kliem "ta' l-attur" kull fejn jidhru għandhom jiġu sostitwiti bil-kliem "tar-rikorrent" u minflok il-kliem "li l-attur" għandhom jiġu sostitwiti l-kliem "li r-rikorrent"; u

(b) fis-subartikolu (2) tiegħu minflok il-kliem "Il-Qorti tista'" għandhom jiġu sostitwiti l-kliem "Il-Qorti għandha" u l-kelma "attur" għandha tiġi sostitwita bil-kelma "rikorrent".

Jemenda l-
artikolu 269 tal-
Kodiċi.

15. Fis-subartikolu (5) tal-artikolu 269 tal-Kodiċi minflok il-kliem "iżda r-registri u l-kotba miżmuma" sal-kliem "mill-Ministru responsabbli għall-ġustizzja." għandhom jiġu sostitwiti l-kliem "iżda r-registri u l-kotba miżmuma taht dan is-subartikolu, id-digrieti ta' adożzjoni u kull emenda tagħhom komunikati lid-Direttur tar-Registru Pubbliku, u kull indiċi tagħhom m'għandhomx ikunu miftuħa għall-ispezzjon jew tfittix pubbliku, u lanqas ma jista' d-Direttur tar-Registru Pubbliku jagħti xi tagħrif li jkun hemm fi jew xi kopja jew estratt minn xi registri, kotba jew digrieti bħal dawk lil xi persuna, hliet jekk mhux b'ordni tal-qorti jew f'kazijiet eċċezzjonali, lil kull uffiċjal pubbliku awtorizzat kif imiss għal hekk mill-Ministru responsabbli għall-ġustizzja."

Jemenda l-
artikolu 278 tal-
Kodiċi.

16. Fil-verżjoni Maltija tas-subparagrafu (iii) tal-paragrafu (e) tal-artikolu 278 tal-Kodiċi minnufih wara l-kliem "tliet mitt jum mid-data" għandhom jiżdiedu l-kliem "tas-separazzjoni legali,".

17. Is-subartikolu (2) tal-artikolu 280 tal-Kodiċi għandu jiġi emendat kif ġej:

Jemenda l-artikolu 280 tal-Kodiċi.

(a) fil-paragrafu (a) tiegħu minflok il-kliem "żewġ persuni ta' fiduċja; jew" għandhom jiġu sostitwiti l-kliem "żewġ persuni ta' fiduċja"; u

(b) fil-paragrafu (b) tiegħu minflok il-kliem "mifrud legalment minn martu." għandhom jiġu sostitwiti l-kliem "mifrud legalment minn martu; jew"; u

(ċ) minnufih wara l-paragrafu (b) tiegħu għandu jiżdied dan il-paragrafu ġdid li ġej:

"(ċ) jekk qabel jingħata l-avviż tat-twelid ir-raġel u l-mara flimkien jiddikjaraw bil-miktub u b'gurament quddiem xi wieħed mill-Viżitaturi tal-atti nutarili li matul il-perjodu sħiħ tat-tlett jum minnufih qabel il-jum tat-twelid huma ma kellhomx relazzjonijiet sesswali flimkien."

18. Fis-subartikolu (1) tal-artikolu 289 tal-Kodiċi l-kliem "jew, bla ħsara tad-disposizzjonijiet ta' l-artikolu 280, it-tarbija tiġi magħrufa minn missierha b'att pubbliku," għandhom jiġu mħassra.

Jemenda l-artikolu 289 tal-Kodiċi.

19. Fis-subartikolu (1) tal-artikolu 296 tal-Kodiċi minnufih wara l-kliem "jagħti avviż bil-miktub ta' dik il-mewt," għandhom jiżdiedu l-kliem "b'mod manwali jew elettroniku kif imfisser fl-Att dwar il-Komunikazzjonijiet u Transazzjonijiet Elettronici,".

Jemenda l-artikolu 296 tal-Kodiċi.

20. Minnufih wara l-artikolu 495A tal-Kodiċi għandu jiżdied l-artikolu ġdid li ġej:

Iżid l-artikolu 495B mal-Kodiċi.

"Wirt li jiġi fis-seħħ wara l-1 ta' Jannar, 2012.

495B. Fil-każ ta' wirt li jiġi fis-seħħ wara l-1 ta' Jannar, 2012, it-terminu stabbilit fl-artikoli 495(3) u 495A(1) għandu jkun hames snin."

21. Fis-subartikolu (2) tal-artikolu 615 tal-Kodiċi minflok il-kliem "dak il-perjodu ta' sentejn." għandhom jidhlu l-kliem "dak il-perjodu ta' sentejn:" u minnufih wara għandu jiżdied il-proviso li ġej:

Jemenda l-artikolu 615 tal-Kodiċi.

"Iżda l-Qorti tista', fejn iċ-ċirkostanzi tal-każ hekk jeħtieġu, tiddeċiedi li ma jingħatax imghax jew tistabbilixxi rata ta' imghax li tista' tkun inqas minn dik stipulata fl-artikolu 1139."

22. L-artikolu 815 tal-Kodiċi għandu jiġi mħassar.

Ihassar l-artikolu 815 tal-Kodiċi.

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Jemenda l-
artikolu 860 tal-
Kodiċi.

23. Is-subartikolu (2) tal-artikolu 860 tal-Kodiċi għandu jiġi emendat kif ġej:

(a) fis-subartikolu (2) tiegħu minnufih wara l-kliem "fil-gżira fejn il-mejjet kien joqgħod fiż-żmien tal-mewt tiegħu" għandhom jiżdiedu l-kliem "jew b'dikjarazzjoni magħmula b'att ta' nutar pubbliku"; u

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

"(3) Id-dikjarazzjoni tar-rinunzja msemmija f'dan l-artikolu m'għandhiex ikollha effett kwantu għall-partijiet terzi hlief miż-żmien meta din tiġi registrata fir-Registru Pubbliku skont id-disposizzjonijiet tal-artikolu 330(2).".

Jemenda l-
artikolu 1332 tal-
Kodiċi.

24. Is-subartikolu (1) tal-artikolu 1332 tal-Kodiċi għandu jiġi emendat kif ġej:

(a) fil-paragrafu (d) tiegħu minflok il-kliem "jew b'mod ġenerali jew sostanzjalment." għandhom jiġu sostitwiti l-kliem "jew b'mod ġenerali jew sostanzjalment; jew"; u

(b) minnufih wara l-paragrafu (d) tiegħu għandu jiżdied dan il-paragrafu ġdid li ġej:

"(e) mal-firda legali tal-mizzewġin.".

Izid formoli
ġodda mat-
Taqsim II tal-
Ewwel Skeda.

25. Minnufih wara l-Formula R fit-Taqsim II tal-Ewwel Skeda tal-Kodiċi għandhom jiżdiedu dawn il-formoli ġodda li ġejjin:

FORMULA S
(Artikolu 4(2))
DIKJARAZZJONI TA' MARA LI TKUN IŻŻEWĠET QABEL L-4 TA' FRAR
2005 U TKUN TRID TIEHU MILL-ĠDID KUNJOM ŻEWĠHA LI JKUN
MIET QABILHA

Jien hawn taħt iffirmata niddikjara, fil-preżenza ta' żewġi u tax-xhud hawn sottoskritt, li bi hsiebni nieħu mill-ġdid kunjom żewġi li miet qabli:

(kunjom li trid tiehu)

Dettalji taż-żwieġ preżenti

Isem u Kunjom ir-Raġel	Isem u Kunjom Xbubit il-Mara	Post u Data taż-Żwieġ

Dettalji taż-żwieġ ta' qabel

Partikolaritajiet taż-żwieġ ta' qabel			
Partikolaritajiet fir-rigward ta' żewġ-il mara li kellha qabel fid-data taż-żwieġ ta' qabel			
Isem u Kunjom	Età	Post tat-Twelid	Isem u Kunjom tal-Ġenituri u jekk haġjin jew mejtin
*Nru tal-Att taż-Żwieġ		*Data taż-żwieġ	*Nota: Meta ż-żwieġ jew il-mewt ma jkunux registrati fir-Registru Pubbliku għandha tingieb prova skont ma jkun irid id-Direttur
		Jum Xahar Sena	
*Nru tal-Att tal-Mewt		*Data tal-Mewt	
		Jum Xahar Sena	

Firma tal-Mara _____ Firma tar-Raġel _____ Ippreżentati _____

Firma tax-Xhieda _____ Minn _____

C 752

FORMULA T
(Artikolu 4(3))
DIKJARAZZJONI TA' WILD FIŻ-ŻWIEĠ LI TWIELED QABEL IS-7 TA'
AWWISSU 2007 DWAR UŻU TA' KUNJOM

**Jien hawn taħt iffirmat, niddikjara fil-preżenza tax-xhud hawn sottoskritt, li fil-ħajja soċjali dejjem židt kunjom xbubit omni jew kunjom żewġha li miet qalilha* wara l-kunjom ta' missieri, u li b'hekk il-kunjom li dejjem użajt huwa:*

(kunjom shih)

Partikolaritajiet dwar	Isem u Kunjom	Età	Post tat- Twelid	Isem u Kunjom il- ġenituri tal-partijiet fiż- żwieġ u jekk hajjin jew mejtin
Il-wild		snin		

Partikolaritajiet dwar l-att tat-twelid

** Nru tal-Att tat-Twelid	Data Jum Xahar Sena	Post tat-Twelid

Partikolaritajiet dwar atti ta' stat ċivili ohra fejn jidher id-dikjarant ***			
Natura tal-Att tal-Istat Ċivili****	Jum	Xahar	Sena
			Isem u Kunjom il-ġenituri u jekk hajjin jew mejtin

Firma tad-Dikjarant _____ Ippreżentata fi _____ Minn _____

Firma tax-Xhud _____

Noti:

*Hassar fejn ikun mehtieg

**Meta t-twelid ma jkunx registrat fir-Registru Pubbliku għandha tingieb prova skont ma jkun irid id-Direttur

*** Meta l-att ma jkunx registrat fir-Registru Pubbliku għandha tingieb prova skont ma jkun irid id-Direttur

**** Hawn jitnizzel jekk l-att huwiex ta' twelid, żwieġ jew mewt.

C 754

FORMULA U
(Artikolu 4(7))
DIKJARAZZJONI TA' UŻU TA' KUNJOM TA' WILD NATURALI
JEW PERSUNA ADOTTATA TA' PERSUNA LI TKUN
ISSOTTOMETTIET IL-FORMULA T

Jien hawn taħt iffirmat, niddikjara fil-preżenza tax-xhud hawn sottoskritt, li bi ħsiebni nieħu kunjom ta' missieri kif ġie annotat fl-att tat-twelid tiegħu skont l-artikolu 4(3), li hu:

(kunjom sħiħ)

Partikolaritajiet dwar	Isem u Kunjom	Età	Post tat- Twelid	Isem u Kunjom il- ġenituri tal-partijiet fiż- żwieġ u jekk hajjin jew mejtin
Id-dikjarant		snin		

Partikolaritajiet dwar l-att tat-twelid

*Nru tal-Att tat- Twelid	Data Jum Xahar Sena	Post tat-Twelid

Partikolaritajiet dwar atti ta' stat ċivili oħra fejn jidher id-dikjarant**				
Nru tal-Att tal-Istat Ċivili***	Natura tal-Istat Ċivili	Jum	Xahar	Sena
				Isem u Kunjom il-ġenituri u jekk hajjin jew mejtin

Firma tad-Dikjarant _____ Ippreżentata fi _____ Minn _____

Firma tax-Xhud _____

Noti:

*Meta t-twelid ma jkunx registrat fir-Registru Pubbliku għandha tingieb prova skont ma jkun irid id-Direttur

**Meta l-att ma jkunx registrat fir-Registru Pubbliku għandha tingieb prova skont ma jkun irid id-Direttur

*** Meta l-att ma jkunx registrat fir-Registru Pubbliku għandha tingieb prova skont ma jkun irid id-Direttur

C 756

Emenda tal-Att
dwar il-
Professjoni
Nutarili u Arkivji
Nutarili.
Kap. 55.

26. Is-subartikolu (1) tal-artikolu 50 l-Att dwar il-Professjoni Nutarili u Arkivji Nutarili għandu jiġi emendat kif ġej:

(a) fil-paragrafu (m) tiegħu minflok il-kliem "kostitwita fondazzjoni privata.", għandhom jiġu sostitwiti l-kliem "kostitwita fondazzjoni privata;"; u

(b) minnufih wara l-paragrafu (m) tiegħu għandu jizdied dan il-paragrafu li ġej:

"(n) kull att li bih tirrinunzja wirt."

Emenda tal-Att
dwar ir-Registru
Pubbliku.
Kap. 56.

27. Fil-partita 9 tal-Ewwel Skeda tal-Att dwar ir-Registru Pubbliku minnufih wara l-kliem "Għal kull" għandhom jizdiedu l-kliem "dikjarazzjoni ta' rinunzja ta' wirt, kull".

Għanijiet u Raġunijiet

L-għanijiet ta' dan l-Abbozz ta' Liġi huma biex jagħti dritt lil nisa miżżewġa biex jieħdu mill-ġdid il-kunjom tal-aħħar raġel tagħhom u biex il-qorti tordna l-kunsens għal test ġenetiku dwar il-paternità fejn il-parentela naturali tat-tfal hija meħtieġa biex tiġi stabbilita l-paternità.

A BILL
entitled

AN ACT to amend the Civil Code and to provide for matters connected therewith or ancillary 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:-

1. (1) The title of this Act is Civil Code (Amendment No 2) Act, 2011 and this Act shall be read and construed as one with the Civil Code, hereinafter referred to as "the Code".

Title and commencement.
Cap. 16.

(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 and for different provisions of this Act.

2. Article 4 of the Code shall be amended as follows:

Amends article 4
of the Code.

(a) in sub-article (2) thereof for the words "after which she may add her husband's surname." there shall be substituted the words "after which she may add her husband's surname:" and immediately after there shall be added the following new proviso:

"However in the case where a woman was married before the 4th of February, 2005, she shall be able to readopt the surname of her predeceased spouse provided that she submits Form S contained in Part II of the First Schedule to this Code to the Public Registry Office, which form shall contain a declaration that she chooses to readopt the surname of her predeceased spouse. Such declaration

C 758

may not be made after the lapse of one year from 1st January, 2012 and when it is delivered to the Public Registry Office, the Director shall keep an index with the predeceased spouse's surname as well as the surname of her last husband. This declaration made by means of Form S shall be irrevocable.";

(b) in sub-article (3) thereof for the words "of the mother or the surname of her predeceased husband." there shall be substituted the words "of the mother or the surname of her predeceased husband:" and immediately after there shall be added the following new proviso:

"However subarticle (3) shall apply to the children of the marriage born before the 7th of August 2007, provided that they have not submitted to the Public Registry Office, Form T contained in Part II of the First Schedule to this Code, whereby they are declaring that in social life they have added their mother's maiden surname or the surname of her predeceased husband after assuming their father's surname since birth. Such declaration may not be made after the lapse of one year from 1st January, 2012 and when it is delivered to the Public Registry Office, the Director shall make an annotation of this declaration on every act of the civil status of the person making such declaration. This declaration made by means of Form T shall be irrevocable:

Provided further that in the case where the children are under the age of eighteen the declaration aforementioned made by means of Form T shall be made by the parents or, if both parents are deceased, by their tutor or curator.";

(c) immediately after subarticle (6) thereof there shall be added the following new subarticle:

"(7) The natural or adopted children of persons who have submitted to the Public Registry Office Form T referred to in subarticle (3) may, by not later than 1st January, 2013, also submit to the Public Registry Office, Form U contained in Part II of the First Schedule to this Code, declaring that they wish to use the same surname as their father's as duly annotated in the acts of the civil status according to the provisions of subarticle (3). Upon receipt of such form the Director of the Public registry shall make an annotation of this declaration on every act of the civil

status of the person making such declaration. This declaration made by means of Form U shall be irrevocable."

3. In subarticle (1) of article 62 of the Code immediately after the words "to her maiden surname" there shall be added the words "or to the surname of her predeceased husband". Amends article 62 of the Code.

4. Article 70 of the Code shall be amended as follows: Amends article 70 of the Code.

(a) sub-article (3) thereof shall be deleted; and

(b) immediately after subarticle (4) thereof there shall be added the following new subarticle:

"(5) Without prejudice to the provisions of the second proviso of article 73, if in its judgment the Civil Court (Family Section) declares that the husband is not the natural father of the child, it shall have effect to change the child's surname from that of the husband to the child's mother's maiden surname."

5. Immediately after article 70 of the Code there shall be added the following new article: Adds new article 70A to the Code.

"Natural parentage.

70A. (1) Whenever the clarification of natural parentage of a child is required -

(a) the father may require the mother and the child;

(b) the mother may require the father and the child; and

(c) the child may require both parents,

to consent to a genetic paternity test and to acquiesce in the taking of a genetic sample appropriate for the test, which sample must be taken according to the then current provisions of the law.

(2) On the application of a person entitled to clarify, the Civil Court (Family Section) must substitute consent that has not been given and order acquiescence in the taking of a sample.

C 760

(3) The Civil Court (Family Section) shall suspend the proceedings if and as long as the clarification of the natural parentage would result in a considerable adverse effect on the best interests of the minor child, which would be unreasonable for the child, even taking into account the concerns of the person entitled to clarify.

(4) A person, who has consented to a genetic paternity test and has given a genetic sample, may require the person entitled to clarify who has had a paternity test made, to permit inspection of the genetic paternity test report or to provide a copy. The Civil Court (Family Section) shall decide disputes arising from the claim under subarticle (1)."

Amends article 77D of the Code.

6. In article 77D of the Code for the words "to submit to examinations as referred to in article 70(3)" there shall be substituted the words "to submit to examinations as referred to in article 70A", and in the marginal note thereof for the words "70(3)" there shall be substituted the words "70A".

Amends article 84 of the Code.

7. Article 84 of the Code shall be substituted by the following:

"Action not barred by prescription.

84. Without prejudice to the provisions of article 81, no prescription shall run for an action for a child to establish his proper filiation."

Adds new article 86A to the Code.

8. Immediately after article 86 of the Code there shall be added the following new article:

" Judicial demand.

86A.(1) The mother of a child conceived or born out of wedlock who is not acknowledged by the father, and that same child, may at all times make a judicial demand to establish the paternity of the child and for the court to order the registration of such paternity in the relative acts of civil status.

(2) The judicial demand referred to in subarticle (1) may also be sought by the heirs or the descendants of the child if the same circumstances as those which are referred to in article 85 will exist."

9. Article 100A of the Code shall be substituted by the following: Adds new article 100A to the Code.

"Genetic proof. 100A. In causes to which this Sub-Title makes reference, the court may, without prejudice to any evidence that may be produced by the parties according to law, requires the parties to submit to examinations as referred to in article 70A, and in the same manner and in the same circumstances."

10. Article 239 of the Code shall be amended as follows: Amends article 239 of the Code.

(a) subarticle (2) thereof shall be substituted by the following:

"(2) A copy of an act, registered as provided in subarticle (1) and transmitted to the Director by any electronic means, or any true copy thereof, shall be deemed a true and authentic copy for all purposes of law provided this copy is signed by the Director receiving it."; and

(b) immediately after subarticle (2) thereof there shall be added the following new subarticle:

Cap. 426. "(3) For the purposes of this article the Director's signature may also be an electronic signature according to the meaning as assigned to it in the Electronic Commerce Act."

11. Article 251 of the Code shall be amended as follows: Amends article 251 of the Code.

(a) in subarticle (1) thereof immediately after the words "and extracts therefrom, signed" there shall be inserted the words ", manually or electronically as defined in the Electronic Commerce Act,";

(b) in the second proviso to subarticle (3) thereof for the words "Provided further that in any copy or extract of any act of birth registered before the coming into force of this proviso -" there shall be substituted the words "Provided further that in an extract of any act of birth -"; and

(c) in paragraph (d) of subarticle (3) thereof for the words "shall remain" there shall be substituted by the words "shall not be entered".

C 762

Amends article
252 of the Code.

12. In article 252 of the Code immediately after the words "as the certificates signed by the Director" there shall be inserted the words ", manually or electronically as defined in the Electronic Commerce Act".

Amends article
257A of the
Code.

13. Article 257A of the Code shall be amended as follows:

(a) in subarticle (1) thereof for the words "bring an action" there shall be substituted the words "file an application before the Civil Court (Second Hall)";

(b) in subarticle (2) thereof, immediately after the word "judgement," there shall be inserted the words "unless a sworn medical report has been already filed";

(c) subarticle (3) thereof shall be substituted by the following:

"(3) Any action shall be brought against the Director of Public Registry by way of application."

Amends article
257B of the
Code.

14. Article 257B of the Code shall be amended as follows:

(a) in subarticle (1) thereof for the word "plaintiff's" wherever it occurs there shall be substituted by the word "applicant's" and for the word "plaintiff" there shall be substituted the word "applicant"; and

(b) in subarticle (2) thereof the words "The Court may" there shall be substituted the words "The Court shall" and the word "plaintiff" shall be substituted by the word "applicant".

Amends article
269 of the Code.

15. In subarticle (5) of article 269 of the Code for the words "but the registers and books kept" up to the words "by the Minister responsible for justice." there shall be substituted the words "but the registers and books kept under this subarticle, the adoption decrees and any amendment thereof communicated to the Director of the Public Registry, and any index thereof shall not be open to public inspection or search, and nor shall the Director of the Public Registry furnish any information contained in or any copy or extract from any such registers, books or decrees to any person, except under an order of a court or in exceptional cases, to any public officer duly authorised for that purpose by the Minister responsible for justice."

Amends article
278 of the Code.

16. In the Maltese version of subparagraph (iii) of paragraph (e) of article 278 of the Code immediately after the words "tliet mitt jum mid-data" there shall be added the words "tas-separazzjoni legali,".

17. Subarticle (2) of article 280 of the Code shall be amended as follows: Amends article 280 of the Code.

(a) in paragraph (a) thereof for the words "at least two trustworthy persons; or" there shall be substituted the words "at least two trustworthy persons;"; and

(b) in paragraph (b) thereof for the words "separated from his wife." there shall be substituted the words "separated from his wife; or"; and

(c) immediately after paragraph (b) thereof there shall be inserted the following new subparagraph:

"(c) if before the notice of the birth is given the husband and the woman together declare in writing and on oath before one of the Visitors of notarial acts that during the whole period of the three hundred days next preceding the day of the birth of the child they did not have a sexual relationship together."

18. In subarticle (1) of article 289 of the Code the words "or, subject to the provisions of article 280, acknowledged by the father himself in a public deed," shall be deleted. Amends article 289 of the Code.

19. Subarticle (1) of article 296 of the Code immediately after the words "give notice thereof in writing," there shall be inserted the words "manually or electronically signed as defined in the Electronic Commerce Act,". Amends article 296 of the Code.

20. Immediately after article 495A of the Code there shall be inserted the following new article: Adds article 495B to the Code.

"Inheritance which occurs after the 1st January, 2012.

495B. In the case of inheritance which occurs after the 1st January, 2012, the period stipulated in articles 495(3) and 495A(1) shall be five years."

21. In subarticle (2) of article 615 of the Code for the words "the said period of two years." there shall be substituted the words "the said period of two years:" and immediately after there shall be inserted the following proviso: Amends article 615 of the Code.

"Provided that the Court may, if the circumstances of the case so require, decide not to award any interest or establish a rate of interest which is lower than that stipulated in article 1139."

22. Article 815 of the Code shall be deleted. Deletes article 815 of the Code.

C 764

Amends article
860 of the Code.

23. Subarticle (2) of article 860 of the Code shall be amended as follows:

(a) in subarticle (2) thereof immediately after the words "in which the deceased resided at the time of his death" there shall be inserted the words "or by a declaration made by an act of notary public"; and

(b) immediately after subarticle (2) thereof there shall be inserted the following new subarticle:

"(3) The declaration of renunciation referred to in this article shall not be operative with regard to third parties except from the time when it is registered in the Public Registry according to the provisions of article 330(2)."

Amends article
1332 of the
Code.

24. Subarticle (1) of article 1332 of the Code shall be amended as follows:

(a) in paragraph (d) thereof for the words "either generally or to a great extent." there shall be substituted the words "either generally or to a great extent; or"; and

(b) immediately after paragraph (d) thereof there shall be inserted the following new paragraph:

"(e) upon the legal separation of the spouses."

Adds new forms
to Part II of the
First Schedule.

25. Immediately after Form R in Part II of the First Schedule to the Code there shall be inserted the following new forms:

FORM S
(Article 4(2))

**DECLARATION OF A WOMAN WHO WAS MARRIED BEFORE THE 4TH
OF FEBRUARY 2005 WHO CHOOSES TO RE-ADOPT THE SURNAME OF
HER PREDECEASED SPOUSE**

I the undersigned, declare that I in the presence of my husband and of the undersigned, witness that I choose to re-adopt the surname of my predeceased spouse:

_____ (chosen surname)

Details of present marriage

Name and Surname of Husband	Name and Maiden Surname of Wife	Date and Place of Marriage

Details of previous marriage

Particulars of the previous marriage			
Particulars regarding the wife's predeceased spouse at the date of the previous marriage			
Name and Surname	Age	Place of Birth	Name and Surname of Parents and whether alive or deceased
*No. of Act of Marriage		*Date of marriage Day Month Year	*Note: When the marriage or death are not registered in the Public Registry evidence has to be brought according to the Director's exigencies
*No. of Act of Death		*Date of Death Day Month Year	

Wife's Signature _____ Husband's Signature _____ Submitted on _____

Witnesses' Signature _____ From _____

C 766

FORM T
(Article 4(3))
DECLARATION OF A CHILD OF THE MARRIAGE
BORN BEFORE THE 7TH AUGUST 2007 ON THE USE OF A SURNAME

** I the undersigned ,declare in the presence of the undersigned, witness that in social life I have always added my mother's maiden surname or the surname of her predeceased husband* after my father's surname, and therefore the surname I always used is:*

_____)
 (surname in full)

Particulars regarding	Name and Surname	Age	Place of Birth	Name and Surname of Parents of spouses in marriage and whether alive or deceased
The child		years		

Particulars regarding the act of birth

** No of Act of Birth	Date Day Month Year	Place of Birth

Particulars regarding other acts of civil status where it appears that the declarator***			
Nature of the Act of Civil Status****	Day	Month	Year
			Name and Surname of Parents and whether alive or deceased

Declarator's Signature _____ Submitted on _____ From _____

Witness' Signature _____

Notes:

*Delete where required

**When the birth is not registered in the Public Registry evidence has to be brought according to the Director's exigencies

*** When the act is not registered in the Public Registry evidence has to be brought according to the Director's exigencies

**** List whether the act is of birth, marriage or death

C 768

FORM U
(Article 4(7))

**DECLARATION OF THE USE OF A SURNAME OF NATURAL CHILD
OR ADOPTED PERSON OF THE PERSON WHO SUBMITTED FORM T**

I the undersigned, declare in the presence of the undersigned witness, that I intend to adopt my father's surname as noted in his act of birth according to article 4(3), which is:

_____ (surname in full)

Particulars regarding	Name and Surname	Age	Place of Birth	Name and Surname of Parents of spouses in marriage and whether alive or deceased
The declarator		years		

Particulars regarding the act of birth

*No of Act of Birth	Date Day Month Year	Place of Birth

Particulars regarding other acts of civil status where it appears that the declarator**				
No of the Act of Civil Status ***	Nature of Civil Status	Day	Month	Year
				Name and Surname of Parents and whether alive or deceased

Declarator's Signature _____ Submitted on _____ From _____

Witness' Signature _____

Notes:

*When the birth is not registered in the Public Registry evidence has to be brought according to the Director's exigencies

**When the act is not registered in the Public Registry evidence has to be brought according to the Director's exigencies

*** List whether the act is of birth, marriage or death

C 770

Amendment of
the Notarial
Profession and
Notarial
Archives Act.
Cap. 55.

26. Subarticle (1) of article 50 of the Notarial Profession and Notarial Archives Act shall be amended as follows:

(a) in paragraph (m) thereof for the words "a private foundation is established.", there shall be substituted the words "a private foundation is established;"; and

(b) immediately after paragraph (m) thereof there shall be added the following paragraph:

"(n) any act to renounce an inheritance".

Amendment of
the Public
Registry Act.
Cap. 56.

27. In item 9 of the First Schedule to the Public Registry Act immediately after the words "For every" there shall be inserted the words "declaration to renounce an inheritance, every".

Objects and Reasons

The objects of this Bill are to give rights to married women to re-adopt the surname of her predeceased spouse and for the court to order the consent to a genetic paternity test whenever the natural parentage of a child is required to establish the paternity of the child.
