

Nagħti l-kunsens tiegħi.

(L.S.)

EDWARD FENECH ADAMI
President

1 ta' Frar, 2008

ATT Nru. IV ta' l-2008

ATT biex jagħmel provvedimenti speċjali għall-amministrazzjoni ta' proceduri ta' adozzjoni u biex jagħmel emendi konsegwenzjali għall-Kodiċi Ċivili

IL-PRESIDENT, bil-parir u l-kunsens tal-Kamra tar-Rappreżentanti, miġbura f'dan il-Parlament preżenti, u bl-awtorità ta' l-istess Parlament, hareġ b'liġi dan li ġej:

PARTI I

INTRODUZZJONI U TIFSIR

1. (1) It-titolu fil-qosor ta' dan l-Att hu Att ta' l-2008 dwar l-Amministrazzjoni ta' l-Adozzjoni. Titolu fil-qosor u bidu fis-sehh.

(2) Dan l-Att għandu jidhol fis-sehh fl-ewwel ġurnata ta' Mejju, 2008.

2. F'dan l-Att, sakemm ir-rabta tal-kliem ma tehtiegħ xort'ohra: Tifsir.

“adozzjoni” tfisser adozzjoni lokali jew bejn pajjiż u iehor magħmula skond id-dispożizzjonijiet tal-Kodiċi Ċivili, id-dispożizzjonijiet ta' dan l-Att u kull regolament magħmul taħthom;

“adozzjoni bejn pajjiż u iehor” tfisser adozzjoni magħmula skond id-dispożizzjonijiet tal-Kodiċi Ċivili fir-rigward ta’ l-adozzjoni, id-dispożizzjonijiet ta’ dan l-Att u l-liġi ta’ pajjiż barrani:

(i) skond il-Konvenzjoni ta’ l-Aja jew kull Trattat Internazzjonali fejn Malta hija parti; jew

(ii) f’Malta, fir-rigward ta’ tifel jew tifla li m’humieqx abitwalment residenti f’Malta, jew favur xi persuna li m’hix abitwalment residenti f’Malta;

“adozzjoni miftuħa” tfisser adozzjoni magħmula skond l-artikolu 22 ta’ dan l-Att u l-artikolu 119 tal-Kodiċi Ċivili, li permezz tagħha tifel jew tifla jzommu kuntatt mal-ġenituri tagħhom u, jew mal-familja naturali tagħhom;

“aġenzija akkreditata” tfisser organizzazzjoni li hija akkreditata mill-awtorità ċentrali, skond il-Konvenzjoni ta’ l-Aja, biex tmexxi adozzjonijiet lokali jew bejn pajjiż u iehor;

“awtorità ċentrali” tfisser l-Awtorità stabbilita bis-sahha ta’ l-artikolu 7;

“Bord għall-Adozzjoni” tfisser il-bord imwaqqaf bis-sahha ta’ l-artikolu 3;

“Bord ta’ Appell” tfisser il-bord imwaqqaf bis-sahha ta’ l-artikolu 16 jew xi bord amministrattiv jew tribunal iehor li l-Ministru jista’ minn żmien għal żmien isemmi biex jaqdi l-funzjonijiet kollha jew xi whud minnhom kif speċifikat f’dan l-Att;

Kap. 468.

“haddiem soċjali” għandu jkollha t-tifsira mogħtija lilha fl-artikolu 2 ta’ l-Att dwar il-Professjoni tax-Xogħol Soċjali;

“Konvenzjoni ta’ l-Aja” tfisser il-Konvenzjoni dwar il-Protezzjoni ta’ l-Ulled u Kooperazzjoni f’Adozzjonijiet bejn Pajjiż u Iehor;

“il-Ministru” tfisser il-Ministru responsabbli għall-politika soċjali;

“pajjiż ta’ oriġini” fir-rigward ta’ adozzjoni bejn pajjiż u iehor tfisser il-pajjiż minn fejn tifel jew tifla jiġu adottati;

“qorti” tfisser il-Qorti Ċivili (Sezzjoni Ġurisdizzjoni Volontarja);

“tifel jew tifla” ifissru persuna taht it-tmintax-il sena.

PARTI II

BORD GHALL-ADOZZJONI

3. (1) Ghandu jkun hemm Bord, maghruf bhala l-Bord ghall-Adozzjoni, li jkun kompost minn *Chairperson* u mill-inqas erba' membri ohra. Dan il-Bord ghandu jkun kompost kif ġej:

Twaqqif
tal-Bord
ghall-Adozzjoni.

(a) professjonisti li jirraprezentaw dixxiplini differenti; u

(b) persuna li, fil-fehma tal-Ministru, ghandha gharfien adegwat u hija profiċjenti fil-qasam ta' l-adozzjoni.

(2) Il-Ministru ghandu jaghmel li jista' biex bhala parti mill-Bord ghall-Adozzjoni ikun hemm persuna li tkun ghalqet it-tmintax-il sena u li tkun adottata u persuna li hi jew kienet ġenitur adottiv, u dawn il-persuni jistghu jinhatru f'kull żmien tul it-terminu tal-kariga tal-Bord ghall-Adozzjoni.

(3) Persuna ma tikkwalifikax biex tinhatar jew tibqa' fil-kariga bhala membru tal-Bord ghall-Adozzjoni jekk dik il-persuna tkun Imhalled, Magistrat, membru tal-Kamra jew ta' Kunsill Lokali, jew kandidat ghall-elezzjoni ghall-Kamra jew ghal Kunisll Lokali.

(4) Il-membri tal-Bord ghall-Adozzjoni ghandhom jinhatru mill-Ministru ghal perjodu minimu ta' sentejn.

(5) Kull membru tal-Bord ghall-Adozzjoni jista' jitnehha mill-Ministru ghal raġunijiet ta' inkapaċità biex jaqdi l-funzjonijiet tal-kariga tiegħu jew ghal imġiba hażina.

(6) Fil-każ li xi membru tal-Bord ghall-Adozzjoni ihalli l-kariga tiegħu qabel ma jiskadilu t-terminu tal-hatra, il-membri mahtur floku ghandu jinhatar ghaż-żmien tal-hatra oriġinali li jkun ghadu ma skadiex.

(7) Il-Ministru ghandu jinnomina persuna biex tagħmilha ta' Segretarju tal-Bord ghall-Adozzjoni u din il-persuna ghandha, bhala parti minn dmirijietha, tkun responsabbli biex iżzomm id-dokumenti rilevanti u ghandha tagħmel kull xogħol iehor relatat mal-funzjonijiet tal-Bord ghall-Adozzjoni skond kif tista' tkun imqabbda mi-*Chairperson*.

(8) Bla hsara ghad-dispożizzjonijiet ta' dan l-Att u għal kull regolament li jsir tahtu, il-Bord għall-Adozzjoni għandu jirregola l-proċedura tiegħu:

Iżda kull deċiżjoni tal-Bord għall-Adozzjoni għandha tittiehed b'maġġoranza ta' voti; iżda f'każ ta' ugwajjanza ta' voti, iċ-*Chairperson* għandu jkollu wkoll u jeżerċita vot deċiżiv. Is-Segretarju tal-Bord ma jkollux dritt għall-vot.

(9) Il-Bord għall-Adozzjoni għandu jiltaqa' kif u meta jkun meħtieġ, iżda mhux inqas minn darba fix-xahar. Fil-każ ta' talba bil-miktub mill-Ministru jew minn aġenzija akkreditata, li tingħadda permezz tas-Segretarju tal-Bord, dak il-Bord għandu jiltaqa' mhux aktar tard minn tmienja u erbgħin siegħa wara li ssir it-talba.

(10) Il-Bord għall-Adozzjoni għandu jkollu s-setgħa li jikkonsulta professjonisti jew persuni oħrajn li għandhom għarfien u esperjenza rilevanti fil-qasam ta' l-adozzjoni.

(11) Il-Membri tal-Bord għall-Adozzjoni, is-Segretarju ta' dan il-Bord u kull persuna involuta fil-proċeduri quddiem il-Bord għall-Adozzjoni għandhom ikunu marbutin bil-konfidenzjalità u m'għandhom jiżvelaw lil terzi ebda informazzjoni li jistgħu jsiru jafu biha tul il-proċeduri. Lanqas m'għandhom dawn il-persuni jiddistribwixxu lil terzi dokumenti tal-Bord għall-Adozzjoni jew kopji tagħhom, għajr meta mitlubin jew awtorizzati jagħmlu dan minn xi qorti.

(12) Il-Bord għall-Adozzjoni għandu jibgħat lill-Ministru rapport annwali ta' l-attivitajiet kollha tiegħu tul is-sena kalendarja preċedenti sa mhux aktar tard mill-hmistax ta' April ta' kull sena.

Funzjonijiet
tal-Bord
għall-Adozzjoni.

4. (1) Il-funzjonijiet tal-Bord għall-Adozzjoni għandhom jinkludu:

(a) li jeżamina l-*Home Study Reports* skond il-Parti VI ta' dan l-Att magħmula minn haddiem soċjali ta' aġenzija akkreditata;

(b) li jiehu deċiżjoni dwar jekk il-ġenitur adottiv prospettiv huwiex eliġibbli u adatt jew le;

(ċ) li jiżgura li t-tqegħid ikun fl-aħjar interess tat-tifel jew tat-tifla li se jkunu adottati;

(d) li jissottometti rakkomandazzjonijiet lill-qorti u, jew lill-awtorità ċentrali dwar ġenitur adottiv prospettiv;

(e) li jissottometti rakkomandazzjonijiet lil aġenziji akkreditati u, jew lill-Ministru fuq programmi ta' tahrig u sessjonijiet ta' pariri għal ġenituri adottivi prospettivi;

(f) li jagħmel rakkomandazzjonijiet lill-Ministru fuq il-parametri li għandhom ikunu stabbiliti dwar l-organizzazzjoni ta' sessjonijiet ta' pariri;

(g) li jagħmel rakkomandazzjonijiet lill-Ministru għal implimentazzjoni aktar effettiva tat-*Titolu III ta' l-Ewwel Ktieb tal-Kodiċi Ċivili, tad-dispożizzjonijiet ta' dan l-Att u ta' kull regolament li jsir tahtu.*

(2) Il-Bord għall-Adozzjoni għandu jkollu aċċess għad-dokumentazzjoni kollha meqjusa rilevanti għall-proċedura ta' l-adozzjoni u hadd ma għandu jfikkell lill-Bord fil-qadi ta' xi waħda mill-funzjonijiet tiegħu.

5. (1) Il-Bord għall-Adozzjoni għandu jibgħat kopja tad-deċiżjoni tiegħu, li jkun fiha r-rakkomandazzjonijiet tiegħu, b'posta registrata lill-ġenitur adottiv prospettiv u lill-aġenzija akkreditata. Il-ġenitur adottiv prospettiv ikollu dritt ta' appell skond l-artikolu 6.

Rakkomandazzjonijiet mill-Bord għall-Adozzjoni.

(2) Mingħajr preġudizzju għall-artikolu 6, il-Bord għall-Adozzjoni għandu jagħmel ir-rakkomandazzjonijiet finali tiegħu lill-qorti rigward l-eligibilità u l-addattabilità jew le tal-ġenituri adottivi prospettivi.

(3) Fil-każ ta' adozzjoni bejn pajjiż u iehor, ir-rakkomandazzjonijiet tal-Bord għall-Adozzjoni għandhom ikunu sottomessi lill-awtorità ċentrali għall-approvazzjoni bil-miktub tagħha qabel ma ssir l-adozzjoni bejn pajjiż u iehor. Wara li l-adozzjoni bejn pajjiż u iehor tkun giet awtorizzata mill-awtorità kompetenti barranija, ġenitur adottiv prospettiv għandu jagħmel applikazzjoni lill-qorti biex jitlob rikonnoxximent ta' l-adozzjoni bejn pajjiż u iehor għall-finijiet kollha tal-liġi. Meta tiġi biex tiegħu d-deċiżjoni tagħha l-qorti għandha tqis kull rakkomandazzjoni tal-Bord għall-Adozzjoni.

6. (1) Ġenitur adottiv prospettiv jista' jappella minn deċiżjoni mehuda mill-Bord għall-Adozzjoni, billi jressaq applikazzjoni quddiem il-Bord ta' Appell sa mhux aktar tard minn għoxrin ġurnata mid-data meta titwassal id-deċiżjoni bil-posta registrata.

Dritt ta' appell minn deċiżjonijiet tal-Bord għall-Adozzjoni.

(2) Kull rakkomandazzjoni magħmula mill-Bord għall-Adozzjoni m'għandhiex tintbagħat lill-qorti:

(a) qabel id-deċiżjoni tal-Bord ta' Appell; jew

(b) qabel ma jghaddu l-ghoxrin ġurnata li jissemmew fl-artikolu 6 jekk ma jkun tressaq l-ebda appell quddiem il-Bord ta' Appell.

PARTI III

AWTORITÀ ĊENTRALI

Twaqqif ta' awtorità ċentrali.

7. (1) Ghandu jkun hemm awtorità ċentrali nominata mill-Ministru biex taqdi u twettaq il-funzjonijiet, dmirijiet u responsabbiltajiet speċifikati fit-Titolu III ta' l-Ewwel Ktieb tal-Kodiċi Ċivili, fil-Konvenzjoni ta' l-Aja, fid-dispożizzjonijiet ta' dan l-Att u f'kull regolament li jsir tahtom.

(2) L-awtorità ċentrali tista' tiddelega lil aġenzija akkreditata kull wahda mill-funzjonijiet, dmirijiet u responsabbiltajiet tagħha li m'humix regolatorji u li ma jinvolvux l-ghoti, iċ-ċaħda jew ir-revoka ta' akkreditament. L-aġenzija akkreditata ghandha tkun responsabbli biex teżerċita dawk il-funzjonijiet, dmirijiet u, jew responsabbiltajiet skond id-dispożizzjonijiet ta' dan l-Att.

(3) L-awtorità ċentrali ghandha żzomm reġistru, li jkun magħruf bhala "ir-Reġistru ta' Riunjoni u Informazzjoni", bid-dettalji ta' kuntatt ta' persuni 'l fuq minn tmintax-il sena li jkunu partijiet fi proċeduri għal adozzjoni jew li huma qraba b'konsangwinità sat-tielet grad inklużiv, jew ta' persuna li kienet parti fi proċeduri ta' adozzjoni u li jitolbu li jiddaħhlu f'dan ir-reġistru billi jimlew il-formola approvata u provduta mill-awtorità ċentrali. Ebda informazzjoni li tinsab f'dan ir-Reġistru m'ghandha tingħata lil xi persuna mingħajr il-kunsens bil-miktub minn qabel tal-persuna li jkunu ntalbu d-dettalji tagħha.

Kontroll ta' adozzjoni bejn pajjż u iehor.

8. L-awtorità ċentrali ghandha ssegwi l-proċeduri kollha għal adozzjoni bejn pajjż u iehor li jistgħu jsiru biss wara li tinkiseb l-approvazzjoni bil-miktub ta' l-awtorità ċentrali skond dan l-Att.

Kif jintlaqghu applikazzjonijiet għal akkreditament.

9. (1) L-awtorità ċentrali ghandha tkun l-awtorità responsabbli biex tilqa' applikazzjonijiet għal akkreditament minn organizzazzjonijiet li japplikaw biex jagħmlu adozzjonijiet lokali u, jew bejn pajjż u iehor. L-awtorità ċentrali ghandha s-setgħa li tagħti, tiċhad jew tirrevoka akkreditament konformement mal-Konvenzjoni ta' l-Aja, mad-dispożizzjonijiet ta' dan l-Att u ma' kull regolament li jsir tahtom.

(2) L-awtorità ċentrali għandha tkun responsabbli biex tistabbilixxi kriterji għall-ghoti, iċ-ċahda jew ir-revoka ta' akkreditament.

PARTI IV

AKKREDITAMENT

10. (1) Kull organizzazzjoni tista' tapplika lill-awtorità ċentrali għal akkreditament fil-forma approvata u provduta minn din l-awtorità, biex tkun tista' tagħmel adozzjoni lokali u, jew bejn pajjiż u iehor.

Applikazzjoni għall-ghoti ta' akkreditament.

(2) L-awtorità ċentrali tista', f'kull hin waqt l-i-proċessar ta' l-applikazzjoni, titlob lil organizzazzjoni biex tagħtiha dokumenti u informazzjoni meqjusin neċessarji sabiex tkun tista' taċċerta jekk għandhiex tinghata akkreditament.

11. L-awtorità ċentrali tista' takkredita organizzazzjoni jekk tkun sodisfatta li l-organizzazzjoni:

Akkreditament ta' organizzazzjoni.

(a) għandha esperjenza u sengħa biżżejjed biex tittratta materji li għandhom x'jaqsmu ma' tfal u familja; u

(b) għandha għadd biżżejjed ta' nies li huma mharrġa biex jagħmlu adozzjoni lokali u, jew bejn pajjiż u iehor; u

(ċ) għandha l-kompetenza amministrattiva u legali biex taqdi l-funzjonijiet li għandhom x'jaqsmu ma' proċeduri ta' adozzjoni; u

(d) tkun konformi mal-kriterji ta' akkreditament speċifikati fil-Konvenzjoni ta' l-Aja.

12. (1) Meta tagħti akkreditament lil xi organizzazzjoni, l-awtorità ċentrali għandha tohroġ Ċertifikat ta' Akkreditament li jkun validu għal perjodu ta' sentejn mid-data tal-hruġ tiegħu.

Ċertifikat ta' akkreditament.

(2) Iċ-ċertifikat imsemmi fis-subartikolu (1) jista' jiġi mġedded mill-awtorità ċentrali jekk l-aġenzija akkreditata tapplika għal tiġdid sa mhux aktar tard minn xahrejn qabel ma jiskadi l-akkreditament tagħha u t-tiġdid jinghata biss jekk l-aġenzija akkreditata tkun għadha konformi ma' l-artikoli 10 u 11. Id-deċiżjoni ta' l-awtorità ċentrali dwar jekk iċ-ċertifikat ta' l-akkreditament għandux jiġi mġedded għandha tiġi notifikata lill-aġenzija akkreditata, b'posta reġistrata, fi żmien tletin ġurnata mill-applikazzjoni għat-tiġdid.

Ċaħda ta' applikazzjoni.

13. (1) L-awtorità ċentrali għandha d-dritt li tiċhad applikazzjoni għal akkreditament jekk hija tqis li l-organizzazzjoni ma tkunx adatta biex tagħti servizzi ta' adożżjoni. Iċ-ċaħda flimkien mar-raġunijiet għaliha għandhom jintbagħtu bil-miktub, b'posta reġistrata, lill-organizzazzjoni li tkun applikat għal akkreditament fi żmien tliet xhur mid-data ta' l-applikazzjoni.

(2) L-organizzazzjoni jkollha d-dritt titlob bdil fid-deċiżjoni ta' l-awtorità ċentrali billi tippreżenta applikazzjoni quddiem il-Bord ta' Appell, fi żmien għoxrin ġurnata minn meta tiġi notifikata kif speċifikat fis-subartikolu (1).

(3) L-organizzazzjoni għandha d-dritt tagħmel applikazzjoni mill-ġdid lill-awtorità ċentrali għal akkreditament jekk ir-raġuni għaċ-ċaħda ma tkunx għadha teżisti.

Revoka ta' akkreditament.

14. (1) L-awtorità ċentrali għandha d-dritt tirrevoka l-akkreditament ta' aġenzija f'kull waqt jekk l-aġenzija:

(a) tressaq talba bil-miktub għal revoka;

(b) ma tibqax konformi mal-kriterji ta' eliġibilità għal akkreditament;

(ċ) ma tibqax titqies adatta biex tipprovdi servizzi ta' adożżjoni;

(d) tkun qegħda tikser il-kondizzjonijiet għal akkreditament skond id-dispożizzjonijiet ta' dan l-Att.

(2) L-awtorità ċentrali għandha tinnotifika lill-aġenzija, b'posta reġistrata, bir-revoka li tingħata bil-miktub flimkien mar-raġunijiet għaliha u din ir-revoka għandha tidhol fis-seħħ fid-data meta ssir in-notifika.

(3) Jekk l-akkreditament ikun revokat minhabba xi waħda mir-raġunijiet imsemmija fis-subartikolu (1)(b), (ċ) jew (d), l-aġenzija għandha d-dritt li tressaq applikazzjoni quddiem il-Bord ta' Appell u titlob it-thassir tad-deċiżjoni ta' l-awtorità ċentrali, u dan fi żmien għoxrin ġurnata min-notifika msemmija fis-subartikolu (2).

(4) Jekk jitressaq appell skond is-subartikolu (3), l-aġenzija tista' titlob lill-Bord ta' Appell jissospendi d-deċiżjoni ta' l-awtorità ċentrali sakemm tittiehed deċiżjoni finali.

(5) Jekk l-akkreditament ta' aġenzija ikun revokat, iċ-ċertifikat ta' akkreditament u r-records u d-dokumentazzjoni kollha relatati mas-servizzi ta' qabel l-adozzjoni u ta' l-adozzjoni jsiru propjetà ta' l-awtorità ċentrali. L-awtorità ċentrali tista' tahtar aġenzija akkreditata oħra biex ikollha l-kustodja ta' dawk ir-records u d-dokumentazzjoni, tkompli ssegwi lill-ġenituri adottivi prospettivi, u taqdi l-funzjonijiet kollha li kellha dik l-aġenzija li jkun ġie revokat l-akkreditament tagħha, skond l-artikolu 22.

15. (1) Tul ix-xahar ta' Jannar ta' kull sena, l-awtorità ċentrali għandha tippubblika fil-Gazzetta:

Pubblikazzjoni
fil-Gazzetta.

(a) lista ta' l-aġenziji akkreditati kollha u tispeċifika l-isem shih tagħhom, l-indirizz reġistrat u dettalji rilevanti oħra biex ikun jista' jsir kuntatt magħhom;

(b) lista ta' aġenziji akkreditati li kellhom l-akkreditament tagħhom revokat tul is-sena kalendarja ta' qabel; u

(ċ) kull bidla fil-kondizzjonijiet meħtieġa għall-akkreditament jew għat-tigdid.

(2) Il-listi fil-paragrafi (a) u (b) tas-subartikolu (1) għandhom ikunu notifikati mill-awtorità ċentrali lill-Buró Permanenti tal-Konferenza ta' l-Aja.

PARTI V

BORD TA' APPELL

16. (1) Għandu jkun hemm Bord ta' Appell magħmul minn *Chairperson* u żewġ membri oħra. Wieħed minn dawn għandu jkun persuna li kellha *warrant* biex teżercita l-professjoni ta' avukat għal mill-inqas seba' snin.

Twaqqif
ta' Bord ta'
Appell.

(2) Il-membri tal-Bord ta' Appell għandhom jinhatru mill-Ministru għal perjodu ta' tliet snin, u jistgħu jitnehhew mill-kariga mill-Ministru għal raġunijiet ta' inkapaċità bil-provi biex jaqdu l-funzjonijiet tal-kariga tagħhom jew għal imġiba hażina bil-provi.

(3) Membru tal-Bord ta' Appell jista' jkun kontestat jew jista' jastjeni għal xi waħda mir-raġunijiet li għalihom imhallet jista' jkun kontestat jew jista' jastjeni skond l-artikolu 734 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili. F'każ bħal dak, il-Ministru għandu jahtar persuna oħra biex tkun membru tal-Bord ta' Appell biex

Kap. 12.

tissostitwixxi lill-membru msemmi sakemm ikun ghaddej l-appell in kwistjoni.

(4) Persuna ma tikkwalifikax biex tinhatar jew tibqa' fil-kariga bhala membru tal-Bord ta' Appell jekk dik il-persuna tkun Imhalled, Magistrat, membru tal-Kamra jew ta' Kunsill Lokali, jew kandidat ghall-elezzjoni ghall-Kamra jew ghal Kunsill Lokali.

Ġurisdizzjoni u setghat tal-Bord ta' Appell.

17. (1) Il-Bord ta' Appell ghandu jkun kompetenti li:

(a) jikkunsidra mill-ġdid deċiżjonijiet tal-Bord ghall-Adozzjoni meta jitressaq appell skond l-artikolu 6;

(b) jikkunsidra mill-ġdid deċiżjonijiet ta' l-awtorità ċentrali meta jitressaq appell skond l-artikoli 13 u 14;

(ċ) jisma' u jiddeċiedi appell imressaq skond id-dispożizzjonijiet ta' dan l-Att u kull regolament magħmul tahtu;

(d) jaqdi kull funzjoni ohra kif il-Ministru jista' jippreskrivi b'regolamenti li jsiru bis-sahha ta' dan l-Att.

(2) Biex jaqdi l-funzjonijiet tieghu, il-Bord ta' Appell ghandu jkollu aċċess ghad-dokumentazzjoni kollha li ghandha x'taqsam mal-proċedura ta' adozzjoni u hadd ma jista' jfixklu fil-qadi ta' dawn il-funzjonijiet.

(3) Il-Bord ta' Appell ikollu dawk is-setghat li bis-sahha tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili huma mogħtija lill-Qorti Ċivili, Prim'Awla.

(4) Mingħajr preġudizzju ghad-dispożizzjonijiet tas-subartikolu (3), fl-eżerċizzju tal-funzjonijiet tieghu, il-Bord ta' Appell jista' jsejjah lil kull persuna biex tixhed u tipproduċi d-dokumentazzjoni neċessarja. Ghal dan l-ghan iċ-*Chairperson* ghandu s-setgħa li jagħti ġuramenti.

(5) Il-Bord ta' Appell ghandu jiddeċiedi fuq rikors għal appell sa mhux aktar tard minn erba' xhur minn meta jiġi ppreżentat ir-rikors, sakemm fil-fehma taċ-*Chairperson* ma jkunx meħtieġ perjodu itwal għal xi raġuni valida li tingħata u tiġi reġistrata fil-proċeduri tal-każ.

(6) Deċiżjoni mogħtija mill-Bord ghall-Adozzjoni jew mill-awtorità ċentrali ghandu jkollha effett immedjat kemm-il darba l-Bord

ta' Appell ma jiddeċidix li jissospendiha sakemm tinghata s-sentenza finali.

(7) Id-deċiżjoni tal-Bord ta' Appell, flimkien mar-raġunijiet għaliha, għandhom jintbagħtu b'posta reġistrata lir-rikorrenti, lill-Bord għall-Adozzjoni u lill-awtorità ċentrali fi żmien tlett ijiem tax-xogħol minn meta tittiehed dik id-deċiżjoni.

(8) F'każijiet li jaqgħu taht il-ġurisdizzjoni tal-Bord ta' Appell skond is-subartikolu (1), ikun hemm dritt ta' appell fuq punt ta' liġi. Dan l-appell għandu jsir b'rikors lill-Qorti ta' l-Appell kostitwita skond l-artikolu 41(6) tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili. Dan ir-rikors għandu jiġi ppreżentat mhux aktar tard minn ghoxrin ġurnata mid-data tad-deċiżjoni tal-Bord ta' Appell.

PARTI VI

AĠENZIJI AKKREDITATI

18. Organizzazzjoni għandha titqies li tkun għamlet arrangamenti għall-adozzjoni ta' xi tifel jew tifla jekk tidhol f'xi ftehim jew tagħmel arrangamenti biex tiffaċilita l-adozzjoni tagħhom. Arrangamenti għal adozzjoni.

19. Aġenzija akkreditata għandha tiżviluppa, taġġorna u tesegwixxi politika, proċeduri u manwali miktubin li jkunu soġġetti għall-approvazzjoni ta' l-awtorità ċentrali. Dawn il-proċeduri, politika u manwali miktubin għandhom jinkludu proċeduri ta' tahrig u assessjar, u tqabbil ta' ġenituri adottivi prospettivi ma' tfal, f'każijiet ta' adozzjonijiet lokali. Politika u proċeduri.

20. Qabel ma jibda l-proċess ta' adozzjoni, l-aġenzija akkreditata għandha: Informazzjoni lil ġenituri adottivi prospettivi.

(a) tinforma lill-ġenituri adottivi prospettivi bl-objettivi, setgħat u hidmiet tagħha;

(b) tghaddi kopja taċ-ċertifikat ta' akkreditament lill-ġenituri adottivi prospettivi bhala prova ta' l-akkreditament tagħha;

(ċ) tinforma lill-ġenituri adottivi prospettivi b'kull rekwiżit legali; u

(d) tispjega l-ftehim bil-miktub li l-ġenituri adottivi prospettivi jridu jiffirmaw fir-rigward tas-servizzi li jingħatawllhom u l-hlasijiet li għandhom isiru.

Reġistri li għandhom jinżammu.

21. Aġenzija akkreditata għandha żżomm reġistru wiehed jew aktar li jkun fihom listi:

(a) tal-ġenituri adottivi prospettivi reġistrati magħha; u

(b) ta' l-adozzjonijiet li tkun għamlet, b'indikazzjoni tat-tfal li jkunu ġew adottati minn persuni li qabel ikunu reġistrati magħha bħala ġenituri adottivi prospettivi.

Funzjonijiet ta' aġenziji akkreditati.

22. (1) Aġenzija akkreditata tkun responsabbli biex:

(a) tipprovdi servizz skond *standards*, kriterji u proċeduri stabbiliti mill-awtorità ċentrali;

(b) tircievi u tipproċessa applikazzjonijiet minn persuni li jkunu jixtiequ jadottaw tifel jew tifla;

(c) tipprovdi tahrig lill-ġenituri adottivi prospettivi;

(d) tagħmel rapport li jissejjah "*Home Study Report*" fuq is-sitwazzjoni tal-ġenitur adottiv prospettiv, inkluża kull rakkomandazzjoni fuq jekk dak il-ġenitur adottiv prospettiv għandux jithalla jadotta u r-raġunijiet għaliex;

(e) tqis jekk il-ġenituri adottivi prospettivi jkunux adatti;

(f) tiżgura li kull tqegħid ta' adozzjoni jkun fl-ahjar interess tal-persuna li ser tkun adottata;

(g) tikkompila ftehim ta' adozzjoni miftuħa u eżami mill-ġdid tagħha skond is-subartikolu (4) ta' dan l-artikolu;

(h) tagħmel rapport, li jissejjah "Rapport ta' wara l-Adozzjoni" fuq is-sitwazzjoni tal-ġenituri adottivi u tat-tifel jew tat-tifla adottati skond id-dispożizzjonijiet ta' dan l-Att;

(i) tagħti lill-awtorità ċentrali aċċess għal kull *record* u dokumentazzjoni li għandhom x'jaqsmu ma proċeduri ta' adozzjoni ta' xi tifel jew tifla u għal rapporti dwar xi ġenitur adottiv jew ġenitur adottiv prospettiv, inklużi l-*Home Study Report* u r-Rapport ta' wara l-Adozzjoni;

(j) tagħti lill-awtorità ċentrali aċċess għall-kontijiet tagħha u għall-kontijiet verifikati minn awditur;

(k) fl-ahhar ta' kull sena kalendarja tibghat rapport lill-awtorità ċentrali dwar l-operat tal-funzjonijiet taghha;

(l) tikkonforma ruhha ma' kull dmir u obbligu iehor kif speċifikati mill-awtorità ċentrali jew li jista' johroġ minn monitoraġġ regolari ta' l-operat ta' l-aġenzija akkreditata mill-awtorità ċentrali;

(m) taġixxi skond it-Titolu III ta' l-Ewwel Ktieb tal-Kodiċi Ċivili, il-Konvenzjoni ta' l-Aja u d-dispożizzjonijiet ta' dan l-Att.

(2) Għall-finijiet tal-preparazzjoni tal-*Home Study Report* u tar-Rapport ta' wara l-Adozzjoni, il-haddiem soċjali awtorizzat mill-aġenzija akkreditata għandu jagħmel iż-żjarat meħtieġa fid-dar. Dawn iż-żjarat jistgħu jsiru bla avviż minn qabel, u l-ġenituri adottivi prospettivi ma jistgħux jiċhdu lill-haddiem soċjali milli jidhol id-dar, għandhom jikkoperaw mal-haddiem soċjali u għandhom jagħtu informazzjoni korretta safejn ikunu jafu huma.

(3) Il-*Home Study Report* għandu jintbagħat lill-Bord għall-Adozzjoni sabiex dan jagħti r-rakkomandazzjoni finali lill-qorti. Dan ir-rapport jibqa' validu għal perjodu ta' sentejn, u wara jkun meħtieġ *Home Study Report* ġdid.

(4) Fil-każ ta' tifel jew tifla li jkollhom hdax-il sena, u jekk ikun fl-ahjar interess tagħhom, l-aġenzija akkreditata għandha tagħmel ftehim ta' adozzjoni miftuħa, jew direttament jew permezz ta' medjatur tal-familja, wara li tkun semgħet lit-tifel jew lit-tifla u kisbet il-kunsens tal-ġenituri u tal-ġenituri adottivi prospettivi. Meta l-ftehim ikun sar u ġie ffirmat, l-aġenzija akkreditata għandha titlob l-approvazzjoni tal-Bord għall-Adozzjoni. Dan il-ftehim ma jkunx jista' jiġi infurzat mingħajr l-awtorizzazzjoni tal-qorti skond l-artikolu 119 tal-Kodiċi Ċivili.

(5) L-aġenzija akkreditata tkun responsabbli biex tagħmel reviżjonijiet għall-ftehim ta' adozzjoni miftuħa u biex titlob l-approvazzjoni tal-Bord għall-Adozzjoni għal dawn ir-reviżjonijiet.

23. (1) L-adozzjonijiet kollha huma soġġetti għal Rapport ta' wara l-Adozzjoni, u l-ġenituri adottivi għandhom jikkoperaw mal-haddiem soċjali sabiex isir dan ir-rapport. Rapporti ta' wara l-Adozzjoni.

(2) Fil-każ ta' adozzjoni lokali, ir-Rapporti ta' wara l-Adozzjoni għandhom isiru għal perjodu speċifikat mill-aġenzija akkreditata li f'ebda każ m'għandu jeċċedi s-sentejn mid-data ta' l-adozzjoni.

(3) Fil-każ ta' adozzjoni minn pajjiż għal iehor, ir-Rapporti ta' wara l- Adozzjoni għandhom isiru għal perjodu speċifiku skond ir-rekwiżiti tal-pajjiż ta' oriġini u jiġu mibgħutin lill-awtorità rilevanti fil-pajjiż ta' oriġini, skond ir-rekwiżiti tiegħu.

Tqabbil.

24. Fil-każ ta' adozzjonijiet lokali, aġenzija akkreditata għandha tagħmel kull sforz raġonevoli biex tqabbel ġenituri adottivi prospettivi ma' tfal li ser jiġu adottati. L-aġenzija akkreditata għandha tiżgura li t-tqabbil ikun fl-aħjar interessi tat-tifel jew tat-tifla li jkunu ser jiġu adottati u li l-haddiema soċjali kollha li jkunu assenjati biex jaqdu dmirijiet ta' tqabbil fir-rigward tal-proċeduri ta' adozzjoni, jkunu mharrġa b'mod adegwat sabiex jaqdu din il-funzjoni.

PARTI VII

REATI

Tfixkil.

25. Kull persuna li b'xi mod tfixkel jew tostakola lill-Bord għall-Adozzjoni, lill-Bord ta' Appell, lill-awtorità ċentrali jew lil aġenzija akkreditata fil-qadi ta' xi waħda mill-funzjonijiet tagħhom tkun hatja ta' reat u tista', meta tinsab hatja, tehel priġunerija għal żmien ta' mhux inqas minn sitt xhur iżda mhux iżjed minn sena jew multa ta' mhux inqas minn elf u mija u erbgha u sittin euro u disgha u sittin ċenteżmu (1,164.69) iżda mhux iżjed minn elfejn u tliet mija u disgha u għoxrin euro u sebgha u tletin ċenteżmu (2,329.37), jew dik il-multa u priġunerija flimkien.

Adozzjoni
minn persuni
jew
organizzazzjonijiet.

26. (1) Persuna jew organizzazzjoni li tagħmel arrangamenti għall-adozzjoni ta' xi tifel jew tifla minghajr l-awtorizzazzjoni ta' l-awtorità ċentrali tkun hatja ta' reat u tista', meta tinsab hatja, tehel priġunerija għal żmien ta' mhux inqas minn sitt xhur iżda mhux iżjed minn sena jew multa ta' mhux inqas minn elf u mija u erbgha u sittin euro u disgha u sittin ċenteżmu (1,164.69) iżda mhux iżjed minn elfejn u tliet mija u disgha u għoxrin euro u sebgha u tletin ċenteżmu (2,329.37), jew dik il-multa u priġunerija flimkien.

(2) Kull kundanna taht is-subartikolu (1) għandha tkun notifikata mir-Registatur tal-Qrati lill-qorti li tkun tat id-digriet ta' l-adozzjoni, u dik il-qorti għandha tiehu dawk il-miżuri li hi tqis espedjenti fl-aħjar interessi tat-tifel jew tat-tifla, inkluża r-revoka tad-digriet ta' adozzjoni jekk iċ-ċirkustanzi jitolbu hekk.

Reati oħrajn.

27. Minghajr preġudizzju għall-artikolu 25 jew għal xi piena speċifika mogħtija taht xi liġi oħra, kull persuna li taġixxi bi ksur ta' xi dispożizzjoni ta' dan l-Att jew ta' regolamenti magħmulin tahtu, tkun hatja ta' reat u tista', meta tinsab hatja, tehel multa ta' mhux inqas minn mitejn u tnejn u tletin euro u tlieta u disghin ċenteżmu (232.93) iżda mhux iżjed minn elfejn u tliet mija u disgha u għoxrin euro u sebgha u tletin ċenteżmu (2,329.37).

PARTI VIII

REGOLAMENTI

28. Il-Ministru jista' jagħmel regolamenti:

Regolamenti.

(a) għall-akkreditament, monitoraġġ u kontroll ta' aġenziji akkreditati, inkluża kull tariffa applikabbli, u għar-rifjut jew revoka ta' dan l-akkreditament;

(b) biex jistabbilixxi l-proċedura li għandha tkun segwita mill-Bord għall-Adozzjoni u, jew mill-awtorità ċentrali;

(ċ) biex jistabbilixxi r-regoli dwar is-setgħat tal-Bord ta' Appell u l-proċeduri li għandu jsegwi;

(d) għal kull materja incidentali u supplementari li l-Ministru jqis spedjenti li jipprovdi dwarha għall-implimentazzjoni effettiva tad-dispożizzjonijiet ta' dan l-Att;

(e) biex jistabbilixxi penali għall-ksur tad-dispożizzjonijiet ta' dan l-Att.

PARTI IX

EMENDI GĦALL-KODIĊI ĊIVILI, KAP. 16

29. L-artikolu 113 tal-Kodiċi Ċivili, hawn iżjed 'il quddiem imsejjah "il-liġi prinċipali", għandu jiġi emendat kif ġej:

Emenda
ta' l-artikolu 113
tal-liġi prinċipali.

(a) is-subartikolu (1) tiegħu għandu jithassar u jkun sostitwit b'dan li ġej:

“(1) Għall-finijiet ta' dan it-Titolu u ta' kull regolament magħmul tahtu, persuna għandha titqies li tkun għamlet jew hadet sehem f'arranġamenti għall-adozzjoni ta' persuna jekk tidhol għal jew tagħmel xi ftehim jew arranġament, jew tiffaċilita l-adozzjoni ta' persuna minn xi persuna ohra.”;

(b) fil-paragrafu (b) tas-subartikolu (2) tiegħu minflok il-kliem “magħmula skond dan il-Kodiċi” għandhom jidhlu l-kliem “magħmula skond dan il-Kodiċi u skond id-dispożizzjonijiet ta' l-Att dwar l-Amministrazzjoni ta' l-Adozzjoni” u minflok il-kliem “tinkludi adozzjoni barranija” għandhom jidhlu l-kliem “tinkludi adozzjoni bejn pajjiż u iehor” u minnufih wara għandu jiddahhal il-paragrafu gdid li ġej:

“(ċ) “Bord għall-Adozzjoni” għandu jkollha l-istess tifsira assenjata lilha fl-artikolu 2 ta’ l-Att dwar l-Amministrazzjoni ta’ l-Adozzjoni;”;

(ċ) paragrafu (ċ) għandu jiġi enumerat mill-ġdid bhala l-paragrafu (d) u minnufih wara għandhom jiddahhlu l-paragrafi godda li ġejjin:

“(e) “medjatur tal-familja” tfisser medjatur kif speċifikat fir-Regolamenti dwar il-Qorti Ċivili (Sezzjoni tal-Familja), il-Qorti Ċivili (Sezzjoni ta’ Ġurisdizzjoni Ġenerali) u l-Qorti tal-Maġistrati (Għawdex) (Ġurisdizzjoni Superjuri) (Sezzjoni tal-Familja);

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(f) “*foster carer*” għandu jkollha t-tifsira assenjata lilha fl-artikolu 2 ta’ l-Att dwar il-*Foster Care*;

(g) “adozzjoni bejn pajjiż u iehor” għandu jkollha t-tifsira assenjata lilha fl-artikolu 2 ta’ l-Att dwar l-Amministrazzjoni ta’ l-Adozzjoni;

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(h) “haddiem soċjali” għandu jkollha t-tifsira assenjata lilha fl-artikolu 2 ta’ l-Att dwar il-Professjoni tax-Xogħol Soċjali.”.

(d) il-paragrafu (d) għandu jithassar;

(e) immedjatement wara s-subartikolu (2) għandu jiddahhal is-subartikolu ġdid li ġej:

“(3) Għall-finijiet ta’ dan it-Titolu, sakemm ir-rabta tal-kliem ma tehtiegħ xort’ohra:

(a) “aġenzija akkreditata” għandu jkollha t-tifsira assenjata lilha fl-artikolu 2 ta’ l-Att dwar l-Amministrazzjoni ta’ l-Adozzjoni;

(b) “Bord ta’ Appell” għandu jkollha t-tifsira assenjata lilha fl-artikolu 2 ta’ l-Att dwar l-Amministrazzjoni ta’ l-Adozzjoni;

(ċ) “awtorità ċentrali” għandu jkollha t-tifsira assenjata lilha fl-artikolu 2 ta’ l-Att dwar l-Amministrazzjoni ta’ l-Adozzjoni;

(d) “tifel jew tifla” tfisser persuna taht it-tmintax-il sena;

(e) “pajjiż ta’ oriġini” fir-rigward ta’ adozzjoni bejn pajjiż u iehor ghandha tfisser il-pajjiż minn fejn it-tifel jew it-tifla jkunu ġew adottati;

(f) “Konvenzjoni ta’ l-Aja” tfisser il-Konvenzjoni dwar il-Protezzjoni ta’ l-Ulied u Kooperazzjoni f’Adozzjonijiet bejn Pajjiż u Iehor;

(g) “adozzjoni miftuha” ghandu jkollha t-tifsira assenjata lilha fl-artikolu 2 ta’ l-Att dwar l-Amministrazzjoni ta’ l-Adozzjoni.”.

30. L-artikolu 114 tal-liġi prinċipali ghandu jiġi emendat kif ġej:

Emenda ta’ l-artikolu 114 tal-liġi prinċipali.

(a) fis-subartikolu (1) tiegħu, minflok il-kliem “mogħti fuq rikors ta’ persuna tas-sess il-wiehed jew l-iehor.” ghandhom jidhlu l-kliem “wara rakkomandazzjoni magħmula mill-Bord għall-Adozzjoni, mogħtija fuq rikors ta’ persuna tas-sess il-wiehed jew l-iehor.”;

(b) fis-subartikolu (2) tiegħu, minflok il-kliem “ta’ mhux inqas minn hames snin” ghandhom jidhlu l-kliem “ta’ mhux inqas minn tliet snin” u fil-proviso tiegħu, minflok il-kliem “jkunu ilhom miżżewġin għal anqas minn hames snin.” ghandhom jidhlu l-kliem “jkunu ilhom miżżewġin għal anqas minn tliet snin u l-qorti ma tkunx marbuta li titlob jew tikkunsidra r-rakkomandazzjoni tal-Bord għall-Adozzjoni.”;

(ċ) minnufih wara s-subartikolu (4) għandu jiddaħhal is-subartikolu ġdid li ġej:

“(5) Fil-każ ta’ persuna li għalqet it-tmintax-il sena u li se tkun adottata skond l-artikolu 115(2)(a), ebda rakkomandazzjoni ma tkun meħtieġa mill-Bord għall-Adozzjoni u m’għandu jinhatar ebda haddiem soċjali u, jew avukat tat-tfal.”.

31. L-artikolu 115 tal-liġi prinċipali ghandu jiġi emendat kif ġej:

Emenda ta’ l-artikolu 115 tal-liġi prinċipali.

(a) il-paragrafu (a) tas-subartikolu (1) tiegħu ghandu jithassar u jkun sostitwit bil-paragrafu ġdid li ġej:

“(a) ikun lahaq l-età ta’ tmienja u ghoxrin sena u jkun mill-inqas wiehed u ghoxrin sena akbar iżda mhux aktar minn hamsa u erbgħin sena akbar mill-persuna li tkun se tiġi adottata:

Iżda jekk l-applikant jew applikanti jitolbu lill-qorti għal awtorizzazzjoni biex jadottaw ahwa, ir-restrizzjoni msemmija f’ dan il-paragrafu għandha titqies li tkun sodisfatta jekk ikun hemm id-differenza rikjesta fl-età mill-inqas fir-rigward ta’ wiehed mit-tfal, u jekk l-adozzjoni ser tkun fl-aħjar interessi tat-tfal kollha involuti; jew”;

(b) il-paragrafu (a) tas-subartikolu (2) tiegħu għandu jithassar u jkun sostitwit b’dan li ġej:

“(a) dwar persuna li tkun lahqet l-età ta’ tmintax-il sena hliet:

(i) favur applikant uniku li jkun l-omm jew il-missier tal-persuna li ser tiġi adottata; jew

(ii) favur il-ġenitur u l-konjuġi, jekk il-persuna li ser tkun adottata kienet għexet ma’ dak il-ġenitur u l-konjuġi għal mill-inqas hames snin konsekuttivi u tagħti l-kunsens għall-adozzjoni; jew

(iii) favur *foster carer* li jkun ha hsieb lill-persuna li ser tiġi adottata għal mill-inqas il-hames snin ta’ qabel, jekk il-persuna li ser tiġi adottata tagħti l-kunsens għall-adozzjoni;”;

(c) il-paragrafu (b) tas-subartikolu (2) tiegħu għandu jithassar u l-paragrafi (c) u (d) għandhom jiġu enumerati mill-ġdid bhala l-paragrafi (b) u (c) rispettivament;

(d) fil-paragrafu (a) tas-subartikolu (3) tiegħu, minflok il-kliem “u li jkun haj;” għandhom jidhlu l-kliem “u li jkun haj, anke jekk il-ġenitur ma jkunx għadu għalaq it-tmintax-il sena;”;

(e) fil-paragrafu (b) tas-subartikolu (3) tiegħu, minflok il-kliem “jekk din tkun hajja;” għandhom jidhlu l-kliem “jekk din tkun hajja, anke jekk ma tkunx għalqet it-tmintax-il sena;”;

(f) il-paragrafu (d) tas-subartikolu (3) għandu jithassar u jkun sostitwit b’dan li ġej:

“(d) meta l-persuna li tkun ser tiġi adottata tkun għalqet hdax-il sena, hliet bil-kunsens tagħha u wara li tkun għet assistita minn avukat tat-tfal.”;

(g) is-subartikolu (4) tiegħu għandu jiġi emendat kif ġej:

(i) minflok il-paragrafu (a) tiegħu għandu jidhol dan il-paragrafu ġdid li ġej:

“(a) tisma’ lil kull persuna li tkun għet fdata bil-kura u l-kustodja tat-tifel jew tat-tifla li jkunu ser jiġu adottati.”;

(ii) il-paragrafi (a) u (b) għandhom jiġu enumerati mill-ġdid bħala l-paragrafi (b) u (ċ) rispettivament;

(iii) fil-paragrafu (b) tiegħu, kif enumerat mill-ġdid, minflok il-kliem “li tkun ser tiġi adottata jew jekk il-qorti tkun sodisfatta li jkun ikkontribwixxa għall-manteniment tagħha jew ikun wera” għandhom jidhlu l-kliem “li tkun ser tiġi adottata u jekk il-qorti tkun sodisfatta li jkun ikkontribwixxa għall-manteniment tagħha u jkun wera”;

(iv) fil-paragrafu (ċ) tiegħu, kif enumerat mill-ġdid, minflok il-kliem “skond il-każ.” għandhom jidhlu l-kliem “skond il-każ;” u minnufih wara għandu jiżdied dan li ġej:

“(d) tisma’ lill-avukat tat-tfal u, jew lill-haddiem soċjali mahturin mill-qorti biex iharsu l-ahjar interessi tat-tifel jew tat-tifla u biex jiżguraw li jkunu rappreżentati.”.

32. L-artikolu 116 tal-liġi prinċipali għandu jiġi emendat kif ġej:

Emenda
ta’ l-artikolu
116 tal-liġi
prinċipali.

(a) fis-subartikolu (1) tiegħu, minflok il-kliem “tkun għalqet l-età ta’ sitt ġimgħat.” għandhom jidhlu l-kliem “tkun għalqet l-età ta’ sitt ġimgħat:”, u minnufih wara għandu jiżdied dan il-proviso ġdid li ġej:

“Izda qabel ma jingħata d-digriet ta’ adozzjoni, l-applikant jew applikanti jistgħu jitolbu lill-qorti biex tagħtihom il-kura u l-kustodja temporanja tat-tifel jew tifla li jkunu ser jiġu adottati.” ;

(b) is-subartikolu (2) tiegħu għandu jithassar u jkun sostitwit b’dan li ġej:

“(2) Tul il-perjodu ta’ tliet xhur speċifikat fis-subartikolu (1), l-aġenzija akkreditata responsabbli għat-tqeghid għal adożzjoni għandha tiehu kull miżura li tqis spedjenti biex tiżgura li t-tqeghid ma’ l-applikant jew applikanti jkun fl-aħjar interessi tat-tifel jew tat-tifla u, jekk it-tqeghid ma jitmexx li hu fl-aħjar interessi tat-tifel jew tat-tifla, l-aġenzija akkreditata għandha titlob lill-Bord għall-Adożzjoni sabiex jitlob l-awtorizzazzjoni tal-qorti għat-tnehhija tat-tifel mit-tqeghid.

Emenda
ta’ l-artikolu
117 tal-liġi
prinċipali.

33. (1) Il-paragrafu (a) tas-subartikolu (1) ta’ l-artikolu 117 tal-liġi prinċipali għandu jithassar u jkun sostitwit b’dan li ġej:

“(a) fil-każ ta’ helsien minn xi kunsens bħal dan, illi:

(i) il-persuna li tkun mehtieġa tagħti l-kunsens tagħha ma tkunx kapaċi tagħti dak il-kunsens; jew

(ii) il-ġenitur ma jkunx jista’ jinstab jew ikun abbanduna, ittraskura jew persistement ittratta hażin, ittraskura jew irrifjuta milli jikkontribwixxi għall-manteniment tal-persuna li tkun ser tiġi adottata, jew kien talab jew ipprova jikseb xi hlas jew kumpens iehor għal jew minhabba l-ghoti tal-kunsens mehtieġ dwar l-adożzjoni; jew

(iii) wiehed mill-ġenituri jkun qed jirrifjuta li jagħti l-kunsens tiegħu minghajr raġuni valida; jew

(iv) wiehed mill-ġenituri tista’ titnehhielhom is-setgħa ta’ ġenitur minn fuq it-tifel jew it-tifla li jkunu ser jiġu adottati skond l-artikolu 154 (1); jew

(v) it-tifel jew it-tifla li jkunu ser jiġu adottati m’humex fil-kura u l-kustodja ta’ xi wiehed mill-ġenituri u l-Bord għall-Adożzjoni jiddikjara li m’hemm ebda tama li t-tifel jew it-tifla jistgħu jingħaqdu mill-ġdid ma’ ommhom u, jew ma’ missierhom; jew

(vi) il-ġenitur jew ġenituri, minghajr raġuni valida, ma kellhomx kuntatt mat-tifel jew mat-tifla li jkunu ser jiġu adottati għal mill-inqas tmintax-il xahar; jew

(vii) ikun fl-aħjar interessi tat-tifel jew tat-tifla li jkunu ser jiġu adottati li dan il-kunsens ma jintalabx.”.

(2) Immedjatament wara s-subartiklu (3) ta’ l-artiklu 117 tal-liġi prinċipali għandu jidhol dan is-subartiklu (4) ġdid li ġej:

“(4) Il-Qorti tista’ tiddispensa minn kull kunsens jew smiegh mehtieġ għall-adozzjoni wara talba minn avukat tat-tfal li ssir f’isem tifel jew tifla li għandhom hdax-il sena ’l fuq u li jixtiequ jkunu adottati.”.

34. L-artikolu 119 tal-liġi prinċipali għandu jiġi emendat kif ġej:

Emenda
ta’ l-artikolu
119 tal-liġi
prinċipali.

(a) fil-paragrafu (c) tas-subartikolu (1) tiegħu, minflok il-kliem “li l-qorti tista’ tapprova.” għandhom jidhlu l-kliem “li l-qorti tista’ tapprova;” u minnufih wara għandu jidhol dan li ġej:

“(d) li tkun ingħatat konsiderazzjoni għar-rakkomandazzjonijiet tal-Bord għall-Adozzjoni.”;

(b) minnufih wara s-subartikolu (3) għandu jiddaħhal is-subartikolu ġdid li ġej:

“(4) Fil-każ ta’ tifel jew tifla li jkunu għalqu l-età ta’ hdax-il sena u jekk ikun fl-aħjar interess tagħhom, il-qorti tista’, meta tagħti d-digriet ta’ adozzjoni, tawtorizza ftehim ta’ adozzjoni miftuħa li jkun ġie approvat mill-Bord għall-Adozzjoni, li bih il-ġenituri u, jew il-familja naturali jibqgħu jżommu kuntatt mat-tifel jew mat-tifla:

Izda l-qorti għandha tiżgura li l-ftehim ta’ adozzjoni miftuħa jkun sar wara li t-tifel jew it-tifla u l-partijiet ikunu taw il-kunsens tagħhom għalih:

Izda wkoll kull emenda għall-ftehim ta’ adozzjoni miftuħa ma jkollhiex effett qabel ma tkun awtorizzata mill-Qorti.

35. L-artikolu 120 tal-liġi prinċipali għandu jiġi emendat kif ġej:

Emenda
ta’ l-artikolu
120 tal-liġi
prinċipali.

(a) id-disposizzjoni preżenti ta’ l-artikolu shih għandha tiġi enumerata mill-ġdid bhala subartikolu (1) ta’ l-artikolu; u

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

“(2) Meta jsir rikors għal digriet ta’ adozzjoni ta’ persuna li ser tiġi adottata, il-qorti tista’ minn jeddha jew wara rikors ta’ persuna li jkollha interess, inkluż it-tifel jew it-tifla li jkunu ser jiġu adottati, tahtar avukat tat-tfal u, jew haddiem soċjali biex tiżgura li t-tifel jew it-tifla jiġu rappreżentati b’mod adegwat u li l-aħjar interessi tagħhom ikunu mharsa.”.

Emenda
ta' l-artikolu
121 tal-liġi
prinċipali.

36. Fil-paragrafu (ċ) ta' l-artikolu 121 tal-liġi prinċipali minflok il-kliem “jagħti kont ta' hekk lill-adottant.” għandhom jidhlu l-kliem “jagħti kont ta' hekk lill-adottant;” u minnufih wara għandu jiddaħhal dan li ġej:

“(d) fil-każ ta' adożzjoni miftuħa, l-ġenituri jkollhom id-dritt li jzommu kuntatt mal-persuna li fir-rigward tagħha jkun inhareġ id-digriet ta' adożzjoni;

Kap. 285.

(e) il-qorti għandha tinforma lill-awtoritajiet kompetenti li d-digriet ta' adożzjoni ġieb fi tmiemha l-ordni għal harsien jekk digriet ta' adożzjoni jkun sar fir-rigward ta' tifel jew tifla li qegħdin taht ordni għal harsien mahruġ bis-saħħa ta' l-Att dwar Tfal u Żgħażaġh (Ordnijiet għall-Harsien).”.

Emenda
ta' l-artikolu
122 tal-liġi
prinċipali.

37. L-artikolu 122 tal-liġi prinċipali għandu jkun emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, minflok il-kliem “dwar persuna li tkun imnissla” sal-kliem “ta' dik il-persuna jkun intrabat” għandhom jidhlu l-kliem “, kull sentenza, digriet jew ordni għall-hlas tal-manteniment fis-seħh dwar dik il-persuna, u kull ftehim li bih il-ġenitur ta' dik il-persuna jkun intrabat”;

(b) fis-subartikolu (2) tiegħu, il-kliem “dwar dik il-persuna kemm-il darba d-digriet ta' adożzjoni ma jkunx ġie mogħti fuq rikors ta' l-omm ta' dik il-persuna biss” għandu jithassar.

Emenda
ta' l-artikolu
124 tal-liġi
prinċipali.

38. L-artikolu 124 tal-liġi prinċipali għandu jkun emendat kif ġej:

(a) minnufih wara l-kliem “għandha tiegħu l-kunjom ta' l-adottant;” għandu jidhol dan il-proviso ġdid li ġej:

“Izda meta d-digriet ta' adożzjoni jkun sar favur tnejn miżżewġin, il-persuna li dwarha jinghata d-digriet ta' adożzjoni għandha tiegħu l-kunjom tal-missier adottiv, li miegħu jista' jiżdied il-kunjom ta' l-omm adottiva;” ; u

(b) fil-proviso tiegħu, minflok il-kelma “Izda” għandu jkun sostitwit il-kliem “Izda wkoll” u minflok il-kliem “ma tkunx għalqet l-erba' snin” għandu jkun sostitwit il-kliem “ma tkunx għalqet it-tliet snin”.

Żjieda
ta' artikolu ġdid
127A mal-liġi
prinċipali.

39. Minnufih wara l-artikolu 127 tal-liġi prinċipali għandu jidhol l-artikolu ġdid li ġej:

“Dritt ghal informazzjoni.

127A. (1) Persuna li tkun adottat jew persuna adottata li tkun għalqet it-tmintax-il sena jistgħu jagħmlu rikors fil-qorti sabiex jitolbu kopja tad-digriet ta’ adozzjoni rilevanti u, jew dettalji tal-familja naturali tal-persuna adottata u, jew tat-tqegħid ta’ adozzjoni.

(2) Persuna adottata li tkun għalqet it-tmintax-il sena jkollha d-dritt li tagħmel rikors lill-qorti għal awtorizzazzjoni biex tikseb kopja taċ-ċertifikat tat-twelid oriġinali tagħha mir-Registru Pubbliku.

(3) Qabel ma tagħti ordni dwar dak li hemm fis-subartikoli (1) u (2), il-qorti għandha tisma’ lir-rikorrent u lil kull persuna ohra li jidhrilha xierqa fiċ-ċirkustanzi.”.

40. Fis-subartikolu (2) ta’ l-artikolu 128 tal-liġi prinċipali, minflok il-kliem “meta jinsab hati mill-Qorti tal-Maġistrati, priġunerija għal perijodu ta’ mhux iżjed minn sitt xhur jew multa ta’ mhux iżjed minn mitt lira jew it-tnejn flimkien,” għandhom jidhlu l-kliem “meta jinsab hati, priġunerija għal perijodu ta’ mhux inqas minn sitt xhur iżda mhux iżjed minn sena jew għal multa ta’ mhux inqas minn elf u mija u erbgha u sittin euro u disgha u sittin ċenteżmu (1,164.69) iżda mhux iżjed minn elfejn u tletin mija u disgha u ghoxrin euro u sebgha u tletin ċenteżmu (2,329.37) jew dik il-multu u priġunerija flimkien,” u minflok il-kliem “sakemm ikunu jistgħu jsiru arrangamenti ohra għalih.” għandhom jidhlu l-kliem “sakemm ikunu jistgħu jsiru arrangamenti ohra għalih. Il-persuna misjuba hatja ta’ reat skond dan l-artikolu tkun ukoll responsabbli li trodd lura kull ammont imhallas lilha.”.

Emenda ta’ l-artikolu 128 tal-liġi prinċipali.

41. Minnufih wara l-artikolu 128 għandhom jidhlu l-artikoli ġodda li ġejjin:

Żjjeda ta’ artikoli ġodda 128A sa 128 F mal-liġi prinċipali.

“Projbizzjoni ta’ pubblikazzjoni.

128A. (1) Ebda persuna m’għandha, minghajr l-approvazzjoni bil-miktub ta’ aġenzija akkreditata, tippubblika jew tara li jkun ippubblikat f’xi gazzetta, perjodiku jew xi materja stampata ohra jew permezz ta’ xandir, televiżjoni, esibizzjoni pubblika jew b’xi mezz jew medja iehor, xi riklam, aħbar jew materja ohra indikata, kemm f’dak li għandu jew m’għandux x’jaqsam ma’ xi tifel jew tifla partikolari, sew imwieled sew mhux, li:

- (a) tifel jew tifla jistgħu jiġu adottati;
- (b) persuna tkun bi hsiebha tadotta tifel jew tifla; jew

(ċ) persuna tkun bi hsiebha jew lesta li taghmel arrangamenti bil-hsieb li ssir adozzjoni ta' tifel jew tifla.

(2) Jekk ma tkunx awtorizzata mill-qorti, ebda persuna m'ghandha tippubblika jew tara li jkun ippubblikat f'xi gazzetta, perjodiku jew xi materja stampata ohra jew permezz ta' xandir jew televiżjoni, esibizzjoni pubblika jew b'xi mezz jew medja iehor, xi haġa relatata ma' applikazzjoni għall-adozzjoni ta' tifel jew ta' tifla jew ma' proċeduri ta' adozzjoni inklużi:

(a) isem l-applikant jew l-applikanti;

(b) isem il-persuna li tkun jew ser tiġi adottata;

(ċ) isem il-missier, l-omm, il-kuratur jew it-tutor tat-tifel jew tat-tifla li jkunu jew ser jiġu adottati; jew

(d) kull haġa li x'aktarx tagħmilha possibbli li xi persuna msemmija fil-paragrafi (a), (b) u (ċ) ta' dan is-subartikolu tiġi identifikata.

(3) Kull persuna li taġixxi bi ksur tad-dispożizzjonijiet ta' dan l-artikolu tkun hatja ta' reat u tista', meta tinsab hatja, tehel prigunerija għal żmien ta' mhux inqas minn tliet xhur iżda mhux iżjed minn sitt xhur jew multa ta' mhux inqas minn elf u mija u erbgħa u sittin euro u disgħa u sittin ċenteżmu (1,164.69) iżda mhux iżjed minn elfejn u tliet mija u disgħa u ghoxrin euro u sebgha u tletin ċenteżmu (2,329.37) jew dik il-multa u prigunerija flimkien.

Dikjarazzjonijiet foloz.

128B. (1) Minkejja d-dispożizzjonijiet ta' kull liġi ohra, kull persuna li xjentement tagħmel dikjarazzjoni falza, kemm bil-fomm kemm bil-kitba, għall-finijiet ta' jew f'konnessjoni ma' adozzjoni, tkun hatja ta' reat u tista', meta tinsab hatja, tehel prigunerija għal żmien ta' mhux inqas minn tliet xhur iżda mhux iżjed minn sitt xhur jew multa ta' mhux inqas minn hames mija u tnejn u tmenin euro u erbgħa u tletin ċenteżmu (582.34) iżda mhux iżjed minn elf u mija u erbgħa u sittin euro u disgħa u sittin ċenteżmu (1,164.69) jew dik il-multa u prigunerija flimkien.

(2) Persuna li xjentement tagħti informazzjoni falza fl-applikazzjoni għad-dhul ta' dettalji ta' persuna fir-Registru ta' Riunjoni u Informazzjoni tkun hatja ta' reat u tista', meta tinsab hatja, tehel multa ta' mhux inqas minn hames mija u tnejn u tmenin euro u erbgħa u tletin ċenteżmu (582.34).

Impersonifikazzjoni jew rappreżentazzjoni falza.

128C. Minkejja d-dispożizzjonijiet ta' kull liġi oħra, persuna li ttipersonifika jew tirrappreżenta b'mod falz lilha nnifisha bhala tifel jew tifla adottata, ġenitur, adottant, qarib, persuna li l-kunsens tagħha għall-adozzjoni ta' tifel jew tifla hu mitlub mil-liġi, jew persuna oħra li għandha interess fit-tifel jew fit-tifla adottata, tkun hatja ta' reat u tista', meta tinsab hatja, tehel priġunerija għal żmien ta' mhux inqas minn tliet xhur iżda mhux iżjed minn sitt xhur jew multa ta' mhux inqas minn hames mija u tnejn u tmenin euro u erbgħa u tletin ċenteżmu (582.34) iżda mhux iżjed minn elf u mija u erbgħa u sittin euro u disgħa u sittin ċenteżmu (1,164.69) jew dik il-multa u priġunerija flimkien.

Dokumenti falsifikati.

128D. Jekk fi proċeduri ta' adoxxjoni persuna tippreżenta dokument li jagħti indikazzjoni ta' kunsens għall-adoxxjoni jew għar-revoka tagħha, meta l-firma tkun falsifikata jew miksuba bi frodi jew ġegħil, dik il-persuna tkun hatja ta' reat u tista', meta tinsab hatja, tehel priġunerija għal żmien ta' mhux inqas minn sitt xhur iżda mhux iżjed minn sena jew multa ta' mhux inqas minn elf u mija u erbgħa u sittin euro u disgħa u sittin ċenteżmu (1,164.69) iżda mhux iżjed minn elfejn u tliet mija u disgħa u għoxrin euro u sebgħa u tletin ċenteżmu (2,329.37) jew dik il-multa u priġunerija flimkien.

Użu ta' forza.

128E. Persuna li tuża jew thedded li tuża xi forza jew trażżin jew tkorri jew thedded li tkorri, jew tikkaguna jew thedded li tikkaguna xi haġa għad-detriment ta' ġenitur ta' tifel jew tifla bl-intenzjoni li:

(a) ġġieghel ġenitur joffri jew ma joffrix tifel jew tifla għall-adoxxjoni;

(b) tinfluwenza ġenitur fuq jekk jagħtix jew le kunsens għall-adoxxjoni,

tkun hatja ta' reat u tista', meta tinsab hatja, tehel priġunerija għal żmien ta' mhux inqas minn tliet xhur iżda mhux iżjed minn sitt xhur jew multa ta' mhux inqas minn elf u mija u erbgħa u sittin euro u disgħa u sittin ċenteżmu (1,164.69) iżda mhux iżjed minn elfejn u tliet mija u disgħa u għoxrin euro u sebgħa u tletin ċenteżmu (2,329.37) jew dik il-multa u priġunerija flimkien.

Tnehhija ta' tifel jew tifla.

128F. Ġenitur li jagħti l-kunsens għall-adoxxjoni tat-tifel jew tat-tifla tiegħu u jipproċedi biex inehhi t-tifel jew it-

tifla mill-kura u kustodja tal-ġenitur adottiv prospettiv mingħajr l-awtorità tal-qorti, ikun hati ta' reat u jista', meta jinsab hati, jehel prigunerija għal żmien ta' mhux inqas minn xahrejn iżda mhux iżjed minn erba' xhur jew multa ta' mhux inqas minn hames mija u tnejn u tmenin euro u erbgħa u tletin ċenteżmu (582.34) iżda mhux iżjed minn elf u mija u erbgħa u sittin euro u disgħa u sittin ċenteżmu (1,164.69) jew dik il-multa u prigunerija flimkien.”.

Emenda
ta' l-artikolu
129 tal-liġi
prinċipali.

42. L-artikolu 129 tal-liġi prinċipali għandu jiġi emendat kif ġej:

(a) il-paragrafu (d) tiegħu għandu jithassar;

(b) il-paragrafi (e) u (f) għandhom jiġu enumerati mill-ġdid bħala (d) u (e) ; u

(ċ) fil-paragrafu (e) kif enumerat mill-ġdid tiegħu, il-kliem “, liema pieni ma jkunux iżjed minn prigunerija għal perijodu ta' sitt xhur” għandhom jithassru.

Emenda
ta' l-artikolu
130 tal-liġi
prinċipali.

43. L-artikolu 130 tal-liġi prinċipali għandu jiġi emendat kif ġej:

(a) fin-nota marginali tiegħu, minflok il-kelma “barranin” għandhom jidhlu l-kliem “bejn pajjiż u iehor”;

(b) fis-subartikolu (1) tiegħu, minflok il-kliem “meta adozzjoni barranija għandha titqies” għandhom jidhlu l-kliem “meta adozzjoni bejn pajjiż u iehor għandha titqies”;

(ċ) fis-subartikolu (2) tiegħu, minflok il-kliem “li bih tkun saret l-adozzjoni barranija” għandhom jidhlu l-kliem “li bih tkun saret l-adozzjoni bejn pajjiż u iehor”;

(d) fis-subartikolu (3) tiegħu, minflok il-kliem “għal adozzjoni barranija” għandhom jidhlu l-kliem “għal adozzjoni bejn pajjiż u iehor”;

(e) fil-paragrafu (a) tas-subartikolu (3) tiegħu, minflok il-kliem “din l-adozzjoni barranija” għandhom jidhlu l-kliem “din l-adozzjoni bejn pajjiż u iehor”;

(f) fil-paragrafu (b) tas-subartikolu (3) tiegħu, minflok il-kliem “dwar l-adozzjoni barranija” għandhom jidhlu l-kliem “dwar l-adozzjoni bejn pajjiż u iehor”;

(g) fil-paragrafu (d) tas-subartikolu (3) tiegħu, minflok il-kliem “li adozzjoni barranija tispicċa” għandhom jidhlu l-kliem “li adozzjoni bejn pajjiż u iehor tispicċa”.

44. Fl-artikolu 130A tal-liġi prinċipali, minflok il-kliem “meta adozzjoni barranija tkun regolata” għandhom jidhlu l-kliem “meta adozzjoni bejn pajjiż u iehor tkun regolata” u minflok il-kliem “għar-rigward ta’ adozzjoni barranija” għandhom jidhlu l-kliem “għar-rigward ta’ adozzjoni bejn pajjiż u iehor”.

Emenda
ta’ l-artikolu
130A tal-liġi
prinċipali.

PARTI X

45. Id-disposizzjonijiet ta’ dan l-Att huma applikabbli għal proċeduri ta’ adozzjoni li jinbdew wara d-dhul fis-seħh ta’ dan l-Att.

Disposizzjoni
transitorja.

Mghoddi mill-Kamra tad-Deputati fis-Seduta Nru. 613 tad-29 ta’ Jannar, 2008.

ANTON TABONE
Speaker

RICHARD J. CAUCHI
Skrivan tal-Kamra tad-Deputati

I assent.

(L.S.)

EDWARD FENECH ADAMI
President

1st February, 2008

ACT No. IV of 2008

AN ACT to make special provision for the administration of adoption proceedings and to make consequential amendments to the Civil Code

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same as follows:

PART I

INTRODUCTION AND DEFINITIONS

Short title
and
commencement.

1. (1) The short title of this Act is the Adoption Administration Act, 2008.

(2) This Act shall come into force on the first day of May, 2008.

Definitions.

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

“accredited agency” means an organisation which is accredited by the central authority, in accordance with the Hague Convention, to carry out local and, or intercountry adoption;

“adoption” means a local or an intercountry adoption made in accordance with the provisions of the Civil Code, the provisions of this Act and any regulations made thereunder;

“Adoption Board” means the board established by virtue of article 3;

“Board of Appeal” means the board established by virtue of article 16 or such other administrative board or tribunal which the Minister may from time to time designate to carry out all or any of the functions as specified in this Act;

“central authority” means the Authority established by virtue of article 7;

“child” means a person under eighteen years of age;

“country of origin” in respect of intercountry adoption means the country from which a child is adopted;

“court” means the Civil Court (Voluntary Jurisdiction Section);

“Hague Convention” means the Convention on Protection of Children and Co-Operation in Respect of Intercountry Adoption;

“intercountry adoption” means an adoption effected in accordance with the provisions of the Civil Code relating to adoption, the provisions of this Act and the law of a foreign country:

- (i) in accordance with the Hague Convention or any other International Treaty to which Malta is a party; or
- (ii) in Malta, in respect of a child not habitually resident in Malta, or in favour of any person not habitually resident in Malta;

“open adoption” means an adoption made in accordance with article 22 of this Act and article 119 of the Civil Code, whereby a child maintains contact with his parents and, or natural family;

“the Minister” means the Minister responsible for social policy;

“social worker” shall have the meaning assigned to it by article 2 of the Social Work Profession Act.

PART II

ADOPTION BOARD

Establishment
of the Adoption
Board.
Cap. 468.

3. (1) There shall be a Board, known as the Adoption Board, which shall be composed of a Chairperson and a minimum of another four members. This Board shall be composed of the following:

(a) professionals representing different disciplines; and

(b) a person who, in the opinion of the Minister, has adequate knowledge and is proficient in the area of adoption.

(2) The Minister shall endeavour to have a person over the age of eighteen years who is adopted and a person who is or was an adoptive parent as part of the Adoption Board, and such persons may be appointed at any time during the term of office of the Adoption Board.

(3) A person shall not be qualified to be appointed or continue to hold office as a member of the Adoption Board if that person is a Judge, a Magistrate, a member of the House or of a Local Council, or a candidate for election to the House or a Local Council.

(4) The members of the Adoption Board shall be appointed by the Minister for a minimum period of two years.

(5) Any member of the Adoption Board may be removed from office by the Minister on grounds of inability to perform the functions of their office or of misbehaviour.

(6) In the event that any member of the Adoption Board vacates his office before completing his term, the member appointed in his stead shall be so appointed for the unexpired period of the original appointment.

(7) The Minister shall designate a person to act as Secretary to the Adoption Board and such person shall, as part of his duties, be responsible for the keeping of the relevant records and shall carry out such other work related to the functions of the Adoption Board as may be instructed by the Chairperson.

(8) Subject to the provisions of this Act and to any regulations made thereunder, the Adoption Board shall regulate its own procedure:

Provided that any decision of the Adoption Board shall be taken by a majority of votes; however in the case of an equality of votes, the Chairperson shall have and exercise a determining vote. The Secretary to the Board shall not vote.

(9) The Adoption Board shall meet as and when necessary, provided it meets at least once every month. In the case of a written request by the Minister or by an accredited agency, which request shall be transmitted through the Secretary of the Board, such Board shall meet by not later than forty eight hours following the request.

(10) The Adoption Board shall have the power to consult professionals or other persons having relevant knowledge and experience in the field of adoption.

(11) The members of the Adoption Board, the Secretary to such Board and any person involved in the proceedings before the Adoption Board shall be bound by confidentiality and shall not disclose to any third party any information which may come to their knowledge during the proceedings. These persons shall also not distribute to any third party any document pertaining to the Adoption Board or any copies thereof, unless requested or duly authorised to do so by any court of law.

(12) The Adoption Board shall submit to the Minister an annual report of all its activities during the preceding calendar year by not later than the fifteenth April of each year.

4. (1) The functions of the Adoption Board shall include:

Functions
of the
Adoption
Board.

(a) examining Home Study Reports drawn up by a social worker of an accredited agency;

(b) determining eligibility and suitability or otherwise of a prospective adoptive parent;

(c) ensuring that the placement will be in the best interest of the child to be adopted;

(d) making recommendations to the court and, or to the central authority regarding a prospective adoptive parent;

(e) making recommendations to accredited agencies and, or the Minister on training programmes and counselling sessions for prospective adoptive parents;

(f) making recommendations to the Minister on the parameters to be established for the organisation of counselling sessions;

(g) making recommendations to the Minister for the more effective implementation of Title III of Book First of the Civil Code, the provisions of this Act and any regulations made thereunder.

(2) The Adoption Board shall have access to all documentation deemed relevant to the adoption procedure and it shall be unlawful for any person to hinder it in the carrying out of any of its functions.

Recommendations
by the Adoption
Board.

5. (1) The Adoption Board shall send a copy of its decision, containing its recommendations, by registered mail to the prospective adoptive parent and to the accredited agency. The prospective adoptive parent shall have the right to appeal in accordance with article 6.

(2) Without prejudice to article 6, the Adoption Board shall give its final recommendations to the court regarding the eligibility and suitability or otherwise of the prospective adoptive parents.

(3) In the case of intercountry adoptions, the recommendations of the Adoption Board shall be submitted to the central authority for its written approval prior to proceeding with the intercountry adoption. After the intercountry adoption has been authorised by the foreign competent authority, a prospective adoptive parent shall file an application to the court requesting recognition of the intercountry adoption for all intents and purposes of the law. In reaching its decision the court shall take into consideration any recommendations of the Adoption Board.

Right of appeal
from decisions
of Adoption
Board.

6. (1) A prospective adoptive parent may appeal from a decision delivered by the Adoption Board, by filing an application in front of the Board of Appeal by not later than twenty days from the date of service of the decision by registered mail.

(2) Any recommendations made by the Adoption Board shall not be forwarded to the court:

(a) prior to the decision of the Board of Appeal; or

(b) prior to the lapse of the twenty days referred to in article 6 if no appeal has been filed in front of the Board of Appeal.

PART III

CENTRAL AUTHORITY

7. (1) There shall be a central authority designated by the Minister to perform and fulfil the functions, duties and responsibilities set out by Title III of Book First of the Civil Code, the Hague Convention, the provisions of this Act and any regulations issued thereunder.

Establishment of the central authority.

(2) The central authority may delegate to an accredited agency any of its functions, duties and responsibilities which are not regulatory and which do not involve the granting, refusal or revocation of accreditation. The accredited agency shall be responsible to exercise such functions, duties and, or responsibilities in accordance with the provisions of this Act.

(3) The central authority shall keep a register, to be known as “the Reunion and Information Register”, with the contact details of persons over the age of eighteen years who have been a party to adoption proceedings or who are relatives by consanguinity up to the third degree inclusively, of a person who was a party to adoption proceedings, and who request to be included in this register by filling in the form approved and provided for by the central authority. No information found in this Register shall be given to any person without the prior written consent of the person whose details are requested.

8. The central authority shall monitor all proceedings for an intercountry adoption which shall only be processed upon the approval in writing of the central authority in accordance with this Act.

Monitoring of intercountry adoption.

9. (1) The central authority shall be the authority responsible for the receipt of applications for accreditation from organisations that apply to carry out local and, or intercountry adoptions. The central authority shall have the power to grant, refuse or revoke accreditation in conformity with the Hague Convention, the provisions of this Act and any regulations made thereunder.

Receipt of applications for accreditation.

(2) The central authority shall be responsible to establish criteria for the granting, refusal or revocation of accreditation.

PART IV

ACCREDITATION

10. (1) Any organisation may apply to the central authority for accreditation in the form approved and provided for by such authority, in order to be able to carry out local and, or intercountry adoption.

Application for granting of accreditation.

(2) The central authority may at any time during the processing of an application, require an organisation to provide any documents and information deemed necessary in order to ascertain whether accreditation should be granted.

Accreditation
of an organisation.

11. The central authority may accredit an organisation if it is satisfied that the organisation:

(a) has sufficient experience and expertise in dealing with child and family matters; and

(b) has an adequate number of staff who are trained to carry out local and, or intercountry adoption; and

(c) has the administrative and legal competency to carry out the functions appertaining to adoption procedures; and

(d) complies with the accreditation criteria specified in the Hague Convention.

Accreditation
Certificate.

12. (1) Upon granting accreditation to an organisation the central authority shall issue an Accreditation Certificate which shall be valid for a period of two years from date of issue.

(2) The certificate referred to in sub-article (1) may be renewed by the central authority if the accredited agency applies for renewal by not later than two months prior to the expiration of its accreditation and renewal shall only be granted if the accredited agency is still in compliance with articles 10 and 11. The decision of the central authority on the renewal of the accreditation certificate shall be served on the accredited agency, by registered mail, within thirty days from the application for renewal.

Refusal of an
application.

13. (1) The central authority shall have the right to refuse an application for accreditation if it deems the organisation not fit to carry out adoption services. The refusal together with the reasons therefor shall be served in writing, by registered mail, to the organisation applying for accreditation within three months from the date of application.

(2) The organisation shall have the right to request a reversal of the decision of the central authority by filing an application in front of the Board of Appeal within twenty days from the date of service as specified in sub-article (1).

(3) The organisation shall have the right to re-apply to the central authority for accreditation if the reason for the refusal no longer subsists.

14. (1) The central authority shall have the right to revoke accreditation of an agency at any time, if the agency: Revocation of accreditation.

(a) files a request in writing for revocation;

(b) ceases to comply with the criteria of eligibility for accreditation;

(c) is no longer deemed suitable to provide adoption services;

(d) is in breach of the conditions for accreditation in accordance with the provisions of this Act.

(2) The central authority shall serve the agency, by registered mail, with the written revocation together with the reasons therefor and such revocation shall have effect from date of service.

(3) If the accreditation is revoked on any of the grounds mentioned in paragraphs (b), (c) or (d) of subarticle (1), the agency shall have the right to file an application in front of the Board of Appeal, requesting a reversal of the decision of the central authority, within twenty days of the service specified in subarticle (2).

(4) If an appeal is filed in accordance with sub-article (3), the agency may request the Board of Appeal to suspend the decision of the central authority until the final decision.

(5) If the accreditation of an agency is revoked, the Accreditation Certificate and all the records and documentation relating to the pre-adoption and adoption services shall become the property of the central authority. The central authority may appoint another accredited agency to have custody of such records and documentation, continue to monitor the prospective adoptive parents, and to carry out all the functions that belonged to the agency whose accreditation was revoked, according to article 22.

15. (1) During the month of January of every year the central authority shall publish in the Gazette: Publication in the Gazette.

(a) a list of accredited agencies specifying their full name, registered address and other relevant contact details;

(b) a list of agencies whose accreditation has been revoked throughout the previous calendar year; and

(c) any changes in the conditions required for accreditation or renewal.

(2) The lists in paragraphs (a) and (b) of sub-article (1) shall also be communicated by the central authority to the Permanent Bureau of the Hague Conference.

PART V

BOARD OF APPEAL

Establishment
of Board of
Appeal.

16. (1) There shall be a Board of Appeal consisting of a Chairperson and two other members. One of these shall be a person who has held a warrant to practise the profession of advocate for at least seven years.

(2) The members of the Board of Appeal shall be appointed by the Minister for a period of three years, and may be removed from office by the Minister on grounds of proved inability to perform the functions of their office or of proved misbehaviour.

Cap. 12.

(3) A member of the Board of Appeal may be challenged or may abstain for any of the reasons for which a judge may be challenged or may abstain in accordance with article 734 of the Code of Organization and Civil Procedure. In any such case, the Minister shall appoint another person to sit as a member on the Board of Appeal in substitution of the said member for the duration of the appeal in question.

(4) A person shall not be qualified to be appointed or continue to hold office as a member of the Board of Appeal if that person is a Judge, a Magistrate, a member of the House or of a Local Council, or a candidate for election to the House or a Local Council.

Powers of
the Board of
Appeal.

17. (1) The Board of Appeal shall be competent to:

(a) review decisions of the Adoption Board upon an appeal filed in accordance with article 6;

(b) review decisions of the central authority upon an appeal filed in accordance with articles 13 and 14;

(c) hear and decide an appeal filed in accordance with the provisions of this Act and any regulations made thereunder;

(d) undertake any other function as the Minister may designate by regulations made by virtue of this Act.

(2) In order to carry out its duties, the Board of Appeal shall have access to all documentation pertaining to the adoption procedure and it shall be unlawful for any person to hinder it in the carrying out of its functions.

(3) The Board of Appeal shall have such powers as are, by the Code of Organization and Civil Procedure, vested in the Civil Court, First Hall.

(4) Without prejudice to subarticle (3), in the exercise of its functions, the Board of Appeal may summon any person to give evidence and produce the necessary documentation. For this purpose the Chairperson shall have the power to administer the oath.

(5) The Board of Appeal shall decide an application for appeal by not later than four months from the date of the filing of the application, unless in the opinion of the Chairperson a longer period is necessary for a valid reason which must be stated and registered in the proceedings of the case.

(6) A decision by the Adoption Board or by the central authority shall have immediate effect unless the Board of Appeal decides to suspend it until it has given the final judgement.

(7) The decision of the Board of Appeal, together with the reasons therefor, shall be sent by registered mail to the applicants, the Adoption Board and the central authority, by not later than three working days from the date of such decision.

(8) In cases falling under the jurisdiction of the Board of Appeal in accordance with sub-article (1), there shall be a right of appeal on a point of law. Such appeal shall be made by an application to the Court of Appeal constituted in accordance with article 41(6) of the Code of Organization and Civil Procedure. Such application shall be filed by not later than twenty days from the date of the decision of the Board of Appeal.

PART VI

ACCREDITED AGENCIES

Arrangements
for adoption.

18. An organisation shall be deemed to make arrangements for the adoption of a child if it enters into any agreement or makes any arrangements for facilitating the adoption of a child.

Policies and
procedures.

19. An accredited agency shall develop, update and execute written policies, procedures and manuals which shall be subject to approval by the central authority. These written policies, procedures and manuals shall include training and assessment procedures, and matching of prospective adoptive parents with children, in cases of local adoptions.

Information to
prospective
adoptive
parents.

20. Before commencing the adoption process, the accredited agency shall:

(a) inform prospective adoptive parents of its objectives, powers and activities;

(b) make available a copy of its Accreditation Certificate to prospective adoptive parents as proof of its accreditation;

(c) inform prospective adoptive parents of any legal requirements;

(d) explain the written agreement that prospective adoptive parents must sign, with regard to the services that will be provided to them and the applicable fees.

Keeping of
registers.

21. An accredited agency shall maintain one or more registers listing:

(a) the prospective adoptive parents registered with it; and

(b) the adoptions carried out by it, indicating the children who have been adopted by persons previously registered with it as prospective adoptive parents.

Functions of
accredited
agencies.

22. (1) An accredited agency shall be responsible to:

(a) provide a service according to the standards, criteria and procedures established by the central authority;

(b) receive and process applications from persons who would like to adopt a child;

(c) provide training to prospective adoptive parents;

(d) draw up a report, to be known as the “Home Study Report”, on the situation of the prospective adoptive parent, including any recommendations on whether such prospective adoptive parent should be allowed to adopt and the reasons therefor.

(e) assess the suitability or otherwise of prospective adoptive parents;

(f) ensure that any adoption placement will be in the best interest of the person to be adopted;

(g) draw up agreements of open adoption and reviews thereof in accordance with sub-article (4) of this article;

(h) draw up reports, to be known as “Post Adoption Reports” on the situation of the adoptive parents and the adopted child in accordance with the provisions of this Act;

(i) grant the central authority access to any records and documentation dealing with the adoption procedure of any child and to any reports on an adoptive parent or a prospective adoptive parent, including the Home Study Reports and Post Adoption Reports;

(j) grant the central authority access to its financial accounts and audits;

(k) report to the central authority at the end of every calendar year on the performance of its functions;

(l) comply with any other duties and obligations as specified by the central authority or as a result of regular monitoring of the operations of the accredited agency by the central authority;

(m) act in accordance with Title III of Book First of the Civil Code, the Hague Convention and the provisions of this Act.

(2) In order to draw up the Home Study Report and the Post Adoption Reports, the social worker authorised by the accredited agency shall carry out the necessary home visits. These visits may be unannounced and the prospective adoptive parents shall not refuse entry,

shall co-operate with the social worker and shall provide correct information to the best of their knowledge.

(3) The Home Study Report shall be forwarded to the Adoption Board for it to issue the final recommendation to the court. This report shall be valid for a period of two years, following which a new Home Study Report shall be required.

(4) In the case of a child who has attained eleven years of age, and if it is in his best interest, the accredited agency shall draw up an agreement of open adoption, either directly or through a family mediator, after hearing the child and obtaining the consent of the parents and the prospective adoptive parents. When the agreement is drawn up and signed, the accredited agency shall seek the approval of the Adoption Board. Such agreement shall not be enforceable without the authorisation of the court in accordance with article 119 of the Civil Code.

(5) The accredited agency shall also be responsible to draw up any reviews to the agreement of open adoption and to seek the approval of the Adoption Board for such reviews.

Post Adoption Reports.

23. (1) All adoptions shall be subject to Post Adoption Reports and the adoptive parents shall co-operate with the social worker in order for the report to be drawn up.

(2) In the case of a local adoption the Post Adoption Reports shall be drawn up for a period as specified by the accredited agency which in any case shall not exceed two years from the date of adoption.

(3) In the case of an intercountry adoption, the Post Adoption Reports shall be drawn up for a specified period in accordance with the requirements of the country of origin and forwarded to the relevant authority in the country of origin, according to its requirements.

Matching.

24. In the case of local adoptions, an accredited agency shall make all reasonable efforts to match prospective adoptive parents with children who need an adoption placement. The accredited agency shall ensure that the matching shall be in the best interests of the child to be adopted and that all social workers who are assigned to carry out duties of matching with regard to the adoption proceedings are adequately trained to carry out this function.

PART VII

OFFENCES

25. Any person who, in any way hinders or obstructs the Adoption Board, the Board of Appeal, the central authority or an accredited agency in the performance of any of their functions shall be guilty of an offence and shall on conviction be liable to imprisonment for a term of not less than six months and not exceeding one year or to a fine (*multa*) of not less than one thousand and one hundred and sixty-four euros and sixty nine cents (1,164.69) but not more than two thousand and three hundred and twenty-nine euros and thirty seven cents (2,329.37) or to both such fine and imprisonment.

Hindrance.

26. (1) Any person or organisation that makes arrangements for the adoption of a child without the authorisation of the central authority shall be guilty of an offence and shall on conviction be liable to imprisonment for a term of not less than six months and not exceeding one year or to a fine (*multa*) of not less than one thousand and one hundred and sixty-four euros and sixty nine cents (1,164.69) but not more than two thousand and three hundred and twenty-nine euros and thirty seven cents (2,329.37) or to both.

Adoption by unauthorised persons or organisations.

(2) Any conviction under sub-article (1) shall be notified by the Registrar of Courts to the court that made the adoption decree, and such court shall take any measures it considers expedient in the best interests of the child, including the revocation of the adoption decree if circumstances so warrant.

27. Without prejudice to article 25 or any specific penalty provided for under any other law, any person who acts in breach of any provision of this Act or any regulations made thereunder, shall be guilty of an offence and shall, on conviction, be liable to a fine (*multa*) of not less than two hundred and thirty two euros and ninety three cents (232.93) but not more than two thousand and three hundred and twenty-nine euros and thirty seven cents (2,329.37).

Other offences.

PART VIII

REGULATIONS

28. The Minister may make regulations:

Regulations.

(a) for the accreditation, monitoring and control of accredited agencies, including any applicable fees, and for the refusal or revocation of such accreditation;

(b) to establish procedures to be followed by the Adoption Board and, or the central authority;

(c) to lay down the rules on the powers of and the procedures to be followed by the Board of Appeal;

(d) for any incidental and supplementary matter which the Minister considers expedient to provide for, for the effective implementation of the provisions of this Act;

(e) to establish penalties for breach of the provisions of this Act.

PART IX

AMENDMENTS TO THE CIVIL CODE, CAP. 16

Amendment
of article 113
of the principal
law.

29. Article 113 of the Civil Code, hereinafter in this Part referred to as “the principal law”, shall be amended as follows:

(a) sub-article (1) thereof shall be deleted and substituted with the following:

“(1) For the purposes of this Title and of any regulations made thereunder a person shall be deemed to make or participate in arrangements for the adoption of a person if he enters into or makes any agreement or arrangement for, or for facilitating, the adoption of a person by any other person.”.

(b) in paragraph (b) of sub-article (2) thereof for the words “effected under this Code” there shall be substituted the words “effected under this Code and in accordance with the provisions of the Adoption Administration Act” and for the words “includes an overseas adoption” there shall be substituted the words “includes an intercountry adoption” and immediately thereafter there shall be inserted the following new paragraph:

“(c) “Adoption Board” shall have the same meaning assigned to it by article 2 of the Adoption Administration Act;”

(c) paragraph (c) shall be renumbered as paragraph (d) and immediately thereafter there shall be inserted the following new paragraphs:

“(e) “family mediator” means a mediator as specified in the Civil Court (Family Section), the Civil Court (General Jurisdiction) and the Court of Magistrates (Gozo) (Superior Jurisdiction) (Family Section) Regulations;

(f) “foster carer” shall have the meaning assigned to it by article 2 of the Foster Care Act;

Cap. 491.

(g) “intercountry adoption” shall have the meaning assigned to it by article 2 of the Adoption Administration Act;

(h) “social worker” shall have the meaning assigned to it by article 2 of the Social Work Profession Act.”;

Cap. 468.

(d) paragraph (d) shall be deleted;

(e) immediately after sub-article (2) there shall be inserted the following new sub-article:

“(3) For the purposes of this Title, unless the context otherwise requires:

(a) “accredited agency” shall have the same meaning assigned to it by article 2 of the Adoption Administration Act;

(b) “Board of Appeal” shall have the same meaning assigned to it by article 2 of the Adoption Administration Act;

(c) “central authority” shall have the same meaning assigned to it by article 2 of the Adoption Administration Act;

(d) “child” means a person under eighteen years of age;

(e) “country of origin” in respect of intercountry adoption shall mean the country from which a child is adopted;

(f) “Hague Convention” means the Convention on Protection of Children and Co-Operation In Respect of Intercountry Adoption;

(g) “open adoption” shall have the same meaning assigned to it by article 2 of the Adoption Administration Act.”.

Amendment
of article
114 of the
principal law.

30. Article 114 of the principal law shall be amended as follows:

(a) in sub-article (1) thereof, for the words “made on the application of a person of either sex.” there shall be substituted the words “following a recommendation made by the Adoption Board, made on the application of a person of either sex.”;

(b) in sub-article (2) thereof, for the words “of not less than five years” there shall be substituted the words “of not less than three years” and in the proviso thereto, for the words “have been married for less than five years.” there shall be substituted the words “have been married for less than three years and the court shall not be bound to request or review the recommendation of the Adoption Board.”;

(c) immediately after sub-article (4) there shall be inserted the following new sub-article:

“(5) In the case of a person who has attained the age of eighteen years and who is to be adopted in accordance with article 115(2)(a), no recommendation shall be required from the Adoption Board and no social worker and, or children’s advocate shall be appointed.”.

Amendment
of article
115 of the
principal law.

31. Article 115 of the principal law shall be amended as follows:

(a) paragraph (a) of sub-article (1) thereof shall be deleted and substituted with the following new paragraph:

“(a) has attained the age of twenty eight years and is at least twenty one years older but not more than forty-five years older than the person to be adopted:

Provided that if the applicant or applicants request the court for authorisation to adopt siblings, the restriction mentioned in this paragraph shall be deemed to be satisfied if there is the required age difference at least with regards to one of the children, and if the adoption will be in the best interests of all the siblings involved; or”;

(b) paragraph (a) of sub-article (2) thereof shall be deleted and substituted with the following:

“(a) in respect of a person who has attained the age of eighteen years except:

(i) in favour of a sole applicant who is the mother or the father of the person to be adopted; or

(ii) in favour of the parent and the spouse, if the person to be adopted has lived with such parent and spouse for at least five consecutive years and consents to the adoption; or

(iii) in favour of a foster carer who has fostered the person to be adopted for at least the previous five consecutive years, if the person to be adopted consents to the adoption;”;

(c) paragraph (b) of sub-article (2) thereof shall be deleted and paragraphs (c) and (d) shall be renumbered as paragraphs (b) and (c) respectively;

(d) in paragraph (a) of sub-article (3) thereof, for the words “and is alive;” there shall be substituted the words “and is alive, even if the parent has not yet attained eighteen years of age;”;

(e) in paragraph (b) of sub-article (3) thereof, for the words “if she is alive;” there shall be substituted the words “if she is alive, even if she has not attained eighteen years of age;”;

(f) paragraph (d) of sub-article (3) shall be deleted and substituted with the following:

“(d) when the person to be adopted has attained the age of eleven years, except with his consent and after having been assisted by a children’s advocate.”;

(g) sub-article (4) thereof shall be amended as follows:

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

“(a) hear any person who has been entrusted with the care and custody of the child to be adopted;”;

(ii) paragraphs (a) and (b) shall be renumbered as paragraphs (b) and (c) respectively;

(iii) in paragraph (b) thereof, as renumbered, for the words “to be adopted as his child or if the court is satisfied that he has contributed towards his maintenance or has shown” there shall be substituted the words “to be adopted as his child and if the court is satisfied that he has contributed towards his maintenance and has shown”;

(iv) in paragraph (c) thereof, as renumbered, for the words “as the case may be.” there shall be substituted the words “as the case may be;” and immediately thereafter, there shall be inserted the following:

“(d) hear the child’s advocate and, or social worker appointed by the court to protect the best interests of the child and to secure his representation.”.

Amendment
of article
116 of the
principal law.

32. Article 116 of the principal law shall be amended as follows:

(a) in sub-article (1) thereof, for the words “attained the age of six weeks.” there shall be substituted the words “attained the age of six weeks;”, and immediately thereafter there shall be inserted the following new proviso:

“Provided that, prior to the making of the adoption decree, the applicant or applicants may request the court to grant temporary care and custody of the child to be adopted.”.

(b) sub-article (2) thereof shall be deleted and substituted with the following:

“(2) During the three month period specified in sub-article (1), the accredited agency responsible for the adoption placement shall take any measures it deems expedient to ensure that the placement with the applicant or applicants is in the best interests of the child and if the placement is not deemed to be in the best interests of the child, the accredited agency shall ask the Adoption Board to seek authorisation from the court for the removal of the child from the placement.

Amendment
of article
117 of the
principal law.

33. (1) Paragraph (a) of sub-article (1) of article 117 of the principal law shall be deleted and substituted with the following:

“(a) in the case of a dispensation with any such consent, that:

(i) the person who is required to give his consent is incapable of giving such consent; or

(ii) the parent cannot be found or has abandoned, neglected or persistently ill-treated, or has persistently either neglected or refused to contribute to the maintenance of the person to be adopted or had demanded or attempted to obtain any payment or other reward for or in consideration of the grant of the consent required in connection with the adoption; or

(iii) either of the parents are unreasonably withholding their consent; or

(iv) either of the parents may be deprived of parental authority over the child to be adopted in accordance with article 154 (1); or

(v) the child to be adopted is not in the care and custody of either of the parents and the Adoption Board declares that there is no reasonable hope that the child may be reunited with his mother and, or father; or

(vi) the parent or parents have unjustifiably, not had contact with the child to be adopted for at least eighteen months; or

(vii) it is in the best interests of the child to be adopted for such consent to be dispensed with.”.

(2) Immediately following subarticle (3) of article 117 of the principal law there shall be inserted the following new subarticle (4):

“(4) The Court may dispense with any consent or hearing required for adoption following a request by a children’s advocate on behalf of a child who has attained eleven years of age and who would like to be adopted.”.

34. Article 119 of the principal law shall be amended as follows:

Amendment
of article
119 of the
principal law.

(a) in paragraph (c) of sub-article (1) thereof for the words “the court may sanction.” there shall be substituted the words “the court may sanction;” and immediately thereafter there shall be inserted the following:

“(d) that due consideration has been given to the recommendations of the Adoption Board.”;

(b) immediately after sub-article (3) there shall be inserted the following new sub-article:

“(4) In the case of a child who has attained eleven years of age and if it is in his best interest, the court may, in making the adoption decree, authorise an agreement of open adoption which has been approved by the Adoption Board, whereby the parents and, or the natural family shall maintain contact with the child:

Provided that the court shall ensure that an agreement of open adoption was entered into after the child and the parties had given their consent thereto:

Provided further that any amendments to the agreement of open adoption shall not have any effect before they are authorised by the Court.

Amendment
of article
120 of the
principal law.

35. Article 120 of the principal law shall be amended as follows:

(a) the present article shall be enumerated as subarticle (1);
and

(b) immediately after subarticle (1) as re-numbered, there shall be inserted the following new subarticle:

“(2) Upon an application for an adoption decree of a person to be adopted, the court may on its own motion or on the application of an interested person, including the child to be adopted, appoint a child’s advocate and, or a social worker to ensure that the child is adequately represented and his best interests safeguarded.”.

Amendment
of article
121 of the
principal law.

36. In paragraph (c) of article 121 of the principal law for the words “render an account thereof to the adopter.” there shall be substituted the words “render an account thereof to the adopter;” and immediately thereafter there shall be inserted the following:

“(d) the parents shall, in the case of an open adoption, retain the right to maintain contact with the person in respect of whom the adoption decree is made;

(e) the court shall inform the competent authorities that the adoption decree has terminated the care order if an adoption decree has been made in favour of a child who is under a care order issued by virtue of the Children and Young Persons (Care Orders) Act .”.

Cap. 285.

37. Article 122 of the principal law shall be amended as follows:

Amendment
of article
122 of the
principal law.

(a) in subarticle (1) thereof, for the words “in respect of a person” to the words “person has undertaken” there shall be substituted the words “, any judgement, decree or order for the payment of maintenance in force with respect to that person, and any agreement whereby the parent of that person has undertaken”;

(b) in subarticle (2) thereof, the words “with respect to that person unless the adoption decree was made on the application of the mother of that person alone” shall be deleted.

38. Article 124 of the principal law shall be amended as follows:

Amendment
of article
124 of the
principal law.

(a) immediately after the words “shall assume the surname of the adopter:” there shall be inserted the following new proviso:

“Provided that where the adoption decree is made in favour of two spouses, the person in respect of whom the adoption decree is made shall assume the surname of the adoptive father, to which may be added the surname of the adoptive mother.”; and

(b) in the proviso thereto for the words “Provided that” there shall be substituted the words “Provided further that” and for the words “below the age of four years” there shall be substituted the words “below the age of three years”.

39. Immediately after article 127 of the principal law there shall be inserted the following new article:

Addition
of new article
127A to the
principal law.

“Right to
information.

127A. (1) An adopter or an adopted person who has attained eighteen years of age may apply to the court for a copy of the relevant adoption decree and, or details of the adopted person’s natural family and, or adoption placement.

(2) An adopted person who has attained eighteen years of age shall have the right to apply to the court for authorisation to obtain a copy of his original birth certificate from the Public Registry.

(3) Prior to giving an order related to sub-articles (1) and (2), the court shall hear the applicant and any other person it deems fit in the circumstances.”.

Amendment
of article
128 of the
principal law.

40. In sub-article (2) of article 128 of the principal law, for the words “on conviction by the Court of Magistrates, be liable to imprisonment for a term not exceeding six months or to a fine (*multa*) not exceeding one hundred liri or to both,” there shall be substituted the words “on conviction, be liable to imprisonment for a term of not less than six months but not exceeding one year or to a fine (*multa*) of not less than one thousand and one hundred and sixty-four euros and sixty nine cents (1,164.69) but not more than two thousand and three hundred and twenty-nine euros and thirty seven cents (2,329.37) or to both,” and for the words “until other arrangements can be made for him.” there shall be substituted the words “until other arrangements can be made for him. The person convicted of an offence in terms of this article shall also be liable to reimburse any amount which was paid to him.”.

Addition
of new articles
128A to 128F
to the principal law.

41. Immediately after article 128 there shall be inserted the following new articles:

“Prohibition
of
publication.

128A. (1) No person shall, without the approval in writing of an accredited agency, publish or cause to be published in any newspaper, periodical or any other printed matter or by means of broadcasting, television, public exhibition or by any other means or medium, any advertisement, news item or other matter indicated, whether or not in relation to a particular child, born or unborn, that:

(a) a child may be adopted;

(b) a person intends to adopt a child; or

(c) a person intends or is willing to make arrangements with a view to the adoption of a child.

(2) Unless authorised by the court, no person shall publish or cause to be published in any newspaper, periodical, any other printed matter or by means of broadcasting or television, public exhibition or by any other means or medium, anything related to an application for the adoption of a child or to adoption proceedings including:

(a) the name of the applicant or applicants;

(b) the name of the person who is or will be adopted;

(c) the name of the father, mother, curator or tutor of the child who is or will be adopted; or

(d) any matter likely to enable any of the persons mentioned in paragraphs (a), (b) and (c) of this sub-article to be identified.

(3) Any person who contravenes the provisions of this article shall be guilty of an offence and shall, on conviction, be liable to imprisonment for a term of not less than three months but not exceeding six months or to a fine (*multa*) of not less than one thousand and one hundred and sixty-four euros and sixty nine cents (1,164.69) but not more than two thousand and three hundred and twenty-nine euros and thirty seven cents (2,329.37) or to both.

False
statements.

128B. (1) Notwithstanding the provisions of any other law, any person who knowingly makes a false statement, whether orally or in writing, for the purposes of or in connection with an adoption, shall be guilty of an offence and shall, on conviction, be liable to imprisonment for a term of not less than three months but not exceeding six months or to a fine (*multa*) of not less than five hundred and eighty two euros and thirty four cents (582.34) but not more than one thousand and one hundred and sixty-four euros and sixty nine cents (1,164.69), or to both.

(2) A person who knowingly gives false information in the application for the entry of a person's details in the Reunion and Information Register shall be guilty of an offence and shall, on conviction, be liable to a fine (*multa*) not exceeding five hundred and eighty two euros and thirty four cents (582.34).

Impersonation
or
false
representation.

128C. Notwithstanding the provisions of any other law, a person who impersonates or falsely represents himself to be an adopted child, parent, adopter, relative, person whose consent to the adoption of a child is required at law, or other person having an interest in an adopted child, shall be guilty of an offence and shall, on conviction, be liable to imprisonment for a term of not less than three months but not exceeding six months or to a fine (*multa*) of not less than five

hundred and eighty two euros and thirty four cents (582.34) but not more than one thousand and one hundred and sixty four euros and sixty nine cents (1,164.69), or to both.

Forged documents.

128D. If in any adoption proceedings a person files a document purporting to indicate the consent to the adoption or the revocation thereof, where the signature is forged or obtained by fraud or duress, such person shall be guilty of an offence and shall, on conviction, be liable to imprisonment for a term of not less than six months but not exceeding one year or to a fine (*multa*) of not less than one thousand and one hundred and sixty four euros and sixty nine cents (1,164.69) but not more than two thousand and three hundred and twenty nine euros and thirty seven cents (2,329.37), or to both.

Use of force.

128E. A person who uses or threatens to use any force or restraint or injures or threatens to injure, or causes or threatens to cause anything to the detriment of a parent of a child with the intention of:

(a) inducing a parent to offer or refrain from offering the child for adoption;

(b) influencing a parent on whether or not to consent to the adoption,

shall be guilty of an offence and shall, on conviction, be liable to imprisonment for a term of not less than three months but not exceeding six months or to a fine (*multa*) of not less than one thousand and one hundred and sixty four euros and sixty nine cents (1,164.69) but not more than two thousand and three hundred and twenty nine euros and thirty seven cents (2,329.37), or to both.

Removal of child.

128F. A parent who consents to the adoption of his child and proceeds to remove the child from the care and custody of the prospective adopter or adopters without the authority of the court, shall be guilty of an offence, and shall on conviction be liable to imprisonment for a term of not less than two months but not exceeding four months or to a fine (*multa*) of not less than five hundred and eighty two euros and thirty four cents (582.34) but not more than one thousand and one hundred and sixty four euros and sixty nine cents (1,164.69), or to both.”.

42. Article 129 of the principal law shall be amended as follows: Amendment of article 129 of the principal law.

(a) paragraph (d) thereof shall be deleted;

(b) paragraphs (e) and (f) shall be re-numbered as (d) and (e); and

(c) in paragraph (e) thereof as renumbered, the words “,which penalties shall not exceed imprisonment for a term of six months” shall be deleted.

43. Article 130 of the principal law shall be amended as follows: Amendment of article 130 of the principal law.

(a) in the marginal note thereof, for the word “overseas” there shall be substituted the word “intercountry”;

(b) in sub-article (1) thereof, for the words “where an overseas adoption is to be treated” there shall be substituted the words “where an intercountry adoption is to be treated”;

(c) in sub-article (2) thereof, for the words “whereby the overseas adoption was effected” there shall be substituted the words “whereby the intercountry adoption was effected”;

(d) in sub-article (3) thereof, for the words “in respect of an overseas adoption” there shall be substituted the words “in respect of an intercountry adoption”;

(e) in paragraph (a) of sub-article (3) thereof, for the words “such overseas adoption” there shall be substituted the words “such intercountry adoption”;

(f) in paragraph (b) of sub-article (3) thereof, for the words “relating to the overseas adoption to be made” there shall be substituted “relating to the intercountry adoption to be made”;

(g) in paragraph (d) of sub-article (3) thereof, for the words “that an overseas adoption shall cease” there shall be substituted the words “that an intercountry adoption shall cease”.

44. In article 130A of the principal law for the words “where an overseas adoption is regulated” there shall be substituted the words “where an intercountry adoption is regulated” and for the words “in respect of such an overseas adoption” there shall be substituted the words “in respect of such an intercountry adoption”. Amendment of article 130A of the principal law.

PART X

Transitory
provision.

45. The provision of this Act shall be applicable to adoption procedures initiated following the entry into force of this Act.

Passed by the House of Representatives at Sitting No. 613 of 29th January, 2008.

ANTON TABONE
Speaker

RICHARD J. CAUCHI
Clerk to the House of Representatives