

Nagħti l-kunsens tiegħi.

(L.S.)

ANTON TABONE
Aġent President

2 ta' Novembru, 2012

ATT Nru. XVII tal-2012

ATT biex jemenda l-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, Kap.12.

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

1. It-titolu fil-qosor ta' dan l-Att huwa Att tal-2012 li jemenda l-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, u dan l-Att għandu jinftehem u jinqara haġa waħda mal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, hawnhekk iżjed 'il quddiem imsejjaħ "il-Kodiċi".

Titolu fil-qosor.

Kap. 12.

2. Fis-subartikolu (5) tal-artikolu 41 tal-Kodiċi, minflok il-kliem "fil-kompetenza superjuri tagħha." għandhom jidhlu l-kliem "fil-kompetenza superjuri tagħha:" u minnufih wara għandu jżied il-proviso li ġej:

Emenda tal-artikolu 41 tal-Kodiċi.

"Izda r-referenza għall-"Prim' Awla tal-Qorti Ċivili" f'dan is-subartikolu għandha titqies bħala li tinkludi referenza għall-Qorti Ċivili (Sezzjoni tal-Familja) u li kienet tinkludi tali referenza sa mid-data tat-twaqqif tas-sezzjonijiet tal-qrati ċivili."

3. Fis-subartikolu (1) tal-artikolu 144 tal-Kodiċi, minflok il-kliem "għandu jiġi miċhud." għandhom jidhlu l-kliem "għandu jiġi

Emenda tal-artikolu 144 tal-Kodiċi.

miċhud:" u minnufih wara għandhom jizdiedu l-*provisos* li ġejjin:

"Izda f'kawzi fejn ikun hemm aktar minn tliet atturi jew aktar minn tliet konvenuti, ir-rikors tal-appell u kwalunkwe avviż ieħor, inkluż l-avviż ta' smiġh tal-appell, jista' jiġi notifikat lil kwalunkwe żewġ atturi jew kwalunkwe żewġ konvenuti skont il-każ, u lil avukat u prokuratur legali li jkun aġixxa f'isem l-atturi u l-konvenuti l-oħrajn quddiem il-Qorti fl-ewwel istanza:

Izda wkoll li fejn ma jkunx hemm avukat jew prokuratur legali kif imsemmi fl-ewwel proviso jew fejn l-istess avukat jew prokuratur legali jkun informa l-appellant li huwa ma jkunx għadu jaġixxi fl-istess rwol, il-parti li tkun qiegħda titlob in-notifika tar-rikors tal-appell tista' titlob lill-Qorti li quddiemha jkun ġie intavolat l-appell sabiex tawtorizzaha li tinnotifika lill-partijiet kollha, hliet għaż-żewġ atturi jew żewġ konvenuti skont il-każ, kif imsemmi fil-proviso preċedenti, permezz tal-pubblikazzjoni fil-Gazzetta u f'gazzetta ta' kuljum waħda jew aktar skont kif tidderiegi l-Qorti, mingħajr proċeduri jew htigijiet ulterjuri."

Emenda tal-artikolu 229 tal-Kodiċi.

4. L-artikolu 229 tal-Kodiċi għandu jiġi emendat kif ġej:

(a) fil-paragrafu (f) tas-subartikolu (1) tiegħu, minflok il-kliem "skont l-artikolu 637;" għandu jidhol il-kliem "skont l-artikolu 637 hliet jekk d-digriet ikun dwar jekk tintlaqax jew le talba biex jingieb dokument li jkun dokument privilegġat skont id-dispożizzjonijiet tal-artikolu 637(4);" u

(b) fil-paragrafu (e) tas-subartikolu (2) tiegħu, minflok il-kliem "waqfien tal-proċedimenti." għandhom jidhlu l-kliem "waqfien tal-proċedimenti;" u minnufih wara għandu jizdied il-paragrafu ġdid li ġej:

"(f) digriet li jordna li jingieb dokument li jkun dokument privilegġat skont id-dispożizzjonijiet tal-artikolu 637(4)."

Emenda tal-artikolu 466 tal-Kodiċi.

5. L-artikolu 466 tal-Kodiċi għandu jiġi emendat kif ġej:

(a) minflok il-kliem "Meta kap ta' dipartiment tal-gvern jew iċ-*Chairman* tal-Korporazzjoni Enemalta jew rappreżentant tiegħu jrid jaġixxi għall-hlas ta' kreditu li jkollu jieħu d-dipartiment li tiegħu huwa jkun il-kap, jew li jkollha tieħu xi amministrazzjoni ta' dak id-dipartiment dwar kull servizz, provvista, kera jew għal dritt ta' xi liċenza jew dritt jew taxxa oħra dovuti" fis-subartikolu (1) tiegħu għandhom jidhlu l-kliem

"Meta kap ta' dipartiment tal-gvern jew il-persuna vestita bir-rappreżentanza legali ta' korp magħqud stabbilit bil-liġi jew b'rappreżentanza legali ta' xi kumpannija jew korp ieħor li jkun hekk awtorizzat, bi jew taħt kull liġi, sabiex jiġbor kull ammont dovut lil dipartiment tal-gvern jew lil korp magħqud stabbilit bil-liġi, ikun irid jaġixxi sabiex jingabar lura dejn dovut lil dipartiment tal-gvern jew lil xi uffiċċju amministrattiv tiegħu jew lil korp magħqud stabbilit bil-liġi, dwar kull servizz, provvista, penali, kera, ċens, piżijiet oħra fuq beni, kumpens għall-okkupazzjoni u jew għal dritt ta' xi liċenza jew dritt jew taxxa oħra dovuti"; u

(b) il-kliem "li dak id-debitu jkun dovut." fl-istess subartikolu (1) għandhom jiġu sostitwiti bil-kliem "li dak id-debitu jkun dovut:" u minnufih wara għandu jizdied dan il-proviso li ġej:

"Izda d-dispożizzjonijiet ta' dan l-artikolu għandhom ukoll japplikaw fir-rigward ta' ammonti dovuti għall-provdiment ta' ilma u elettriku u għall-kiri ta' *meters* relatati izda ma għandhomx japplikaw meta qabel ma tingħata n-notifika meħtieġa taħt is-subartikolu (2), il-persuna li mingħandha l-ammont qed jiġi mitlub tkun avżat lir-rikorrent sew permezz ta' att ġudizzjarju jew permezz ta' ittra registrata li qiegħda tikkontesta l-*metering*, il-kalkolu jew l-ammont dovut fir-rigward ta' dak il-provdiment jew il-kiri ta' dak il-*meter*."

6. Minnufih wara l-artikolu 810A tal-Kodiċi għandu jizdied l-artikolu ġdid li ġej:

Zjieda ta' artikolu ġdid mal-Kodiċi.

"Kontinwazzjoni tal-kawża fin-nuqqas ta' rikors jew ta' kuratur.

810B. Meta, fi żmien sitt xhur mill-mewt *pendente lite* ta' xi parti f'kawża, ma jkun sar ebda rikors minn xi persuna sabiex tkompli l-kawża minflok il-mejjet, jew fejn matul dan iż-żmien ebda rikors ma jkun ġie intavolat minn xi parti fil-kawża sabiex jintalab li l-kawża tkompli ssir f'isem l-eredi preżunt jew preżunti tal-mejjet, il-kawża għandha tkompli f'isem il-mejjet u kwalunkwe sentenza li tingħata f'tali kawża tkun eżegwibbli kontra l-eredi tal-mejjet:

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Iżda minkejja li jkun għadda l-perjodu ta' sitt xhur stipulat f'dan l-artikolu, kwalunkwe persuna interessata li għaliha jirreferi l-artikolu 807 kif ukoll il-parti l-oħra fil-kawża tista', sa dak iż-żmien li l-kawża tiġi differita għas-sentenza jew wara s-sentenza fil-każ li l-persuna jew il-parti msemmija tippreżenta rikors tal-appell, tutilizza d-dispożizzjonijiet tal-imsemmija artikoli 806 u 807 rispettivament:

Iżda wkoll ebda sentenza mogħtija fir-rigward ta' parti mejta m'għandha titqies bħala nulla jew difettuża minhabba l-fatt biss li l-perjodu ta' sitt xhur imsemmi f'dan l-artikolu ma jkunx laħaq għadda sal-mument meta l-kawża tmur għas-sentenza."

Mgħoddi mill-Kamra tad-Deputati fis-Seduta Nru. 516 tal-31 ta' Ottubru, 2012.

MICHAEL FREUDO
Speaker

RAYMOND SCICLUNA
Skrivan tal-Kamra tad-Deputati

I assent.

(L.S.)

ANTON TABONE
Acting President

2nd November, 2012

ACT No. XVII of 2012

AN ACT to amend the Code of Organization and Civil Procedure, Cap. 12.

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. The short title of this Act is the Code of Organization and Civil Procedure (Amendment) Act, 2012, and this Act shall be read and construed as one with the Code of Organization and Civil Procedure, hereinafter referred to as "the Code".

Short title.

Cap. 12.

2. In subarticle (5) of article 41 of the Code, for the words "superior jurisdiction." there shall be substituted the words "superior jurisdiction:" and immediately thereafter there shall be added the following proviso:

Amendment of article 41 of the Code.

"Provided that the reference to the "Civil Court, First Hall" in this subarticle shall be deemed to include a reference to the Civil Court (Family Section) and to have included such a reference as from the date of establishment of the sections of the civil courts.",

3. In subarticle (1) of article 144 of the Code for the words "should be dismissed." there shall be substituted the words "should be dismissed:" and immediately thereafter there shall be added the

Amendment of article 144 of the Code.

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following provisos:

"Provided that in causes where there are more than three plaintiffs or more than three defendants the application of appeal and any other notice, including the notice of trial relating to the appeal, may be served upon any two of the plaintiffs or upon any two of the defendants, as the case may be, and upon an advocate and a legal procurator who before the court at first instance had acted on behalf of the other plaintiffs or defendants:

Provided further that where there is no advocate or legal procurator as referred to in the first proviso or where any such advocate or legal procurator has informed the appellant of the cessation of the character in which the advocate or legal procurator has acted, the party requesting to effect service of the application of appeal may request the court before which the appeal is filed to authorise service to all parties, other than the two plaintiffs or the two defendants as the case may be, referred to in the preceding proviso, by publication in the Gazette and in one or more daily newspapers as the court may direct, without any further procedures or requirements."

Amendment of
article 229 of
the Code.

4. Article 229 of the Code shall be amended as follows:

(a) in paragraph (f) of sub-article (1) thereof, for the words "article 637;" there shall be substituted the words "article 637 except if the decree allows or disallows the production of a document which is an exempt document in terms of article 637(4);"; and

(b) in paragraph (e) of sub-article (2) thereof, for the words "stay of proceedings." there shall be substituted the words "stay of proceedings;" and immediately thereafter there shall be added the following new paragraph:

"(f) a decree that orders the production of a document which is an exempt document in terms of article 637(4)."

Amendment of
article 466 of
the Code.

5. Article 466 of the Code shall be amended as follows:

(a) for the words "Where a head of any government department or the Chairman of Enemalta Corporation or his representative desires to sue for the recovery of a debt due to a department under his direction, or to any administration thereof, for any services, supplies, rent or for any licence or other fee or tax due" in sub-article (1) thereof there shall be substituted the

words "Where the head of a government department or the person vested with the legal representation of a body corporate established by law or with the legal representation of any company or other body which has been authorised by or under any law to collect any amounts due to a government department or to a body corporate established by law, desires to sue for the recovery of a debt due to a government department or to any administration thereof or to a body corporate established by law, for any services, supplies, penalties, rent, ground rent, other burdens on property, compensation for occupation and or for any licence or other fee or tax due"; and

(b) for the words "confirm that it is due." in the same sub-article (1) there shall be substituted the words "confirm that it is due:" and immediately thereafter there shall be added the following new proviso:

"Provided that the provisions of this article shall also apply in respect of amounts due for the supply of water and electricity and for the rental of the relative meters but they shall not apply where prior to the service required under subarticle (2) the person from whom the amount is claimed shall have notified the claimant either by means of a judicial act or by registered post that he is disputing the metering, calculation or the charge in respect of such supply or rental."

6. Immediately after article 810A of the Code, there shall be added the following new article:

Addition of new article to the Code.

"Continuation of suit in the absence of an application or of a curator.

810B. Where, within six months from the death *pendente lite* of any party to a suit, no application is made by any person to continue the suit in substitution of the deceased party or where during the said time no application has been filed by a party to the suit demanding that the suit be continued in the name of the presumptive heir or heirs of the deceased party, the suit shall continue in the name of the deceased party and any judgement delivered in such suit shall be enforceable against the heirs of the said deceased party:

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Provided that notwithstanding the lapse of the six month period stipulated in this article, any interested person as referred to in article 806 and the other party as referred to in article 807 may, until such time when the suit is adjourned for judgement or after judgement in the case that the said person or party files an application of appeal, avail himself of the provisions of the said articles 806 or 807 respectively:

Provided further that no judgement delivered in respect of a deceased party shall be deemed to be null or defective only by reason of the fact that the period of six months referred to in this article had not lapsed at the time when the suit was adjourned for judgement."

Passed by the House of Representatives at Sitting No. 516 of the 31st October, 2012.

MICHAEL FREND
Speaker

RAYMOND SCICLUNA
Clerk to the House of Representatives
