

## ABBOZZ TA' LIĠI msejjah

*ATT biex ikompli jemenda l-Kodiċi Ċivili, Kap. 16.*

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

**1.** (1) It-titolu fil-qosor ta' dan l-Att hu Att ta' l-2003 li jemenda l-Kodiċi Ċivili (Emenda Nru. 2). Dan l-Att għandu jinqara u jiftiehem haġa wahda mal-Kodiċi Ċivili, hawnhekk iżjed 'il quddiem imsejjah "il-Kodiċi".

Titolu fil-qosor u bidu fis-sehh.

Kap. 16.

(2) Dan l-Att għandu jibda jsehħ 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 għanijiet differenti tiegħu.

**2.** It-tabella msemmija "Taqsim tal-Kodiċi" li tidher minnufih qabel l-artikolu 1 tal-Kodiċi għandha tiġi emendata kif ġej:-

Emenda tat-Tabella msemmija "Taqsim tal-Kodiċi".

(a) minflok il-kliem li fit-Taqsim jidhru fit-tieni kolonna u li hawn taht jidhru fit-tieni kolonna, u l-kliem korrispondenti, fejn ikun hemm, li fit-Taqsim jidhru fit-tieni u t-tielet kolonna u li hawn taht jidhru fit-tieni u t-tielet kolonna, għandhom jidhlu l-kliem, fejn ikun hemm, li hawn taht jidhru fil-hames, fir-raba' u fis-sitt kolonna, rispettivament:-

L-Ewwel Kolonna	It-Tieni Kolonna	It-Tielet Kolonna	Ir-Raba' Kolonna	Il-Hames Kolonna	Is-Sitt Kolonna
Sub-titolu II.	Fuq il-Provi tal-Filjazzjoni ta' l-Ulied Legittimi	78-85	Sub-titolu II.	Fuq il-Provi tal-Filjazzjoni ta' l-Ulied Mnissla jew Mwielda matul iż-Żwieġ	78-85
Sub-titolu III.	Fuq il-Filjazzjoni ta' l-Ulied Illegittimi u fuq il-Legittimazzjoni	86-112	Sub-titolu III.	Fuq il-Filjazzjoni ta' l-Ulied Mnissla u Mwielda barra miż-Żwieġ u fuq il-Preżunzjoni li Persuna kienet Mnissla jew Mwielda matul iż-Żwieġ	86-112
§I	Fuq il-Filjazzjoni ta' l-Ulied Illegittimi	86-100A	§I	Fuq il-Filjazzjoni ta' l-Ulied Mnissla u Mwielda barra miż-Żwieġ	86-100A
§II	Fuq il-Legittimazzjoni	101-112	§II	Fuq il-Preżunzjoni li Persuna kienet Mnissla jew Mwielda matul iż-Żwieġ	101-112
Sub-titolu II.	Fuq l-Atti tat-Twelid	272-292	Sub-titolu II.	Fuq l-Atti tat-Twelid	272-292A
Sub-titolu I.	Fuq in-Natura tal-Komunjoni tal-Beni u l-Jeddijiet tal-Komprjetarji matul il-Komunjoni	489-495	Sub-titolu I.	Fuq in-Natura tal-Komunjoni tal-Beni u l-Jeddijiet tal-Komprjetarji matul il-Komunjoni	489-495A

-	Fuq il-Legittima u d-Diżeredazzjoni	615-630	-	Fuq is-Sehem Riżervat u d-Diżeredazzjoni	615-630
-	Fuq il-Jeddijiet tar-Raġel jew tal-Mara u tat-Tfal Illegittimi	631-646	-	Fuq il-Jeddijiet ta' Min fost ir-Raġel jew il-Mara Jibqa' Haj	631-646
§I	Fuq is-Suċċessjonijiet Regolari	808-816	§I	Fuq is-Suċċessjoni tad-Dixxendenti u Min fost ir-Raġel jew il-Mara Jibqa' Haj	808-811
§II	Fuq is-Suċċessjonijiet Irregolari	817-830	§II	Fuq is-Suċċessjoni ta' l-Axxendenti u Qraba Kollaterali	812-815
-	Fuq il-Jeddijiet tal-Gvern	830	§III	Fuq il-Jeddijiet tal-Gvern	816;

(b) il-kliem li jidhru fit-tieni kolonna tat-Taqsim u li jidhru hawn taht, u l-kliem korrispondenti, fejn ikun hemm, li jidhru fl-ewwel u fit-tielet kolonna tat-Taqsim relattivi ghalihom, ghandhom jithssru:-

Fuq is-Suċċessjoni tad-Dixxendenti Legittimi

Fuq is-Suċċessjoni ta' l-Axxendenti Legittimi

Fuq is-Suċċessjoni tal-Qraba Kollaterali Legittimi

Fuq il-Jeddijiet tat-Tfal Illegittimi fuq Hwejjeġ il-Ġenituri taghhom, u fuq is-Suċċessjoni tat-Tfal Illegittimi li jmutu minghajr ulied

Fuq il-Jeddijiet ta' min fost ir-Raġel u l-Mara jibqa' Haj

Fuq il-Kostituzzjoni tad-Dota

Fuq il-Jeddijiet tar-Raġel fuq id-Dota

Fuq li d-Dota ma tistax tiġi ttrasferita jew Obbligata

Fuq ir-Radd tad-Dota

Fuq id-Dotarju.

Emenda ta' l-  
artikolu  
4 tal-Kodiċi.

**3. L-artikolu 4 tal-Kodiċi ghandu jiġi emendat kif ġej:**

(a) fis-subartikoli (1) u (2) tiegħu minflok il-kliem “kunjom xubitha” ghandhom jidhlu l-kliem “kunjom xubitha jew kunjom żewġha li jkun miet qabilha”;

(b) fis-subartikolu (3) tiegħu minnufih wara l-kliem “kunjom xubit ommhom” ghandhom jidhlu l-kliem “jew kunjom żewġha li jkun miet qabilha”;

(ċ) minnufih wara s-subartikolu (5) tiegħu ghandu jidhol dan l-artikolu ġdid li ġej:-

“(6) Meta mara jkollha l-hsieb li żżomm kunjom żewġha li jkun miet qabilha wara li terġa' tiżżewweġ, hija ghandha, qabel ma terġa' tiżżewweġ, hekk tiddikjara l-hsieb tagħha meta hija tapplika għall-pubblikazzjoni tad-tnidijiet skond l-Att dwar iż-Żwieġ u minflok id-dikjarazzjoni fl-att taż-żwieġ imsemmi fis-subartikolu (4) hija ghandha tagħmel id-dikjarazzjoni li hemm fil-Formula R fit-Taqsima II ta' l-Iskeda li tinsab mal-Kodiċi u li jkun fiha l-partikolaritajiet hemm fiha indikati. Dik il-formula ghandha tasal fir-Registru Pubbliku flimkien ma' l-att taż-żwieġ u ghandha tiġi ffirmata kemm mill-mara kemm mir-raġel u tiġi kontrosenjata mill-firmatarji l-ohra kollha fuq l-att taż-żwieġ.”.

Emenda ta' l-  
artikoli  
76 u 77 tal-Kodiċi.

**4. Minflok il-kliem “Il-legittimità” fl-artikoli 76 u 77 tal-Kodiċi ghandhom jidhlu l-kliem “Il-filjazzjoni”.**

Emenda ta' l-  
intestatura  
tas-Sub-titolu II tat-  
Titolu II  
ta' l-Ewwel Ktieb  
tal-Kodiċi.

**5. Minflok l-intestatura tas-Sub-titolu II tat-Titolu II ta' l-Ewwel Ktieb tal-Kodiċi li tidher qabel l-artikolu 78 tal-Kodiċi, ghandu jidhol dan li ġej:**

“FUQ IL-PROVI TAL-FILJAZZJONI TA' L-ULIED MNISSLA  
JEW MWIELDA MATUL IŻ-ŻWIEĠ”.

Emenda ta' l-  
artikolu 78 tal-  
Kodiċi.

**6. Minflok il-kliem “l-ulied legittimi” fl-artikolu 78 tal-Kodiċi, ghandhom jidhlu l-kliem “l-ulied mnissla jew mwielda matul iż-żwieġ”.**

Emenda ta' l-  
artikolu  
79, 81 u 84 tal-  
Kodiċi.

**7. Fl-artikoli 79, 81 u 84 tal-Kodiċi, u fin-nota marginali li hemm magħhom, minflok il-kliem “iben legittimu”, kull fejn dawn jinsabu ghandhom jidhlu l-kliem “iben mnissel jew mwieled matul iż-żwieġ”.**

**8.** Minflok l-intestatura tas-Sub-titolu III tat-Titolu II ta' l-Ewwel Ktieb tal-Kodiċi li tidher minnufih qabel l-artikolu 86 tal-Kodiċi għandha tidhol l-intestatura “FUQ IL-FILJAZZJONI TA' L-ULIED MNISSLA U MWIELDA BARRA MIŻ-ŻWIEĠ U FUQ IL-PREŻUNZJONI LI PERSUNA KIENET MNISSLA JEW MWIELDA MATUL IŻ-ŻWIEĠ”, u fis-subintestatura minnufih qabel l-artikolu 86 minflok il-kliem “l-ULIED ILLEGITTIMI” għandhom jidhlu l-kliem “L-ULIED MNISSLA U MWIELDA BARRA MIŻ-ŻWIEĠ”.

Sostituzzjoni ta' l-intestatura tas-Sub-titolu III tat-Titolu II ta' l-Ewwel Ktieb tal-Kodiċi u thassir tas-subintestatura minnufih qabel l-artikolu 86.

**9.** L-artikolu 86 tal-Kodiċi għandu jiġi emendat kif ġej:

Emenda ta' l-artikolu 86 tal-Kodiċi.

(a) fin-nota marginali li hemm mieghu minflok il-kliem “tifel illegittimu” għandhom jidhlu l-kliem “mnissel jew mwieled barra miż-żwieġ.”;

(b) minflok il-kliem “It-tifel illegittimu” għandhom jidhlu l-kliem “It-tifel mnissel u mwieled barra miż-żwieġ”; u

(ċ) minnufih wara l-proviso li hemm mieghu għandhom jiżdiedu dawn il-*provisos* ohra li ġejjin:

“Iżda wkoll it-tagħrif ta' tifel imwieled barra miż-żwieġ minn persuna li tghid li tkun missier it-tifel, li jsir separatament mill-omm, ma jkollu ebda effett u ma jiġix registrat kemm-il darba omm dak it-tifel, jew il-verrieta tagħha jekk hija tkun mejta, u t-tifel innifsu jekk ikun lahaq l-età, ma jkunux ġew notifikati b'att ġudizzjarju minn persuna li jkollha interess li fih ikun hemm dikjarat li dik il-persuna tkun bi hsiebha tapplika għar-registrazzjoni ta' dak it-tagħrif u l-omm jew il-verrieta tagħha skond il-kaz, u t-tifel ma jkunx fi żmien xahrejn minn dik in-notifika permezz ta' att ġudizzjarju iehor qablu li ssir dik ir-registrazzjoni. Dawk l-atti ġudizzjarji għandhom f'kull każ jiġu notifikati lid-Direttur tar-Registru Pubbliku:

Iżda wkoll meta l-omm jew it-tifel li jkollu l-età ma jkunux kif hawn qabel imsemmi jaqblu ma' dik ir-registrazzjoni, kull min ikollu interess jista' jmexxi b'ċitazzjoni quddiem il-qorti kompetenti kontra l-persuna jew il-persuni li ma jkunux hekk qablu, biex il-qorti tiddikjara li min jagħmel it-tagħrif ikun missier it-tifel u tordna r-registrazzjoni ta' dak it-tagħrif.”.

**10.** L-artikolu 87 tal-Kodiċi għandu jiġi emendat kif ġej:

Emenda ta' l-artikolu 87 tal-Kodiċi.

(a) minflok il-kliem “tifel illeġittimu” fis-subartikolu (1) tiegħu, għandhom jidhlu l-kliem “tifel mnissel u mwieled barra miż-żwieġ”; u

(b) wara l-kliem “jew mit-tnejn,” fis-subartikolu (2) tiegħu, għandhom jidhlu l-kliem “jew magħmula minn minuri.”.

Sostituzzjoni ta' l-artikolu 89 tal-Kodiċi.

**11.** Minflok l-artikolu 89 tal-Kodiċi, għandu jidhol dan li ġej:

“Tifel mnissel u mwieled barra miż-żwieġ tar-raġel jew tal-mara, li jitwield qabel jew matul iż-żwieġ.

89. Tifel mnissel u mwieled barra miż-żwieġ li jitwield lir-raġel jew lill-mara qabel jew matul iż-żwieġ, u li jiġi magħruf matul iż-żwieġ, ma jistax jinġieb fid-dar taż-żwieġ hlief bil-kunsens tal-mara tiegħu jew tar-raġel tagħha, kemm-il darba dik il-mara tiegħu ma tkunx tat, jew dak ir-raġel tagħha ma jkunx ta, minn qabel il-kunsens tiegħu jew tagħha għat-tagħrif.”.

Emenda ta' l-artikolu 90 tal-Kodiċi.

**12.** Minflok il-kliem “tifel illeġittimu” fis-subartikolu (1) ta' l-artikolu 90 tal-Kodiċi u minflok il-kliem “tfal illeġittimi” fin-nota marginali li hemm miegħu, għandhom minflok f'kull każ jidhlu l-kliem “tifel mnissel u mwieled barra miż-żwieġ”.

Emenda ta' l-artikolu 91 tal-Kodiċi.

**13.** Minflok il-kliem “għat-tifel illeġittimu” fl-artikolu 91 tal-Kodiċi, għandhom jidhlu l-kliem “għat-tifel mnissel u mwieled barra miż-żwieġ”.

Emenda ta' l-artikolu 92 tal-Kodiċi.

**14.** L-artikolu 92 tal-Kodiċi għandu jiġi emendat kif ġej:

(a) minflok il-kliem “Tifel illeġittimu” fis-subartikolu (1) tiegħu, għandhom jidhlu l-kliem “Tifel mnissel u mwieled barra miż-żwieġ”;

(b) minflok il-kliem “Tifel illeġittimu” fis-subartikolu (4) tiegħu, għandhom jidhlu l-kliem “Tifel mnissel u mwieled barra miż-żwieġ”;

(ċ) minflok il-kliem “tifel illeġittimu” fin-nota marginali li hemm miegħu, għandhom jidhlu l-kliem “tifel mnissel u mwieled barra miż-żwieġ”;

(d) minflok il-kliem “tifel naturali” fis-subartikolu (5) tiegħu, għandhom jidhlu l-kliem “tifel mnissel u mwieled barra miż-żwieġ”; u

(e) minnufih wara s-subartikolu (5) tiegħu għandu jizjed dan is-subartikolu ġdid li ġej:

“(6) Minkejja d-disposizzjonijiet ta’ qabel ta’ dan l-artikolu jew ta’ kull artikolu iehor fil-Kodiċi, meta l-paternità ta’ persuna tkun ġiet magħrufa jew il-filjazzjoni ta’ persuna tkun ġiet dikjarata mill-qorti, jew tkun saret tapplika l-preżunzjoni msemmija fl-artikoli 101 sa 112, kull min b’konsegwenza ta’ dak it-tagħrif, filjazzjoni jew applikazzjoni tal-preżunzjoni ikun se jassumi kunjom li ma jkunx il-kunjom użat minnu qabel dak it-tagħrif, filjazzjoni jew applikazzjoni tal-preżunzjoni, jew ir-rappreżentant legittimu tiegħu, jista’ jekk dak it-tifel ikollu iktar minn erba’ snin, jitlob lill-qorti b’ċitazzjoni kontra d-Direttur tar-Registru Pubbliku jithalla juża dak il-kunjom l-iehor, u jekk il-qorti tkun sodisfatta li b’dak l-użu ma jkunux se jiġu preġudikati terzi, hija għandha tilqa’ dik it-talba u tordna lid-Direttur inizzel annotazzjoni tas-sentenza mogħtija minnha fuq l-Att ta’ twelid rilevanti ta’ min ikun ġie hekk magħruf jew li tkun ġiet hekk dikjarata l-filjazzjoni tiegħu jew li dwaru għandha tapplika dik il-preżunzjoni.”.

- 15.** Minflok l-artikoli 93, 94 u 95 tal-Kodiċi għandu jidhol dan li ġej:-
- Sostituzzjoni ta’ l-artikoli 93, 94 u 95 tal-Kodiċi.
- “Dmirijiet tal-ġenituri u ta’ tfal mnissla u mwielda barra miż-żwieġ.”
93. Il-ġenituri ta’ tfal mnissla u mwielda barra miż-żwieġ għandhom lejn dawk it-tfal u d-dixxendenti tagħhom l-istess dmirijiet li jmantnuhom u jedukawhom bħalma għandhom lejn tfal mwielda jew mnissla matul iż-żwieġ, u dawk it-tfal għandhom kwantu għall-axxendenti tagħhom u qrafa ohra l-istess jeddijiet u dmirijiet li għandhom tfal mwielda jew mnissla matul iż-żwieġ.”.
- 16.** Fl-artikolu 97 tal-Kodiċi minflok il-kliem “lit-tifel legittimu” għandhom jidhlu l-kliem “lit-tifel mnissel jew mwieled matul iż-żwieġ”.
- Emenda ta’ l-artikolu 97 tal-Kodiċi.
- 17.** L-artikolu 98 tal-Kodiċi għandu jiġi mħassar.
- Thassir ta’ l-artikolu 98 tal-Kodiċi.
- 18.** Fl-artikolu 99 tal-Kodiċi minflok il-kliem “magħruf tifel” għandhom jidhlu l-kliem “magħruf tifel mnissel u mwieled barra miż-żwieġ”.
- Emenda ta’ l-artikolu 99 tal-Kodiċi.
- 19.** Fis-subintestatura “§ II. Fuq il-Legittimazzjoni” wara l-artikolu 100A tal-Kodiċi, minflok il-kliem “il-Legittimazzjoni” għandhom jidhlu l-kliem “il-Preżunzjoni li Persuna kienet Mnissla jew Mwielda matul iż-Żwieġ”.
- Sostituzzjoni tas-subintestatura “Fuq il-Legittimazzjoni” minnufih wara l-artikolu 100A tal-Kodiċi.

Sostituzzjoni ta' l-artikolu 101 tal-Kodiċi.

**20.** Minflojk l-artikolu 101 tal-Kodiċi ghandu jidhol dan li ġej:

“Meta jkun hemm il-preżunzjoni.

101. Meta l-ġenituri ta' tfal mnisla u mwielda barra miż-żwieġ jerġghu wara jizzewġu, jew meta jiġi hekk dekretat mill-qorti ta' ġurisdizzjoni volontarja, dawk it-tfal ghandhom jitqiesu *iuris et de iure* bhallikieku dejjem kienu mnisla u mwielda matul iż-żwieġ.”.

Emenda ta' l-artikolu 102 tal-Kodiċi.

**21.** Fl-artikolu 102 tal-Kodiċi minflok il-kliem “Il-leġittimazzjoni bi żwieġ wara” ghandhom jidhlu l-kliem “Il-preżunzjoni li toriġina minn żwieġ wara skond l-artikolu preċedenti” u fin-nota marginali li hemm mieghu minflok il-kliem “ghal-leġittimazzjoni” ghandhom jidhlu l-kliem “ghall-preżunzjoni”.

Emenda ta' l-artikolu 103 tal-Kodiċi.

**22.** L-artikolu 103 tal-Kodiċi ghandu jiġi emendat kif ġej:

(a) fl-artikolu 103 tal-Kodiċi minflok il-kliem “L-ulied leġittimati bi żwieġ wara” u “tfal leġittimi” ghandhom jidhlu l-kliem “L-ulied li jitqiesu bhala mnisla jew mwielda matul iż-żwieġ biż-żwieġ wara tal-ġenituri tagħhom” u “tfal mnisla jew mwielda matul iż-żwieġ” rispettivament; u

(b) minflok in-nota marginali li hemm mieghu ghandu jidhol dan li ġej: “Effetti tal-Preżunzjoni bhala konsegwenza ta' żwieġ wara”.

Emenda ta' l-artikolu 104 tal-Kodiċi.

**23.** Fl-artikolu 104 tal-Kodiċi minflok il-kliem “tfal leġittimi” ghandhom jidhlu l-kliem “tfal mnisla jew mwielda matul iż-żwieġ”.

Sostituzzjoni ta' l-artikolu 105 tal-Kodiċi.

**24.** Minflok l-artikolu 105 tal-Kodiċi ghandu jidhol dan li ġej:

“Dixxendenti ta' tfal preżunti li huma mnisla jew mwielda matul iż-żwieġ minhabba fi żwieġ wara.

105. Iż-żwieġ bejn il-ġenituri ghandu jġib il-preżunzjoni li ankè t-tfal tagħhom li mietu qabilhom kienu mnisla jew mwielda matul iż-żwieġ, u dik il-preżunzjoni ghandha wkoll topera favur id-dixxendenti ta' dawk it-tfal, sew jekk mnisla jew mwielda matul iż-żwieġ, sew jekk hekk preżunti li huma bi żwieġ wara, sakemm dawk it-tfal li mietu qabel ikunu ġew magħrufa skond ma hemm provdut fl-artikolu 102, jew ikollhom il-paternità jew il-maternità tagħhom dikjarata b'sentenza tal-Qorti.”.



**25.** Fl-artikolu 106 tal-Kodiċi, minflok il-kliem “leġittimazzjoni b’digriet” kull fejn dawn jinsabu ukoll fin-nota marginali, ghandhom jidhlu l-kliem “preżunzjoni bis-sahha ta’ digriet”. Emenda ta’ l-artikolu 106 tal-Kodiċi.

**26.** L-artikolu 107 tal-Kodiċi ghandu jiġi emendat kif ġej: Emenda ta’ l-artikolu 107 tal-Kodiċi.

a) minflok il-kliem “leġittimazzjoni msemija” ghandhom jidhlu l-kliem “preżunzjoni msemija”;

b) minflok il-kliem “leġittimazzjoni b’digriet” fin-nota marginali ghandhom jidhlu l-kliem “preżunzjoni bis-sahha ta’”; u

ċ) fil-paragrafu (a) tiegħu minflok il-kliem “jilleġittima l-ibnu” ghandhom jidhlu l-kliem “li dik il-preżunzjoni tkun tapplika għal ibnu”.

**27.** Minflok l-artikolu 108 tal-Kodiċi ghandu jidhol dan li ġej: Sostituzzjoni ta’ l-artikolu 108 tal-Kodiċi.

“Setgħa tal-Qorti li tirrofta l-preżunzjoni.

108. Il-Qorti jkollha s-setgħa, skond iċ-ċirkostanzi, li jirrofta milli tapplika l-preżunzjoni bis-sahha ta’ l-artikolu 102, meta r-rikorrent jista’ jagħmel preżunzjoni bħal dik applikabbli favur it-tifel tiegħu bi żwieġ wara, jew ikollu tfal li kienu mnisla jew mwielda matul iż-żwieġ, jew ikunu hekk preżunti bi żwieġ wara, jew dixxendenti ta’ tfal bħal dawk.”.

**28.** Fl-artikolu 109 tal-Kodiċi, ukoll fin-nota marginali tiegħu, minflok il-kelma “leġittimazzjoni”, ghandha tidhol il-kelma “preżunzjoni”. Emenda ta’ l-artikolu 109 tal-Kodiċi.

**29.** L-artikolu 110 tal-Kodiċi ghandu jiġi emendat kif ġej: Emenda ta’ l-artikolu 110 tal-Kodiċi.

(a) minflok il-kliem “leġittimat b’digriet tal-Qorti” fin-nota marginali tiegħu ghandhom jidhlu l-kliem “preżunt bħala mnissel jew mwieled matul iż-żwieġ bis-sahha ta’ digriet tal-Qorti”;

(b) minflok subartikolu (1) tiegħu ghandu jidhol dan li ġej:

“(1) Bla hsara għad-disposizzjonijiet tas-subartikolu 92(6) tifel li jkun hemm favur tiegħu preżunzjoni bis-sahha ta’ digriet tal-Qorti, jiehu l-kunjom tal-ġenitur li fuq talba tiegħu ikun ġie hekk preżunt.”; u

(ċ) fis-subartikolu (2) tiegħu, minflok il-kelma “leġittimazzjoni” ghandha tidhol il-kelma “preżunzjoni”.

Emenda ta' l-artikolu 111 tal-Kodiċi.

**30.** L-artikolu 111 tal-Kodiċi għandu jiġi emendat kif ġej:

(a) fin-nota marginali tiegħu minflok il-kliem "leġittimazzjoni b'digriet" għandhom jidhlu l-kliem "preżunzjoni bis-saħħa ta' digriet"; u

(b) fis-subartikolu (1) tiegħu, minflok il-kelma "leġittimat" għandhom jidhlu l-kliem "li favur tiegħu topera preżunzjoni bis-saħħa ta' l-artikolu 102", u minflok il-kelma "leġittimu" għandhom jidhlu l-kliem "mnissel jew mwieled matul iż-żwieġ".

Sostituzzjoni ta' l-artikolu 112 tal-Kodiċi.

**31.** Minflok l-artikolu 112 tal-Kodiċi għandu jidhol dan li ġej:-

"It-tifel jista' jitlob il-preżunzjoni wara l-mewt tal-ġenitur.

112. Meta xi wiehed mill-ġenituri, f'testament jew att ieħor pubbliku, ikun fisser ix-xewqa tiegħu jew tagħha li jkollu l-preżunzjoni li tifel ikun ġie mnissel jew mwieled matul iż-żwieġ, tapplika għal tifel li jitwelidlu jew jitweldilha barra miż-żwieġ, dak it-tifel jista', wara l-mewt ta' dak il-ġenitur, jagħmel talba biex dik il-preżunzjoni tkun tapplika fir-rigward tiegħu, salv is-setgħa tal-Qorti kif provdut fl-artikolu 108, fil-każ li l-mejjet ikun halla tfal, mnissla jew mwiela matul iż-żwieġ, jew hekk preżunti li huma bis-saħħa ta' żwieġ wara."

Emenda ta' l-artikolu 113 tal-Kodiċi.

**32.** Minflok il-paragrafu (ċ) tas-subartikolu (2) ta' l-artikolu 113 tal-Kodiċi, għandu jidhol dan li ġej:

"(ċ) "tfal mnissla u mwiela barra miż-żwieġ" tfisser tfal hekk mnissla u hekk mwiela, jew dawk it-tfal li fir-rigward tagħhom ma tkunx tapplika l-preżunzjoni msemija fl-artikoli 101 sa 112 ta' dan il-Kodiċi, u li f'ebda każ minn dawn ma jkunu ġew adottati;"

Emenda ta' l-artikolu 115 tal-Kodiċi.

**33.** Fl-artikolu 115 tal-Kodiċi minflok il-kliem "persuna illeġittima" kull fejn dawn jinsabu, għandhom jidhlu l-kliem "persuna mnissla u mwiela barra miż-żwieġ".

Emenda ta' l-artikolu 122 tal-Kodiċi.

**34.** Fl-artikolu 122 tal-Kodiċi, minflok il-kelma "illeġittima", kull fejn din tinsab, għandhom jidhlu l-kliem "mnissla u mwiela barra miż-żwieġ".

Emenda ta' l-artikolu 126 tal-Kodiċi.

**35.** L-artikolu 126 tal-Kodiċi għandu jiġi emendat kif ġej:

(a) fin-nota marginali li hemm ma' l-artikolu minflok il-kelma "Leġittimazzjoni." għandhom jidhlu l-kliem "Preżunzjoni li persuna tkun mnissla jew mwiela matul iż-żwieġ."; u

(b) fis-subartikolu (1) tiegħu minflok il-kliem “persuna leġittimata” għandhom jidhlu l-kliem “persuna bil-preżunzjoni li tkun mmissla jew mwielda matul iż-żwieġ”.

**36.** Il-kliem “, leġittimi jew illeġittimi,” fl-artikolu 227 tal-Kodiċi għandhom jithassru.

Emenda ta' l-artikolu 227 tal-Kodiċi.

**37.** Minnufih wara l-artikolu 257 tal-Kodiċi għandhom jiġu mdahhla dawn l-artikoli godda li ġejjin:

Żieda ta' l-artikoli 257A sa 257D godda mal-Kodiċi.

“Azzjoni għal annotazzjoni fl-indikazzjoni ta' partikolaritajiet tas-sess kif jidhru fl-att ta' twelid.

257A. (1) Kull persuna mhux miżżewġa li jkollha d-domicilju tagħha f'Malta tista' tagħmel azzjoni ġudizzjarja biex issir annotazzjoni rigward il-partikolaritajiet dwar is-sess li jkunu ġew assenjati lilu jew lilha fl-att ta' twelid.

(2) Qabel tati s-sentenza tagħha, il-Qorti għandha tinnomina periti biex jivverifikaw jekk il-persuna li tkun għamlet l-azzjoni ġudizzjarja tkunx, fil-fatt, għaddiet minn bidla irriversibbli ta' sess li ma jkunx dak indikat fl-att ta' twelid jew inkella jekk kenitx dejjem tappartjeni għal dak is-sess l-iehor.

(3) Kull azzjoni ġudizzjarja għandha ssir b'ċitazzjoni kontra d-Direttur tar-Registru Pubbliku fil-Prim'Awla tal-Qorti Ċivili, jew fil-Qorti tal-Maġistrati (Għawdex) (Ġurisdizzjoni Superjuri) skond il-każ.

(4) Id-disposizzjonijiet tas-subartikolu (1) ta' dan l-artikolu għandhom ikunu japplikaw għal atti tat-twelid barranin registrati f'Malta.

(5) L-ispejjeż kollha li jkollhom x'jaqsmu ma' dik il-litigazzjoni inkluzi dawk li jsiru mid-Direttur tar-Registru Pubbliku għandhom jithallsu mill-attur.

Meta l-qorti għandha tilqa' t-talba.

257B. (1) Il-qorti għandha tilqa' t-talba ta' l-attur jekk tkun tal-fehma li jkun ġie suffiċjentement stabbilit li l-attur ikollu s-sess li jgħid li għandu u li l-kondizzjoni ta' l-attur tkun tista' tiġi meqjusa bhala wahda permanenti.

(2) Il-qorti tista' wkoll tordna li ssir annotazzjoni fl-isem jew l-ismijiet ta' l-attur wara li tkun laqgħet it-talba.

Tibdil fl-att ta' twelid. 257Ċ. (1) L-annotazzjonijiet f'att ta' twelid, imsemmija fl-artikolu 257B, ikollhom effett minn dak in-nhar li d-Direttur tar-Registru Pubbliku jnizzel dak it-tibdil fl-att ta' twelid.

(2) L-annotazzjoni fl-indikazzjoni tas-sess fl-att ta' twelid ma ghandha b'ebda mod toqot il-qrubija li tkun teżisti fid-data msemmija fis-subartikolu (1) ta' dan l-artikolu u kull obligazzjoni ohra li toriġina mill-istat ta' ġenitur jew kull kawża ohra.

(3) Id-disposizzjonijiet tal-paragrafu (a) tas-subartikolu (2A) ta' l-artikolu 251 ta' dan il-Kodiċi ghandhom japplikaw fil-każ ta' persuni li dwarhom issir dikjarazzjoni taht l-artikolu 257B li jitolbu estratt ta' l-atti ta' twelid tagħhom nfushom. L-estratt ghandu jindika l-partikolaritajiet li jirriżultaw minn dawk l-annotazzjonijiet.

Korrezzjoni konsegwenzjali li ssir fil-karta ta' l-identità. Kap. 258. 257D. (1) Persuna li fir-rigward tagħha jkun ġie annotat tibdil fil-partikolaritajiet dwar il-bdil tas-sess tagħha skond id-disposizzjonijiet preċedenti ta' dan il-Kodiċi ghandha, minghajr dewmien wara d-data msemmija fis-subartikolu (1) ta' l-artikolu 257Ċ ta' dan il-Kodiċi, tirrapporta l-fatt lill-uffiċjal awtorizzat taht l-Att dwar il-Karti ta' l-Identità, li ghandu johroġ karta ta' l-identità ġdida li tkun tindika s-sess u l-isem skond id-dikjarazzjoni magħmula mill-Qorti.

(2) Persuna li l-bdil tas-sess tagħha jkun ġie annotat kif imsemmi qabel, ikollha wkoll il-jedd, wara li thallas dak id-dritt li jista' jiġi ordnat u meta turi s-sentenza relattiva tal-Qorti, li titlob li kull awtorità pubblika li jkollha jew li tista' tohroġ xi ċertifikat jew dokument dwarha, tipprovdilha ċertifikat jew dokument ġdid li jkun jindika s-sess u l-isem skond id-dikjarazzjoni magħmula mill-Qorti kif hawn qabel imsemmi.”.

Emenda ta' l-artikolu 279 tal-Kodiċi.

**38.** L-artikolu 279 tal-Kodiċi ghandu jiġi emendat kif ġej:

(a) minflok in-nota marginali li hemm mieghu ghandu jidhol dan li ġej:

“Tfal mnissla u mwiela barra miż-żwieġ”;

(b) minflok il-kliem “tarbija illeġittima” fis-subartikolu (1) tiegħu, ghandhom jidhlu l-kliem “tarbija mnissla u mwiela barra miż-żwieġ”; u

(ċ) minflok is-subartikolu (2) tiegħu, għandu jidhol dan li ġej:

“(2) Meta t-tarbija ma tkunx magħrufa kemm mill-missier kemm l-omm flimkien, għandhom japplikaw id-disposizzjonijiet ta’ l-artikolu 86.”.

**39.** Fl-artikolu 281 tal-Kodiċi, u fin-nota marginali li hemm miegħu, minflok il-kliem “tarbija illeġittima” u “omm tarbija illeġittima”, kull fejn dawn jinsabu, għandhom jidhlu l-kliem “tarbija mnissla u mwiela barra miż-żwieġ” u l-kliem “omm tarbija mnissla u mwiela barra miż-żwieġ” rispettivament.

Emenda ta’ l-artikolu 281 tal-Kodiċi.

**40.** L-artikolu 289 tal-Kodiċi għandu jiġi emendat kif ġej:

Emenda ta’ l-artikolu 289 tal-Kodiċi.

(a) minflok il-kliem “tat-tarbija illeġittima” fin-nota marginali li hemm miegħu, għandhom jidhlu l-kliem “tat-tarbija mnissla u mwiela barra miż-żwieġ”;

(b) fis-subartikolu (1) tiegħu:

(i) minflok il-kliem “tarbija illeġittima” għandhom jidhlu l-kliem “tarbija mnissla u mwiela barra miż-żwieġ”;

u

(ii) minflok il-kliem “tal-missier illeġittimu” għandhom jidhlu l-kliem “tal-missier”.

**41.** L-artikolu 290 tal-Kodiċi għandu jiġi emendat kif ġej:

Emenda ta’ l-artikolu 290 tal-Kodiċi.

(a) fin-nota marginali li hemm miegħu minflok il-kelma “leġittimazzjoni” għandhom jidhlu l-kliem “preżunzjoni li persuna ġiet mnissla jew mwiela matul iż-żwieġ”;

(b) fis-subartikolu (1) tiegħu, minflok il-kliem “Il-leġittimazzjoni ta’ tifel illeġittimu” għandhom jidhlu l-kliem “Il-preżunzjoni li tapplika għal persuna mnissla u mwiela barra miż-żwieġ bis-saħħa ta’ l-artikolu 102,”;

(ċ) minflok is-subartikolu (2) tiegħu għandu jidhol dan li ġej:

“(2) Fil-każ ta’ preżunzjoni bħal dik, għandu jiġi dikjarat fin-nota jekk il-preżunzjoni tkunx sret bi żwieġ wara jew b’digriet tal-qorti kompetenti.”; u

(d) fis-subartikolu (3) tieghu, minflok il-kliem “tal-leġittimazzjoni” għandhom jidhlu l-kliem “tal-preżunzjoni”.

Emenda ta' l-artikolu 291 tal-Kodiċi.

**42.** L-artikolu 291 tal-Kodiċi għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tieghu, minflok il-kliem “jew tal-leġittimazzjoni” għandhom jidhlu l-kliem “jew tal-preżunzjoni bis-saħħa ta' l-artikoli 101 sa 112”; u

(b) fis-subartikolu (2) tieghu, minflok il-kliem “leġittimazzjoni bi” għandhom jidhlu l-kliem “preżunzjoni li toriġina minn”.

Sostituzzjoni ta' l-artikolu 292 tal-Kodiċi.

**43.** Minflok l-artikolu 292 tal-Kodiċi għandu jidhol dan li ġej:

“Preżunzjoni bis-saħħa ta' żwieġ wara.

292. Meta preżunzjoni li toriġina minn żwieġ wara tkun tapplika għal tifel mnissel u mwieled barra miż-żwieġ, u dak iż-żwieġ ikun sar qabel ir-reġistrazzjoni tat-twelid ta' dak it-tifel, l-att ta' twelid ta' dak it-tifel jista' jsir direttament bħal fil-każ ta' tifel mnissel jew mwieled matul iż-żwieġ.”.

Żieda ta' l-artikolu 292A ġdid mal-Kodiċi.

**44.** Minnufih wara l-artikolu 292 tal-Kodiċi għandu jidhol dan l-artikolu li ġej:

“Kunjom it-tifel.

292A. Min jaghti l-avviż tat-twelid għandu wkoll jikkonsenja dikjarazzjoni mill-genituri tat-tifel li fiha jkun hemm indikat il-kunjom li t-tifel ikun ser juza, u dak il-kunjom għandu jkun reġistrat fil-kolonna taht l-intestatura “Isem jew ismijiet li bih it-tarbija għandha tiġi msejha” fl-att ta' twelid minnufih wara dak l-isem jew ismijiet. Meta ma ssirx dikjarazzjoni bħal dik fil-każ ta' tifel mnissel u mwieled fiż-żwieġ, kunjom il-missier għandu jitqies li jkun ġie hekk dikjarat, u fil-każ ta' tifel mnissel u mwieled barra miż-żwieġ, kunjom xubut l-omm għandu jitqies bħala l-kunjom hekk dikjarat.”.

Emenda ta' l-artikolu 495 tal-Kodiċi.

**45.** Minnufih wara s-subartikolu (2) ta' l-artikolu 495 tal-Kodiċi għandu jiżdied dan is-subartikolu ġdid li ġej:

“(3) Meta l-werrieta jew il-legatarji f'xi wirt jibqgħu jzommu in komun bejniethom, proprjeta' li tkun ġejja mis-suċċessjoni għal iżjed minn għaxar snin u ma tkun ittiehdet ebda azzjoni quddiem xi qorti jew tribunal iehor għall-qsim tal-proprjeta' fi żmien għaxar snin mill-ftuħ tas-suċċessjoni, kull wiehed mill-komproprjetarji għandu jitqies li jkun komproprjetarju ta' kull haġa

f' dik il-proprjetà hekk miżmuma in komun u d-disposizzjonijiet ta' l-artikolu 912 ma ghandhomx jibqghu japplikaw.”.

**46.** Minnufih wara l-artikolu 495 tal-Kodiċi ghandu jizdied dan l-artikolu 495A ġdid li ġej:

Żieda ta' l-artikolu 495A ġdid mal-Kodiċi.

“Meta l-komproprjetarji ma jaqblux fuq il-bejgh ta' xi haġa li tkun miżmuma in komun.

495A. (1) Meta xi haġa tkun inżammet in komun ghal iżjed minn għaxar snin u hadd mis-sidien ma jkun beda azzjoni quddiem xi qorti jew tribunal iehor għall-qsim tal-proprjetà li tkun qed tinzamm in komun, u l-komproprjetarji jonqsu milli jiftiehm u dwar il-bejgh ta' xi proprjetà partikolari bejniethom, il-qorti għandha, jekk tkun sodisfatta li hadd mill-komproprjetarji dissidenti ma jkun gravament preġudikat b'dak li tordna, tawtorizza l-bejgh skond ma jkun jixtieq l-akbar għadd ta' komproprjetarji fil-qies tal-valur ta' l-ishma li kull komproprjetarju jkollu.

(2) It-talba li ssir lill-qorti għandha tintgħamel permezz ta' rikors li miegħu jkun hemm annessa dikjarazzjoni tas-sidien fejn jaqblu li jsir il-bejgh kif ukoll prospett li jkun juri l-ghadd u l-valur tal-ishma li kull wiehed minnhom ikollu kif ukoll il-pattijiet u l-kondizzjonijiet li taħthom ikun ser isir il-bejgh. Fir-rikors għandha tiġi indikata wkoll id-data meta l-hwejjeġ ikunu ġew in komun u ċ-ċirkostanzi relattivi.

(3) Ir-rikors għandu jiġi notifikat lill-komproprjetarji kollha li ma jkunux jaqblu mal-bejgh kif ukoll lill-kuraturi li jiġu mahtura mill-qorti biex jirrapprezentaw lil min mill-komproprjetarji ma jkunx magħruf jew ma jkunx jista' jinsab. Ir-reġistratur għandu jara li kopja tar-rikors tiġi pubblikata fil-Gazzetta u f'gurnal wiehed ta' kuljum.

(4) Dikjarazzjoni li xi komproprjetarju minnhom ma jkunx magħruf jew ma jkunx jista' jinsab għandha tiġi konfermata bil-ġurament minn kull wiehed mir-rikorrenti.

(5) Il-komproprjetarji l-oħra kif ukoll il-kuraturi jistgħu, fi żmien għoxrin gurnata min-notifika li ssirilhom tar-rikors, jew fil-każ ta' komproprjetarju li ma jkunx ġie notifikat bir-rikors fi żmien għoxrin gurnata mill-aħhar pubblikażzjoni msemmija fis-subartikolu (3) ta' dan l-artikolu, jopponu l-bejgh billi jiddikjaraw x'ikun il-preġudizzju gravi li huma jew il-komproprjetarji li jkunu jirrapprezentaw jistgħu jbatu minhabba fil-bejgh.

Kap.12.

(6) Meta tiġi biex tivvaluta jekk ikunx hemm xi preġudizzju serju ghal xi wiehed mill-komproprjetarji, il-qorti ghandha tqis kull fattur rilevanti inkluż il-valur tal-proprjetà u l-prezz tal-bejgħ, u tista' ghal dak l-ghan tordna li ssir stima tal-proprjetà skond id-disposizzjonijiet ta' l-artikolu 306 tal-Kodiċi ta' Organizzazzjoni u Proċedura Civili.

(7) Il-qorti ghandha tiddeċidi dwar ir-rikors, u jekk tiddeċidi li ghandu jsir il-bejgħ, din ghandha tistabbilixxi x'ikun il-prezz jew korrispettiv iehor ghal dak il-bejgħ u ghandha iktar minn hekk –

(a) tistabbilixxi l-hin, il-jum u l-post, meta u fejn ghandu jsir it-trasferiment;

(b) meta l-bejgħ ikun ser isir permezz ta' att pubbliku, tahtar nutar biex jipubblika l-att;

(ċ) tahtar kuratur, ukoll minn fost il-komproprjetarji nfushom, sabiex jirrapprezenta lil min mill-komproprjetarji jonqos milli jidher quddiem in-nutar għall-kuntratt jew istrument iehor ta' trasferiment.

(8) Il-qorti tista', billi jsirilha rikors minn xi parti li jkollha interess, tibdel il jum, il-hin jew il-post fejn ikun ser isir it-trasferiment.

(9) Jekk ikun hemm iktar minn komproprjetarju wiehed li jopponi t-trasferiment, il-qorti ghandha tordna l-bejgħ tal-beni b'liċitazzjoni skond id-disposizzjonijiet ta' l-artikoli 521 u 522 tal-Kodiċi:

Izda:

(a) ghandha ssir biss stima jekk din tiġi hekk ordnata mill-qorti skond is-subartikolu (6) ta' dan l-artikolu;

(b) fl-avviż kontemplat fl-artikolu 313 tal-Kodiċi ta' Organizzazzjoni u Proċedura Civili, il-valur tal-korrispettiv indikat għat-trasferiment propost ghandu jiġi dikjarat u indikat bhala "l-valur mogħti mill-komproprjetarji" flimkien mal-valur stabbilit bl-istima skond is-subartikolu (6) meta tkun saret dik l-istima;



(ċ) il-liberazzjoni ma ssirx dak in-nhar ta' l-irkant jekk l-ebda offerta ma tkun tiskorri l-valur moghti mill-komproprjetarji jew in-nofs ta' l-istima, skond liema jkun l-oghla;

(d) meta jkun hemm qbil fost il-komproprjetarji kollha l-qorti ghandha tordna li l-barranin ma jigux mistednin biex joffru.”.

**47.** Minflok is-subartikolu (2) ta' l-artikolu 586 tal-Kodiċi ghandu jidhol dan li ġej:

Emenda ta' l-artikolu 586 tal-Kodiċi.

“(2) Ebda haġa fis-subartikolu (1) ta' dan l-artikolu ma ghandha tiftiehem li tipprojbixxi t-tniżżil f'kuntratt ta' assigurazzjoni fuq il-hajja minn persuna fuq hajjitha nnifisha li jstipula (sew jekk ma' l-iffirmar tal-polza ta' assigurazzjoni sew jekk matul iż-żmien tal-polza) li r-rikavat u kull benefiċċju li joriginaw mill-polza ta' assigurazzjoni (sew jekk dawn jithallsu f'data definittiva ta' maturazzjoni sew jekk mal-mewt ta' l-imsemmija persuna) jithallsu lil benefiċjarju li ma jkunx il-persuna li hajjitha tkun assigurata.”.

**48.** Minnufih wara s-subartikolu (2) ta' l-artikolu 592 tal-Kodiċi, ghandu jizdied dan is-subartikolu ġdid li ġej:

Emenda ta' l-artikolu 592 tal-Kodiċi.

“(3) Testment *unica charta* ghandu jsir b'mod li d-disposizzjonijiet kwantu ghall-assi ta' wiehed mit-testaturi jsiru f'parti separata minn dawk li jkun fihom id-disposizzjonijiet tat-testatur l-iehor.

(4) Jekk ma jitharsux id-disposizzjonijiet tas-subartikolu (3) ta' dan l-artikolu, dan ma ghandux jikkaguna n-nullità ta' xi disposizzjoni tat-testment jekk dan ikun xort'ohra jiftiehem; imma n-nutar li jabbozza t-testment jista' jehel multa ta' mitt lira li tiġi imposta fuqu mill-Qorti ta' Revizjoni ta' l-Atti Notarili.”.

**49.** Minflok l-artikoli 593 u 594 tal-Kodiċi ghandu jidhol dan li ġej:

Sostituzzjoni ta' l-artikoli 593 u 594 tal-Kodiċi.

“Meta r-raġel jew il-mara jirrevokaw testament *unica charta*.

593. (1) Meta f'testment *unica charta*, it-testaturi jkunu hallew wiehed lill-iehor bi proprjetà l-hwejjeġ kollha jew il-biċċa l-kbira taghhom, bil-kondizzjoni espressa u speċifika li jekk xi wiehed mit-testaturi jhassar dak il-laxxitu huwa jitlef kull jedd favur tiegħu minn dak it-testment komuni, min jibqa' haj minnhom, li jirrevoka t-testment għar-rigward ta' dak il-laxxitu, jitlef kull dritt li hu jew hi seta' kellhom

bis-sahha ta' dak it-testment fuq il-proprjetà tar-raġel jew il-mara li jkunu mietu l-ewwel.

(2) It-telfien imsemmi fis-subartikolu (1) jista' jiġi wkoll ordnat fil-każ meta, minhabba ghemilu jew ghemilha, l-imsemmi laxxitu ma jkunx jista' jkollu effett kwantu għall-beni tiegħu jew tagħha.

(3) In-nutar li jikteb testment *unica charta* għandu l-obbligu taht piena ta' penali ta' mitt lira li tiġi imposta mill-Qorti ta' Revizjoni ta' l-Atti Nutarili li jispjega lit-testaturi f'testment *unica charta* t-tifsir u l-effett ta' dan l-artikolu u ta' l-artikolu 594, u li jniżżel fit-testment dikjarazzjoni f'dak is-sens.

Effetti tar-revoka.

594. Fil-każijiet imsemmija fis-subartikoli (1) u (2) ta' l-artikolu 593 il-proprjetà tal-beni mhollija lit-testatur ir-raġel jew il-mara li jgarrab it-telfien, għandha, kemm-il darba t-testatur l-iehor ma jkunx iddispona xort'ohra, tghaddi għand il-werrieta istitwiti minn dak it-testatur l-iehor, jew jekk ma jkun hemm ebda werrieta istitwiti b'dak il-mod, għand il-werrieta legittimi tiegħu. It-testatur li jkun tilef il-proprjetà kif hawn qabel imsemmi għandu, madankollu, iżomm l-użufrutt ta' dawk il-beni.”.

Emenda ta' l-artikolu 596 tal-Kodiċi.

**50.** L-artikolu 596 tal-Kodiċi għandu jiġi emendat kif ġej:

(a) minflok il-kliem “Bla hsara tad-disposizzjonijiet ta' l-Att dwar il-Manumorta, dawk kollha”, għandhom jidhlu l-kliem “Dawk kollha”; u l-kliem “Kap. 201.” fin-nota marginali li hemm miegħu għandhom jithassru;

(b) id-disposizzjoni li hemm issa għandha tiġi enumerata mill-ġdid bħala s-subartikolu (1) ta' l-artikolu; u

(ċ) minnufih wara s-subartikolu (1) tiegħu kif enumerat mill-ġdid għandu jidied dan is-subartikolu ġdid li ġej:

“(2) It-tfal u d-dixxendenti kollha minghajr ebda distinzjoni għandhom il-kapaċità li jircevu b'testment mill-beni tal-ġenituri tagħhom u axxendenti ohra sal-limitu stabbilit bil-liġi.”.

**51.** L-artikolu 597 tal-Kodiċi ghandu jiġi emendat kif ġej:

Emenda ta' l-artikolu 597 tal-Kodiċi.

(a) fil-paragrafu (a) tiegħu, minflok il-kliem “erbatax-il” ghandhom jidhlu l-kliem “sittax-il”; u

(b) minflok il-paragrafu (b) tiegħu ghandu jidhol dan li ġej:

“(b) dawk li, għalkemm mhux interdetti, ma jkunux kapaċi li jifhmu jew li jkollhom volontà, jew li, minhabba xi difett jew hsara, ma jkunux kapaċi, ukoll permezz ta' interpreti, li jesprimu r-rieda tagħhom:

Iżda testment jista' biss isir permezz ta' interpretu jekk dan ikun testment pubbliku u n-nutar li jkun qed jircevi t-testment ikun sodisfatt, wara li jagħti ġurament lill-interpretu, li dak l-interpretu jista' jinterpreta x-xewqat tat-testatur b'mod korrett;”.

**52.** Minnufih wara s-subartikolu (2) ta' l-artikolu 600 tal-Kodiċi, ghandu jizjed dan is-subartikolu li ġej:

Emenda ta' l-artikolu 600 tal-Kodiċi.

“(3) Persuna mwiela fi żmien tliet mitt jum mid-data tal-ftuh tas-suċċessjoni ghandha, jekk ma jkunx hemm provi għall-kuntrarju, titqies li tkun diġà giet mnissla fiż-żmien tal-ftuh tas-suċċessjoni.”.

**53.** Minflok l-artikoli 602 sa 604 tal-Kodiċi ghandu jidhol dan li ġej:

Sostituzzjoni ta' l-artikoli 602 sa 604 tal-Kodiċi.

“It-tfal kollha tat-testatur jistgħu jirċievu b'testment.

602. It-tfal kollha tat-testatur, sew jekk mweldin matul iż-żwieġ, barra miż-żwieġ jew adottati, jew kemm jekk il-preżunzjoni msemmija fl-artikoli 102 sa 112 tkunx tapplika għalihom jew le, jistgħu jirċievu b'testment minghand it-testatur.”.

**54.** Minflok il-paragrafi (a) u (b) tas-subartikolu (1) ta' l-artikolu 605 tal-Kodiċi ghandu jidhol dan li ġej:

Emenda ta' l-artikolu 605 tal-Kodiċi.

“(a) volontarjament joqtol jew ikun ittanta joqtol lit-testatur, jew lill-mara jew lir-raġel tat-testatur, jew lil axxendent jew dixxendent tat-testatur; jew

(b) ikun akkuża lit-testatur, jew lill-mara jew lir-raġel tat-testatur, jew lil axxendent jew dixxendent tat-testatur quddiem awtorità kompetenti b'delitt li jgħib il-piena tal-priġunerija, u li hu kien jaf li t-testatur, jew il-mara jew raġel tat-testatur, jew l-

axxendent jew dixxendent tat-testatur, ma kienux hatjin tieghu; jew”.

Emenda ta' l-artikolu 608 tal-Kodiċi.

**55.** Fl-artikolu 608 tal-Kodiċi, minflok il-kliem “ghal-leġittima li kieku kienet tmiss” għandhom jidhlu l-kliem “għas-sehem riżervat li kieku kien imiss”, u minflok il-kliem “għall-leġittima” fin-nota marginali li hemm ma’ l-istess artikolu għandhom jidhlu l-kliem “għas-sehem riżervat”.

Emenda ta' l-artikolu 612 tal-Kodiċi.

**56.** Fis-subartikolu (1) ta’ l-artikolu 612 tal-Kodiċi l-kliem “602, 603, 604,” għandhom jithassru.

Sostituzzjoni ta’ l-artikolu 614 tal-Kodiċi.

**57.** Minflok l-artikolu 614 tal-Kodiċi għandu jidhol dan li ġej:

“Beni li jistgħu jiġu disposti b’testment.

614. (1) Jekk it-testatur ma jkollux dixxendenti jew żewġha jew martu, huwa jista’ jiddisponi minn ġidu kollu b’titolu universali jew partikolari favur kull persuna kapaci li tircievi b’testment.

(2) Jekk it-testatur ikollu dixxendenti jew żewġha jew martu, is-sehem tal-beni tieghu li minnu jista’ jiddisponi jkun dak li jibqa’ wara li jitnaqqas dak is-sehem li jmiss lid-dixxendenti jew lil żewġha jew lil martu hawn aktar qabel imsemmija taht xi wahda mid-disposizzjonijiet ta’ l-artikoli 615 sa 653.”.

Sostituzzjoni ta’ l-intestatura li tidher wara l-artikolu 614 tal-Kodiċi.

**58.** Minflok l-intestatura “Fuq il-Leġittima u d-Dizeredazzjoni” li tidher wara l-artikolu 614 tal-Kodiċi, għandha tidhol l-intestatura “Fuq is-Sehem Riżervat u d-Dizeredazzjoni”.

Sostituzzjoni ta’ l-artikoli 615 u 616 tal-Kodiċi.

**59.** Minflok l-artikoli 615 u 616 tal-Kodiċi għandu jidhol dan li ġej:

“Sehem riżervat.

615. (1) Is-sehem riżervat huwa l-jedd fuq il-beni tal-mejjet riżervat mil-ligi favur id-dixxendenti tal-mejjet u min mill-mara jew ir-raġel jibqa’ haj.

(2) L-imsemmi jedd huwa kreditu tal-valur tas-sehem riżervat kontra l-beni tal-mejjet. Mghaxijiet bir-rata stabbilita fl-artikolu 1139 għandhom jiġi miżjuda ma’ dak il-kreditu mid-data tal-ftuħ tas-successjoni jekk is-sehem riżervat jintalab fi żmien sentejn minn dik id-data, jew mid-data tan-notifika ta’ att ġudizzjarju jekk it-talba ssir wara li jkun għadda dak il-perjodu ta’ sentejn.

Sehem  
riżervat  
li jmiss lit-  
tfal.

616. (1) Is-sehem riżervat li jmiss lit-tfal kollha, kemm jekk mnissla jew mwielda matul iż-żwieġ jew mnissla jew mwielda barra miż-żwieġ jew adottati, għandu jkun terz tal-valur tal-beni jekk dawk it-tfal ma jkunux iżjed minn erba' fl-għadd jew nofs ta' dak il-valur jekk ikunu hamsa jew iżjed.

(2) Is-sehem riżervat jinqasam f'ishma daqsinsew bejn it-tfal li jmisshom minnu.

(3) Jekk ma jkunx hemm hlief tifel wiehed, dan jiehu wahdu t-terza parti kollha hawn qabel imsemmija.”.

**60.** L-artikolu 618 tal-Kodiċi għandu jiġi emendat kif ġej:

Emenda ta' l-  
artikolu 618 tal-  
Kodiċi.

(a) minflok il-kliem “tinqies il-legittima” fin-nota marginali li hemm miegħu u fis-subartikolu (1) tiegħu, għandhom jidhlu l-kliem “jinqies is-sehem riżervat”;

(b) fis-subartikolu (2) tiegħu, minflok il-kliem “l-legittima” għandhom jidhlu l-kliem “s-sehem riżervat”; u

(ċ) minflok is-subartikolu (3) tiegħu, għandu jidhol dan li ġej:

“(3) It-tifel jew dixxendent iehor li jkun mahtur werriet, min li kieku ma jkunx ġie hekk mahtur kien ikollu jedd li jidhol fis-sehem riżervat, ikollu wkoll il-jedd jidhol ma' l-ohrajn f'dak is-sehem minkejja li jkun ġie hekk mahtur.”.

**61.** L-artikolu 619 tal-Kodiċi għandu jithassar.

Thassir ta' l-  
artikolu 619 tal-  
Kodiċi.

**62.** L-artikolu 620 tal-Kodiċi għandu jiġi emendat kif ġej:

Emenda ta' l-  
artikolu 620 tal-  
Kodiċi.

(a) minflok in-nota marginali li hemm miegħu għandha tidhol in-nota marginali “Sehem riżervat għandu jkun hieles minn kull piż jew kondizzjoni.”;

(b) minflok is-subartikolu (1) tiegħu għandu jidhol dan li ġej:

“(1) Is-sehem riżervat għandu jinghata fi proprjetà shiha, u t-testatur ma jista' jgħabbih b'ebda piż jew kondizzjoni.”;

(ċ) fis-subartikolu (2) tiegħu, minflok il-kliem “II-legittima tinqies” ghandhom jidhlu l-kliem “Is-sehem rizervat jinqies”;

(d) fis-subartikolu (4) tiegħu, minflok il-kliem “I-legittima ghandu jaqta’ minnha” ghandhom jidhlu l-kliem “s-sehem rizervat ghandu jaqta’ minnu”; u

(e) minnufih wara s-subartikolu (4) tiegħu ghandu jizdied dan is-subartikolu ġdid li ġej:

“(5) Il-persuna li jkollha jedd għas-sehem rizervat ghandha tghodd akkont tas-sehem tagħha kull beni mhollija lilha b’ testament u ma tista’ tiffinunzja għal ebda disposizzjoni testamentarja favur tagħha u titlob is-sehem rizervat, kemm il darba dik id-disposizzjoni testamentarja ma ssirx f’ użufrutt jew tkun tikkonsisti fil-jedd ta’ użu jew abitazzjoni, jew tkun tikkonsisti f’ renta vitalizja jew renta għal żmien limitat.”.

Emenda ta’ l-  
artikolu 621 tal-  
Kodiċi.

**63.** L-artikolu 621 tal-Kodiċi ghandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, minflok il-kliem “tmiss il-legittima” ghandhom jidhlu l-kliem “imiss is-sehem rizervat”, u minflok il-kliem “bħala legittima” ghandhom jidhlu l-kliem “bħala sehem rizervat”; u

(b) fis-subartikolu (2) tiegħu, minflok il-kliem “il-legittima” ghandhom jidhlu l-kliem “is-sehem rizervat”, u minflok il-kliem “I-legittima” ghandhom jidhlu l-kliem “s-sehem rizervat”.

Emenda ta’ l-  
artikolu 622 tal-  
Kodiċi.

**64.** Minflok il-kliem “għal-legittima jistgħu jiġu mcaħhda minnha” fl-artikolu 622 tal-Kodiċi ghandhom jidhlu l-kliem “għas-sehem rizervat jistgħu jiġu mcaħhda minnu”.

Emenda ta’ l-  
artikolu 623 tal-  
Kodiċi.

**65.** Minflok il-paragrafi (f) u (ġ) ta’ l-artikolu 623 tal-Kodiċi ghandu jidhol dan li ġej:

“(f) jekk il-persuna dixxendenti tkun tipprostitwixxi ruhha mingħajr konnivenza tat-testatur;

(ġ) f’kull każ li fih it-testatur, minhabba ż-żwieġ tad-dixxendent, ikun ġie, taht id-disposizzjonijiet ta’ l-artikoli 27 sa 29, dikjarat hieles mill-obbligu li jagħti l-manteniment lil dak id-dixxendent.”.

- 66.** L-artikolu 624 tal-Kodiċi huwa b'dan imhassar. Thassir ta' l-artikolu 624 tal-Kodiċi.
- 67.** L-artikolu 626 tal-Kodiċi għandu jiġi emendat kif ġej: Emenda ta' l-artikolu 626 tal-Kodiċi.
- (a) fis-subartikolu (1) tiegħu, minflok il-kliem "il-legittima li huwa jitlef, tmiss lilhom" għandhom jidhlu l-kliem "is-sehem riżervat li huwa jitlef, imiss lilhom"; u
- (b) fis-subartikolu (2) tiegħu, minflok il-kliem "il-legittima" għandhom jidhlu l-kliem "is-sehem riżervat".
- 68.** Fl-artikolu 628 tal-Kodiċi, minflok il-kliem "mil-legittima" għandhom jidhlu l-kliem "mis-sehem riżervat", u minflok il-kliem "tal-legittima" għandhom jidhlu l-kliem "tas-sehem riżervat". Emenda ta' l-artikolu 628 tal-Kodiċi.
- 69.** Fl-artikolu 629 tal-Kodiċi u fin-nota marginali li hemm miegħu, minflok il-kliem "għal-legittima" għandhom jidhlu l-kliem "għas-sehem riżervat". Emenda ta' l-artikolu 629 tal-Kodiċi.
- 70.** Minflok l-artikolu 630 tal-Kodiċi għandu jidhol dan li ġej: Sostituzzjoni ta' l-artikolu 630 tal-Kodiċi.
- 630.** Jekk dak li lilu jmiss is-sehem riżervat ikun interdett minhabba tberbiq, jew ikun hekk mgħobbi bid-djun li s-sehem riżervat, jew mill-anqas il-biċċa l-kbira tiegħu, jiġi mikul b'dawk id-djun, it-testatur jista', b'dikjarazzjoni espressa, jiddizeredah, u jhalli s-sehem riżervat lill-ulied jew lid-dixxendenti ta' dik il-persuna.”
- “Diżeredazzjoni minhabba tberbiq.
- 71.** Il-kliem "u tat-Tfal Illegittimi" li jidhru fl-intestatura wara l-artikolu 630 tal-Kodiċi għandhom jithassru. Emenda ta' l-intestatura li tidher wara l-artikolu 630 tal-Kodiċi.
- 72.** Minflok l-artikoli 631 sa 633 tal-Kodiċi għandu jidhol dan li ġej: Sostituzzjoni ta' l-artikoli 631 sa 633 tal-Kodiċi.
- 631.** Jekk il-mejjet ihalli tfal jew dixxendenti ohra, min mir-raġel u l-mara jibqa' haj l-ahhar għandu jedd għal kwart tal-valur tal-beni fi proprjetà shiha.
- “Jedd ta' min jibqa' haj l-ahhar mir-raġel u l-mara, meta hemm tfal.
- 632.** Fin-nuqqas ta' tfal jew dixxendenti msemija fl-artikolu 631, min mir-raġel u l-mara jibqa' haj l-ahhar għandu jedd għal terz tal-valur tal-beni fi proprjetà shiha.”
- Jedd ta' min jibqa' haj l-ahhar mir-raġel u l-mara, meta hemmx tfal.

Emenda ta' l-artikolu 633A tal-Kodiċi.

**73.** L-artikolu 633A tal-Kodiċi ghandu jiġi emendat kif ġej:

(a) id-disposizzjoni ghandha tiġi enumerata mill-ġdid bhala l-artikolu 633;

(b) minflok is-subartikoli (3) u (4) tiegħu ghandu jidhol dan li ġej:

“(3) Għall-finijiet ta' l-artikoli 631 u 632, il-post li jkun suġġett għall-jedd ta' abitazzjoni taht dan l-artikolu jithalla barra mill-wirt tal-parti li tmut li fuqu l-parti li tibqa' hajja jkollha sehem riżervat.

(4) Id-disposizzjonijiet ta' l-artikolu 395 ma japplikawx għall-jedd ta' abitazzjoni mogħti taht dan l-artikolu.”; u

(ċ) fis-subartikolu (5) tiegħu, minflok il-kliem “il-leġittima jew xi sehem mill-mewt tal-parti li tmut riżervata għal xi persuna oħra” għandhom jidhlu l-kliem “is-sehem riżervat li jmiss lil xi persuna oħra”.

Sostituzzjoni ta' l-artikoli 634 sa 646 tal-Kodiċi.

**74.** Minflok l-artikoli 634 sa 646 tal-Kodiċi ghandu jidhol dan li ġej:

“Qsim bejn il-verrieta u min jibqa' haj l-ahhar mir-raġel u l-mara.

634. Meta d-dar taż-żwieġ tkun tappartjeni in parti lil min jibqa' haj l-ahhar mir-raġel u l-mara, f'kull qsim bejn il-verrieta tal-mejjet u min jibqa' haj l-ahhar mir-raġel u l-mara, min jibqa' haj l-ahhar mir-raġel u l-mara, jew l-imsemmija verrieta, jista' jitlob, li l-proprjeta suġġetta għall-jedd ta' abitazzjoni tiġi assenjata lil min jibqa' haj l-ahhar mir-raġel u l-mara fuq valutazzjoni li għandha tiehu f'konsiderazzjoni dak id-dritt ta' abitazzjoni fuq il-proprjeta.

Użu tal-kontenut fid-dar taż-żwieġ.

635. Min jibqa' haj l-ahhar mir-raġel u l-mara jkollu wkoll il-jedd ta' użu fuq kull għamara fid-dar taż-żwieġ li tkun tappartjeni lill-mejjet.

Tifsir ta' għamara.

636. Id-disposizzjonijiet ta' l-artikolu 318 għandhom japplikaw dwar il-jedd ta' użu msemmi fl-artikolu 635.

Limitazzjonijiet tad-dritt ta' użu.

637. Id-disposizzjonijiet tas-subartikoli (3), (6), (7) u (8) ta' l-artikolu 633 għandhom *mutatis mutandis* japplikaw għall-jedd ta' użu mogħti bl-artikolu 635.



Każijiet fejn min jibqa' haj mir-raġel u l-mara ma jistax jitleb jeddijiet.

638. Id-disposizzjonijiet ta' l-artikoli 631, 632, 633 u 635 ma jghoddux fil-każijiet li ġejjin:

(a) jekk, fiż-żmien tal-mewt tar-raġel jew tal-mara, dawn ikunu mifruda b'sentenza tal-qorti ċivili kompetenti, u min jibqa' haj minnhom ikun, skond id-disposizzjonijiet ta' l-artikoli 48, 51 u 52 ta' dan il-Kodiċi, tilef il-jeddijiet imsemmijin f dawk l-artikoli;

(b) jekk min imut l-ewwel mir-raġel u l-mara jkun, bit-testment tiegħu, għal xi wahda mir-raġunijiet imsemmijin fil-paragrafi (a), (b), (ċ), (d) u (e) ta' l-artikolu 623, jew għal raġunijiet ta' adulterju, espressament telf lill-parti li tibqa' hajja l-jeddijiet msemmin fl-artikoli 631 sa 633 u 635 u r-raġuni, jew jekk ikunu msemminja iżjed raġunijiet, xi wahda minnhom tiġi ppruvata;

(ċ) jekk, f' min jibqa' haj mir-raġel u l-mara, ikun hemm xi wahda mir-raġunijiet li minhabba fihom dak ir-raġel jew dik il-mara, skond l-artikolu 605, ma jkunux kapaċi li jirċievu b'testment.

Kif japplikaw l-artikoli 633 u 635 fil-każ ta' firda personali.

639. Il-jeddijiet imsemmijin fl-artikolu 633 u fl-artikolu 635 jghoddu wkoll f'każijiet fejn il-miżżewġin kienu personalment mifrudin u min jibqa' haj l-aħhar minnhom ikollu, skond l-artikolu 55A, il-jedd li joqghod fid-dar taż-żwieġ.”.

**75.** L-artikolu 648 tal-Kodiċi għandu jiġi emendat kif ġejj:

Emenda ta' l-artikolu 648 tal-Kodiċi.

(a) minflok il-paragrafu (b) tiegħu għandu jidhol dan li ġejj:

“(b) il-beni li t-testatur ikun ta b'donazzjoni għandhom mbagħad jiġu mgħaqqdin magħhom b'kalkolu biss, skond il-valur ta' dawk il-beni meta ssir id-donazzjoni.”; u

(b) fil-paragrafu (ċ) tiegħu, minflok il-kliem minn “dawk li għandhom jedd” sa “l-artikoli 615 sas-646” għandhom jidhlu l-kliem “min mir-raġel u l-mara jibqa' haj skond l-artikoli 615 sas-639”.

Thassir ta' l-artikolu 649 tal-Kodiċi.

**76.** L-artikolu 649 tal-Kodiċi għandu jithassar.

Emenda ta' l-artikolu 656 tal-Kodiċi.

**77.** Fis-subartikolu (1) ta' l-artikolu 656 tal-Kodiċi, minflok il-kelma “miktub” għandhom jidhlu l-kliem “stampat, magħmul bit-typewriter jew miktub bil-linka”.

Emenda ta' l-artikolu 661 tal-Kodiċi.

**78.** L-artikolu 661 tal-Kodiċi għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, minflok il-kliem “hames liri u lanqas iżjed minn hamsin” għandhom jidhlu l-kliem “mitt lira u lanqas iżjed minn elf”; u

(b) is-subartikolu (2) tiegħu għandu jiġi mhassar u s-subartikolu (3) tiegħu għandu jiġi enumerat mill-ġdid bhala s-subartikolu (2) tiegħu.

Emenda ta' l-artikolu 662 tal-Kodiċi.

**79.** Minflok il-kliem “527” fl-artikolu 662 tal-Kodiċi, għandhom jidhlu l-kliem “529”.

Emenda ta' l-artikolu 676 tal-Kodiċi.

**80.** Il-kelma “rġiel” fis-subartikolu (3) ta' l-artikolu 676 tal-Kodiċi għandha tithassar.

Emenda ta' l-artikolu 726 tal-Kodiċi.

**81.** L-artikolu 726 tal-Kodiċi għandu jiġi emendat kif ġej:

(a) id-disposizzjoni li hemm bhalissa għandha tiġi enumerata mill-ġdid bhala s-subartikolu (1) tiegħu; u

(b) minnufih wara s-subartikolu (1) tiegħu kif enumerat mill-ġdid, għandhom jiżdiedu dawn is-subartikoli li ġejjin:

“(2) Fil-każ ta' beni immobbli l-legatarju jista' jitlob li l-ghoti ta' dak il-pussess isir permezz ta' att pubbliku.

(3) Kemm-il darba t-testatur ma jkunx iddispona xort'ohra, l-ispejjez li jkollhom x'jaqsmu ma' l-att għandhom jithallsu mill-legatarju.”.

Sostituzzjoni ta' l-artikoli 747 sa 750 tal-Kodiċi.

**82.** Minflok l-artikoli 747 sa 750 tal-Kodiċi għandu jidhol dan li ġej:

“It-testatur jista' jipprova għall-eżistenza jew għat-twelid ta' tfal eċċ.

747. Testatur jista' fit-testament tiegħu jaħseb għall-eżistenza jew twelid wara ta' tfal jew dixxendenti, u f'dik id-disposizzjoni jista', mingħajr preġudizzju għal kulljedd għal parti mis-sehem riżervat, jiddistingwi bejn dawk it-tfal jew dixxendenti bl-istess mod kif ikun jista' jiddistingwi skond

il-liġi bejn tfal jew dixxendenti li jkun jaf bl-eżistenza tagħhom jew li jkunu mwielda diġà.

Meta tfal jew dixxendenti jithallew barra.

748. Meta ma jkunx ġie provdut kif imsemmi fl-artikolu 747 u t-testatur jiddisponi b'titolu universali jew partikolari u jhalli barra xi tfal jew dixxendenti, kemm jekk it-testatur kien jaf bl-eżistenza tagħhom jew le, u kemm jekk dawk it-tfal jew dixxendenti kienu twieldu fiż-żmien ta' l-ghemil tal-disposizzjonijiet jew le, dawk il-disposizzjonijiet ikunu madankollu validi salv il-jedd tat-tfal jew dixxendenti hekk imhollija barra għas-sehem tagħhom mis-sehem riżervat li jistgħu jkollhom jedd għalih taht dan il-Kodiċi.”.

**83.** L-artikolu 752 tal-Kodiċi għandu jiġi emendat kif ġej:

Emenda ta' l-artikolu 752 tal-Kodiċi.

(a) fis-subartikolu (1) tiegħu, minflok il-kliem “tfal, leġittimi, adottati jew leġittimati bi żwieġ li jsir wara, qabel ma jagħlaq tmintax-il sena” għandhom jidhlu l-kliem “tfal, qabel ma jagħlaq tmintax-il sena”;

(b) fis-subartikolu (2) tiegħu, minflok il-kliem “tfal, leġittimi, adottati jew leġittimati bi żwieġ li jsir wara” għandha tidhol il-kelma “tfal”; u

(ċ) fis-subartikolu (3) tiegħu, minflok il-kliem “għal-leġittima” għandhom jidhlu l-kliem “għal parti mis-sehem riżervat”.

**84.** Minnufih wara s-subartikolu (2) ta' l-artikolu 758 tal-Kodiċi, għandhom jiżdiedu dawn is-subartikoli li ġejjin:

Emenda ta' l-artikolu 758 tal-Kodiċi.

“(3) Ir-raġel u l-mara jistgħu ukoll ihallu wirt favur min jibqa' haj l-ahhar minnhom b'titolu universali jew b'titolu partikolari, u jissostitwixxu minfloku jew minflokha benefiċjarju iehor fir-residwu li jkun għadu jeżisti fiż-żmien tal-mewt ta' min mir-raġel u l-mara jibqa' haj l-ahhar. F'każ bħal dak min jibqa' haj l-ahhar mill-miżżewġin ikun biss projbit milli jiddisponi minn xi haġa li tkun tinsab fil-disposizzjoni, b'testament jew b'titolu ta' donazzjoni.

(4) Għall-fini ta' dan l-artikolu “residwu” tfisser u tinkludi biss:

(a) beni immobbli, kemm jekk immobbli minnhom infishom jew minhabba l-haġa li jkollhom x'jaqsmu magħha; u

(b) kull beni mobbli ċerti u determinati li jistgħu jiġu identifikati, esklużi flus likwidi u hwejjeġ identifikati biss mill-ispeċi tagħhom.

(5) Azzjoni li tikkontesta xi disposizzjoni magħmul minn min jibqa' haj l-ahhar mill-miżżewġin b'kontravvenzjoni tas-subartikolu (3) tista' tiġi istitwita matul il-hajja ta' min ikun baqa' haj l-ahhar mill-miżżewġin, u tintilef għeluq hames snin mill-ftuh tas-suċċessjoni ta' min jibqa' haj l-ahhar mill-miżżewġin.

(6) Disposizzjoni magħmula minn min jibqa' haj l-ahhar mill-miżżewġin b'kontravvenzjoni tas-subartikolu (3) tkun, fil-każ ta' immobbli, nulla. Fil-każ ta' beni mobbli n-nullità tirriżulta biss jekk il-benefiċjarju jkun *in bona fide*. F'kull każ ieħor, azzjoni tista' ssir biss għal danni kontra min ikun baqa' haj l-ahhar mill-miżżewġin jew il-beni tiegħu jew tagħha.”.

Emenda ta' l-artikolu 789 tal-Kodiċi.

**85.** Fl-artikolu 789 tal-Kodiċi l-kliem “lit-tfal illegittimi,” għandhom jiħassru.

Thassir ta' l-artikolu 800 tal-Kodiċi.

**86.** L-artikolu 800 tal-Kodiċi għandu jiġi mhassar.

Sostituzzjoni ta' l-artikoli 808 sa 830 tal-Kodiċi.

**87.** Minflok l-intestatura “§I. Fuq is-Suċċessjonijiet Regolari”, u s-subintestatura “FUQ IS-SUĊĊESSJONI TAD-DIXXENDENTI LEGITTIMI” li jidhru wara l-artikolu 807 tal-Kodiċi, u minflok l-artikoli 808 sa 830 tal-Kodiċi u l-intestaturi u s-subintestaturi li jidhru wara l-artikoli 809, 813, 816, 824 u 829, għandu jidhol dan li ġej:

**“§I. Fuq is-Suċċessjoni tad-Dixxendenti u ta' min fost ir-Raġel u l-Mara jibqa' haj”.**

Meta l-mejjet ihalli warajh dixxendenti jew lil martu jew żewġha.

808. (1) Meta l-mejjet ihalli warajh tfal jew dixxendenti tagħhom u lil martu jew żewġha, il-wirt jgħaddi nofs għat-tfal u dixxendenti ohra u n-nofs l-ieħor għal martu jew żewġha.

(2) Id-disposizzjonijiet tas-subartikolu (1) huma mingħajr preġudizzju għall jedd ta' min jibqa' haj l-ahhar mir-raġel u l-mara taht l-artikoli 633A 634 u 635.

Meta l-mejjet ihalli warajh dixxendenti iżda mhux lil martu jew żewġha.

809. Meta l-mejjet ihalli warajh tfal jew dixxendenti ohra iżda mhux lil martu jew żewġha, il-wirt jgħaddi għat-tfal u dixxendenti ohra.

Meta l-mejjet ma jhallix warajh dixxendenti imma jhalli lil martu jew żewġha.

810. Meta l-mejjet ma jhallix warajh tfal jew dixxendenti ohra iżda jhalli lil martu jew żewġha, il-wirt jgħaddi għal martu jew żewġha.

Suċċessjoni tat-tfal u d-dixxendenti.

811. (1) Salv id-disposizzjonijiet ta' l-artikolu-, it-tfal jew dixxendenti ohra jirtu lil missierhom u lil ommhom jew lil kull axxendent iehor xorta wahda sew jekk huma subien jew bniet, u sew jekk ikunu mwiġda jew imnißla matul iż-żwieġ jew xort'ohra u sew jekk ikunu xi whud minn żwieġ u ohrajn minn iehor.

(2) Huma jirtu *per capita* meta huma lkoll fl-ewwel grad; jirtu *per stirpes* meta lkoll, jew xi whud minnhom, jiġu għall-wirt bil jedd tar-rappreżentazzjoni.

## §II. Fuq is-Suċċessjoni ta' l-Axxendenti u Qraba Kollaterali

Meta l-mejjet ma jhalli warajh ebda dixxendenti u lanqas lil martu jew żewġha.

812. Meta l-mejjet ma jhalli warajh ebda dixxendenti ohra, lanqas lil martu jew żewġha, il-wirt jgħaddi:

(a) jekk ikun hemm axxendent jew axxendenti u ma jkunx hemm qraba kollaterali diretti: għall-egreb axxendent jew axxendenti;

(b) jekk ikun hemm axxendent jew axxendenti u qraba kollaterali diretti: nofs għall-egreb axxendent jew axxendenti u n-nofs l-iehor għall-qraba kollaterali diretti;

(c) jekk ma jkun hemm ebda axxendent jew axxendenti iżda jkun hemm qraba kollaterali diretti: għall-qraba kollaterali diretti; u

(d) jekk la jkun hemm axxendent jew axxendenti u lanqas qraba kollaterali diretti: għall-egreb qarib kollaterali tkun liema tkun il-linja li fiha jkun jinsab dak il-qarib kollaterali.

Qraba kollaterali diretti.

813. (1) Għall-fini ta' l-artikolu 812, qraba kollaterali diretti jfissru ahwa subien u bniet, sew jekk ikunu ahwa sewwa kemm jekk ikunu ahwa mill-missier jew mill-omm biss jew adottati, u d-dixxendenti ta' l-ahwa subien u bniet li jkunu mietu qabel, sew jekk ikunu ahwa sewwa kemm jekk ikunu ahwa mill-missier jew mill-omm biss.

(2) L-ahwa subien u bniet jirtu *per capita* u d-dixxendenti tagħhom *per stirpes* skond l-artikoli 804 u 805.

Suċċessjoni minn qraba kollaterali oħra.

814. Il-jedd tal-wirt bejn il-qraba kollaterali ma jmurx iżjed 'l hemm mit-tnax il-grad.

Meta persuni mnisla u mwiela barra miż-żwieġ jirtu flimkien ma' xi persuni oħra.

815. Meta persuna mnisla u mwiela barra miż-żwieġ taret *ab intestato* flimkien ma' tfal adottivi tal-mejjet jew tfal oħra tal-mejjet li ma jkunux hekk mnisla jew mwiela, jew mad-dixxendenti ta' dawk it-tfal, jew ma' min mir-raġel jew il-mara jibqa' haj minnhom, il-persuna mnisla u mwiela barra miż-żwieġ ghandha tircievi biss tliet kwarti mis-sehem li kienet tkun intitolata ghalih li kieku l-werrieta kollha tal-mejjet, inkluża dik il-persuna, kienu mnisla u mwiela matul iż-żwieġ, u l-kwart l-iehor tas-sehem li kien hekk ikollha jedd ghalih ghandu jghaddi ghal ghand il-werrieta l-oħra tal-mejjet b'esklużjoni ta' persuni minn fost dawk il-werrieta li jkunu mnisla u mwiela matul iż-żwieġ, bhallikieku kien beni mifrud.

### “§III. Fuq il-Jeddijiet tal-Gvern

Jeddijiet ta' suċċessjoni li jmissu lill-Gvern ta' Malta.

816. Meta l-mejjet ma jhallix warajh persuni li ghandhom jedd jirtuh taht ir-regoli stipulati fl-artikoli ta' qabel, il-wirt imur favur il-Gvern ta' Malta.”.

Sostituzzjoni ta' l-artikoli 832 sa 835 tal-Kodiċi.

**88.** Minflok l-artikoli 832 sa 835 tal-Kodiċi ghandu jidhol dan l-artikolu li ġej:

“Meta jmutu nies f'disgrazzja wahda.

832. Meta diversi persuni jmutu f'disgrazzja wahda u jkun impossibbli li jiġi stabbilit min miet l-ewwel jew baqa' haj wara l-iehor, dawn ghandhom, jekk persuna minnhom tkun imsejha biex taret lill-oħra, jitqiesu li jkunu mietu fl-istess waqt.”.

Sostituzzjoni ta' l-artikoli 839 sa 844 tal-Kodiċi.

**89.** Minflok l-artikoli 839 sa 844 tal-Kodiċi ghandu jidhol dan li ġej:

“Sehem li jmiss lil persuna mnisla u mwiela barra miż-żwieġ jista' jithallas xort' oħra milli bi flus likwidi.

839. Meta taht is-suċċessjoni bit-testment jew minghajr testament persuna mnisla u mwiela barra miż-żwieġ taret flimkien ma' tfal adottivi tal-mejjet jew ma' tfal oħra tal-mejjet li ma jkunux ġew hekk mnisla u mwiela jew ma' dixxendenti ta' dawk it-tfal, jew ma' mart il-mejjet li tibqa' hajja warajh, il-werrieta l-oħra tal-mejjet ikollhom jedd ihallsu s-sehem li jmiss lill-persuna mnisla u mwiela barra miż-żwieġ, jew bi flus likwidi jew bi proprjetà mobbli jew immobbli ġejja mill-beni, jekk din l-ahhar persuna ma ssibx oġġezzjoni; u f'każ li din il-persuna toġġezzjona, il-Qorti ta'

Ġurisdizzjoni Volontarja ghandha, fuq talba b'rikors f'dak is-sens minn xi wiehed jew aktar mill-werrieta l-oħra tal-mejjet, tiddeċidi jekk ghandhiex tippermetti dak il-hlas jew trasferiment, wara li tqis kull ċirkostanza personali u dwar il-proprietà.”.

**90.** Fis-subartikolu (1) ta' l-artikolu 845 tal-Kodiċi, minflok il-kliem “jew legittima, jew is-sehem tal-beni li l-ligi tagħti lit-tfal illegittimi jew lil żewġ jew mart il-mejjet” għandhom jidhlu l-kliem “jew is-sehem riżervat”.

Emenda ta' l-artikolu 845 tal-Kodiċi.

**91.** L-artikolu 852 tal-Kodiċi għandu jiġi emendat kif ġej:

Emenda ta' l-artikolu 852 tal-Kodiċi.

(a) id-disposizzjoni li hemm bħalissa għandha tiġi enumerata mill-ġdid bħala s-subartikolu (1) tiegħu; u

(b) minnufih wara s-subartikolu (1) tiegħu kif enumerat mill-ġdid għandu jizdied dan is-subartikolu ġdid li ġej:

“(2) Id-disposizzjonijiet tas-subartikolu (1) ta' dan l-artikolu japplikaw ukoll fil-każ ta' proċedimenti ġudizzjarji dwar azzjonijiet possessorji, f'liema każ il-persuna li tkun imsejha għall-wirt titqies kuratur tal-wirt *de jure* skond is-subartikolu (2) ta' l-artikolu 886.

(3) Is-subartikolu (2) ta' dan l-artikolu għandu japplika biss jekk il-persuna msejha għall-wirt tiddikjara fl-azzjoni li tkun qed taġixxi fil-kwalità tagħha ta' kuratur *de jure*.”.

**92.** Minflok il-kliem “tal-legittima jew sehem ieħor” fis-subartikolu (2) ta' l-artikolu 858 tal-Kodiċi għandhom jidhlu l-kliem “tas-sehem riżervat”.

Emenda ta' l-artikolu 858 tal-Kodiċi.

**93.** Minflok il-kliem “għal-legittima jew sehem ieħor” fl-artikolu 861 tal-Kodiċi għandhom jidhlu l-kliem “għas-sehem riżervat”.

Emenda ta' l-artikolu 861 tal-Kodiċi.

**94.** Fl-artikolu 894 tal-Kodiċi minflok il-kliem “l-legittima, jew sehem ieħor mill-hwejjeġ tal-wirt,” għandhom jidhlu l-kliem “sehem riżervat”.

Emenda ta' l-artikolu 894 tal-Kodiċi.

**95.** Minnufih wara l-artikolu 906 tal-Kodiċi għandu jizdied dan l-artikolu 906A ġdid li ġej:

Żieda ta' l-artikolu 906A mal-Kodiċi.

906A. (1) Meta tintalab il-qasma tal-wirt, dik il-qasma għandha ssir billi jinqasmu l-beni kompriżi fil-wirt u billi jinġhata b'seħem lil kull min ikollu dritt għas-suċċessjoni f'ismu proprju fil-waqt tal-ftuħ tas-suċċessjoni dak l-ammont tal-beni daqskemm jikkorrispondi għas-seħem tiegħu.

“Il-qasma għandha ssir bejn persuni bi dritt originali għas-suċċessjoni.

(2) Meta jkun hemm iktar minn persuna wahda b'jedd ghal sehem bi dritt ta' rappreżentazzjoni jew b'sostituzzjoni, huma għandhom jinghataw solidalment dak is-sehem li kien ikun dovut lil min ikunu qeghdin jirrapreżentaw jew jissostitwixxu.

(3) Qabel ma jiġu diviżi l-beni kif hawn aktar qabel imsemmi, għandhom l-ewwel jithallsu d-djun kollha li ma thallsux lura u dovuti mill-wirt u kull taxxa mhux imhallsa dovuta mat-trasmissjoni *causa mortis* lill-persuni li jkollhom jedd għas-suċċessjoni fil-waqt tal-ftuh tas-suċċessjoni, u meta l-qasma ssir minn qorti jew minn xi tribunal ieħor, dik il-qorti jew dak it-tribunal jistgħu jordnaw il-bejgħ ta' kull beni kompriż f' dak il-wirt biex jissodisfaw dak il-wirt, billi jnaqqsu l-ammont hekk imhallas mis-sehem ta' min kien dovut jagħmel dak il-hlas.

(4) Meta min ikollu dritt jiret f'ismu fil-waqt tas-suċċessjoni, hawnhekk iżjed 'il quddiem f'dan l-artikolu msejjaħ il-verriet oriġinali, imut, il-qorti għandha tahtar kuratur biex jirrapreżenta lil dik il-persuna fil-qasma u s-sehem tal-verriet oriġinali għandu jinghata lill-kuratur li jkun qed jirrapreżenta lill-verriet oriġinali:

Iżda sew il-verrieta sew is-suċċessuri sew kull min ikollu interess fil-beni tal-verriet oriġinali jista' jintervjeni fil-proċedimenti.

(5) Wirt jista' jinqasam ukoll jekk dan ikun jinkludi sehem mhux diviż ta' xi wirt ieħor jew ta' xi beni oħra.

Disposizzjoni-  
jiet speċjali  
f'każijiet  
partikolari.

(6) Meta azzjoni għall-qasma ta' xi wirt tkun ilha pendent għal iżjed minn hames snin u l-partijiet fil-kawża jkun iżjed minn tnejn, kull parti fil-kawża tista' titlob li l-Qorti tghaddi biex tassenzjalja proprjetà li tagħmel parti mill-beni daqsinsew il-valur tas-sehem tiegħu mill-beni, jew inkella jekk dan ma jkunx prattikabbli biex tordna l-bejgħ ta' proprjetà li tagħmel parti mill-beni u tassenzja mir-rikavat ammont ta' flus li jkun daqs dak il-valur, u l-Qorti għandha tghaddi biex tassenzja dik il-proprjetà jew dawk il-flus minkejja li l-persuni l-oħra kollha li jkollhom interess ma jkunux parti fil-kawża jew li xi taxxa dovuta fuq it-trasferiment tas-sehem tagħhom ma tkunx thallset:



Iżda qabel ma tipproċedi biex taghmel dak hawn qabel imsemmi, il-Qorti ghandha tordna lir-registratur jippubblika ghas-spejjeż tal-persuna li tkun qed taghmel it-talba f'gurnal ta' kull jum u fil-Gazzetta avviz fejn jiġi dikjarat li tkun saret talba għal dak l-assenjament fil-kawża, u fejn jiġi indikat li kull min ikollu xi interess jista' jaghmel rikors biex jintervjeni fil-kawża u ma ghandhiex hekk tipproċedi qabel ma jghaddu mill-inqas hmistax-il gurnata mill-pubblikazzjoni li ssir fil-gurnal ta' kull jum jew fil-Gazzetta, skond liema ssir l-izjed tard.”.

**96.** L-artikolu 910 tal-Kodiċi ghandu jiġi emendat kif ġej:

Emenda ta' l-artikolu 910 tal-Kodiċi.

(a) is-subartikoli (2) u (3) tiegħu ghandhom jithassru; u

(b) is-subartikolu (1) tiegħu ghandu jiġi enumerat mill-ġdid bhala l-artikolu shih, u l-kliem “jew iġib lura fil-massa tal-wirt” ghandhom jithassru.

**97.** Fis-subartikolu (1) ta' l-artikolu 913 tal-Kodiċi, minflok il-kliem “ghandhom igibu fil-massa tal-wirt, fl-interess biss tat-tfal jew dixxendenti l-oħra, li jirtu flimkien maghhom, dak kollu” ghandhom jidhlu l-kliem “ghandhom jghoddu akkont tas sehem taghhom, fl-interess biss tat-tfal jew dixxendenti l-oħra, li jkunu wkoll werrieta, il-valur ta' dak kollu”.

Emenda ta' l-artikolu 913 tal-Kodiċi.

**98.** Fl-artikolu 916 tal-Kodiċi, minflok il-kliem “il-legittima jew sehem iehor ta' beni” ghandhom jidhlu l-kliem “is-sehem rizervat”, u l-kliem “, u ta' l-artikoli 634 u 643” ghandhom jithassru.

Emenda ta' l-artikolu 916 tal-Kodiċi.

**99.** Fl-artikoli 917 u 919 tal-Kodiċi, minflok il-kliem “l-hwejjeġ”, kull fejn dawn jinsabu, ghandhom jidhlu l-kliem “l-valur tal-hwejjeġ”.

Emenda ta' l-artikoli 917 u 919 tal-Kodiċi.

**100.** L-artikolu 927 tal-Kodiċi ghandu jithassar.

Thassir ta' l-artikolu 927 tal-Kodiċi.

**101.** Minflok l-artikolu 931 tal-Kodiċi ghandu jidhol dan li ġej:

Sostituzzjoni ta' l-artikolu 931 tal-Kodiċi.

“Kif issir il-kollazzjoni.

931. (1) Bla hsara għad-disposizzjonijiet ta' dawn is-subartikoli li ġejjin, il-kollazzjoni ssir billi jingħadd akkont ta' sehem id-donatarju l-valur tal-ħaġa fiż-żmien tal-ftuh tas-suċċessjoni.

(2) Meta l-ħaġa mogħtija tkun tikkonsisti fi hwejjeġ mobbli konumsabbli bl-użu jew oġġetti ta' l-bies jew oġġetti mahsubin għall-użu domestiku tad-donatarju, ma ssir ebda kollazzjoni.

(3) Meta l-ħaġa tkun giet trasferita b'titolu oneruż mid-donatarju, il-valur li għandu jiġi kkonferit għandu jkun il-korrispettiv li d-donatarju jkun irċieva għall-ħaġa trasferita jew il-valur tal-ħaġa fiż-żmien tat-trasferiment, skond liema valur ikun l-ogħla.

(4) Meta l-ħaġa tispicċa b'acċident, mingħajr htija tad-donatarju u bla ma d-donatarju jikseb xi kumpens għat-telf tal-ħaġa, ma ssir ebda kollazzjoni.”.

Thassir ta' l-artikoli 933 u l-artikoli 935 sa 937 tal-Kodiċi.

**102.** L-artikolu 933 u l-artikoli 935 sa 937 tal-Kodiċi għandhom jiġu mħassra.

Emenda ta' l-artikolu 938 tal-Kodiċi.

**103.** Fl-artikolu 938 tal-Kodiċi minflok il-kliem “leġittima, eċċ.,” fin-nota marginali li hemm miegħu, u minflok il-kliem “għal-leġittima jew għal sehem iehor tal-beni” u l-kliem “tal-leġittima jew sehem” fis-subartikolu (1) tiegħu, għandhom jidhlu l-kliem “għas-sehem riżervat” u “tas-sehem riżervat” rispettivament.

Emenda ta' l-artikolu 957 tal-Kodiċi.

**104.** Fl-artikolu 957 tal-Kodiċi minflok il-kliem “tal-leġittima” għandhom jidhlu l-kliem “tas-sehem riżervat” tiegħu.

Emenda ta' l-artikolu 1743 tal-Kodiċi.

**105.** Fl-artikolu 1743 tal-Kodiċi, minflok il-kliem “Bla ħsara tad-disposizzjonijiet ta' l-Att dwar il-Manumorta, jistgħu jagħmlu jew jirċievu donazzjoni l-persuni kollha” għandhom jidhlu l-kliem “Jistgħu jagħmlu jew jirċievu donazzjoni l-persuni kollha”, u l-kliem “Kap. 201.” fin-nota marginali għandhom jithassru.

Thassir ta' l-artikolu 1748 tal-Kodiċi.

**106.** L-artikolu 1748 tal-Kodiċi għandu jithassar.

Emenda ta' l-artikolu 1750 tal-Kodiċi.

**107.** Fl-artikolu 1750 tal-Kodiċi, minflok il-kliem “l-artikoli ta' qabel dan, hija nulla, kollha jew f parti, skond ix-xorta ta' inkapaċità” għandhom jidhlu l-kliem “l-artikolu 1749 hija nulla”.

Sostituzzjoni ta' l-artikolu 1751 tal-Kodiċi.

**108.** Minflok l-artikolu 1751 tal-Kodiċi għandu jidhol dan li ġej:

“Persuni interposti.

1751. II-missier, l-omm, l-ulied, id-dixxendenti u l-mara jew ir-raġel tal-persuna inkapaċi li tirċievi b'donazzjoni, għandhom, kemm-il darba ma jiġix ippruvat il-kuntrarju, jitqiesu bħala persuni interposti.”.

Thassir ta' l-artikolu 1805 tal-Kodiċi.

**109.** L-artikolu 1805 tal-Kodiċi għandu jithassar.

Emenda ta' l-artikolu 1810 tal-Kodiċi.

**110.** Fis-subartikolu (2) ta' l-artikolu 1810 tal-Kodiċi, il-kliem “, bla ħsara ta' dak li hu miġjub fl-artikolu 1748” għandhom jithassru.

**111.** Fl-artikolu 1812, minflok il-kliem “Bla hsara tad-disposizzjonijiet ta’ l-artikolu 639, l-awtorizzazzjoni” ghandhom jidhlu l-kliem “L-awtorizzazzjoni”.

Emenda ta’ l-artikolu 1812 tal-Kodiċi.

**112.** Minflok il-Formula Q li hemm fit-Taqsima II ta’ l-Iskeda li tinsab mal-Kodiċi, ghandha tidhol il-Formula Q li hemm fl-Ewwel Skeda li tinsab ma’ dan l-Att.

Sostituzzjoni tal-Formula Q fit-Taqsima II ta’ l-Iskeda li tinsab mal-Kodiċi.

**113.** Minnufih wara l-Formula Q fit-Taqsima II ta’ l-Iskeda li tinsab mal-Kodiċi ghandha tiżdied il-Formula R li tidher fit-Tieni Skeda li tinsab ma’ dan l-Att.

Żieda tal-Formula R ġdida fit-Taqsima II ta’ l-Iskeda li tinsab mal-Kodiċi.

**114.** (1) Id-disposizzjonijiet ta’ dan l-Att li jemendaw id-disposizzjonijiet tal-Kodiċi dwar is-suċċessjoni u l-kollazzjoni japplikaw biss dwar suċċessjonijiet li jinfethu wara l-bidu fis-sehh ta’ l-artikolu rilevanti ta’ dan l-Att, imma d-disposizzjonijiet ta’ dan l-Att li jemendaw il-Kodiċi dwar proprjetà li tkun fil-komun u t-taqsim taghha ghandhom japplikaw b’effett immedjat ukoll dwar proprjetà li tkun hekk fil-komun u li tkun ghaddiet ghal ghand il-komproprjetarji b’wirt.

Disposizzjoni transitorja.

(2) Id-disposizzjonijiet ta’ dan l-Att li jemendaw id-disposizzjonijiet tal-Kodiċi dwar il-forma tat-testmenti, minbarra d-disposizzjonijiet ta’ l-artikolu 77 ta’ dan l-Att, japplikaw biss dwar testmenti maghmulin wara l-bidu fls-sehh ta’ l-artikolu rilevanti ta’ dan l-Att.

(3) Id-disposizzjonijiet ta’ dan l-Att li ghandhom x’jaqsmu mad-donazzjonijiet japplikaw biss dwar donazzjonijiet maghmulin wara l-bidu fis-sehh ta’ dan l-Att.

(4) (a) Fil-każ ta’ miżżewġin li żżewġu qabel id-dhul fis-sehh ta’ l-artikolu 4 tal-Kodiċi kif emendat b’dan l-Att, l-imsemmi artikolu 4 ghandu jkun japplika fis-sens illi l-mara miżżewġa tista’, fi żmien sitt xhur wara d-dhul fis-sehh ta’ l-artikolu 2 ta’ dan l-Att, taghzel li terġa’ tiehu kunjom żewġha li jkun miet qabel minflok kunjomha kif ikun f’dak il-waqt billi tikkonsenja jew tara li tiġi konsenjata fl-Uffiċċju tar-Registru Pubbliku l-Formula Q li hemm fit-Tieni Taqsima ta’ l-Iskeda li tinsab mal-Kodiċi. Meta tiġi riċevuta dik il-Formula id-Direttur tar-Registru Pubbliku ghandu jirreġistraha fi ktieb imsemmi fis-subartikolu 4(5) tal-Kodiċi li dwaru ghandu jzomm indici taht il-kunjom ta’ żewġ il-mara li jkun miet qabel u l-kunjom ta’ żewġha f’dak il-waqt, u kunjom xbubitha.

(b) Id-disposizzjonijiet tal-Kodiċi kif emendati b’dan l-Att ghar-rigward tal-kunjom ta’ tfal mwielda fiż-żwieġ jew barra miż-żwieġ ghandhom japplikaw biss ghar-rigward ta’ tfal mwielda wara d-dhul fis-sehh ta’ dan l-Att u d-disposizzjonijiet tal-Kodiċi kif fis-sehh qabel id-dhul fis-sehh ta’ dan l-Att ghandhom ikomplu jsehhu ghar-rigward ta’ tfal mwielda qabel id-dhul fis-sehh ta’ dan l-Att.

L-EWWEL SKEDA

(Artikolu 112)

FORMULA Q

(Artikolu 4 (5))

DIKJARAZZJONI TA' UŻU TA' ISEM

Partikolaritajiet dwar	Isem u Kunjom	Età	Post tat-Twelid	Isem u Kunjom il-ġenituri tal-partijiet fiż-żwieġ u jekk ħajjin jew mejtin
Ir-raġel Il-mara		snin		
Partikolaritajiet dwar iż-żwieġ preżenti				
*Nru. ta' l-Att taż-Żwieġ		Data	Jum      Xahar      Sena	Post tat-Twelid

** Partikolaritajiet dwar iż-żwieġ ta' qabel			
Partikolaritajiet għar-rigward tar-raġel li miet qabel u d-data taż-żwieġ ta' qabel			
Isem u Kunjom	Età	Post tat-Twelid	Isem u Kunjom il-ġenituri u jekk hajjin jew mejtin
* Nru. ta' l-Att taż-Żwieġ		*Nru. ta' l-Att ta' Mewt	
Data taż-Żwieġ		Data tal-Mewt	
Jum	Xahar	Sena	Jum Xahar Sena

Noti \* Meta ż-żwieġ jew il-mewt ma jkunux registrati fir-Registru Pubbliku, għandha tingieb prova skond ma jkun irid id-Direttur.

\*\* Hawn jimtela biss jekk il-mara tagħzel li tuża kunjom żewġha l-mejjet.

\*\*\* ħassar skond ma jkun meħtieġ

Jien hawn taht iffirmata naghzel li nuża kunjom xubiti / kunjom żewġi l-mejjet \*\*\*

Firma tal-mara \_\_\_\_\_ Ippreżentata fi \_\_\_\_\_ Minn \_\_\_\_\_

IT-TIENI SKEDA

(Artikolu 113)

FORMULA R

(Artikolu 4 (6))

DIKJARAZZJONI FUQ LI MARA TIBQA' TUŻA KUNJOM ŻEWĠHA LI KELLHA QABEL

Jien hawn taht iffirmata niddikjara fil-preżenza ta' żewġi u tax-xhud hawn sottoskritt li bi hsiebni nibqa' nżomm kunjom żewġi li kelli qabel.

Dettalji taż-Żwieġ Preżenti

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

Detalji 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	Et	Post tat-Twelid	Isem u Kunjom tal-Ġenituri u jekk hajjin jew mejtin
* Nru. ta' l-Att taż-Żwieġ	* Data taż-Żwieġ		* <i>Nota:</i> Meta ż-żwieġ jew il-mewt ma jkunux registrati fir-Reġistru Pubbliku, għandha tingieb prova skond ma jkun irid id-Direttur.
	jum xahar sena		
* Nru. ta' l-Att ta' Mewt	* Data tal-Mewt		
	jum xahar sena		

Firma tal-Mara \_\_\_\_\_ Firma tar-Raġel \_\_\_\_\_

Ippreżentata fi \_\_\_\_\_

Firma tax-Xhieda \_\_\_\_\_

Minn \_\_\_\_\_

### **Għanijiet u Raġunijiet**

L-għan prinċipali ta' l-Abbozz hu li jiġu eliminati ċerti disposizzjonijiet diskriminatorji rigward tfal mnisla u mwiela barra miż-żwieġ, b'mod partikolari dwar is-suċċessjonijiet. L-Abbozz barra minn hekk itejjeb il-pożizzjoni tal-mara jew tar-raġel fir-rigward tat-tfal kemm f'suċċessjonijiet fejn ma jkunx hemm testament kif ukoll fis-sehem riżervat. L-Abbozz fih ukoll disposizzjonijiet li jipprovdu proċedura għal tibdil fl-indikazzjoni tas-sess ta' persuna fuq ċerti dokumenti, wara li l-persuna tkun, għal raġunijiet fizjologiċi u psikologiċi li jiġu stabbiliti minn periti, uriet li hija tkun ta' sess differenti minn dak li jidher fl-Att ta' Twelid. L-Abbozz jittratta wkoll dwar il-qasma ta' beni in komun u jintroduċi regoli li fil-prattika għandhom isolvu għadd ta' problemi li joriġinaw mill-proprjetà li tkun fil-komun.



**A BILL  
entitled**

*AN ACT further to amend the Civil Code, Cap. 16.*

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 short title of this Act is the Civil Code (Amendment) (No. 2) Act, 2003. This Act shall be read and construed as one with the Civil Code, hereinafter referred to as “the Code”.

Short 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 establish, and different dates may be so established for different provisions and different purposes thereof.

**2.** The table entitled “Arrangement of Code” appearing immediately before article 1 of the Code shall be amended as follows:-

Amendment to  
Table entitled  
“Arrangement of  
Code”.

(a) for the words appearing in the second column therein appearing in the second Column hereunder and the corresponding words, where any, appearing in the first and third column thereof appearing in the first and third Column hereunder there shall be substituted the words, where any, appearing in the fifth, fourth and sixth column hereunder, respectively:-

First Column	Second Column	Third Column	Fourth Column	Fifth Column	Sixth Column
Sub-title II	Of the Proof of Filiation of Legitimate Children	78-85	Sub-title II	Of the Proof of Filiation of Children Conceived or Born in Wedlock	78-85
Sub-title III	Of the Filiation of Illegitimate Children and of Legitimation	86-112	Sub-title III	Of the Filiation of Children Conceived and Born out of Wedlock and of the Presumption that a Person was Conceived or Born in Wedlock	86-112
Sub-title §I	Of the Filiation of Illegitimate Children	86-110A	Sub-title §I	Of the Filiation of Children Conceived and Born out of Wedlock	86-110A
Sub-title §II	Of Legitimation	101-112	Sub-title §II	Of the Presumption that a Person was Conceived or Born in Wedlock	101-112
Sub-title II	Of Acts of Birth	272-292	Sub-title II	Of Acts of Birth	272-292A
Sub-title I	Of the Nature of Community of Property and of the Rights of the Co-owners during the Community	489-495	Sub-title I	Of the Nature of Community of Property and of the Rights of the Co-owners during the Community	489-495A
—	Of Legitimate and Disinherison	615-630	—	Of the Reserved Portion and Disinherison	615-630
—	Of the Rights of the Surviving Spouse and		—	Of the Rights of the Surviving Spouse	631-646

	Of Illegitimate Children	631-646			
Sub-title	Of Regular		Sub-title	Of Succession by	
§I	Successions	808-816	§I	Descendants and the	
				Surviving Spouse	808-811
Sub-title	Of Irregular		Sub-title	Of Succession by	
§II	Successions	817-830	§II	Ascendants and	
				Collaterals	812-815
—	Of the Rights of the Government	830	Sub-title	Of the Rights of the Government	816
			§III		

(b) The words appearing in the Second Column thereof shown hereunder and the corresponding words, whereany, appearing in first and Third Column thereof in respect thereof shall be deleted:-

Of Succession by Legitimate Descendants

Of Succession by Legitimate Ascendants

Of Succession by Legitimate Collaterals

Of the Rights of Illegitimate Children

Over the Property of their Parents, and of Succession of Illegitimate Children dying without Issue

Of the Rights of the Surviving Spouse

Of Settlement of Dowry

Of the Rights of the Husband over the Dowry

Of the Inalienability of the Dowry

Of the Restitution of the Dowry

Of Dower (Dotarium).

Amendment of article 4 of the Code.

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

a) in sub-article (1) and (2) thereof the words “maiden surname” shall be substituted by the words “maiden surname or the surname of her predeceased spouse”;

b) in sub-article (3) thereof immediately after the words “surname of the mother”, there shall be added the words “or the surname of her predeceased spouse”;

c) immediately after subarticle (5) thereof there shall be inserted the following subarticle :

“(6) Where a wife intends to retain the surname of her predeceased husband after remarriage, she shall, before remarriage, so declare her intention when applying for the publication of the bonus in accordance with the Marriage Act and in lieu of the declaration in the Act of Marriage referred to in subarticle (4) she shall subscribe to a declaration, in Form R contained in Part II of the Schedule to the Code and containing the particulars therein indicated, such form shall be delivered to the Public Registry together with the Act of Marriage and shall be signed by the spouses and countersigned by all the other signatories in the Act of Marriage.”.

Amendment of articles 76 and 77 of the Code.

**4.** For the words “the legitimacy” in articles 76 and 77 of the Code, there shall be substituted the words “the filiation”.

Amendment of heading to Sub-title II of Title II of Book First of the Code.

**5.** For the heading to Sub-title II to Title II of Book First of the Code appearing before article 78 thereof, there shall be substituted the following:

“OF THE PROOF OF FILIATION OF CHILDREN CONCEIVED OR BORN IN WEDLOCK”.

Amendment of article 78 of the Code.

**6.** For the words “legitimate children” in article 78 of the Code, there shall be substituted the words “children conceived or born in wedlock”.

Amendment of articles 79, 81 and 84 of the Code.

**7.** In articles 79, 81 and 84 of the Code, and in the marginal note thereto, for the words “legitimate child” wherever they occur there shall be substituted the words “child conceived or born in wedlock”.

**8.** For the heading of Sub-title III of Title II of Book First of the Code appearing immediately before article 86 thereof, there shall be substituted the heading “OF THE FILIATION OF CHILDREN CONCEIVED AND BORN OUT OF WEDLOCK AND OF THE PRESUMPTION THAT A PERSON WAS CONCEIVED OR BORN IN WEDLOCK”, and in the sub-heading immediately before article 86 for the words “ILLEGITIMATE CHILDREN” there shall be substituted the words “CHILDREN CONCEIVED AND BORN OUT OF WEDLOCK”.

Substitution of heading of Sub-title III of Title II of Book First of the Code and deletion of sub-heading immediately before article 86.

**9.** Article 86 of the Code shall be amended as follows:

Amendment of article 86 of the Code.

(a) in the marginal note thereof for the words “illegitimate children” there shall be substituted the words “children conceived or born out of wedlock”;

(b) for the words “An illegitimate child”, there shall be substituted the words “A child conceived and born out of wedlock”;

(c) immediately after the proviso thereto there shall be added the following further proviso:

“Provided further that the acknowledgement of a child born out of wedlock by a person claiming to be the father of the child, made separately from the mother, shall not have effect and shall not be registered unless the mother of such child, or her heirs if she is dead, and the child himself if he is of age, shall have been served with a judicial act by any person interested stating that such person intends to apply for the registration of such acknowledgement and the mother or her heirs as the case may be, and the child shall not have within a period of two months from such service by another judicial act agreed to such registration. Such judicial acts shall in each case be served on the director of the Public Registry;

Provided further that were the mother or the child where he is of age does not as aforesaid agree to such registration, any person interested may proceed by writ of summons before the competent court against the person or persons who shall not have so agreed, for the court to declare that the person making the acknowledgement is the father of the child and ordering the registration of such acknowledgement.”.

**10.** Article 87 of the Code shall be amended as follows:

Amendment of article 87 of the Code.

(a) for the words “an illegitimate child” in subarticle (1) thereof, there shall be substituted the words “a child conceived and born out of wedlock”; and

(b) after the words “or by both” in subarticle (2) thereof, there shall be inserted the words “or made by a minor,”.

Substitution of article 89 of the Code.

**11.** For article 89 of the Code, there shall be substituted the following:

89. A child conceived and born out of wedlock born to a spouse before or during the marriage, and acknowledged during a marriage may not be brought into the matrimonial home, except with the consent of the other spouse, unless such other spouse has already given his or her consent to the acknowledgement.”.

Amendment of article 90 of the Code.

**12.** For the words “an illegitimate child” in article 90 of the Code and for the words “illegitimate child” in the marginal note thereto, there shall be substituted in each case the words “a child conceived and born out of wedlock”.

Amendment of article 91 of the Code.

**13.** For the words “the illegitimate child” in article 91 of the Code, there shall be substituted the words “a child conceived and born out of wedlock”.

Amendment of article 92 of the Code.

**14.** Article 92 of the Code shall be amended as follows:

(a) for the words “An illegitimate child” in sub-article (1) thereof there shall be substituted the words “A child conceived and born out of wedlock”;

(b) for the words “An illegitimate child” in subarticle (4) thereof, there shall be substituted the words “A child conceived and born out of wedlock”;

(c) for the words “illegitimate child” in the marginal note thereto, there shall be substituted the words “a child conceived and born out of wedlock”;

(d) for the words “a natural child” in subarticle (5) thereof, there shall be substituted the words “a child conceived and born out of wedlock”; and

(e) immediately after subarticle (5) thereof there shall be added the following subarticle:

“(6) Notwithstanding the previous provisions of this article or of any other article in this code, where the paternity of a person has been acknowledged the filiation of a person

has been declared by the Court, or the presumption referred to in articles 101 to 112 has been made to apply, any person who in consequence of such acknowledgement, declaration or the application of the presumption is to assume a surname other than the surname used by such a person before such acknowledgement, filiation or application of the presumption, or his legitimate representative, may if such person is over the age of four years, request the Court by writ of summons against the Director of the Public Registry to be allowed to continue to use such other surname, and the Court if it is satisfied that third parties will not be prejudiced thereby shall accede to such request and order the Director to make an annotation of its judgement on the relevant Acts of Birth of the person so acknowledged or whose filiation has been so declared or in relation to whom the said presumption is to apply.”.

- 15.** For articles 93, 94 and 95 of the Code there shall be substituted the following: Substitution of articles 93, 94 and 95 of the Code.

“Duty of parents and children conceived and born out of wedlock. 93. Parents of children conceived and born out of wedlock shall have in respect to such children and their descendants the same duty to maintain and educate them as they have with regard to children born or conceived in wedlock, and such children shall have in respect of their ascendants and other relatives the same rights and duties as children born or conceived in wedlock.”.

- 16.** In article 97 of the Code for the words “a legitimate child” there shall be substituted the words “a child conceived or born in wedlock”. Amendment of article 97 of the Code.

- 17.** Article 98 of the Code shall be repealed. Repeal of article 98 of the Code.

- 18.** In article 99 of the Code for the words “an illegitimate child” there shall be substituted the words “a child conceived and born out of wedlock”. Amendment of article 99 of the Code.

- 19.** In the sub-heading “§II. Of Legitimation” immediately after article 100A of the Code, for the words “Of Legitimation” there shall be substituted the words “Of the Presumption that a Person was Conceived or Born in Wedlock”. Substitution of Sub-Heading “Of Legitimation” immediately after article 100 A of the Code.



Substitution of article 101 Of the Code.

**20.** For article 101 of the Code there shall be substituted the following:

Where presumption arises.

101. Where the parents of children conceived and born out of wedlock subsequently marry, or where the court of voluntary jurisdiction so decrees, such children shall be deemed *iuris et de iure* to have always been conceived or born in wedlock”.

Amendment of article 102 of the Code.

**21.** In article 102 of the Code for the words “legitimation by subsequent marriage” there shall be substituted the words “ The presumption arising out of subsequent marriage in accordance with the preceding article” and in the marginal note thereof the word “legitimation” shall be substituted by the word “presumption”.

Amendment of article 103 of the Code.

**22.** Article 103 of the Code shall be amended as follows:

(a) in article 103 of the Code for the words “children legitimated by subsequent marriage” and “legitimate children” there shall be substituted the words “children deemed to have been conceived or born in wedlock by the subsequent marriage of their parents” and “children conceived or born in wedlock ” respectively; and

(b) the marginal note thereof shall be substituted by the following: “Effects of Presumption as a consequence of subsequent marriage”.

Amendment of article 104 of the Code.

**23.** In article 104 of the Code for the words “legitimate children” there shall be substituted the words “children conceived or born in wedlock”.

Substitution of article 105 of the Code.

**24.** Article 105 of the Code shall be substituted by the following:

“Descendants of children presumed to be conceived or born in wedlock in consequence of subsequent marriage.

105. The marriage of the parents shall bring about the presumption that even their predeceased children were conceived or born in wedlock, and such presumption shall also operate in favour of the descendants of the latter, whether conceived or born in wedlock, or so presumed to be by subsequent marriage, provided such predeceased children shall have been acknowledged as provided in article 102, or their paternity or maternity shall have been declared by a judgement of the Court.”.

**25.** In article 106 of the Code , for the word “Legitimation by” wherever they occur even in the marginal note, there shall be substituted the words “The presumption in virtue of” .

Amendment of article 106 of the Code.

**26.** Article 107 of the Code shall be amended as follows:

Amendment of article 107 of the Code.

a) for the word “legitimation referred” there shall be substituted the word “presumption referred”.

b) for the word “legitimation by” in the marginal note there shall be substituted the words “presumption in virtue of”; and

c) in paragraph (a) thereof for the word “legitimate” there shall be substituted the words “have such presumption apply to”.

**27.** For article 108 of the Code there shall be substituted by the following:

Substitution of article 108 of the Code.

“Power of Court to refuse presumption.

108. The Court shall have power, according to circumstances, to refuse to apply the presumption in virtue of article 102, where the applicant can make such presumption applicable in favour of his child by subsequent marriage, or has children who were conceived or born in wedlock, or so presumed by subsequent marriage, or descendants of such children.”.

**28.** In article 109 of the Code including in the marginal note thereof, for the word “legitimation”, there shall be substituted the word “presumption”.

Amendment to article 109 of the Code.

**29.** Article 110 of the Code shall be amended as follows:

Amendment to article 110 of the Code.

(a) for the words “legitimated by decree of Court” in the marginal note thereof there shall be substituted the words “presumed to have been conceived or born in wedlock in virtue of decree of Court”;

(b) sub-article 1 thereof shall be substituted by the following:

(1) “Subject to the provisions of sucarticle 92(6) a child in whose favour there is a presumption in virtue of a decree of the court shall assume the surname of the parent upon whose demand he shall have been so presumed”; and

(c) in sub-article (2) thereof, for the word “legitimation” there shall be substituted the word “presumption”.

Amendment of article 111 of the Code.

**30.** Article 111 of the Code shall be amended as follows:

(a) in the marginal note thereof for the words “legitimation by” there shall be substituted the words “presumption in virtue of”;

(b) in sub-article (1) thereof , for the words “Legitimated child” there shall be substituted the words “ the child in whose favour operates a presumption in virtue of article 102”, and for the words “a legitimate child” there shall be substituted the words “a child conceived or born in wedlock”.

Substitution of article 112 of the Code.

**31.** For article 112 of the Code there shall be substituted the following:

“Child may demand presumption after death of parent.

112. Where one of the parents, has in a will or other public deed, declared his or her wish to have the presumption that a child was conceived or born in wedlock, applicable to a child born to him or her out of wedlock, such child, may after the death of such parent, make a demand to have such applicable on his regard presumption, saving the power of the court as provided in article 108, in case the deceased shall have left children, conceived or born in wedlock, or so presumed to be in virtue of a subsequent marriage.”.

Amendment of article 113 of the Code.

**32.** For paragraph (c) of subarticle (2) of article 113 of the Code, there shall be substituted the following:

“(c) “children conceived and born out of wedlock” means children so conceived and so born or such, children in whose favour the presumption refered to in articles 101 to 112 of this Code does not apply, and who have not in either case been adopted;”.

Amendment of article 115 of the Code.

**33.** In article 115 of the Code the words “an illegitimate person:” wherever they occur shall be substituted by the words “a person conceived and born out of wedlock” .

Amendment of article 122 of the Code.

**34.** In article 122 of the Code, for the word “illegitimate”, wherever it appears, there shall be substituted the words “conceived and born out of wedlock”.

Amendment of article 126 of the Code.

**35.** Article 126 of the Code shall be amended as follows:

(a) in the marginal note thereof for the word “Legitimation ” there shall be substituted the words: “Presumption that a person was conceived or born in wedlock”; and

(b) in sub-article (1) thereof for the words “a legitimated person” there shall be substituted the words “a person presumed to have been conceived or born in wedlock”.

**36.** The words “legitimate or illegitimate” in article 227 of the Code shall be deleted. Amendment of article 227 of the Code.

**37.** Immediately after article 257 of the Code there shall be inserted the following new articles: Addition of new article 257A to 257D to the Code.

“Action for an annotation in the indication of sex particulars appearing in an act of birth.

257A. (1) It shall be lawful for any unmarried person domiciled in Malta to bring an action for an annotation regarding the particulars relating to sex which have been assigned to him or her in the act of birth.

(2) Before delivering judgement, the Court shall appoint experts to verify whether the person who has brought the action has, in fact, undergone an irreversible sex change from that indicated in the act of birth or has otherwise always belonged to such other sex.

(3) Any action shall be brought against the Director of Public Registry by way of writ of summons before the Civil Court First Hall or the Court of Magistrates (Gozo) (Superior Jurisdiction) as the case may be.

(4) The provisions of subarticle (1) of this article shall apply to foreign acts of birth registered in Malta.

(5) All expenses relating to such litigation including those incurred by the Director of Public Registry shall be borne by plaintiff.

Where court shall allow request.

257B. (1) The court shall allow the plaintiff’s request if it is of the opinion that it has been sufficiently established that the plaintiff belongs to the sex claimed by him and that the plaintiff’s condition can be considered as permanent.

(2) The court may also order an annotation in the name or names of the plaintiff if it has allowed the request.

Change in act of birth.

257C. (1) The annotations in an act of birth, referred to in article 257B, shall be effective as from the day when the Director of Public Registry shall enter such modification in the act of birth.

(2) The annotation in the indication of the sex in the act of birth shall in no way affect the family relationships which exist at the date referred to in subarticle (1) of this article and any other obligations arising out of parenthood or any other cause.

(3) The provisions of paragraph (a) of subarticle (2A) of article 251 of this Code shall apply in the case of persons in relation to whom a declaration is made under article 257B who request an extract of their acts of birth. The extract shall indicate the particulars resulting from such annotations.

Consequential  
correction of  
identity card.

257D. (1) A person in respect of whom whose changes in particular relating to his of sex has been annotated in accordance with the preceding provisions of this Code shall, without delay after the date referred to in subarticle (1) of article 257C of this Code, report the fact to the authorised officer under the Identity Card Act who shall issue a new identity card indicating the sex and name in accordance with the declaration made by the Court.

Cap. 258.

(2) A person whose change of sex has been annotated as aforesaid shall also, on the payment of such fee as may be prescribed, have the right, on the production of the relative Court judgement, to demand that any public authority, which has or may issue any certificate or document relative to him, provide him with a fresh certificate or document indicating the sex and name in accordance with the declaration made by the Court as aforesaid.”.

Amendment to  
article 279  
of the Code.

**38.** Article 279 of the Code shall be amended as follows:

(a) for the marginal note thereto there shall be substituted the following:

“Children conceived and born out of wedlock”;

(b) for the words “illegitimate child” in subarticle (1) thereof there shall be substituted the words “child conceived and born out of wedlock”; and

(c) for subarticle (2) thereof shall be substituted the following:

“(2) Where the child is not acknowledged jointly by both the father and the mother, the provisions of article 86 shall apply.”.

**39.** In article 281 of the Code, and in the marginal note thereto, for the words “an illegitimate child” and “of illegitimate child” wherever they appear, there shall be substituted the words “a child conceived and born out of wedlock” and the words “of a child conceived and born out of wedlock” respectively.

Amendment of  
article 281  
of the Code.

**40.** Article 289 of the Code shall be amended as follows:

Amendment of  
article 289  
of the Code.

(a) for the words “illegitimate child” in the marginal note thereto, there shall be substituted the words “a child conceived and born outside wedlock”;

(b) in subarticle (1) thereof:

(i) for the words “an illegitimate child” there shall be substituted the words “a child conceived and born out of wedlock”; and

(ii) for the words “illegitimate father” there shall be substituted the word “father”.

**41.** Article 290 of the Code shall be amended as follows:

Amendment  
of article 290  
of the Code.

(a) in the marginal note thereof for the word “legitimation” there shall be substituted the words “presumption that a person was conceived or born in wedlock”;

(b) in subarticle (1) thereof for the words “The legitimation of an illegitimate child” there shall be substituted the words “The presumption applicable to a person conceived and born out of wedlock in virtue of article 102,”;

(c) for subarticle (2) thereof there shall be substituted the following:

“(2) In the case of such presumption, it shall be stated in the note whether the presumption took place by subsequent marriage or by a decree of the competent court.”; and

(d) in sub-article (3) thereof for the word “legitimation” there shall be substituted the word “presumption”.

Amendment of article 291 of the Code.

**42.** Article 291 shall be amended as follows:

(a) in sub-article (1) thereof for the words “or legitimation” there shall be substituted the words “or presumption in virtue of articles 101 to 112”; and

(b) in sub-article (2) thereof, for the word “legitimation by” there shall be substituted the word “presumption arising out of”.

Substitution of article 292 of the Code.

**43.** For article 292 of the Code there shall be substituted the following:

“Presumption in virtue of subsequent marriage.

292. Where a presumption arising out of subsequent marriage applies to a child conceived and born out of wedlock, and such marriage took place prior to the registration of the birth of such child, the act of birth of such child may be drawn up directly as in the case of a child conceived or born in wedlock.”.

Addition of new article 292A to the Code.

**44.** Immediately after article 292 of the Code there shall be inserted the following article:

“Surname of the child.

292A. The person giving notice of the birth shall also deliver a declaration by the parents of the child indicating the surname to be used by the child, and such surname shall be registered in the column under the heading “Name or names by which the child is to be called” in the act of birth immediately after such name or names. Where no such declaration is made in the case of a child conceived and born in wedlock the father’s surname shall be presumed to have been so declared and in the case of a child conceived and born out of wedlock the maiden surname of the mother shall be presumed to be the surname so declared.”.

Amendment of article 495 of the Code.

**45.** Immediately after subarticle (2) of article 495 of the Code there shall be added the following new subarticle:

“(3) Where the heirs or legatees in an inheritance continue to hold in common, property deriving from the succession for more than ten years and no action has been instituted before a court or other tribunal for the partition of the property within ten years from the opening of the succession, each co-owner shall be deemed to be co-owner of each and every item of property so held in common and the provisions of article 912 shall no longer apply.”.

**46.** Immediately after article 495 of the Code there shall be added the following new article 495A.

Addition of new article 495A to the Code.

“Where co-owners fail to agree in respect of a sale of a thing held in common.

495A. (1) Where co-ownership has lasted for more than ten years and none of the owners has instituted an action before a court or other tribunal for the partition of the property held in common, and the co-owners fail to agree with regard to the sale of any particular property, the court shall if it is satisfied that none of the dissident co-owners are seriously prejudiced thereby, authorise the sale in accordance with the wish of the majority of the co-owners regard being had to the value of the shares held by each co-owner.

(2) The request to the court shall be made by application which shall be accompanied by a declaration of the owners who agree to the sale as well as a prospectus showing the number and value of the shares held by each of them as well as the terms and conditions under which the sale is to take place. The application shall also indicate the date on which the co-ownership arose and the circumstances thereof.

(3) The application shall be served on the co-owners who do not agree with the sale as well as on curators to be appointed by the court to represent such of the co-owners who are unknown or who cannot be traced. The registrar shall cause a copy of the application to be published in the Gazette and in one daily newspaper.

(4) A declaration that any co-owner is not known or cannot be traced shall be confirmed on oath by each of the applicants.

(5) The other co-owners as well as the curators may within twenty days from the service upon them of the application, or in the case of a co-owner who has not been served with the application within twenty days from the last publication referred to in subarticle (3) hereof, oppose the sale stating the serious prejudice that they or the co-owners represented by them may suffer because of the sale.

(6) In assessing whether there will be serious prejudice to any of the co-owners, the court shall take into consideration all relevant factors including the value of the property and the price of the sale, and may for this purpose order that the property be appraised in accordance with the



provisions of article 306 of the Code of Organization and Civil Procedure.

(7) The court shall determine the application, and where it determines that the sale is to take place, it shall determine the price or other consideration for the sale and it shall further -

(a) determine the time, date and place, when and where the transfer is to take place;

(b) where the sale is to be effected by a public deed, appoint a notary to publish the deed;

(c) appoint a curator, even among the co-owners themselves, to represent any of the co-owners who fail to appear on the notarial deed or other instrument of transfer.

(8) The court may, on an application by any party interested change the date, time or place where the transfer is to take place.

(9) If more than one co-owner opposes the transfer, the court shall order the sale by licitation of the property in accordance with the provisions of article 521 and 522 of the Code;

Provided that:

(a) an appraisalment shall only be made if so ordered by the Court in terms of subarticle (6) of this article;

(b) in the advertisement contemplated in article 313 of the Code of Organization and Civil Procedure, the value of the consideration indicated for the proposed transfer is to be stated and indicated as “value given by the co-owners” together with the value established by the appraisalment in terms of subarticle (6) where such appraisalment is made;

(c) the adjudication shall not be made on the day of the auction if there is no bid exceeding the value given by the co-owners or one moiety of the appraisalment, whichever is the higher;

(d) where all the co-owners agree the court shall order that strangers be not invited to bid.”.

**47.** For subarticle (2) of article 586 of the Code there shall be substituted the following: Amendment of article 586 of the Code.

“(2) Nothing in subarticle (1) of this article shall be construed as prohibiting the entering into a contract of life assurance by a person on his own life stipulating (whether on the signing of the insurance policy or during the term of the policy) that the proceeds and any benefit arising from the insurance policy (whether payable on a definite maturity date or on the death of the said person) be payable to a beneficiary who is not the person whose life is insured.”.

**48.** Immediately after subarticle (2) of article 592 of the Code, there shall be added the following new subarticles: Amendment of article 592 of the Code.

“(3) A will *unica charta* shall be drawn up in a manner that the provisions with regard to the estate of one of the testators are drawn up in a part separate from those containing the provisions of the other spouse.

(4) The non-observance of the provisions of subarticle (3) of this article shall not cause the nullity of any provision of the will if it is otherwise intelligible; but the notary drawing up the will shall be liable to a fine of one hundred liri to be imposed by the Court of Revision of Notarial Acts.”.

**49.** For articles 593 and 594 of the Code there shall be substituted the following: Substitution of articles 593 and 594 of the Code.

“Where a spouse revokes a will *unica charta*.

**593.** (1) Where, by a will *unica carta*, the testators shall have bequeathed to each other the ownership of all their property or the greater part thereof with the express and specific condition that if one of the testators revokes such bequest he shall forfeit any right in his favour from such joint will, the survivor, who shall revoke the will with regard to such bequest, shall forfeit all rights which he or she may have had in virtue of such will on the estate of the predeceased spouse.

(2) The forfeiture mentioned in subarticle (1) can also be ordained in the case where, by his or her act, the said bequest cannot be effectual with regard to his or her estate.

(3) The notary drawing up a will *unica charta* is bound on pain of a fine of one hundred liri to be imposed by

the Court of Revision of Notarial Acts to explain to the testators in a will *unica charta* the meaning and effect of this article and of article 594, and enter in the will a declaration to that effect.

Effects of revocation.

594. In the cases referred to in subarticles (1) and (2) of article 593 the ownership of the property bequeathed to the spouse incurring the forfeiture, shall, unless otherwise ordained by the other spouse, vest in the heirs instituted by such other spouse, or if no heirs are so instituted his heirs-at-law. The spouse who has forfeited the property as aforesaid shall, however, retain the usufruct over such property.”.

Amendment of article 596 of the Code.

**50.** Article 596 shall be amended as follows:

(a) for the words “Saving the provisions of the Mortmain Act, any person” there shall be substituted the words “Any person”; and the words “Cap. 201.” in the marginal note thereto shall be deleted;

(b) the present provision shall be renumbered subarticle (1) thereof; and

(c) immediately after subarticle (1) thereof as renumbered there shall be added the following new sub-article:

“(2) All children and descendants without any distinction are capable of receiving by will from the estate of their parents and other ascendants to the extent established by law.”.

Amendment of article 597 of the Code.

**51.** Article 597 of the Code shall be amended as follows:

(a) in paragraph (a) thereof, for the word “fourteenth” there shall be substituted the words “sixteenth”; and

(b) for paragraph (b) thereof there shall be substituted the following:

“(b) those, who, even if not interdicted are not capable of understanding and volition, or who, because of some defect or injury, are incapable even through interpreters of expressing their will:

Provided that a will can only be made through an interpreter if it is a public will and the notary receiving the will is satisfied after giving an oath to the interpreter that

such interpreter can interpret the wishes of the testator correctly;”.

**52.** Immediately after subarticle (2) of article 600 of the Code, there shall be added the following subarticle: Amendment of article 600 of the Code.

“(3) A person born within three hundred days from the date of the opening of succession shall, in default of proof to the contrary, be presumed to have already been conceived at the time of the opening of succession.”.

**53.** For articles 602 to 604 of the Code there shall be substituted the following: Substitution of articles 602 to 604 of the Code.

“All children may receive by will. **602.** All the children of the testator whether born in wedlock, out of wedlock or adopted or whether or not the presumption referred to in articles 102 to 112 applies to them may receive by will from the testator.”.

**54.** For paragraphs (a) and (b) of subarticle (1) of article 605 of the Code there shall be substituted the following: Amendment of article 605 of the Code.

“(a) wilfully killed or attempted to kill the testator, or the spouse, or an ascendant or descendant of the testator; or

(b) charged the testator, or the spouse, or an ascendant or descendant of the testator before a competent authority with a crime punishable with imprisonment, of which he knew the testator, or the spouse, or the ascendant or descendant of the testator to be innocent; or”.

**55.** In article 608 of the Code and in the marginal note thereto, for the words “the legitim” there shall be substituted the words “the reserved portion”. Amendment of article 608 of the Code.

**56.** In subarticle (1) of article 612 of the Code the words “602, 603, 604,” shall be deleted. Amendment to article 612 of the Code.

**57.** For article 614 of the Code there shall be substituted the following: Substitution of article 614 of the Code.

“Property which may be disposed of by will. **614.** (1) Where the testator has no descendants or spouse, he may dispose by universal or singular title of the whole of his estate in favour of any person capable of receiving under a will.

(2) Where the testator has descendants or a spouse, the disposable portion of his estate shall be that which remains after deducting such share as is due to the said descendants or spouse under any of the provisions of articles 615 to 653.”.

Substitution of heading appearing after article 614 of the Code.

**58.** For the heading “Of Legitim and Disherison” appearing after article 614 of the Code, there shall be substituted the heading “Of the Reserved Portion and Disherison”.

Substitution of articles 615 and 616 of the Code.

**59.** For articles 615 and 616 of the Code there shall be substituted the following:

“Reserved portion.

**615.** (1) The reserved portion is the right on the estate of the deceased reserved by law in favour of the descendants and the surviving spouse of the deceased.

(2) The said right is a credit of the value of the reserved portion against the estate of the deceased. Interests at the rate established in article 1139 shall accrue to such credit from the date of the opening of succession if the reserved portion is claimed within two years from such date, or from the date of service of a judicial act if the claim is made after the expiration of the said period of two years.

Reserved portion due to children.

**616.** (1) The reserved portion due to all children whether conceived or born in wedlock or conceived and born out of wedlock or adopted shall be one-third of the value of the estate if such children are not more than four in number or one-half of such value if they are five or more.

(2) The reserved portion is divided in equal shares among the children who participate in it.

(3) Where there is only one child, he shall receive the whole of the aforesaid third part.”.

Amendment of article 618 of the Code.

**60.** Article 618 of the Code shall be amended as follows:

(a) for the words “regulating the legitim” in the marginal note and in subarticle (1) thereof there shall be substituted the words “regulating the reserved portion”;

(b) in subarticle (2) thereof, for the words “the legitim” there shall be substituted the words “the reserved portion”; and

(d) for subarticle (3) thereof, there shall be substituted the following:

“(3) A child or other descendant who has been instituted heir, who had he not been so instituted would have been entitled to share the reserved portion, shall also be entitled to share therein notwithstanding that he was so instituted.”.

**61.** Article 619 of the Code shall be deleted.

Repeal of  
article 619  
of the Code.

**62.** Article 620 of the Code shall be amended as follows:

Amendment of  
article 620  
of the Code.

(a) for the marginal note thereto there shall be substituted the marginal note “Reserved portion to be free from burdens or conditions.”;

(b) for subarticle (1) thereof there shall be substituted the following:

“(1) The reserved portion is due in full ownership, and it shall not be lawful for the testator to encumber it with any burden or condition.”;

(c) in subarticle (2) thereof, for the words “The legitim is computed” there shall be substituted the words “The reserved portion is computed”;

(d) in subarticle (4) thereof, for the words “the legitim is due” there shall be substituted the words “the reserved portion is due”;  
and

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

“(5) The person claiming the reserved portion shall impute to his share any property bequeathed to him by will and cannot renounce any testamentary disposition in his favour and claim the reserved portion, unless such testamentary disposition is made in usufruct or consists in the right of use or habitation, or consists of a life annuity or an annuity for a limited time.”.

Amendment  
of article 621  
of the Code.

**63.** Article 621 of the Code shall be amended as follows:

(a) in subarticle (1) thereof, for the words “entitled to the legitim” there shall be substituted the words “entitled to the reserved portion”, and for the words “by way of legitim” there shall be substituted the words “by way of reserved portion”; and

(b) in subarticle (2) thereof, for the words “to legitim” there shall be substituted the words “to reserved portion”, and for the words “the legitim” there shall be substituted the words “the reserved portion”.

Amendment  
of article 622  
of the Code.

**64.** For the words “*legitima portio*” in article 622 of the Code, there shall be substituted the words “reserved portion”.

Amendment  
of article 623  
of the Code.

**65.** For paragraphs (f) and (g) of article 623 of the Code, there shall be substituted the following:

“(f) if the descendant is a prostitute without the connivance of the testator;

(g) in any case in which the testator, by reason of the marriage of the descendant, shall have been, under the provisions of articles 27 to 29, declared free from the obligation of supplying maintenance to such descendant.”.

Repeal of  
article 624  
of the Code.

**66.** Article 624 of the Code is hereby repealed.

Amendment of  
article 626  
of the Code.

**67.** Article 626 of the Code shall be amended as follows:

(a) in subarticle (1) thereof, for the words “the legitim” there shall be substituted the words “the reserved portion”; and

(b) in subarticle (2) thereof, for the words “over the legitim” there shall be substituted the words “over the reserved portion”.

Amendment of  
article 628  
of the Code.

**68.** In article 628 of the Code, for the words “by his legitim” there shall be substituted the words “by his reserved portion”, and for the words “of the legitim” there shall be substituted the words “of the reserved portion”.

Amendment of  
article 629  
of the Code.

**69.** In article 629 of the Code and in the marginal note thereto, for the word “legitim” there shall be substituted the words “reserved portion”.

**70.** For article 630 of the Code there shall be substituted the following:

Substitution of article 630 of the Code.

“Disherison on the ground of prodigality. 630. Where the person entitled to the reserved portion is interdicted on the ground of prodigality, or is so burdened with debts that the reserved portion, or at least the greater part of it would be absorbed by such debts, it shall be lawful for the testator by an express declaration to disinherit such person, and to bequeath the reserved portion to the children or descendants of such person.”.

**71.** The words “and of Illegitimate Children” appearing in the heading after article 630 of the Code shall be deleted.

Amendment of heading appearing after article 630 of the Code.

**72.** For articles 631 to 633 of the Code there shall be substituted the following:

Substitution of articles 631 to 633 of the Code.

“Right of surviving spouse, if there is issue. 631. Where a deceased spouse is survived by children or other descendants, the surviving spouse shall be entitled to one-fourth of the value of the estate in full ownership.

Right of surviving spouse if there is no issue. 632. On failure of children or descendants as stated in article 631, the surviving spouse shall be entitled to one-third of the value of the estate in full ownership.”.

**73.** Article 633A of the Code shall be amended as follows:

Amendment of article 633A of the Code.

(a) the provision shall be renumbered as article 633;

(b) for subarticles (3) and (4) thereof there shall be substituted the following:

“(3) For the purposes of articles 631 and 632, the tenement subject to the right of habitation under this article shall be excluded from the estate of the deceased over which the surviving spouse has a reserved portion.

(4) The provisions of article 395 shall not apply to the right of habitation granted under this article.”; and

(c) in subarticle (5) thereof, for the words “legitim or any portion of the estate of the deceased spouse reserved to any other person” there shall be substituted the words “the reserved portion due to any other person”.



**74.** For articles 634 to 646 of the Code there shall be substituted the following:

“Partition  
between heirs  
and surviving  
spouse.

634. Where the matrimonial home belongs in part to the surviving spouse, in any partition between the heirs of the deceased and the surviving spouse, the surviving spouse, or the said heirs, may demand that the property subject to the right of habitation be assigned to the surviving spouse upon a valuation which is to take account of such right of habitation over the property.

Use of  
contents  
of  
matrimonial  
home.

635. The surviving spouse shall also have the right of use over any of the furniture in the matrimonial home belonging to the deceased spouse.

Definition  
of furniture.

636. The provisions of article 318 shall apply in relation to the right of use referred to in article 635.

Limitations  
of  
right of use.

637. The provisions of subarticles (3), (6), (7) and (8) of article 633 shall *mutatis mutandis* apply to the right of use granted by article 635.

Cases where  
surviving  
spouse  
cannot claim  
rights.

638. The provisions of articles 631, 632, 633 and 635 shall not apply in any of the following cases:

(a) if, at the time of the death of one of the spouses, the spouses were separated by a judgement of the competent civil court, and the surviving spouse had, in terms of articles 48, 51 and 52 of this Code, forfeited the rights referred to in those articles;

(b) where the predeceased spouse has, by his will, on any of the grounds mentioned in paragraphs (a), (b), (c), (d) and (e) of article 623, or on the grounds of adultery, expressly deprived the surviving spouse of the rights referred to in articles 631 to 633 and 635 and such ground, or where more grounds are stated, any of such grounds is proved;

(c) if, in regard to the surviving spouse, there exists any of the grounds on which such spouse would under article 605 be, as unworthy, incapable of receiving by will.

Application  
of articles  
633 and 635  
in cases of  
personal  
separation.

639. The rights referred to in article 633 and article 635 shall also apply in cases where the spouses were personally separated and the surviving spouse was in terms of article 55A entitled to reside in the matrimonial home.”.

**75.** Article 648 of the Code shall be amended as follows:

Amendment of  
article 648  
of the Code.

(a) for paragraph (b) thereof there shall be substituted the following:

“(b) any property which has been disposed of by way of donation shall be then fictitiously added, such property being reckoned at its value at the time of the donation.”; and

(b) in paragraph (c) thereof for the words from “such persons” to the words “articles 615 to 646” there shall be substituted the words the surviving spouse in accordance with articles 615 to 639.”.

**76.** Article 649 of the Code shall be repealed.

Repeal of  
article 649  
of the Code.

**77.** In subarticle (1) of article 656 of the Code, for the words “written out” there shall be substituted the words “printed, type-written or written in ink”.

Amendment of  
article 656  
of the Code.

**78.** Article 661 of the Code shall be amended as follows:

Amendment of  
article 661  
of the Code.

(a) in subarticle (1) thereof for the words “five, nor exceeding fifty” there shall be substituted the words “one hundred, nor exceeding one thousand”; and

(b) subarticle (2) thereof shall be deleted and subarticle (3) thereof shall be renumbered as subarticle (2) thereof.

**79.** For the words “527” in article 662 of the Code, there shall be substituted the words “529”.

Amendment of  
article 662  
of the Code.

**80.** The word “male” in subarticle (3) of article 676 of the Code shall be deleted.

Amendment of  
article 676  
of the Code.

**81.** Article 726 of the Code shall be amended as follows:

Amendment of  
article 726  
of the Code.

(a) the present provision shall be renumbered as subarticle (1) thereof; and

(b) immediately after subarticle (1) thereof as renumbered, there shall be added the following subarticles:

“(2) In the case of immovable property the legatee may demand the grant of such possession be made by means of a public deed.

(3) Unless the testator shall have otherwise provided the expenses relative to the deed shall be borne by the legatee.”.

Substitution of articles 747 to 750 of the Code.

**82.** For articles 747 to 750 of the Code, there shall be substituted the following:

“Testator can make provision for the existence or birth of children etc.

747. It shall be lawful for a testator to make provision in his will for the existence or subsequent birth of children or descendants, and such provision may, without prejudice to any right to a share of the reserved portion, distinguish between such children or descendants in the same manner as he could lawfully distinguish between children or descendants of whose existence he is aware or who are already born.

Where children or descendants are passed over.

748. Where provision is not made in accordance with article 747 and the testator makes disposition by universal or singular title and passes over any children or descendants, whether or not the testator was aware of their existence, and whether or not such children or descendants were born at the time of the making of the dispositions, such dispositions shall none the less be valid saving the right of the children or descendants so passed over to their share of the reserved portion to which they may be entitled under this Code.”.

Amendment to article 752 of the Code.

**83.** Article 752 of the Code shall be amended as follows:

(a) in subarticle (1) thereof for the words “issue, legitimate, adopted or legitimated by subsequent marriage, before attaining the age of eighteen years” there shall be substituted the words “issue, before attaining the age of eighteen years”;

(b) in subarticle (2) thereof for the words “issue, legitimate, adopted or legitimated by a subsequent marriage” there shall be substituted the word “issue”; and

(c) in subarticle (3) thereof for the words “the legitim” there shall be substituted the words “a share of the reserved portion”.

**84.** Immediately after subarticle (2) of article 758 of the Code, there shall be added the following subarticles: Amendment of article 758 of the Code.

“(3) It shall also be lawful for a spouse to make in favour of the surviving spouse a bequest by universal or by singular title, substituting for him or her another beneficiary in the residue still existing at the time of the demise of the surviving spouse. In such case the surviving spouse shall only be restrained from disposing of any thing contained in the disposition, by will or by title of donation.

(4) For the purpose of this article “residue” means and includes only:-

(a) immovable property, whether immovable by its nature or by reason of the object to which it refers; and

(b) all certain and determinate movable property which can be identified, excluding liquid cash and things identified only by their species.

(5) An action contesting any disposal made by the surviving spouse in contravention of subarticle (3) may be instituted during the lifetime of the surviving spouse, and shall be barred by the lapse of five years from the opening of succession of the surviving spouse.

(6) A disposal made by the surviving spouse in contravention of subarticle (3) shall in the case of immovables be null. In the case of movable property nullity shall ensue only if the beneficiary was in bad faith. In any other case action shall only lie for damages against the surviving spouse or his or her estate.”

**85.** In article 789 of the Code the words “the illegitimate children” shall be deleted. Amendment of article 789 Of the Code.

**86.** Article 800 of the Code shall be repealed. Repeal of article 800 of the Code.

**87.** For the heading “§I. Of Regular Successions”, and the subheading “OF SUCCESSION BY LEGITIMATE DESCENDANTS” appearing after article 807 of the Code, and for articles 808 to 830 of the Code and the headings and sub-headings appearing after articles 809, 813, 816, 824 and 829, there shall be substituted the following: Substitution of articles 808 to 830 of the Code.

**“§I. Of Succession by Descendants and Surviving Spouse”.**

Where deceased is survived by descendants and spouse.

808. (1) Where the deceased has left children or their descendants and a spouse, the succession devolves as to one moiety upon the children and other descendants and as to the other moiety upon the spouse.

(2) The provisions of subarticle (1) shall be without prejudice to the right of the surviving spouse under articles 633, 634 and 635.

Where deceased is survived by descendants but not by spouse.

809. Where the deceased has left children or other descendants but no spouse, the succession devolves upon the children and other descendants.

Where the deceased is not survived by descendants but is survived by spouse.

810. Where the deceased has left no children or other descendants but is survived by a spouse the succession devolves on the spouse.

Succession by children and descendants.

811. (1) Saving the provisions of article \_\_, children or other descendants succeed to their father and mother or other ascendants without distinction of sex, and whether they are born or conceived in marriage or otherwise and whether they are of the same or of different marriages.

(2) They succeed *per capita* when they are all in the first degree; they succeed *per stirpes* when all, or some of them, take by representation.

**§II. OF SUCCESSION BY ASCENDANTS AND COLLATERALS**

When deceased leaves no descendants nor a spouse.

812. Where the deceased has left no children or other descendants, nor a spouse, the succession shall devolve:

(a) if there be an ascendant or ascendants and no direct collaterals: to the nearest ascendant or ascendants;

(b) if there be an ascendant or ascendants and direct collaterals: one moiety to the nearest ascendant or ascendants and the other moiety to the direct collaterals;

(c) if there be no ascendant or ascendants but there be direct collaterals: to the direct collaterals; and

(d) if there be neither ascendant or ascendants nor direct collaterals: to the nearest collateral in whatever line such collateral may be.

Direct  
collaterals.

813. (1) For the purpose of article 812 direct collaterals mean brothers and sisters, whether of the half or full blood or adopted and the descendants of predeceased brothers or sisters, of the half or full blood or adopted.

(2) The brothers and sisters shall succeed *per capita* and their descendants *per stirpes* in terms of articles 804 and 805.

Succession  
by other  
collaterals.

814. Succession between collaterals shall not extend beyond the twelfth degree.

Where  
persons  
conceived  
and born out  
of wedlock  
succeed with  
certain other  
persons.

815. Where a person conceived and born out of wedlock succeeds *ab intestato* with adoptive children of the deceased or other children of the deceased who are not so conceived or born or the descendants of such children, or with the surviving spouse of the deceased the person conceived and born out of wedlock shall receive only three quarters of the share to which he would have been entitled if all the heirs of the deceased, including such person, had been conceived or born in wedlock, and the remaining quarter of the share to which he would have been so entitled shall devolve on the other heirs of the deceased to the exclusion of any of such heirs who is conceived and born out of wedlock as if it were a separate estate.

### §III. Of the Rights of the Government

Rights of  
succession  
competent to  
the  
Government  
of Malta.

816. Where the deceased is not survived by any of the persons entitled to succeed under the rules laid down in the foregoing articles, the inheritance shall devolve upon the Government of Malta.”

Substitution of articles 832 to 835 of the Code.

**88.** For articles 832 to 835 of the Code, there shall be substituted the following article:

“Where people die in a common calamity.

832. Where several persons die in a common calamity and it is impossible to determine who survived the other, they shall, where any one of them is called to the succession of the other, be presumed to have died at the same time.”.

Substitution of articles 839 to 844 of the Code.

**89.** For articles 839 to 844 of the Code there shall be substituted the following:

“Share due to person conceived and born out of wedlock may be paid in kind.

839. Where under testate or intestate succession a person conceived and born out of wedlock succeeds with adoptive children of the deceased or other children of the deceased who are not so conceived and born or descendants of such children, or with the surviving wife of the deceased, the other heirs of the deceased shall be entitled to pay the share due to the person conceived and born out of wedlock, either in cash or in movable or immovable property of the estate, if the latter does not object; and in case of opposition by the latter, the Court of voluntary jurisdiction shall, following an application to that effect by any of the other heirs of the deceased, decide whether to allow such payment or assignment, after taking into account personal considerations and those relating to property.”.

Amendment of article 845 of the Code.

**90.** In subarticle (1) of article 845 of the Code, for the words “or the legitim, or the portion of property granted to illegitimate children or to the spouse” there shall be substituted the words “or the reserved portion”.

Amendment to article 852 of the Code.

**91.** Article 852 of the Code shall be amended as follows:

(a) the present provision shall be renumbered as subarticle (1) thereof; and

(b) immediately after subarticle (1) thereof as renumbered there shall be added the following new subarticle:

“(2) The provisions of subarticle (1) of this article shall also apply in the case of judicial proceedings in respect of possessory actions, in which case the person entitled to succeed shall be considered as curator *de jure* of the inheritance in terms of subarticle (2) of article 886.

(3) Subarticle (2) of this article shall only apply if the person entitled to succeed states in the action that he is acting in his capacity of curator *de jure*.”

**92.** For the words “the legitim or other portion” in subarticle (2) of article 858 of the Code there shall be substituted the words “the reserved portion”.

Amendment of article 858 of the Code.

**93.** For the words “the legitim or other portion” in article 861 of the Code there shall be substituted the words “the reserved portion”.

Amendment of article 861 of the Code.

**94.** In article 894 of the Code, for the words “legitim or any other portion of the property would be due,” there shall be substituted the words “reserved portion would be due”.

Amendment of article 894 of the Code.

**95.** Immediately after article 906 of the Code there shall be added the following new article 906A:

Addition of new article 906A to the Code.

“Partition to be made between persons originally called to succession.

**906A (1)** Where a partition of an inheritance is demanded the partition shall be made by dividing the property comprised in the inheritance by allotting to each person entitled to succeed in his own name at the time of the opening of the succession such amount of property as corresponds to his share.

(2) Where more than one person is entitled to a share by right of representation or by substitution they shall be allotted jointly the share that would have been due to the person whom they represent or substitute.

(3) Before the property is divided as aforesaid any unpaid debts due by the inheritance and any unpaid taxes due on the transmission *causa mortis* to the persons entitled to succeed at the time of the opening of the succession shall first be paid and where the partition is made by a court or other tribunal such court or tribunal may order the sale of any property comprised in that inheritance to satisfy such debt, reducing the amount so paid from the share of the person who was bound to make such payment.

(4) Where any person entitled to succeed in his own name at the time of the opening of his succession, hereinafter in this article referred to as the original heir, dies, the court shall appoint a curator to represent such person in the partition and the share of the original heir shall be allotted to the curator in representation of the original heir:



Provided that the heirs or successors or any other person having an interest in the estate of the original heir may intervene in the proceedings.

Undivided property included in an inheritance.

(5) An inheritance may be partitioned even if it includes an undivided part of another inheritance or of any other property.

Special provisions in particular cases.

(6) Where an action for the partition of an inheritance has been pending for more than five years and the parties to the suit are more than two, each party to the suit may demand that the court shall proceed to assign to him property belonging to the estate as is equal in value to his portion of the estate, or if this is not practicable to order the sale of any property belonging to the estate and assign from the proceeds an amount of money equal to such value, and the court shall proceed to assign such property or money notwithstanding that all the other persons having an interest are not parties to the suit or that any tax due on the transmission of their share has not been paid:

Provided that before proceeding as above the Court shall order the registrar to publish at the expense of the person making the demand in one daily newspaper and in the Gazette a notice stating that a demand for such assignment has been made in the suit, and indicating that any persons having an interest may apply to intervene in the suit and shall not so proceed before the lapse of at least fifteen days from the publication on the daily newspaper or the gazette whichever is the later.”.

Amendment of article 910 of the Code.

**96.** Article 910 of the Code shall be amended as follows:

(a) subarticles (2) and (3) thereof shall be deleted; and

(b) subarticle (1) thereof shall be renumbered as the whole article, and the words “or bring into the mass” shall be deleted.

Amendment of article 913 of the Code.

**97.** In subarticle (1) of article 913 of the Code for the words “shall bring into the mass, in the interest only of the other children or descendants, being their co-heirs, everything” there shall be substituted the words “shall impute, in the interests only of the other children or descendants, being co-heirs, the value of everything”.

**98.** In article 916 of the Code for the words “the legitim or other portion of property” there shall be substituted the words “the reserved portion”, and the words “and articles 634 and 643” shall be deleted.

Amendment of article 916 of the Code.

**99.** In articles 917 and 919 of the Code, for the words “the things” wherever they appear, there shall be substituted the words “the value of the things”.

Amendment of articles 917 and 919 of the Code.

**100.** Article 927 of the Code shall be deleted.

Repeal of article 927 of the Code.

**101.** For article 931 of the Code there shall be substituted the following:

Substitution of article 931 of the Code.

“How collation is made.

931. (1) Subject to the provisions of the following subparagraphs collation is made by imputing to the share of the donee the value of the thing at the time of the opening of succession.

(2) Where the donated thing consists of movables consumable by use or articles of clothing or articles intended for the domestic use of the donee, no collation shall be due.

(3) Where the thing has been alienated by onerous title by the donee, the value to be collated shall be the consideration received by the donee for the thing alienated or the value of the thing at the time of alienation whichever value is higher.

(4) Where the thing has perished by a fortuitous event, without any fault of the donee and without the donee obtaining any compensation for the loss of the thing, no collation shall be made.”.

**102.** Article 933 and articles 935 to 937 of the Code shall be repealed.

Repeal of articles 933, 935 to 937 of the Code.

**103.** Article 938 of the Code for the words “legitim, etc”, in the marginal note thereto, and for the words “legitim or other portion of property” and the words “legitim or portion” in subparagraph (1) thereof; there shall be substituted in each case the words “reserved portion”.

Amendment of article 938 of the Code.

Amendment of article 957 of the Code.

**104.** In article 957 of the Code for the word “legitim“ there shall be substituted the words “reserved portion”.

Amendment of article 1743 of the Code.

**105.** In article 1743 of the Code for the words “Saving the provisions of the Mortmain Act, all persons”, there shall be substituted the words “All persons”, and the words “Cap. 201.” in the marginal note shall be deleted.

Repeal of article 1748 of the Code.

**106.** Article 1748 of the Code shall be repealed.

Amendment of article 1750 of the Code.

**107.** In article 1750 of the Code, for the words “in the foregoing articles, is null, in whole or in part, according to the extent of the incapacity” there shall be substituted the words “in article 1749 is null”.

Substitution of article 1751 of the Code.

**108.** For article 1751 of the Code there shall be substituted the following:

“Intermediaries. 1751. The father, the mother, the children, the descendants and the spouse of the person who is incapable of receiving by donation, shall, unless the contrary is proved, be considered to be intermediaries.”.

Repeal of article 1805 of the Code.

**109.** Article 1805 of the Code shall be repealed.

Amendment to article 1810 of the Code.

**110.** In subarticle (2) of article 1810 the words “, subject to the provisions of article 1748” shall be deleted.

Amendment of article 1812 of the Code.

**111.** In article 1812, the words “, saving, however, the provisions of article 639” shall be deleted.

Substitutes Form Q in Part II of the Schedule to the Code.

**112.** Form Q in Part II of the Schedule to the Code shall be substituted by the Form Q appearing in the First Schedule to this Act.

Addition of Form R to Part II of the Schedule the Code.

**113.** Immediately after Form Q in Part II of the Schedule to the Code there shall be added Form R appearing in the Second Schedule to this Act.

Transitory provision.

**114.** (1) The provisions of this Act amending the provisions of the Code in relation to successions and collation shall apply only in relation to successions opening after the coming into force of the relevant article of this Act, but the provisions of this Act amending the Code in relation to property held in common and to its partition shall apply with

immediate effect also to property so held in common that has devolved on the co-owners through succession.

(2) The provisions of this Act amending the provisions of the Code in relation to forms of wills other than the provisions of article 77 of this Act shall apply only in relation to wills drawn up after the coming into force of the relevant article of this Act.

(3) The provisions of this Act relative to donations shall apply only in relation to donations made after the coming into force of this Act.

(4) (a) In the case of spouses who married prior to the coming into force of article 4 of the Code as amended by this Act, the said article 4 shall apply in the sense that the wife may, within six months after the coming into force of article 2 of this Act, opt to reassume the surname of her predeceased husband in lieu of her current surname by delivering or causing to be delivered to the Public Registry Office the Form Q contained in Part II of the Schedule to the Code. On receipt of such Form the Director of the Public Registry shall register the same in a book referred to in subarticle 4(5) of the Code and for which he shall keep an index under the surname of the wife's predeceased husband and that of her current husband, and her maiden surname.

(b) The provisions of the Code as amended by this Act with regard to the surname of children born in wedlock or outside wedlock will apply only with regard to children born after the coming into force of this Act and the provisions of the Code as in force before the coming into force of this Act shall continue to apply with regard to children born before the coming into force of this Act.

FIRST SCHEDULE

(Article 112)

FORM Q

(Article 4 (5))

DECLARATION ON USE OF NAME

Particulars respecting The husband The wife	Name And Surname	Age	Place of Birth	Name and Surname of Parents of spouse and whether living or dead
		years		
Particulars relating to present marriage				
*No of Act of Marriage		Date		Place of Birth
		Day	Month	Year
** Particulars relating to previous marriage				
Particulars respecting previous husband and date of previous marriage				
Name and surname	Age	Place of Birth	Name and surname of parents whether living or dead	
*No of Act of Marriage		*No of Act of Death		
Date of Marriage		Date of Death		
Day	Month	Year	Day	Month
			Year	

Notes: \* Where marriage or death is not registered in the Public Registry evidence to the satisfaction of the Director must be produced.

\*\* To be filled only if wife opts to use surname of deceased husband.

\*\*\* delete as necessary

I the undersigned opt to use my maiden surname/the surname of my deceased husband \*\*\*

Signature of wife \_\_\_\_\_

Filed on \_\_\_\_\_

By \_\_\_\_\_

SECOND SCHEDULE

(Article 113)

FORM R

(Art 4 (6))

DECLARATION ON THE RETENTION OF USE OF FORMER HUSBAND'S NAME

I the undersigned declare in the presence of my husband and of the hereunder-mentioned witnesses that I understand to retain the surname of my former husband.

Details of Present Marriage

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

### Details of Previous Marriage

Particulars of previous marriage			
Particulars respecting previous husband at date of previous marriage			
Name and Surname	Age	Place of Birth	Name and Surname of Parents and whether living or dead
* No of Act of Marriage		* Date of Marriage	
		day    month    year	
* No of Act of Death		* Date of Death	
		day    month    year	
* <i>Note:</i> Where marriage or death is not registered in the Public Registry evidence to the satisfaction of the Director must be produced.			

Signature of wife ..... Signature of Husband .....

Signature of Witnesses ..... .....

Filed on .....

By .....



### **Objects and Reasons**

The main object of the Bill is to eliminate certain discriminatory provisions in respect of children conceived and born out of wedlock, in particular in the law of succession. The Bill also improves the position of the spouse in relation to children both in intestate succession and in the reserved portion. The Bill also makes provisions providing a procedure for a change in the indication of the sex of a person on certain documents, after the person has, for physiological and psychological reasons to be established by experts, shown that he or she belongs to a sex other than that shown in the Act of Birth. The Bill also deals with partition of common property introducing rules which should in practice solve a number of problems dealing with co-ownership.