

ABBOZZ TA' LIĠI msejjah

*ATT biex jemenda l-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili,
Kap. 12, u ligijiet oħra li jirrigwardaw il-proċedura ċivili.*

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:-

Taqsimi I

1. (1) It-titolu fil-qosor ta' dan l-Att hu Att ta' l-2003 li jemenda l-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili. Titolu fil-qosor u bidu fis-sehh.

(2) Id-disposizzjonijiet tad-diversi taqsimiet ta' dan l-Att għandhom jibdeu isehhu f'dik id-data li l-Ministru responsabbli għall-Ġustizzja jista' jistabbilixxi b'avviż fil-Gazzetta u jistgħu jiġu hekk stabbiliti dati differenti għal disposizzjonijiet differenti u għal għanijiet differenti ta' dawk id-disposizzjonijiet.

Taqsimi II

2. Din it-Taqsimi temenda u għandha tinqara u tiftiehem haġa wahda mal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, hawn iżjed 'il quddiem imsejjah "il-Kodiċi". Emenda tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, Kap. 12.

3. Minnufih wara l-artikolu 166 tal-Kodiċi ghandu jiżded dan l-artikolu ġdid li ġej:-

“Proċeduri
speċjali
ghar-rigward
ta' xi talbiet
mhux
opposti eċċ.

166A. (1) F'azzjonijiet għall-hlas ta' dejn ċert, likwidu u li għalaq u li ma jkunx jikkonsisti fl-esekuzzjoni ta' fatt u meta l-ammont tad-dejn ma jkunx jeċċedi l-hamest elef lira, il-kreditur ikun jista' jipproċedi skond dawn is-subartikoli ta' dan l-artikolu li ġejjin:

Iżda meta d-dejn ma jkunx likwidu, il-kreditur jista' jimxi skond dan l-artikolu jekk huwa jillimita d-dejn tiegħu għal ammont li ma jeċċedix il-hamest elef lira u jirrinunza espressament għal kull parti mit-talba tiegħu li tista' meta tiġi likwidata teċċedi dik is-somma ta' hamest elef lira.

(2) Il-kreditur ghandu jmexxi billi jippreżenta ittra uffiċjali li għandha tiġi notifikata lid-debitur fejn ghandu jiġi dikjarat b'mod ċar, taht piena ta' nullità, ir-raġuni li fuqha tkun imsejsa t-talba, ir-raġunijiet għaliex it-talba għandha tintlaqa', u dikjarazzjoni tal-fatti b'sostenn tat-talba.

(3) L-ittra uffiċjali ghandu wkoll ikun fiha taht piena ta' nullità intimazzjoni lid-debitur li jekk huwa ma jweġibx fi żmien tletin jum b'ittra uffiċjali li għandha tiġi notifikata lill-kreditur u li fiha tiġi respinta t-talba filwaqt li jiġu dikjarati b'mod ċar x'ikunu r-raġunijiet għaliex ma għandhiex tintlaqa' t-talba, dik l-ittra uffiċjali ghandu jkollha, għall-finijiet ta' kull liġi, l-istess effett bħal sentenza tal-qorti, u tkun tikkostitwixxi titolu eżekuttiv:

Iżda:

(a) d-debitur jista' jammetti t-talba f'parti minnha biss u jopponiha f'partijiet oħra, u meta t-talba tkun opposta f'xi parti minnha biss din titqies bħala li tkun ġiet ammessa sal-limitu li din ma tkunx ġiet opposta;

(b) meta d-debitur ikun oppona talba jew xi parti minn talba li tiġi sussegwentement milqugħa, l-ispejjeż relattivi għat-talba jew parti minnhom li tkun ġiet opposta u sussegwentement milqugħa għandhom jiġu mħallsa mid-debitur;

(ċ) l-ispejjeż ta' kull talba jew parti minnha li tkun ġiet opposta u mhux sussegwentement milqugha għandhom dejjem jithallsu mill-kreditur;

(d) meta d-debitur ikun oppona t-talba kif imiss, il-proċedura speċjali li tinsab f' dan l-artikolu ma tistax terġa' tintuża kontra d-debitur għar-rigward ta' l-istess talba li jkun hemm fl-ittra ufficjali notifikata lid-debitur; u

(e) meta t-talba toriġina taht l-Ordinanza dwar l-Assigurazzjoni ta' Vetturi tal-Mutur għar-Riskji ta' Terzi Persuni (Kap. 104) dik l-ittra ufficjali għandha taht piena ta' nullita' tiġi wkoll notifikata lill-assigurazzjoni awtorizzata.

(4) Meta d-debitur ma jopponix it-talba, fi żmien tletin jum minn notifika tagħha lid-debitur, jew meta d-debitur jopponi biss it-talba f' parti minnha fiż-żmien hawn qabel imsemmi, l-ittra ufficjali għandha għall-finijiet ta' kull liġi jkollha l-istess effett ta' sentenza tal-qorti għar-rigward tat-talba hekk mhux opposta jew dik il-parti fiha hekk mhux opposta u tkun tikkostitwixxi titolu eżekuttiv bħallikieku dik l-ittra ufficjali kienet inkluża fl-artikolu 253(a) ta' dan il-Kodiċi.

(5) Titolu eżekuttiv li jinkiseb skond id-disposizzjonijiet ta' dan l-artikolu, dejjem jekk ma jkunx hemm oppożizzjoni min-naħa tad-debitur, għandu jiġi rexiss u ddikjarat null u bla ebda effett jekk meta ssir talba permezz ta' ċitazzjoni li tiġi ppreżentata mid-debitur fi żmien għoxrin ġurnata minn l-ewwel notifika li ssirlu ta' xi mandat eżekuttiv msejjes fuq dak it-titolu jew xi att ġudizzjarju iehor, il-qorti tkun sodisfatta li d-debitur ma kienx jaf b'dik l-ittra ufficjali għaliex huwa ma kienx notifikat kif imiss.

(6) Ebda oppożizzjoni, hlief dik li hemm speċifikament provdut dwarha fis-subartikolu (5), ma għandha twaqqaf il-hruġ jew l-eżekuzzjoni ta' xi att eżekuttiv li jinkiseb taht dak is-subartikolu jew il-hlas tarrikavat ta' xi mandat jew bejgħ b'irkant li jsir konformement ma' dan.”.

Emenda ta' l-artikolu 253 tal-Kodiċi.

4. Minnufih wara paragrafu (d) fl-artikolu 253 tal-Kodiċi għandu jiżdied dan il-paragrafu (e) li ġej:

“(e) kambjali u *promissory notes* mahruġin skond il-Kodiċi tal-Kummerċ.”.

Emenda ta' l-artikolu 306 tal-Kodiċi.

5. Minnufih wara s-sub-artikolu (4) ta' l-artikolu 306 tal-Kodiċi għandu jidhol dan is-subartikolu ġdid li ġej:

“(5) Id-disposizzjonijiet ta' l-artikolu 8 ta' l-Att dwar ir-Reġistru Pubbliku (Kap. 56) għandhom *mutatis mutandis* ikunu japplikaw għar-reġistrazzjonijiet li jsiru taht dan l-artikolu.”.

Thassir ta' l-artikolu 915 tal-Kodiċi.

6. L-artikolu 915 tal-Kodiċi għandu jiġi mħassar.

Taqsimha III

Emenda tal-Kodiċi Ċivili, Kap. 16.

7. Din it-Taqsimha temenda u għandha tingara u tiftiehem haġa waħda mal-Kodiċi Ċivili, hawnhekk iżjed 'il quddiem imsejjah “il-Kodiċi”.

Emenda ta' l-artikolu 2042 tal-Kodiċi.

8. L-artikolu 2042 tal-Kodiċi għandu jiġi emendat kif ġej:

(i) fil-paragrafu (a) minflok il-kliem “l-isem u l-kunjom tal-kreditur,” għandhom jidhlu l-kliem “l-isem u l-kunjom tal-kreditur u n-numru tal-karta ta' l-identita' tiegħu miktuba bil-figuri biss,”; u

(ii) fil-paragrafu (b) minflok il-kliem “l-isem u l-kunjom tad-debitur,” għandhom jidhlu l-kliem “l-isem u l-kunjom tad-debitur u n-numru tal-karta ta' l-identita' tiegħu miktuba bil-figuri biss.”.

Taqsimha IV

Emenda ta' l-Ordinanza dwar l-Assigurazzjoni ta' Vetturi tal-Mutur għar-Riskji ta' Terzi Persuni, Kap. 104.

9. Din it-Taqsimha temenda u għandha tingara u tiftiehem haġa waħda ma' l-Ordinanza dwar l-Assigurazzjoni ta' Vetturi tal-Mutur għar-Riskji ta' Terzi Persuni, hawnhekk f'din it-Taqsimha msejha “l-Ordinanza”.

Emenda ta' l-artikolu 10 ta' l-Ordinanza.

10. Minnufih wara s-sub-artikolu (4) ta' l-artikolu 10 ta' l-Ordinanza għandu jiżdied dan is-sub-artikolu (5) ġdid li ġej:

“(5) Kull riferenza f’dan l-artikolu ghal xi deċiżjoni jew sentenza ghandha titqies li tinkludi riferenza ghal lodi ta’ arbitraġġ magħmul taht l-Att dwar l-Arbitraġġ, Kap. 387, u wiehed miksub taht l-artikolu 166A tal-Kodiċi ta’ Organizzazzjoni u Proċedura Ċivili, Kap. 12, u kull riferenza ghal xi azzjoni jew ghal proċedimenti ghandha titqies li tinkludi riferenza ghal proċedimenti ta’ arbitraġġ u ghal dak l-artikolu 166A taht dak l-Att.”.

Taqsimha V

11. Din it-Taqsimha temenda, u ghandha tinqara u tiftiehem haġa waħda, ma’ l-Att dwar l-Arbitraġġ, hawn iżjed ’il quddiem f’din it-Taqsimha imsejjah “l-Att prinċipali”.

Emenda ta’ l-Att
dwar
l-Arbitraġġ, Kap.
387.

12. L-artikolu 15 ta’ l-Att prinċipali ghandu jiġi emendat kif ġej:

Emenda ta’ l-
artikolu
15 ta’ l-Att
prinċipali.

(a) fis-subartikolu (3) il-kliem “jew li fil-fatt ma jkun hemm ebda kwistjoni bejn il-partijiet dwar il-kwistjoni miftehma li tiġi riferita,” ghandhom jithassru;

(b) is-subartikolu (7) ghandu jithassar u minfloku jidhol dan is-subartikolu ġdid li ġej:

“(7) Sottomissjoni f’arbitraġġ dwar xi tilwima li ssir minn amministratur, aġent jew mandatarju ma tkunx valida kemm-il darba:-

(a) dik il-persuna ma tkunx awtorizzata li tiehu t-tilwimiet tagħha f’arbitraġġ; u

(b) dik is-sottomissjoni ma tkunx tirreferi ghal xi kwistjoni li taqa’ fis-setgħat ta’ dik il-persuna.”; u

(ċ) minnufih wara s-subartikolu (10) ghandhom jiżdiedu dawn is-subartikoli li ġejjin:

“(11) B’żieda ma’ dawk imsemmija b’kull liġi ohra, il-klassijiet ta’ tilwimiet imsemmija fir-Raba’ Skeda li tinsab ma’ dan l-Att huma soġġetti ghal arbitraġġ mandatorju u f’dawk il-każijiet il-partijiet ghandhom jitqiesu li jkunu marbutin bi ftehim ta’ arbitraġġ relatat ma’ dawk it-tilwimiet.

(12) Iċ-Ċentru jkollu s-setgħa li jagħmel regoli skond l-artikolu 10 dwar il-proċeduri li għandhom jiġu adottati f'arbitraġġi mandatorji.

(13) Il-Ministru jkollu s-setgħa b'regolamenti jżid, ineħhi jew jissostitwixxi u jemenda l-klassijiet ta' tilwimiet imsemmija fir-Raba' Skeda u l-kondizzjonijiet li japplikaw għalihom. Dawk ir-regolamenti jistgħu jistabbilixxu l-kondizzjonijiet li japplikaw f'dawk il-każijiet, inklużi:

(i) ix-xorta speċifika tat-tilwimiet;

(ii) l-ogħla valur monetarju ta' dawk it-tilwimiet;

(iii) ir-rimedji mfittxija u li jistgħu jingħataw dwar dawk it-tilwimiet; u

(iv) il-mod kif għandu jinhatar arbitru jew arbitri.

(14) Ir-regoli jew regolamenti kollha msemmija fis-subartikoli preċedenti għandhom jibdeu isehhu b'effett mid-data appuntata mill-Ministru u ma għandhomx jolqtu xi tilwima li f'dak il-waqt tkun għadha pendent quddiem xi qorti jew tribunal.”.

Emenda ta' l-artikolu 44 ta' l-Att principali.

13. L-artikolu 44 ta' l-Att principali għandu jiġi emendat kif ġej:

(a) minnufih fi tmiem is-subartikolu (3) għandu jiżdied dan il-proviso ġdid li ġej:

“Iżda fil-każ ta' deċiżjonijiet interlokutorji dwar il-proċeduri ta' l-arbitraġġ, ma għandhom jingħataw ebda raġunijiet.”;

(b) fis-subartikolu (8) tiegħu minflok il-kliem “flimkien mad-deċiżjonijiet kollha parzjali, temporanji u interlokutorji li ma jkunux għadhom ġew” għandhom jidhlu l-kliem “flimkien mad-deċiżjonijiet kollha parzjali u temporanji li ma jkunux għadhom ġew”; u

(ċ) minnufih wara s-subartikolu (9) għandu jiżdied dan is-subartikolu li ġej:

“(10) Id-deċiżjonijiet intrlokutorji ma humiex soġġetti ghar-registrazzjoni, ma tista’ tittiehed ebda azzjoni kontrihom u jorbtu lill-partijiet fil-proċedimenti minnufih malli dawn jiġu notifikati lill-partijiet li ghandhom iwettquhom minghajr dewmien.”.

14. L-artikolu 51 ta’ l-Att prinċipali ghandu jithassar u minfloku ghandu jidhol dan l-artikolu 51 ġdid li ġej:

Sostituzzjoni ta’ l-artikolu 51 ta’ l-Att prinċipali.

“It-tribunal ta’ l-arbitraġġ jistabbilixxi d-drittijiet u l-ispejjeż.

51. (1) It-tribunal ta’ l-arbitraġġ ghandu jistabbilixxi d-drittijiet u l-ispejjeż skond dawk ir-regoli u linji direttivi li jistghu jsiru miċ-Ċentru minn żmien għal żmien u kull ma jiġi stabbilit fuq drittijiet u spejjeż ikun jista’ jiġi rivedut skond ma jista’ jiġi ordnat f’dawk ir-regoli jew linji direttivi.

(2) Tista’ tiġi delegata liċ-Ċentru l-funzjoni li jistabbilixxi d-drittijiet u l-ispejjeż, skond liġi li tiġi applikata jew bejn il-partijiet, f’każijiet jew fi klassijiet ta’ każijiet speċifiċi taht dawk il-kondizzjonijiet li jistghu jiġu dikjarati f’dik il-liġi, dawk ir-regoli jew dawk il-linji direttivi li jinharġu miċ-Ċentru jew li jkun hemm fil-ftehim ta’ arbitraġġ.”.

15. Fl-artikolu 71B ta’ l-Att prinċipali minflok is-subartikolu (3) ghandu jidhol dan li ġej:

Emenda ta’ l-artikolu 71B ta’ l-Att prinċipali.

“(3) Ma tista’ tittiehed ebda azzjoni kontra deċiżjonijiet interlokutorji.”.

16. Minnufih wara t-Tielet Skeda li tinsab ma’ l-Att prinċipali ghandha tiżdied din ir-Raba’ Skeda li ġejja:

Żieda tar-Raba’ Skeda ġdida ma’ l-Att prinċipali.

“IR-RABA’ SKEDA

(Artikolu 15)

Arbitraġġ Mandatorju

It-tilwimiet hawn iżjed ‘l isfel imsemmija fit-Taqsima A ghandhom jiġu determinati b’arbitraġġ u ghandhom jittiehdu f’arbitraġġ taht ir-regoli msemmija fit-Taqsima B b’żieda ma’ dawk ir-regoli li jistghu jiġu mahruġa miċ-Ċentru minn żmien għal żmien.

Taqsim A

1.1 Tilwimiet dwar *Condominium*

Kull tilwima li toriġina fir-rigward ta' *condominium* regolat bl-Att dwar il-Condominia. (Kap. 398)

1.2 Tilwimiet dwar it-Traffiku ta' Vetturi bil-Mutur

Kull tilwima civili jew kummerċjali, li ma tkunx wahda li jkollha x'taqsam ma' talba għal danni għal hsara fil-persuna, li tkun tilwima li toriġina minn:

(a) kollizjoni bejn vetturi, jew

(b) hsara volontarja jew involontarja fil-proprjeta' li tinvolvi l-vetturi, jew

(c) talba bħal dik kontra assiguratatur awtorizzat, kumpannija assiguratrici fuq il-hajja, *underwriter* approvat mill-Ministru responsabbli għat-trasport jew persuna oħra li skond l-Ordinanza dwar l-Assigurazzjoni ta' Vetturi tal-Mutur għar-Riskji ta' Terzi Persuni (Kap. 104) jew xi polza ta' assiguratatur, tista' tkun responsabbli dwarha, u

(d) li l-valur tagħha ma jkunx jeċċedi l-hamest elef lira.

Taqsim B

1. L-arbitraġġ, li jkun arbitraġġ domestiku, għandu jkun regolat bit-Taqsim IV ta' l-Att.

2. It-tribunal ta' arbitraġġ għandu jkun magħmul minn arbitru wiehed kemm-il darba l-partijiet ma jiftiehmux li dan ikun magħmul minn tliet arbitri u javżaw liċ-Ċentru fi żmien 15-il ġurnata minn meta r-risponent jirċievi l-avviż ta' arbitraġġ;

3. L-uniku arbitru, jew xi wiehed mill-membri tat-tribunal ta' arbitraġġ meta dan ikun magħmul minn tliet arbitri, għandu jinhatar miċ-*Chairman* taċ-Ċentru skond id-disposizzjonijiet ta' l-Att kemm-il darba ċ-Ċentru ma jgix avżat bil-hatra ta' tribunal ta' arbitraġġ fi żmien 15-il ġurnata minn meta r-risponent jirċievi l-avviż ta' arbitraġġ;

4. Kemm-il darba l-partijiet ma jiftehmux b'mod espress xort'ohra, ghandu jkun hemm dritt ta' appell minn decizjoni finali skond ma hemm provdut bl-Att;

5. Ir-regoli dwar il-konfidenzjalita', inkluzi dawk imsemmija fl-artikoli 37 u 70 ta' l-Att, ma ghandhomx japplikaw ghal arbitraggi mandatorji kemm-il darba l-partijiet ma jiftehmux b'mod espress ghal dawk ir-regoli u javzaw lill-arbitru u liċ-Ċentru skond dan.”.

Taqsimha VI

17. Din it-Taqsimha temenda u ghandha tinqara u tiftiehem haġa wahda ma' l-Att dwar il-Condominia, hawnhekk iżjed 'il quddiem f'dan l-Att imsejha “l-Att prinċipali”.

Emenda ta' l-Att
dwar
il-Condominia,
Kap. 398.

18. Fl-artikolu 26 ta' l-Att prinċipali minflok il-kliem minn “il-partijiet fit-tilwima” sa “taċ-Ċentru dwar l-Arbitragġ ta' Malta.” ghandhom jidhlu l-kliem “ghandhom japplikaw ir-regoli li jinsabu fl-Att dwar l-Arbitragġ jew maghmulin tahtu li ghandhom x'jaqsmu ma' arbitragġ mandatorju.”.

Emenda ta' l-
artikolu
26 ta' l-Att
prinċipali.

19. L-artikolu 27 ta' l-Att prinċipali ghandu jithassar.

Thassir ta' l-
artikolu
27 ta' l-Att
prinċipali.

20. Fl-artikolu 28 ta' l-Att prinċipali minflok il-kliem minn “taht l-awtorita' u bl-approvazzjoni” sal-kliem “hadd ma jiġi ippreġudikat” ghandhom jidhlu l-kliem “skond dawk ir-regoli li jinsabu fl-Att dwar l-Arbitragġ jew li huma maghmulin taht dak l-Att.” u minflok il-kliem “kif mahsub fl-artikolu 27” ghandhom jidhlu l-kliem “kif mahsub fl-artikolu 26”.

Emenda ta' l-
artikolu
28 ta' l-Att
prinċipali.

Taqsimha VII

21. (1) Din it-Taqsimha temenda l-Att ta' l-2002 dwar il-Proċeduri fil-Qrati u fit-Tribunali, hawn iżjed 'il quddiem f'din it-Taqsimha msejjah “l-Att prinċipali”.

Emenda ta' l-Att
ta' l-2002 dwar
il-Proċeduri fil-
Qrati u fit-
Tribunali
Att XXXI ta' l-
2002.

(2) Id-disposizzjonijiet ta' din it-Taqsimha ghandhom jibdeu isehhu fl-istess data bhad-disposizzjonijiet tal-paragrafu (b) ta' l-artikolu 21 ta' l-Att prinċipali.

22. Minnufih wara l-artikolu 197 ta' l-Att prinċipali, ghandu jidhol dan l-artikolu 197B ġdid li ġej:-

Żieda ta' l-artikolu
ġdid
197B ma' l-Att
prinċipali.

“Il-Qrati tal-Maġistrati għandhom ikompli jitrattaw kawżi li jkunu pendenti quddiemhom.

197B. Il-kawżi kollha li jkunu pendenti quddiem il-Qorti tal-Maġistrati (Malta) jew il-Qorti tal-Maġistrati (Għawdex) (Ġurisdizzjoni Inferjuri) li jkollhom x’jaqsmu ma’ xi talba għal żgumbrament jew tkeċċija minn proprjetà immobbli, kemm urban kemm rurali, qabel il-bidu fis-sehh tal-paragrafu (b) ta’ l-artikolu 21 ta’ dan l-Att, għandhom jibqgħu jiġu ttrattati mill-Qorti tal-Maġistrati (Malta) jew mill-Qorti tal-Maġistrati (Għawdex) (Ġurisdizzjoni Inferjuri), skond ma jkun il-każ, minkejja d-disposizzjonijiet ta’ l-artikolu 47(3) tal-Kodiċi ta’ Organizzazzjoni u Proċedura Ċivili kif sostitwit bl-artikolu 21 ta’ dan l-Att, u jkun jista’ jsir appell minn sentenza ta’ dawk il-qrati bl-istess mod u quddiem l-istess qorti bħalma jsir minn kull sentenza ohra mogħtija minnhom.”.

Taqsimha VIII

Disposizzjonijiet transitorji.

23. Minkejja d-disposizzjonijiet tat-Taqsimha V ta’ dan l-Att, meta mad-dhul fis-sehh ta’ dak l-artikolu jkun hemm xi każ pendenti quddiem xi qorti, dak il-każ għandu jkompli jinstema’ minn dik il-Qorti.

Kawżi pendenti quddiem il-Qorti Ċivili.

24. (1) Salvi l-provvedimenti ta’ dawn id-disposizzjonijiet li ġejjin ta’ dan l-artikolu, kawżi pendenti quddiem il-Qorti Ċivili qabel il-bidu fis-sehh ta’ dan l-artikolu u li ma jkunux ġew differiti għas-sentenza, meta l-valur tat-talba jew ta’ xi kontro-talba ma jiġix dikjarat, jew meta l-valur tat-talba jew ta’ xi kontro-talba ma jiġi dikjarat li jkun inqas minn hamest elef lira Maltija jew inqas, għandhom jibqgħu jiġu ttrattati minn dik il-qorti u għandha ssir taxxa dwarhom bħallikieku l-valur tat-talba u tal-kontro-talba kien jeċċedi l-hamest elef lira.

(2) Meta l-attur f’kawża bħalma hemm imsemmija fis-subartikolu (1) b’nota pprezentata fi żmien sittin jum mill-bidu fis-sehh ta’ dan l-artikolu jiddikjara li l-valur tat-talba tiegħu ikun ta’ hamest elef lira jew inqas u li wkoll jagħzel li l-kawża tiġi deċiża mill-Qorti tal-Maġistrati, allura l-inkartament tal-kawża għandu jintbagħat lill-Qorti tal-Maġistrati kompetenti biex tkun dik il-qorti li tiddeċiedi dwaru; iżda:

(i) meta jkun hemm kontro-talba, kemm-il darba il-persuna li tkun qed tagħmel il-kontro-talba b’nota pprezentata fit-terminu hawn qabel imsemmi ma tiddikjarax li l-valur tal-kontro-talba tagħha hu ta’ hamest elef lira jew inqas, allura l-inkartament tal-kawża ma għandux jinbagħat lill-Qorti tal-Maġistrati u l-kawża għandha tiġi deċiża mill-Qorti Ċivili u

tinħarġilha taxxa bħallikieku l-valur tal-kontro-talba kien jeċċedi l-ħamest elef lira;

(ii) meta fid-disposizzjoni ta' hawn qabel ikun hemm aktar minn attur wiehed u aktar minn konvenut wiehed li jkun qed jagħmel kontro-talba, in-noti hawn qabel imsemmija għandhom jiġu ppreżentati f'isem l-atturi kollha u l-konvenuti kollha skond il-każ.

Għanijiet u Raġunijiet

L-għan ewlieni ta' l-Abbozz hu sabiex att ġudizzjarju jitqies bħala titolu eżekuttiv f'talbiet mhux kontestati, u sabiex jagħmel disposizzjonijiet ohra biex jgħaġġel ċerti proċeduri.

**A BILL
entitled**

*AN ACT to amend the Code of Organization and Civil Procedure,
Cap. 12, and other laws relating to civil procedure.*

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:-

Part I

Short title
and
commencement.

1. (1) The short title of this Act is the Code of Organization and Civil Procedure (Amendment) Act, 2003.

(2) The provisions of the various parts of this Act shall come into force on such date as the Minister responsible for Justice may by notice in the Gazette establish and different dates may be so established for different provisions and different purposes thereof.

Part II

Amendment of the
Code of
Organization
and Civil
Procedure, Cap.
12.

2. This Part amends, and shall be read and construed as one with, the Code of Organization and Civil Procedure, hereinafter referred to as “the Code”.

3. Immediately after article 166 of the Code there shall be added the following new article:-

Addition of new article 166A to the Code.

“Special procedures in respect of certain unopposed claims etc.

166A. (1) In actions for the recovery of a debt certain, liquidated and due not consisting in the performance of an act, and where the amount of the debt does not exceed five thousand liri, it shall be lawful for the creditor to proceed in accordance with the following sub-articles of this article:

Provided that where the debt is not liquidated the creditor may proceed in accordance with this article if he limits his debt to an amount not exceeding five thousand liri and expressly renounces to any part of his claim that may upon liquidation exceed the said sum of five thousand liri.

(2) The creditor shall proceed by filing an official letter to be served upon the debtor wherein shall be stated clearly, under pain of nullity, the cause of the claim, the reasons why the claim should be upheld, and a statement of facts in support of the claim.

(3) The official letter shall also on pain of nullity contain an intimation to the debtor that if he does not reply within thirty days by judicial letter to be served on the creditor rebutting the claim and clearly stating the reasons why the claim should not be upheld, such official letter shall, for the purposes of any law, have the same effect as a judgement of a court, and constitute an executive title:

Provided that:

(a) the debtor may admit the claim in part only and oppose it in other parts, and where the claim is opposed in part only it shall be deemed admitted to the extent that it has not been so opposed;

(b) where the debtor shall have opposed a claim or part of a claim which is subsequently upheld, the costs relative to the claim or part thereof opposed and subsequently upheld shall be borne by him;

(c) the costs of any claim or part thereof that is opposed and not subsequently upheld shall always be borne by the creditor;

(d) where the debtor has duly opposed the claim, the special procedure contained in this article may not be used again against the debtor as regards the same claim contained in the official letter served on the debtor; and

(e) where the claim arises under the Motor Vehicle Insurance (Third Party Risk) Ordinance (Cap. 104) the said official letter shall under pain of nullity be also notified to the authorised insurance.

(4) Where the debtor does not oppose the claim, within thirty days from the notification thereof to the debtor, or where the debtor only opposes the claim in part within the aforesaid term, the official letter shall for the purposes of any law have the same effect as a judgement of a court in respect of the claim so unopposed or the part therein so unopposed and constitute an executive title as if such official letter were included in article 253(a) of this Code.

(5) Any executive title obtained according to the provisions of this article in the absence of any opposition on the part of the debtor shall be rescinded and declared null and void if upon a request by writ of summons to be filed by the debtor within twenty days from the first service upon him of any executive warrant based on the said title or any other judicial act, the court is satisfied that the debtor was unaware of the said judicial letter because he was not duly notified.

(6) No opposition other than that specifically provided for in sub-article (5) shall stay the issue or execution of any executive act obtained thereunder or the paying out of the proceeds of any warrant or sale by auction carried out in pursuance thereof.”.

Amendment of article 253 of the Code.

4. Immediately after paragraph (d) in article 253 of the Code there shall be added the following paragraph (e):

“(e) bills of exchange and promissory notes issued in terms of the Commercial Code.”

Amendment of article 306 of the Code.

5. Immediately after sub-article (4) of article 306 of the Code there shall be added the following sub-article:

“(5) The provisions of article 8 of the Public Registry Act (Cap. 56) shall *mutatis mutandi* apply to the registrations made under this article.”.

6. Article 915 of the Code shall be repealed.

Repeal of article 915 of the Code.

Part III

7. This Part amends and shall be read and construed as one with the Civil Code hereinafter referred to as “the Code”.

Amendment of the Civil Code, Cap. 16.

8. Article 2042 of the Code shall be amended as follows:

Amendment of article 2042 of the Code.

(i) in paragraph (a) thereof for the words “the name and surname of the creditor” there shall be substituted the words “the name and surname of the creditor and his identity card number written in figures only,”; and

(ii) in paragraph (b) thereof for the words “the name and surname of the debtor” there shall be substituted the words “the name and surname of the debtor and his identity card number written in figures only,”.

Part IV

9. This Part amends and shall be read and construed as one with the Motor Vehicles (Third Party Risks) Ordinance, hereinafter in this Part referred to as “the Ordinance”.

Amendment of the Motor Vehicle Insurance (Third Party Risks) Ordinance, Cap. 104.

10. Immediately after sub-article (4) of article 10 of the Ordinance there shall be added the following sub-article (5):

Amendment of article 10 of the Ordinance.

“(5) Any reference in this article to a judgement or a sentence shall be deemed to include a reference to an arbitral award made under the Arbitration Act, Cap. 387, and one obtained under article 166A of the Code of Organization and Civil Procedure, Cap. 12, and any reference to an action or to proceedings shall be deemed to include reference to arbitration proceedings and to the said article 166A under the said Act.”.

Part V

Amendments
to the
Arbitration Act,
Cap. 387.

11. This Part amends, and shall be read and construed as one with, the Arbitration Act, hereinafter in this Part referred to as “the principal Act”.

Amendment of
Article 15 of the
principal Act.

12. (1) Article 15 of the principal Act shall be amended as follows:

(a) in sub-article (3) thereof the words “or that in fact there is no dispute between the parties with regard to the matter agreed to be referred,” shall be deleted.

(b) sub-article (7) thereof shall be deleted and substituted by the following new sub-article:

“(7) Any submission to arbitration of a dispute by an administrator, agent or attorney shall not be valid unless

(a) such person is authorised to submit disputes to arbitration; and

(b) the submission refers to an issue which falls within the powers of such person.”; and

(c) immediately after sub-article (10) thereof there shall be added the following sub-articles:

“(11) In addition to those designated by other laws, the classes of disputes referred to in the Fourth Schedule to this Act are subject to mandatory arbitration and in such cases the parties shall be deemed to be bound by an arbitration agreement in relation to such disputes.

(12) The Centre shall have the power to issue rules in accordance with article 10 relating to the procedures to be adopted in mandatory arbitrations.

(13) The Minister shall have the power by regulations to add, remove or substitute and amend the classes of disputes referred to in the Fourth Schedule and the conditions applicable thereto. Such regulation may determine the conditions applicable in such cases, including:

(i) the specific nature of the disputes;

(ii) the maximum monetary value of such disputes;

(iii) the remedies sought and awardable in relation to such disputes; and

(iv) the manner in which an arbitrator or arbitrators are to be appointed.

(14) Any rules or regulations referred to in the preceding sub-articles shall come into force with effect from the date designated by the Minister and shall not affect any disputes at the time already pending before any court or tribunal.”.

13. Article 44 of the principal Act shall be amended as follows: Amendment of article 44 of the principal Act.

(a) immediately at the end of sub-article (3) thereof there shall be added the following new proviso:

“Provided that in the case of interlocutory awards relating to the procedures of the arbitration, no reasons are to be given.”;

(b) in sub-article (8) thereof the words “with all partial, interim and interlocutory awards not already registered” shall be substituted by the words:

“with all partial and interim awards not already registered”; and

(c) immediately after sub-article (9) there shall be added the following sub-article:

“(10) Interlocutory awards are not subject to registration, no recourse may be taken against them and they are binding on the parties to the proceedings immediately on their notification to the parties who shall carry them on without delay.”.

14. Article 51 of the principal Act shall be deleted and substituted by the following new article 51: Substitution of article 51 of the principal Act.

“Arbitral tribunal to determine fees and costs.

51. (1) The arbitral tribunal shall determine fees and costs in accordance with such rules and guidelines which may be made by the Centre from time to time and such determinations on fees and costs shall be subject to review as may be prescribed in such rules or guidelines.

(2) The Centre may be delegated the function of determining fees and costs, by applicable law or by the parties, in specific cases or classes of cases under such conditions as may be stated in such law, in any rules or guidelines issued by the Centre or in the arbitration agreement.”.

Amendment of article 71B of the principal Act.

15. In article 71B of the principal Act for sub-article (3) there shall be substituted the following:

“(3) Recourse may not be taken against interlocutory awards.”.

Addition of new Fourth Schedule to the principal Act.

16. Immediately after the Third Schedule to the principal Act there shall be added the following Fourth Schedule:

“FOURTH SCHEDULE

(Article 15)

Mandatory Arbitration

The disputes hereunder stated in Part A shall be settled by arbitration and shall be referred to arbitration under the rules stated in Part B in addition to such rules as may be issued by the Centre from time to time.

Part A

1.1 Condominium Disputes

All disputes arising in relation to a condominium regulated by the Condominium Act (Cap. 398).

1.2 Motor Traffic Disputes

Any civil or commercial disputes, not being one in connection with a claim for damages for personal injuries, being a dispute arising from:

- (a) any collision between vehicles, or
- (b) any voluntary or involuntary damage to property involving vehicles, or
- (c) any such claim against an authorized insurer, an assurance company, an underwriter approved by the Minister responsible for transport or other person who in accordance with the Motor Vehicles Insurance (Third-Party Risks) Ordinance (Cap. 104) or any policy of insurance may be liable therefor, and
- (d) the value whereof does not exceed five thousand liri.

Part B

1. The arbitration, being domestic arbitration, shall be governed by Part IV of the Act.
2. The arbitral tribunal shall be composed of one arbitrator unless the parties agree that it shall be composed of three arbitrators and notify the Centre within 15 days of the receipt by the respondent of the notice of arbitration;
3. The sole arbitrator, or any of the members of the arbitral tribunal in case it is composed of three arbitrators, shall be appointed by the Chairman of the Centre in accordance with the provisions of the Act unless the Centre is notified of the appointment of an arbitral tribunal within 15 days of the receipt by the respondent of the notice of arbitration;
4. Unless the parties expressly agree otherwise, there shall be a right of appeal from a final award as provided by the Act;
5. The rules on confidentiality, including those stated in articles 37 and 70 of the Act shall not apply to mandatory arbitrations unless the parties expressly agree to such rules and notify the arbitrator and the Centre accordingly.”.

Part VI

17. This Part amends and shall be read and construed as one with the Condominium Act hereafter in this Part referred to as “the principal Act”.

Amendment of the
Condominium Act,
Cap. 398.

Amendment of article 26 of the principal Act.

18. In article 26 of the principal Act for the words from “the parties to the dispute” to the words “of the Malta Arbitration Centre.” there shall be substituted the following “the rules contained in the Arbitration Act or made thereunder relating to mandatory arbitration shall apply.”.

Repeal of article 27 of the principal Act.

19. Article 27 of the principal Act shall be repealed.

Amendment of article 28 of the principal Act.

20. In article 28 of the principal Act for the words from “be conducted under the authority” to the words “no one is prejudiced” there shall be substituted the words “be conducted in such rules contained in the Arbitration Act or made thereunder.” and for the words “as envisaged in section 27” there shall be substituted the words “as envisaged in article 26”.

Part VII

Amendment of Courts and Tribunals Procedures Act, 2002. Act XXXI of 2002.

21. (1) This Part amends the Courts and Tribunals Procedures Act, 2002, hereinafter in this Part referred to as “the principal Act”.

(2) The provisions of this Part shall come into force on the same date as the provisions of paragraph (b) of article 21 of the principal Act.

Addition of new article 197B to the principal Act.

22. Immediately after article 197 of the principal Act, there shall be inserted the following new article 197B:-

“Courts of Magistrates to continue hearing cases pending before them.

197B. All cases pending before the Court of Magistrates (Malta) or the Court of Magistrates (Gozo) (Inferior Jurisdiction) which relate to any claim for the ejectment or eviction from immovable property, whether urban or rural, before the coming into force of paragraph (b) or article 21 of this Act, shall continue to be heard by the Court of Magistrates (Malta) or the Court of Magistrates (Gozo) (Inferior Jurisdiction), as the case may be, notwithstanding the provisions of article 47(3) of the Code of Organization and Civil Procedure as substituted by article 21 of this Act, and an appeal shall lie from the decision of such courts in the same manner and before the same court as lies from any other decision thereof.”.

Part VIII

23. Notwithstanding the provisions of Part V of this Act, where on the coming into force of that article a case is pending before any court, such case shall continue to be heard by that Court.

Transitory Provisions.

24. (1) Saving the provisions of the following provisions of this article, cases pending before the Civil Court before the coming into force of this article and which have not been adjourned for judgement, where the value of the claim or of any counter-claim is not declared, or where the value of the claim or any counter-claim is declared to be less than five thousand Maltese liri or less, shall continue to be heard by that court and shall be taxed as if the value of the claim and counter-claim were over five thousand liri.

Cases pending before the Civil Court.

(2) Where the plaintiff in a case as is referred to in sub-article (1) by a note filed within sixty days from the coming into force of this article declares that the value of his claim is five thousand liri or less and that he also elects that the lawsuit be decided by the Court of Magistrates, then the records of the case shall be transmitted to the competent Court of Magistrates to be decided by it; provided that:

(i) where there is a counter-claim, unless the person making the counter-claim by a note filed within the term aforesaid declares that the value of his counter-claim is five thousand liri or less, then the records of the case shall not be transmitted to the Court of Magistrates and shall be decided by the Civil Court and shall be taxed as if the value of the counter-claim was over five thousand liri;

(ii) where in the above there are more than one plaintiff and more than one defendant making a counter-claim, the above-mentioned notes must be filed on behalf of all the plaintiffs and all the defendants as the case may be.

Objects and Reasons

The main object of the Bill is to consider a judicial act as an executive title in uncontested claims and to make other provisions to expedite certain procedures.