

Nagħti l-kunsens tiegħi.

(L.S.)

EDWARD FENECH ADAMI  
President

26 ta' Ġunju, 2007

**ATT Nru VII ta' l-2007**

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

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

1. (1) It-titolu fil-qosor ta' dan l-Att huwa l-Att ta' l-2007 li jemenda l-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, u dan l-Att għandu jinqara u jinftiehem haġa waħda mal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, hawnhekk iżjed 'il quddiem f'dan l-Att imsejjaha "il-Kodiċi".

Titolu fil-qosor  
u bidu fis-sehh.

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

2. L-artikolu 7 tal-Kodiċi għandu jiġi emendat kif ġej:

Emenda ta' l-  
artikolu 7 tal-  
Kodiċi.

(a) id-disposizzjoni preżenti għandha tiġi enumerata mill-ġdid bħal s-subartikolu (1) tiegħu; u

(b) minnufih wara s-subartikolu (1), kif enumerat mill-ġdid, għandhom jiżdied s-subartikoli godda li ġejjin:

"(2) Il-Prim Imħallef jista' jahtar wiehed mill-maġistrati bhala Maġistrat Anzjan; dik il-ħatra tkun għal żmien speċifikat jew sakemm jinħatar maġistrat ieħor f'dik il-kariga.

(3) Mingħajr preġudizzju għad-disposizzjonijiet ta' dan il-Kodiċi jew ta' xi liġi oħra li tippreskrivi l-qorti jew il-qrati li fihom maġistrat għandu jippresjedi, il-Maġistrat Anzjan għandu jwettaq dawk id-dmirijiet u funzjonijiet li jistgħu jiġu assenjati lilu mill-Prim Imħallef jew kif jista' jiġi preskritt minn xi liġi li tkun fis-seħħ f'dak iż-żmien."

Emenda ta' l-artikolu 9 tal-Kodiċi.

3. Fl-artikolu 9 tal-Kodiċi, minflok il-kliem "barra minn dawk li għalihom taħtarhom il-liġi" għandhom jidhlu l-kliem "barra minn attivitajiet fi hdan il-Kumitat ta' l-Istudji Ġudizzjarji u dawk li għalihom taħtarhom il-liġi".

Sostituzzjoni ta' l-artikolu 11 tal-Kodiċi.

4. L-artikolu 11 tal-Kodiċi għandu jiġi sostitwit bl-artikolu ġdid li ġej:

"11. (1) Il-President ta' Malta għandu jassenja lil kull wiehed mill-Imħallfin billi jassenjalu l-qorti jew l-awla tal-qorti jew is-sezzjoni li fiha għandu ordinarjament joqgħod, u jista' jbidel imħallef minn qorti jew awla jew sezzjoni ta' qorti għal oħra:

Izda mħallef jista' jiġi assenjat li joqgħod ordinarjament f'iktar minn qorti waħda jew iktar minn awla jew sezzjoni waħda ta' qorti waħda jew aktar minn waħda.

(2) Il-President ta' Malta għandu wkoll is-setgħa li jissurroga mħallef fil-każ li titbattal kariga ta' mħallef.

(3) Meta iktar minn imħallef wiehed jiġi assenjat li joqgħod ordinarjament f'qorti, jew f'awla jew f'sezzjoni ta' qorti, it-tqassim ta' dmirijiet b'mod ġenerali bejn dawk l-imħallfin għandu jsir mill-Prim Imħallef, u r-registratur għandu jassenja l-kawżi u atti ġudizzjarji oħra lill-imħallfin kif ordnat mill-Prim Imħallef:

Izda, hlief meta każijiet jew atti ġudizzjarji huma assenjati skond direttivi ġenerali jew skond regoli magħmulin skond is-subartikolu (6), meta l-Prim Imħallef jista' jiġi rikuzat jew jista' jastjeni milli jiehu konjizzjoni ta' kawża għal xi waħda mir-raġunijiet imsemmija fl-artikolu 734(1)(a), (b), (ċ), (d)(ii) u (iii), (e) u (g), l-assenjazzjoni ta' dak il-każ għandha ssir mill-Imħallef Anzjan Amministrattiv imsemmi fis-

subartikolu (11).

(4) Kull meta xi mhallef, hlief il-Prim Imhallef, ikun rikuzat jew xort'ohra legalment impedut, il-Prim Imhallef ghandu jassenja mhallef iehor biex jiehu konjizzjoni tal-kawza:

Izda, hlief meta kazijiet jew atti gudizzjarji huma assenjati skond direttivi generali jew skond regoli maghmulin skond is-subartikolu (6), meta l-Prim Imhallef jista' jigi rikuzat jew jista' jastjeni milli jiehu konjizzjoni ta' kawza ghal xi wahda mir-ragunijiet imsemmija fl-artikolu 734(1)(a), (b), (c), (d)(ii) u (iii), (e) u (g), l-assenjazzjoni ta' imhallef biex jiehu konjizzjoni ta' dak il-każ ghandha ssir mill-Imhallef Anzjan Amministrattiv imsemmi fis-subartikolu (11).

(5) Minghajr preġudizzju ghad-disposizzjonijiet ta' l-artikolu 12(2), u hlief fejn kazijiet jew atti gudizzjarji huma assenjati skond direttivi generali jew skond regoli maghmulin skond is-subartikolu (6), meta l-Prim Imhallef jigi rikuzat jew xort'ohra legalment impedut, l-Imhallef Anzjan Amministrattiv imsemmi fis-subartikolu (11) ghandu jassenja mhallef iehor biex jiehu konjizzjoni tal-kawza.

(6) Il-Bord bis-Setgħa li jagħmel ir-Regoli stabbilit skond l-artikolu 29 jista' jagħmel regoli li jipprovdu għall-mod kif jiġu mqassma kazijiet u atti gudizzjarji ohra għall-finijiet tas-subartikoli (3), (4) u (5).

(7) Kull assenjazzjoni, tibdil jew surroga maghmulin mill-President ta' Malta, u kull tqassim ta' dmirijiet in generali, u kull assenjazzjoni ta' kazijiet bhala riżultat ta' rikuzat jew astensjoni maghmula mill-Prim Imhallef jew, kif ikun il-każ, mill-Imhallef Anzjan Amministrattiv imsemmi fis-subartikolu (11), għandhom jitqiesu li jkunu ġew notifikati kif imiss u biżżejjed għall-finijiet kollha jekk jitwahħhal avviż dwarhom f'dak ir-reġistru li l-Ministru jista' jippreskrivi għal dan il-ghan taht l-artikolu 27 qabel jew malli jibda il-perijodu li fih dik l-assenjazzjoni, dak it-tibdil, dik is-surroga jew dak it-tqassim għandhom isehhu.

(8) Ir-reġistratur għandu jzomm notament ta' l-avviżi kollha li jitwahħhlu skond l-aħħar subartikolu qabel dan u tad-data ta' meta jkunu twahħhlu.

(9) Meta tinqala' tilwima dwar jekk kawza jew att gudizzjarju iehor għandhom jiġu assenjati lil imhallef jew lil imhallef iehor li jippresjedi fl-istess qorti jew fl-istess awla jew

sezzjoni tal-qorti, jew meta tinqala' tilwima dwar liema awla jew sezzjoni ta' qorti ghandhom jittrattaw kawża partikolari jew att ġudizzjarju partikolari, il-kwistjoni ghandha tintbagħat lill-Prim Imħallef li ghandu, *in camera*, jiddeċiedi lil liema imħallef jew awla jew sezzjoni l-kawża jew l-att ġudizzjarju ghandhom jiġu assenjati:

Iżda meta l-Prim Imħallef jista' jiġi rikuzat jew jista' jastjeni milli jieħu konjizzjoni ta' dik il-kawża jew dak l-att ġudizzjarju għal xi waħda mir-raġunijiet imsemmija fl-artikolu 734(1)(a), (b), (c), (d)(ii) u (iii), (e) u (g), id-deċiżjoni ghandha tittiehed mill-Imħallef Anzjan Amministrattiv imsemmi fis-subartikolu (11).

(10) Meta aktar minn imħallef wiehed jiġi assenjat li joqgħod f'awla jew sezzjoni ta' qorti li ma tkunx qorti ta' l-appell, il-Prim Imħallef jista' jahtar wiehed mill-imħallfin bhala President ta' dik l-awla jew sezzjoni; dik il-ħatra tkun għal żmien speċifikat jew sakemm hekk jinħatar imħallef ieħor. L-imħallef hekk maħtur ghandu jaqdi dawk id-dmirijiet u funzjonijiet kif jistgħu jiġu assenjati lill-mill-Prim Imħallef jew kif jista' jkun previst b'xi liġi fis-seħh f'dak iż-żmien.

(11) Għall-finijiet ta' dan l-artikolu, u biex jaqdi d-dmirijiet elenkati f'dan l-artikolu, il-Prim Imħallef jinnomina Mħallef Anzjan Amministrattiv."

Emenda ta' l-artikolu 12 tal-Kodiċi.

**5.** Is-subartikolu (1) ta' l-artikolu 12 tal-Kodiċi ghandu jiġi sostitwit bis-subartikolu ġdid li ġej:

"(1) Id-disposizzjonijiet ta' l-artikoli 8, 9, 10 u 11(1) ghandhom, *mutatis mutandis*, ukoll japplikaw għall-President tal-Qorti ta' l-Appell."

Sostituzzjoni ta' l-artikolu 15 tal-Kodiċi.

**6.** L-artikolu 15 tal-Kodiċi ghandu jiġi sostitwit bl-artikolu ġdid li ġej:

"15. Id-disposizzjonijiet ta' l-artikoli 8, 9, 10 u 11 ghandhom, *mutatis mutandis*, japplikaw għall-maġistrati; u r-referenzi għall-Imħallef Anzjan Amministrattiv fis-subartikoli (3), (4), (7) u (9) ta' l-artikolu 11 ghandhom jitqiesu bhala referenzi għall-Maġistrat Anzjan imsemmi fl-artikolu 7(2)."

Emenda ta' l-artikolu 29 tal-Kodiċi.

**7.** L-artikolu 29 tal-Kodiċi ghandu jiġi emendat kif ġej:

(a) is-subartikolu (1) tiegħu ghandu jiġi sostitwit bis-subartikolu li ġej:

"(1) Ghandu jkun hemm Bord, magħmul mill-Prim Imħallef, bhala president li jkollu wkoll *casting vote*, minn imħallef li ordinarjament iservi fil-Qorti ta' l-Appell u maġistrat li jiġu appuntati mill-President ta' Malta fuq ir-rakkomandazzjoni tal-Prim Imħallef, mill-Avukat Ġenerali, mill-President tal-Kamra ta' l-Avukati u mill-President tal-Kamra tal-Prokuraturi Legali, li jkollu l-funzjoni li jagħmel regoli, imsejhin Regoli tal-Qrati, għallgħanijiet imsemmija fis-subartikolu (2) jew f'xi disposizzjoni oħra ta' dan il-Kodiċi jew ta' xi liġi oħra.";

(b) fis-subartikolu (2) tiegħu, il-kliem minn "Ir-Regoli tal-Qrati jistgħu b'mod ġenerali jintgħamlu" sa "izda bla ħsara għas-sens ġenerali ta' dak imsemmi qabel -" għandhom jiġu sostitwiti bil-kliem li ġejjin:

"Ir-Regoli tal-Qrati jistgħu b'mod ġenerali jintgħamlu għal kull haġa li tolqot it-tmexxija tal-qrati u t-tmexxija tal-kawzi bil-għan li jassiguraw amministrazzjoni tal-ġustizzja xierqa u effiċjenti, u b'mod partikolari, izda bla ħsara għas-sens ġenerali ta' dak imsemmi qabel -";

(ċ) il-paragrafu (a) tas-subartikolu (2) tiegħu għandu jiġi sostitwit bis-subartikolu li ġej:

"(a) sabiex jirregolaw it-tmexxija tal-qrati u sabiex jiżguraw iż-żamma ta' l-ordni u d-dekor fil-bini tal-qrati;"

(d) minnufih wara l-paragrafu (g) tas-subartikolu (2) tiegħu għandu jiżdied il-paragrafu ġdid li ġej:

"(h) sabiex jistabbilixxu s-sessjonijiet tas-sena tal-qrati u l-ferjat fil-qrati superjuri u fil-qrati inferjuri, u għal hwejjeġ aċċillari u inċidentali għal dawk is-sessjonijiet u dak il-ferjat:"; u

(e) minnufih wara s-subartikolu (7) tiegħu, għandu jiżdied is-subartikolu ġdid li ġej:

"(8) Mingħajr preġudizzju għad-disposizzjonijiet tas-subartikolu (7), il-Prim Imħallef jista', fid-diskrezzjoni tiegħu, jittrasferixxi kull kawża minn qorti għal oħra:

Izda fl-eżekuzzjoni ta' din il-funzjoni l-Prim Imħallef għandu jiddiskuti l-kwistjoni ma' l-

imhallfin jew il-maġistrati interessati, jew waqt xi waħda mil-laqgħat imsejha skond is-subartikolu (6) jew waqt laqgħa *ad hoc* miżmuma għal dan il-għan."

Emenda ta' l-artikolu 34 tal-Kodiċi.

**8.** Fil-proviso ta' l-artikolu 34 tal-Kodiċi, minnufih wara l-kliem "minn tali sentenza tal-Prim'Awla tal-Qorti Ċivili" għandhom jiżdiedu "jew minn kull sezzjoni ta' l-istess Qorti Ċivili".

Emenda ta' l-artikolu 47 tal-Kodiċi.

**9.** Fis-subartikolu (1) ta' l-artikolu 47 tal-Kodiċi, minflok il-kliem "sa l-ammont ta' ħamest elef lira" għandhom jidhlu l-kliem "sa l-ammont ta' għaxart elef lira".

Sostituzzjoni ta' l-artikolu 79 tal-Kodiċi.

**10.** L-artikolu 79 tal-Kodiċi għandu jiġi sostitwit bl-artikolu ġdid li ġej:

"79. Ebda persuna ma tista' teżerċita l-professjoni ta' avukat mingħajr l-awtorità tal-President ta' Malta mogħtija b'*warrant* taħt is-Sigill Pubbliku ta' Malta."

Emenda ta' l-artikolu 117 tal-Kodiċi.

**11.** (1) Fl-artikolu 117 tal-Kodiċi minflok il-kliem "Kull rikors ġuramentat jew mandat ieħor tal-qrati superjuri jinħarġu fl-isem tar-Repubblika ta' Malta" għandhom jidhlu l-kliem "Kull mandat tal-qrati superjuri jinħareġ fl-isem tar-Repubblika ta' Malta".

(2) Id-disposizzjonijiet tas-subartikolu (1) jitqiesu li ġew fis-seħħ mill-1 ta' Jannar 2006:

Iżda kull proċedura li nbdiet wara l-1 ta' Jannar 2006 sad-data tal-bidu fis-seħħ ta' dan l-artikolu ta' dan l-Att għandha tibqa' valida bħallikieku saret skond id-disposizzjonijiet ta' l-artikolu 117 tal-Kodiċi, kif emendat bis-subartikolu (1) ta' dan l-artikolu.

Emenda ta' l-artikolu 152 tal-Kodiċi.

**12.** Fis-subartikolu (1) ta' l-artikolu 152 tal-Kodiċi, minnufih wara l-kliem "u mhux aktar tard minn sitt xhur wara l-preżentata tar-rikors ta' appell" għandhom jidhlu l-kliem "u l-ħlas tal-kawtela"

Emenda ta' l-artikolu 166A tal-Kodiċi.

**13.** L-artikolu 166A tal-Kodiċi għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1), minflok il-kliem "ħamest elef lira", kull fejn jinsabu, għandhom jidhlu l-kliem "għaxart elef lira, jew dik is-somma l-oħra li tista' tiġi stabbilita minn żmien għal żmien b'Ordni fil-Gazzetta mill-Ministru"; u

(b) minnufih wara s-subparagrafu (ii) tas-subartikolu (5) tiegħu, għandu jiżdied il-proviso ġdid li ġej:

"B'dan illi dan ir-rikors għandu jiġu appuntat għas-smiġħ fi żmien ġimghatejn."

**14.** Is-subartikolu (3) ta' l-artikolu 167 tal-Kodiċi għandu jiġi sostitwit bis-subartikolu ġdid li ġej:

Emenda ta' l-artikolu 167 tal-Kodiċi.

"(3) Id-disposizzjonijiet ta' l-artikolu 156(1)(a), (b), u (ċ), (2) u (3) u ta' l-artikolu 159 jgħoddu għal dan ir-rikors ġuramentat."

**15.** Fis-subartikolu (1) ta' l-artikolu 173 tal-Kodiċi, minflok il-kliem "dawk l-ordnijiet u direttivi jiġu komunikati mir-registratur ukoll b'ittra lill-avukati jew lill-prokuraturi legali tal-partijiet jew lill-partijiet innifishom" għandhom jidhlu l-kliem "dawk l-ordnijiet u direttivi jiġu komunikati mir-registratur ukoll b'ittra lill-avukati jew lill-prokuraturi legali tal-partijiet, liema ittra għandha tiġi mogħtija personalment lil dak l-avukat jew prokuratur legali, u, bil-posta, lill-partijiet innifishom".

Emenda ta' l-artikolu 173 tal-Kodiċi.

**16.** L-artikolu 195 tal-Kodiċi għandu jiġi emendat kif ġej:

Emenda ta' l-artikolu 195 tal-Kodiċi.

(a) il-paragrafu (a) tas-subartikolu (2) tiegħu għandu jiġi sostitwit bil-paragrafu ġdid li ġej:

"(2) (a) Il-Qorti għandha -

(i) fl-ewwel smiġh ta' kemm fl-ewwel istanza kif ukoll fil-Qorti fi grad ta' appell, tivverbalizza min huma dawk il-partijiet li huma notifikati bir-rikors, bir-rikors ġuramentat jew bir-rikors ta' l-appell skond il-każ u, jekk jirriżulta li jkun hemm xi partijiet li ma jkunux ġew notifikati, tagħti dawk l-ordnijiet kif jidhrilha xieraq biex isiru n-notifiki jew l-atti l-oħra meħtieġa; u

(ii) fl-ewwel smiġh ta' kemm l-istadju ta' qabel is-seduta u kif ukoll l-istadju tas-seduta, tippjana bil-quddiem, wara konsultazzjoni ma' l-avukati tal-partijiet, is-seduti kollha li għandhom jinżammu kif ukoll id-data proġettata tas-sentenza u tidderieġi wkoll il-partijiet dwar liema xieħda u sottomissjonijiet tistenna li jsiru f'kull seduta:

Iżda l-qorti tista', minhabba raġunijiet serji li għandhom jiġu espressament imsemmija fil-verbal tal-kawża jew minhabba raġunijiet ta' urġenza, tappunta xi seduti oħra u titlob kull xieħda jew sottomissjoni oħra li tqis xierqa.";

(b) is-subartikolu (3) tiegħu għandu jiġi sostitwit bis-subartikolu ġdid li ġej:

"(3) Sakemm ma jkunx hemm regoli tal-qorti magħmulin skond l-artikolu 29, il-kawzi kollha għandhom jiġu appuntati fi żmien xahrejn u s-seduti għandhom jinżammu minn xahrejn għal xahrejn."; u

(ċ) is-subartikolu (5) tiegħu għandu jiġi enumerat mill-ġdid bħala s-subartikolu (6) tiegħu u, minnufih wara s-subartikolu (4) tiegħu, għandu jiżdied is-subartikolu ġdid li ġej:

"(5) (a) Meta kawża tkun ilha pendenti quddiem qorti partikolari għal tliet snin jew aktar, kull parti fil-każ tista', personalment, u mingħajr il-htieġa li tkun rappreżentata minn xi avukat, tagħmel rikors (liema rikors, madankollu, ma jkunx jiffirma parti mill-atti tal-kawża) lill-Prim Imħallef fejn jintalab li, għas-semplici raġuni li l-kawża damet daqshekk, il-membri tal-ġudikatura li jippresjedi f'dik il-qorti jinbidel u li l-każ jiġi assenjat lil membru ieħor tal-ġudikatura; id-deċiżjoni tal-Prim Imħallef, li tittiehed *in camera*, tkun finali u konkluziva; u fejn isir assenjament bħal dan ma jkunx hemm bżonn ta' notifika dwar dak l-assenjament.

(b) Meta kawża tkun ilha pendenti għas-sentenza quddiem qorti partikolari għal tmintax-il xahar jew aktar, kull parti fil-każ tista', personalment, u mingħajr il-htieġa li tkun rappreżentata minn xi avukat, tagħmel rikors (liema rikors, madankollu, ma jkunx jiffirma parti mill-atti tal-kawża) lill-Prim Imħallef għal dan il-ghan, u l-Prim Imħallef jista', għas-semplici raġuni li s-sentenza damet daqshekk biex tingħata, jilqa' it-talba biex il-membri tal-ġudikatura li jippresjedi f'dik il-qorti jinbidel u biex il-każ għas-sentenza jiġi assenjat lil membru ieħor tal-ġudikatura; id-deċiżjoni tal-Prim Imħallef, li tittiehed *in camera*, tkun finali u konkluziva; u fejn isir assenjament bħal dan ma jkunx hemm bżonn ta' notifika dwar dak l-assenjament.

(ċ) Il-Prim Imħallef għandu jhejji rapport annwali dwar il-kawzi li jkunu ġew trasferiti skond id-disposizzjonijiet tal-paragrafi (a) u (b), fejn jiġu speċifikati r-raġunijiet possibbli għal dak id-dewmien, u għandu jibgħat ir-rapport lill-Kummissjoni dwar l-Amministrazzjoni tal-Ġustizzja. Il-Kummissjoni għandha tiegħu dik l-azzjoni kif jidhrilha xieraq skond id-disposizzjonijiet ta' l-Att dwar il-Kummissjoni dwar l-Amministrazzjoni tal-Ġustizzja, u għandha, fi żmien tliet xhur, tippubblika dak ir-rapport."

Kap. 369.

Pubblikazzjoni ta' regolamenti.

17. Ir-Regolamenti li jinsabu fl-Iskeda ta' dan l-Att għandhom

jiġu ppubblikati bhala regolamenti magħmulin mill-Ministru responsabbli għall-ġustizzja bis-saħħa tas-setgħat mogħtija bl-artikolu 195 tal-Kodiċi ta' Organizzazzjoni u Procedura Civili.

**18.** L-artikolu 218 tal-Kodiċi għandu jiġi sostitwit bl-artikolu ġdid li ġej:

Sostituzzjoni ta' l-artikolu 218 tal-Kodiċi.

"218. Fis-sentenza għandhom qabel xejn jingħataw ir-raġunijiet li fuqhom il-qorti tkun ibbażat id-deċiżjoni tagħha, u għandu jkun hemm fiha wkoll riferenza għall-proċedimenti, għat-talbiet ta' lattur u għall-eċċezzjonijiet tal-konvenut:

Iżda il-Bord tar-Regoli maħtur skond l-artikolu 29 jiġta', permezz ta' Regoli tal-Qorti, jidderoga mid-disposizzjonijiet ta' dan l-artikolu."

**19.** Is-subartikolu (4) ta' l-artikolu 223 tal-Kodiċi għandu jiġi sostitwit bis-subartikolu ġdid li ġej:

Emenda ta' l-artikolu 223 tal-Kodiċi.

"(4) Fil-każijiet ta' appelli u ritrattazzjonijiet fiergħa jew vessatorji, il-Qorti ta' l-Appell jew il-Qorti Kostituzzjonali tista' tikkundanna lill-appellant li jhallas lill-appellat l-ispejjeż għal darbtejn."

**20.** Is-subartikolu (1) ta' l-artikolu 249 tal-Kodiċi għandu jiġi sostitwit bis-subartikolu ġdid li ġej:

Emenda ta' l-artikolu 249 tal-Kodiċi.

"(1) Mingħajr ħsara għad-disposizzjonijiet tal-proviso li hemm ma' l-artikolu 209(1), u sakemm ma jiġix provdut mod ieħor f'xi liġi oħra, fil-każ ta' appell minn sentenzi jew digrieti mogħtija f'kawża mibdija b'rikors ġuramentat, il-garanzija għall-ispejjeż għandha ssir u tiġi depożitata fil-qorti fi żmien tnax-il xahar mid-data tan-notifika ta' l-ammont li għandu jiġi depożitat jew, jekk l-appell għandu jinstama' qabel tnax-il xahar min-notifika hawn imsemmija, mhux aktar tard minn jumejn mid-data stabbilita għas-smiġħ ta' dak l-appell."

**21.** L-artikolu 258 tal-Kodiċi għandu jiġi sostitwit bl-artikolu ġdid li ġej:

Sostituzzjoni ta' l-artikolu 258 tal-Kodiċi.

"Tmexxija għall-esekuzzjoni ta' titolu esekuttiv.

258. Wara -

(a) l-għeluq ta' għaxar snin minn dak in-nhar li fih skond il-liġi it-titolu esekuttiv imsemmi fil-paragrafu (a), (ċ) u (d) ta' l-artikolu 253, rigward sentenzi u digrieti tal-Qrati Superjuri seta' ġie esegwit; jew

(b) l-gheluq ta' hames snin minn dak in-nhar li fih skond il-liġi it-titolu esekuttiv imsemmi fil-paragrafi (a), (ċ) u (d) ta' l-artikolu 253, rigward sentenzi u digrietni tal-Qrati Inferjuri jew tat-Tribunal tat-Talbiet Żgħar seta' ġie esegwit; jew

(ċ) l-gheluq ta' tliet snin minn dak in-nhar li fih skond il-liġi it-titolu esekuttiv imsemmi fil-paragrafi (b), u (e) ta' l-artikolu 253, jew rigward il-proċeduri meħudin skond l-artikolu 166A seta' ġie esegwit,

l-esekuzzjoni tista' ssir biss wara talba magħmula b'rikors quddiem il-qorti kompetenti. Ir-rikorrent għandu wkoll jikkonferma bil-ġurament ix-xorta tad-dejn jew tat-talba li jkun qed ifittex l-esekuzzjoni tagħha, u li d-dejn jew parti minnu jkun għadu dovut."

Emenda ta' l-artikolu 734 tal-Kodiċi.

**22.** Is-subartikolu (1) ta' l-artikolu 734 tal-Kodiċi għandu jiġi emendat kif ġej:

(a) il-paragrafu (g) tiegħu għandu jiġi numerat mill-ġdid bħala l-paragrafu (h); u

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

"(g) jekk l-avukat jew prokuratur legali li jkun qed jidher quddiem imħallef ikun hu jew oħt l-istess ġudikant;"

Emenda ta' l-artikolu 811 tal-Kodiċi.

**23.** L-artikolu 811 tal-Kodiċi għandu jiġi emendat kif ġej:

(a) in-nota marginali tiegħu għandha tiġi sostitwita bin-nota marginali ġdida li ġejja: "Ritrattazzjoni ta' kawża deċiża."; u

(b) minflok il-kliem minn "Kawża deċiża b'sentenza" sa "għal waħda minn dawn ir-raġunijiet li ġejjin:" għandhom jidhru l-kliem "Kawża deċiża b'sentenza mogħtija fi grad ta' appell jew mill-Qorti Ċivili, Prim Awla, fil-ġurisdizzjoni kostituzzjonali tagħha, tista', fuq talba ta' waħda mill-partijiet li jkollha interess, tiġi ritrattata, wara li qabel xejn tiġi mħassra

dik is-sentenza, għal waħda minn dawn ir-raġunijiet li ġejjin:".

**24.** (1) Fl-artikolu 876A tal-Kodiċi, minflok il-kliem "829 u 844" għandhom jidhlu l-kliem "829 sa 844".

Emenda ta' l-artikolu 876A tal-Kodiċi.

(2) Mandati ta' inibizzjoni li saru qabel id-dhul fis-seħh tas-subartikolu (1) ta' dan l-artikolu għandhom jibqgħu fis-seħh bħallikieku saru taht id-disposizzjonijiet tal-Kodiċi kif emendati bid-disposizzjonijiet ta' dan l-Att.

**25.** Il-paragrafu (a) tas-subartikolu (1) ta' l-artikolu 925 tal-Kodiċi għandu jiġi sostitwit bil-paragrafu li ġejj:

Emenda ta' l-artikolu 925 tal-Kodiċi.

"(a) jaġixxi fl-aħjar interess ta' min ikun inġhata l-benefiċċju ta' l-għajjnuna legali, u ma għandu jitlob l-ebda forma ta' hlas minn dik il-parti;".

**26.** Minnufih wara l-artikolu 925 tal-Kodiċi, għandu jidher l-artikolu ġdid li ġejj:

Żieda ta' l-artikolu 926 fil-Kodiċi.

"Kumpanniji m'humieq intitolati għall-benefiċċju ta' l-għajjnuna legali. Kap. 386. 926. Kumpanniji reġistrati skond l-Att dwar il-Kumpanniji m'humieq intitolati għall-benefiċċju ta' l-għajjnuna legali.".

**27.** Is-subartikolu (1) ta' l-artikolu 1203 tal-Kodiċi Ċivili għandu jiġi sostitwit bis-subartikolu ġdid li ġejj:

Emenda ta' l-artikolu 1203 tal-Kodiċi Ċivili. Kap. 16.

"(1) Mingħajr ħsara għad-disposizzjonijiet ta' l-artikolu 381(1)(f), (g) u (h) tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, it-tpaċija ma tistax issir bi ħsara tal-jeddijiet li jkunu ġew akkwistati minn terza persuna.".

Kap. 12.

**28.** (1) L-Att li jirregola l-Qsim ta' Wirt huwa b'dan imħassar.

Thassir ta' l-Att li jirregola l-Qsim ta' Wirt. Kap. 308.

(2) Minkejja d-disposizzjonijiet tas-subartikolu (1), kull kawża li hemm pendent quddiem it-Tribunal ta' Arbitraġġ dwar il-Qsim ta' Wirt għandha tibqa' tinstema' quddiem dak it-Tribunal sas-sentenza finali.

Emenda ta' l-  
artikolu 50 ta' l-  
Att dwar il-  
Bastimenti  
Merkantili u  
emendi  
konsegwenzjali  
fl-Att ta' l-2006  
li jemenda l-  
Kodiċi ta'  
Organizzazzjoni  
u Proċedura  
Ċivili.  
Kap. 234.  
Att XIV ta' l-  
2006.

**29. (1)** Il-paragrafu (a) ta' l-artikolu 50 ta' l-Att dwar il-Bastimenti Merkantili għandu jiġi sostitwit bil-paragrafu ġdid li ġej:

"(a) spejjeż ġudizzjarji sabiex isir il-bejgħ tal-bastiment u l-qsim tal-prezz li jġib kif ukoll l-ispejjeż imsemmijin fl-artikolu 867(5) sa (11) tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, li jintnefqu mill-Awtorità Marittima ta' Malta fit-tweqqif tal-funzjonijiet tagħha skond l-artikolu 867 ta' l-imsemmi Kodiċi jew li jintnefqu mill-persuna li favur tagħha jkun inħareġ il-mandat ta' arrest ta' bastiment, ukoll skond id-disposizzjonijiet ta' l-istess artikolu 867;"

(2) Is-subartikolu (2) ta' l-artikolu 866 ġdid tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, kif dan l-artikolu ġdid ġie miżjud bl-artikolu 100 ta' l-Att ta' l-2006 li jemenda l-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, għandu jiġi sostitwit bis-subartikolu li ġej:

"(2) Il-mandat huwa eżegwit għall-effetti kollha tal-liġi man-notifika ta' l-uffiċjal eżekuttiv ta' l-awtorità li f'idejha jew taht is-setgħa jew kontroll tagħha tinsab il-biċċa tal-baħar."

(3) L-artikolu 867 ġdid tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, kif dan l-artikolu ġdid ġie miżjud bl-artikolu 100 ta' l-Att ta' l-2006 li jemenda l-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, għandu jiġi emendat kif ġej:

(a) is-subartikolu (5) tiegħu għandu jiġi sostitwit bis-subartikolu ġdid li ġej:

"(5) L-ispejjeż kollha li jkunu meħtieġa għall-preservazzjoni tal-vapur jew bastiment arrestat għandhom, mill-mument meta l-mandat ta' arrest jiġi notifikat lill-Awtorità Marittima ta' Malta, jithallsu mill-parti li toħroġ il-mandat, mingħajr hsara għad-dritt li tiġbor lura dawk l-ispejjeż flimkien mal-pretensjoni tiegħu."; u

(b) minnufih wara s-subartikolu (5) tiegħu għandhom jiżdiedu s-subartikoli ġodda li ġejjin:

"(6) Fi żmien sebat ijiem mill-hruġ tal-mandat ta' arrest tal-vapur jew bastiment, l-Awtorità għandha tibgħat bil-posta reġistrata, lill-persuna li favur tagħha jkun inħareġ il-mandat ta' arrest, talba fil-forma ta' fattura li jkun fiha stima, li tkopri perjodu ta' tliet ġimgħat, ta' l-ispejjeż li huma maħsuba li jkunu meħtieġa għall-preservazzjoni tal-vapur jew bastiment arrestati.

(7) Il-persuna li favur tagħha jkun inhareg il-mandat ta' arrest tkun marbuta li tipprovdi lill-Awtorità, fi żmien erbatax-il gurnata minn meta tirċievi dik it-talba, sigurtà, fil-forma jew ta' flus kontanti jew garanzija bankarja, biex tiggarrantixxi il-hlas ta' dik il-fattura.

(8) Fil-każ li dak il-kreditur jonqos milli jhallas lill-Awtorità dik is-somma fi flus kontanti jew jonqos milli jipprovdi l-garanzija fiż-żmien stipulat, l-Awtorità tista' tagħmel rikors għall-hruġ ta' kontro-mandat, f'liema każ dak il-mandat għandu jieqaf milli jkollu saħħa u effett, u dan minghajr preġudizzju għad-drittijiet ta' l-Awtorità biex tiġbor mill-kreditur kull ammont dovut lilha, li l-Awtorità tkun nefqet fl-eżerċizzju tal-funzjonijiet u r-responsabbiltajiet tagħha skond dan l-artikolu.

(9) Fil-każ li, wara li tkun thallset il-fattura li jkun fiha l-istima, il-persuna li favur tagħha jkun inhareg il-mandat tagħmel kontro-mandat li jippermetti li jitlaq il-bastiment, l-Awtorità għandha, fi żmien erbatax-il gurnata, tirrifondi lil dik il-persuna d-differenza bejn l-ispejjeż li l-Awtorità attwalment nefqet matul il-perjodu li fih ikun inżamm il-bastiment u l-ammont li jkun thallas minn dik il-persuna.

(10) Jekk ġimgha qabel ma jiskadi l-perjodu ta' tliet ġimghat fuq imsemmi jkun jidher li l-bastiment ser jibqa' taht arrest għal aktar mill-perjodu ta' tliet ġimghat kopert bl-ewwel fattura, l-Awtorità għandha tohroġ fattura oħra għal perjodu ieħor ta' tliet ġimghat u għandha tkompli tohroġ fatturi oħra li jkopru perjodi oħra ta' tliet ġimghat jekk ġimgha qabel ma jiskadi l-perjodu rilevanti ta' tliet ġimghat ikun jidher li l-bastiment ser jibqa' f'Malta. Fi żmien erbatax-il gurnata minn meta tirċievi l-fatturi oħra maħruġa mill-Awtorità, il-persuna li favur tagħha jkun inhareg il-mandat ta' arrest għandha tipprovdi s-sigurtà stipulata fis-subartikolu (7), u fin-nuqqas ta' dan l-Awtorità tista' tirrikorri għar-rimedju msemmi fis-subartikolu (8).

(11) Fil-każijiet fejn il-fatturi jinħarġu għal perjodi oħra ta' tliet ġimghat kif indikat fis-subartikolu (10), segwiti mill-hlas ta' dawk il-fatturi mill-persuna li favur tagħha jkun inhareg il-mandat, u l-persuna li favur tagħha jkun inhareg il-mandat tagħmel kontro-mandat li fih il-qorti tintalab tirrilaxxa l-bastiment mill-arrest, l-Awtorità għandha fi żmien erbatax-il gurnata tirrifondi lil

dik il-persuna d-differenza bejn l-ispejjeż li l-Awtorità attwalment nefqet matul il-perjodu li fih ikun inżamm il-bastiment u l-ammont li jkun thallas minn dik il-persuna."

(4) Is-subartikolu (3) ta' l-artikolu 872A ġdid tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, kif dan l-artikolu ġdid ġie miżjud bl-artikolu 100 ta' l-Att ta' l-2006 li jemenda l-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, għandu jiġi sostitwit bis-subartikolu li ġej:

"(3) Wara li jkun sar l-arrest ta' vapur jew bastiment f'xi port f'Malta u meta jsir rikors mill-Awtorità Marittima ta' Malta, qorti tista', jekk tkun sodisfatta li minhabba fix-xorta tal-merkanzija jew it-tul jew il-pixka tiegħu u, jew ċirkostanzi oħra li jolqtu s-sigurtà, it-tniġġiż, in-navigazzjoni jew manuvrar fil-port, ikun jaqbel li l-vapur jew il-bastiment jitlaq mill-port mingħajr dewmien, tordna li l-vapur jew bastiment għandu jiġi mċaqlaq minn dak il-port lejn xi ankraġġ ieħor fl-ibhra territorjali."

Emendi għal diversi artikoli ta' l-Att ta' l-2006 li jemenda l-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili. Att XIV ta' l-2006.

**30.** (1) L-artikolu 15 ta' l-Att ta' l-2006 li jemenda l-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili għandu jiġi emendat kif ġej:

(a) minflok il-kliem "wara l-artikolu 293" għandhom jidhlu l-kliem "wara l-artikolu 304", u minflok il-kliem "l-artikoli 294 sa 300 ġodda" għandhom jidhlu l-kliem "l-artikoli 305 sa 311 ġodda"; u

(b) in-numri ta' l-artikoli ġodda 294, 295, 296 297, 298, 299 u 300, kif kontenuti fl-imsemmi artikolu 15, għandhom jiġu enumerati mill-ġdid bhala l-artikoli 305, 306, 307, 308, 309, 310 u 311, rispettivament.

(2) L-artikolu 17 ta' l-Att ta' l-2006 li jemenda l-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili għandu jiġi emendat kif ġej:

(a) minflok il-kliem "wara l-artikolu 300" għandhom jidhlu l-kliem "wara l-artikolu 311", u minflok il-kliem "l-artikoli 301 sa 312 ġodda" għandhom jidhlu l-kliem "l-artikoli 312 sa 312K ġodda";

(b) in-numri ta' l-artikoli ġodda 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311 u 312, kif kontenuti fl-imsemmi artikolu 17, għandhom jiġu enumerati mill-ġdid bhala l-artikoli 312, 312A, 312B, 312Ċ, 312D, 312E, 312F, 312G, 312H, 312I, 312J u 312K, rispettivament;

(ċ) fis-subartikolu (2) ta' l-artikolu 312B, kif enumerat

mill-ġdid, minflok il-kliem "fl-artikolu 309" għandhom jidhlu l-kliem "fl-artikolu 312K";

(d) fl-artikolu 312H, kif enumerat mill-ġdid, inkluża fin-nota marginali tiegħu, minflok il-kliem "l-artikoli 297 u 300" għandhom jidhlu l-kliem "l-artikoli 308 sa 311"; u

(e) fis-subartikoli (1) u (2) ta' l-artikolu 312J, kif enumerat mill-ġdid, minflok il-kliem "l-artikolu 310" għandhom jidhlu l-kliem "l-artikolu 312I".

(3) Fis-subartikolu (3) ta' l-artikolu 315 ġdid tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, kif dan l-artikolu ġdid ġie miżjud bl-artikolu 22 ta' l-Att ta' l-2006 li jemenda l-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, minflok il-kliem "l-artikoli 297, 300 u 357" għandhom jidhlu l-kliem "l-artikoli 308, 311 u 312F".

(4) Fl-artikolu 388Ċ ġdid tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, kif dan l-artikolu ġdid ġie miżjud bl-artikolu 74 ta' l-Att ta' l-2006 li jemenda l-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, minflok il-kliem "l-artikoli 858 u 860" għandhom jidhlu l-kliem "l-artikoli 868 u 870".

(5) Fl-artikolu 845 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, kif dan l-artikolu ġie sostitwit bl-artikolu 90 ta' l-Att ta' l-2006 li jemenda l-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, minflok il-kliem "l-artikoli 278, 279 u 282" għandhom jidhlu l-kliem "l-artikoli 275, 276 u 279".

(6) L-artikolu 846 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, kif dan l-artikolu ġie sostitwit bl-artikolu 91 ta' l-Att ta' l-2006 li jemenda l-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili għandu jiġi emendat kif ġej:

(a) minflok il-kliem "fl-artikolu 276" fis-subartikolu (1) tiegħu, għandhom jidhlu l-kliem "fl-artikolu 282"; u

(b) minflok il-kliem "l-artikoli minn 278 sa 304" fis-subartikolu (3) tiegħu, għandhom jidhlu l-kliem "l-artikoli minn 275 sa 293".

Emenda ta' l-artikolu 865 tal-Kodiċi kif emendat bl-artikolu 100 ta' l-Att ta' l-2006 li jemenda l-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili. Att XIV ta' l-2006.

**31.** Fl-artikolu 865 ġdid tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, kif dan l-artikolu ġdid ġie miżjud bl-artikolu 100 ta' l-Att ta' l-2006 li jemenda l-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, minflok il-kliem "Mandat ta' arrest" għandhom jidhlu l-kliem "Mandat ta' arrest kawtelatorju".

Emenda ta' l-artikolu 107 ta' l-Att ta' l-2006 li jemenda l-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili. Att XIV ta' l-2006.

**32.** L-artikolu 107 ta' l-Att ta' l-2006 li jemenda l-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili għandu jiġi emendat kif ġej:

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

(b) minnufih wara l-proviso tas-subartikolu (1), kif enumerat mill-ġdid, għandu jidhol is-subartikolu ġdid li ġej:

"(2) Mhuwiex mehtieġ li jiġu prorogati l-mandati ta' sekwestru eżekuttivi, kif dawn kienu fis-sehħ qabel ma ġew fis-sehħ id-disposizzjonijiet ta' dan l-Att. Id-disposizzjonijiet ta' dan is-subartikolu jitqiesu li ġew fis-sehħ fl-24 ta' Ottubru, 2006."

Thassir ta' l-artikolu 98 ta' l-Att ta' l-2006 li jemenda l-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili. Att XIV ta' l-2006.

**33.** L-artikolu 98 ta' l-Att ta' l-2006 li jemenda l-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili għandu jithassar.

Emenda ta' l-artikolu 100 ta' l-Att ta' l-2006 li jemenda l-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili. Att XIV ta' l-2006.

**34.** L-artikolu 100 ta' l-Att ta' l-2006 li jemenda l-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, kif dak l-artikolu ġie emendat bl-artikolu 29 ta' dan l-Att, għandu jiġi emendat kif ġej:

(a) minflok il-kliem "l-artikoli 855 sa 872Ċ ġodda" għandhom jidhlu l-kliem "l-artikoli 855 sa 865 ġodda";

(b) l-artikoli 855 sa 864 preżenti għandhom jithassru;

(ċ) il-kliem "Sub-titolu VI" għandhom jiġu sostitwiti bil-kliem "Sub-titolu V"; u

(d) l-artikoli preżenti 865, 866, 867, 869, 870, 871, 872, 872A, 872B u 872Ċ għandhom jiġu enumerati mill-ġdid bhala l-artikoli 855, 856, 857, 858, 859, 860, 861, 862, 863, 864 u 865 rispettivament.

**35.** Il-paragrafu (h) ta' l-artikolu 273 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, kif dan l-artikolu ġie sostitwit bl-artikolu 4 ta' l-Att ta' l-2006 li jemenda l-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, għandu jithassar u l-paragrafi (i) u (j) għandhom jiġu enumerati mill-ġdid bhala l-paragrafi (h) u (i) rispettivament.

Emenda ta' l-artikolu 273 tal-Kodiċi, kif emendat bl-artikolu 4 ta' l-Att ta' l-2006 li jemenda l-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili.  
Att XIV ta' l-2006.

**36.** L-artikolu 2 ta' l-Att ta' l-2006 li jemenda l-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili għandu jithassar.

Thassir ta' l-artikolu 2 ta' l-Att ta' l-2006 li jemenda l-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili.  
Att XIV ta' l-2006.

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## "SKEDA

(Artikolu 17)

A.L. ta' l-2007

### KODIĊI TA' ORGANIZZAZZJONI U PROĊEDURA ĊIVILI (KAP. 12)

Regolamenti ta' l-2007 dwar Smiġh ta' Kawżi ta' Diviżjoni ta' Proprjetà u ta' Suċċessjoni

BIS-SAHHA tas-setgħat mogħtija bl-artikolu 195 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, il-Ministru responsabbli għall-gustizzja għamel dawn ir-regolamenti li ġejjin:-

**1.** It-titolu ta' dawn ir-regolamenti huwa r-Regolamenti ta' l-2007 dwar Smiġh ta' Kawżi ta' Diviżjoni ta' Proprjetà u ta' Suċċessjoni.

Titolu.

**2.** Kawża li jkollha x'taqşam ma' diviżjoni ta' proprjetà u suċċessjoni għandha, meta tkun appuntata għas-smiġh, sakemm ma hemmx provdut mod ieħor fil-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, tibqa' tinstama' minghajr waqfien sakemm tiġi konkluża.

Kawża dwar diviżjoni ta' proprjetà u suċċessjoni tinstama' minghajr waqfien.  
Kap. 12.

**3.** Xejn f'dawn ir-regolamenti ma jzomm il-qorti milli tiddeċiedi kawża fil-ġurnata msemmiya fir-rikors meta l-konvenut ma jopponix it-talba inkella meta l-qorti hija sodisfatta li l-attur m'għandu ebda jedd jew li l-konvenut m'għandu ebda eċċezzjoni

Deċiżjoni ta' kawża fil-ġurnata msemmiya fir-rikors.

tajba x'jagħti.

Differimenti.  
Kap. 12.

4. Id-differiment ta' kawża ma jingħatax hlief biex tithares xi proċedura stabbilita fil-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili jew, f'ċirkostanzi eċċezzjonali, skond id-disposizzjonijiet tar-regolament 5.

Ċirkostanzi  
eċċezzjonali.

5. Kawża tista' tiġi differita f'ċirkostanzi eċċezzjonali biss jekk il-qorti tkun sodisfatta li dawk iċ-ċirkostanzi jkunu jeżistu u hekk tiddikjara fid-digriet li bih tordna d-differiment u fejn tispeċifika dawk iċ-ċirkostanzi, u biss fuq rikors ippreżentat mill-parti li titlob id-differiment mhux iktar tard minn jumejn tax-xogħol qabel id-data li fiha l-kawża tkun għas-smiġh jew, jekk ir-raġuni tad-differiment tinqala' wara li jgħaddi l-imsemmi żmien kemm jista' jkun malajr wara; u r-rikors għandu jispeċifika bid-dettall iċ-ċirkostanzi li jiġġustifikaw it-talba u għandu jiġi konfermat bil-ġurament mir-rikorrent jew, jekk ir-rikorrent ikun nieqes minn Malta jew xort'ohra ma jkunx jista' jikkonferma r-rikors personalment, mill-avukat li jiffirma r-rikors li għandu f'dak il-każ jikkonferma wkoll bil-ġurament li r-rikorrent ma setax jikkonfermah hu nnifsu."

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Mgħoddi mill-Kamra tad-Deputati fis-Seduta Nru. 540 tad-19ta' Ġunju, 2007.

ANTON TABONE  
*Speaker*

RICHARD J. CAUCHI  
*CSkrivan tal-Kamra tad-Deputati*

I assent.

(L.S.)

EDWARD FENECH ADAMI

President

26th June, 2007

**ACT No. VII of 2007**

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

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

**1.** (1) The short title of this Act is the Code of Organization and Civil Procedure (Amendment) Act, 2007, and shall be read and construed as one with the Code of Organization and Civil Procedure, hereinafter referred to as "the Code".

Short title and commencement.

(2) This Act shall come into force on such date as the Minister responsible for justice may by notice in the Gazette appoint, and different dates may be so appointed for different purposes and for different provisions of this Act.

**2.** Article 7 of the Code shall be amended as follows:

Amendment of article 7 of the Code.

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

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

"(2) The Chief Justice may designate one of the magistrates as Senior Magistrate; such designation shall be for a specified time or until another magistrate is so designated.

(3) Without prejudice to the provisions of this Code or of any other law prescribing the court or courts in which a magistrate shall sit, the Senior Magistrate shall perform such duties and functions as may be assigned by the Chief Justice or as may be provided by any law for the time being in force."

Amendment of article 9 of the Code.

**3.** In article 9 of the Code, for the words "except such as may be assigned to him by law" there shall be substituted the words "except activities within the Judicial Studies Committee or such as may be assigned to him by law".

Substitution of article 11 of the Code.

**4.** Article 11 of the Code shall be substituted by the following new article:

"11. (1) The President of Malta shall assign to each of the judges his duties by assigning to him the court or the chamber of the court or section in which he is to sit ordinarily, and may transfer a judge from one court or chamber or section of a court to another:

Provided that a judge may be assigned to sit ordinarily in more than one court or more than one chamber or section of one or more courts.

(2) The President of Malta is also empowered to surrogate a judge in case of a vacancy in the number of judges.

(3) Where more than one judge is assigned to sit ordinarily in a court, or in a chamber or section of a court, the distribution of duties in general between the said judges shall be made by the Chief Justice, and the registrar shall assign cases and other judicial acts to the judges as directed by the Chief Justice:

Provided that, except where cases or judicial acts are assigned according to general directives or according to rules made pursuant to subarticle (6), where the Chief Justice may be challenged or may abstain from taking cognizance of a case for any of the reasons mentioned in article 734(1)(a), (b), (c), (d)(ii) and (iii), (e) and (g), the assignment of such a case shall be made by the Senior Administrative Judge referred to in subarticle (11).

(4) Whenever any judge, other than the Chief Justice, is challenged or otherwise lawfully impeded, the Chief Justice shall assign another judge to take cognizance of the case:

Provided that, except where cases or judicial acts are assigned according to general directives or according to rules made pursuant to subarticle (6), where the Chief Justice may be challenged or may abstain from taking cognizance of a case for any of the reasons mentioned in article 734(1)(a), (b), (c), (d)(ii) and (iii), (e) and (g), the assignment of a judge to take cognizance of that case shall be made by the Senior Administrative Judge referred to in subarticle (11).

(5) Without prejudice to the provisions of article 12(2), and except where cases and judicial acts are assigned according to general directives or according to rules made pursuant to subarticle (6), where the Chief Justice is challenged or otherwise lawfully impeded, the Senior Administrative Judge referred to in subarticle (11) shall assign another judge to take cognizance of the case.

(6) The Rule-Making Board established under article 29 may make rules providing for the manner of the distribution of cases and other judicial acts for the purposes of subarticles (3), (4) and (5).

(7) Any assignment, transfer or subrogation made by the President of Malta, and any distribution of duties in general, and the assignment of cases pursuant to a challenge or abstention made by the Chief Justice or, as the case may be, by the Senior Administrative Judge referred to in subarticle (11), shall be deemed to have been properly and sufficiently notified for all purposes if notice thereof is posted in such registry as the Minister may under article 27 prescribe for the purpose before or at the beginning of the period during which such assignment, transfer, subrogation or distribution is to take effect.

(8) The registrar shall keep a record of all notices posted up in terms of the last preceding subarticle and of the date of such posting.

(9) Where any dispute arises as to whether a case or other judicial act is to be assigned to one judge or to another judge sitting in the same court or in the same chamber or section of a court, or when a dispute arises as to which chamber or section of a court is to deal with a particular case or a particular judicial act, the matter shall be referred to the Chief Justice who

shall, *in camera*, determine the judge or chamber or section to which the case or judicial act shall be assigned. The determination by the Chief Justice shall be registered in the records of the case and shall be final:

Provided that where the Chief Justice may be challenged or may abstain from taking cognizance of that case or judicial act for any of the reasons mentioned in article 734(1)(a), (b), (c), (d)(ii) and (iii), (e) and (g), the determination shall be made by the Senior Administrative Judge referred to in subarticle (11).

(10) When more than one judge is assigned to sit in a chamber or section of a court not being an appellate court, the Chief Justice may designate one of the judges as President of that chamber or section; such designation shall be for a specified time or until another judge is so designated. The Judge so designated shall perform such duties and functions as may be assigned by the Chief Justice or as may be provided by any law for the time being in force.

(11) For the purposes of this article, and in order to perform the duties listed in this article, the Chief Justice shall nominate a Senior Administrative Judge."

Amendment of article 12 of the Code.

**5.** Subarticle (1) of article 12 of the Code shall be substituted by the following new subarticle:

"(1) The provisions of articles 8, 9, 10 and 11(1) shall, *mutatis mutandis*, also apply to the President of the Court of Appeal."

Substitution of article 15 of the Code.

**6.** Article 15 of the Code shall be substituted by the following new article:

"15. The provisions of articles 8, 9, 10 and 11 shall, *mutatis mutandis*, apply to magistrates; and the references to the Senior Administrative Judge in subarticles (3), (4), (7) and (9) of article 11 shall be construed as references to the Senior Magistrate referred to in article 7(2)."

Amendment of article 29 of the Code.

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

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

"(1) There shall be a Board composed of the Chief Justice, as chairman, who shall also have a casting vote, a

judge ordinarily sitting in the Court of Appeal and a magistrate appointed by the President of Malta on the recommendation of the Chief Justice, the Attorney General, the President of the Chamber of Advocates and the President of the Chamber of Legal Procurators whose function shall be to make rules, to be called Rules of Court, for the purposes specified in subarticle (2) or in any other provision of this Code or of any other law.";

(b) in subarticle (2) thereof, for the words from "Rules of Court may be made generally" to the words "but without prejudice to the generality of the aforesaid -", there shall be substituted the following:

"Rules of Court may be made generally in respect of all matters concerning the conduct of the courts and the conduct of causes with the object of ensuring a proper and efficient administration of justice and, in particular, but without prejudice to the generality of the aforesaid -";

(c) for paragraph (a) of subarticle (2) thereof, there shall be substituted the following:

"(a) for governing the conduct of the courts and for securing and maintaining order and decorum within the building of the courts;"

(d) immediately after paragraph (g) of subarticle (2) thereof, there shall be substituted the following new paragraph:

"(h) for fixing the sessions of the forensic year and the vacation days in the superior and inferior courts, and matters ancillary or incidental to such sessions and vacation days:"; and

(e) immediately after subarticle (7) thereof, there shall be added the following new subarticle:

"(8) Without prejudice to the provisions of subarticle (7), the Chief Justice may, in his discretion, transfer any case from one court to another:

Provided that in the execution of this function the Chief Justice shall discuss the matter with the judges or magistrates concerned, either during any of the meetings convened in accordance with subarticle (6) or during an *ad hoc* meeting held for the purpose."

Amendment of article 34 of the Code.

**8.** In the proviso to article 34 of the Code, immediately after the words "from such judgment of the First Hall of the Civil Court" there shall be added the words "or from any section of the said Civil Court".

Amendment of article 47 of the Code.

**9.** In subarticle (1) of article 47 of the Code for the words "of an amount not exceeding five thousand liri" there shall be substituted the words "of an amount not exceeding ten thousand liri".

Substitution of article 79 of the Code.

**10.** Article 79 of the Code shall be substituted by the following new article:

"79. No person shall exercise the profession of advocate without the authority of the President of Malta granted by warrant under the Public Seal of Malta."

Amendment of article 117 of the Code.

**11.** (1) In article 117 of the Code for the words "Every sworn application or other warrant of the superior courts shall be issued in the name of the Republic of Malta", there shall be substituted the words "Every warrant of the superior courts shall be issued in the name of the Republic of Malta".

(2) The provisions of subarticle (1) shall be deemed to have come into force as from the 1st January 2006:

Provided that any procedure which has been commenced after the 1st January 2006 up to the date of the coming into force of this article of this Act shall remain valid as though it had been commenced in accordance with the provisions of article 117 of the Code, as amended by subarticle (1) of this article.

Amendment of article 152 of the Code.

**12.** In subarticle (1) of article 152 of the Code, immediately after the words "but not later than six months after the filing of the application for appeal", there shall be inserted the words "and the payment of the deposit".

Amendment of article 166A of the Code.

**13.** Article 166A of the Code shall be amended as follows:

(a) in subarticle (1), for the words "five thousand liri", wherever they occur, there shall be substituted the words "ten thousand liri, or such other sum as may be established from time to time by Order in the Gazette by the Minister"; and

(b) immediately after sub-paragraph (ii) of subarticle (5) thereof, there shall be added the following new proviso:

"Provided that the said application shall be appointed for hearing within two weeks."

**14.** Subarticle (3) of article 167 of the Code shall be substituted by the following new subarticle: Amendment of article 167 of the Code.

"(3) The provisions of article 156(1)(a), (b) and (c), (2) and (3) and of article 159 shall apply to the said sworn application."

**15.** In subarticle (1) of article 173 of the Code, for the words "such orders or directives be communicated by the registrar even by letter to the advocates or legal procurators of the parties or to the parties themselves" there shall be substituted the words "such orders or directives be communicated by the registrar even by letter to the advocates or legal procurators of the parties, which letter is to be handed personally to such advocate or legal procurator, and, by post, to the parties themselves". Amendment of article 173 of the Code.

**16.** Article 195 of the Code shall be amended as follows: Amendment of article 195 of the Code.

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

"(2) (a) The Court shall -

(i) at the first hearing of both at first instance as well as at the court of appeal stage, make a record stating the parties who have been served with the application, with the application on oath or with the application on appeal as the case may be and, if it is determined that there are any parties who have not been so served, give such orders as it may deem fit so that services may be effected or other acts prepared; and

(ii) at the first hearing of both the pre-trial stage and the trial stage, plan in advance, after consulting with the advocates of the parties, all the sittings to be held as well as the projected date of judgement and shall also direct the parties on what evidence and submissions it expects to be made at each sitting:

Provided that the court shall, for grave reasons to be expressly stated in the records of the case or for reasons of urgency, call any other sittings and request any other evidence or submissions it deems fit.";

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

"(3) Unless rules of court are made under article 29, all causes shall be appointed for hearing within two months and sittings shall be held on a bi-monthly basis."; and

(c) subarticle (5) thereof shall be renumbered as subarticle (6) thereof and, immediately after subarticle (4) thereof, there shall be added the following new subarticle:

"(5) (a) Where a cause has been pending before a particular court for three or more years, any party to the case may, personally, and without the need of representation by any advocate, present an application, (which application shall, however, not form part of the acts of the case) to the Chief Justice requesting that, for the simple reason that the cause has taken so long, the presiding member of the court be changed and the case assigned to another member of the judiciary; the decision of the Chief Justice, which shall be taken *in camera*, shall be final and conclusive; and where such assignment takes place there shall be no need for any notification of such assignment.

(b) Where a cause has been pending for judgment before a particular court for eighteen months or more, any party to the case may, personally, and without the need of representation by any advocate, present an application, (which application shall, however, not form part of the acts of the case) to the Chief Justice for this purpose, and the Chief Justice may, for the simple reason that the judgment has taken so long to be delivered, allow the request for the presiding member of the court to be changed and for the case for judgment to be assigned to another member of the judiciary; the decision of the Chief Justice, which shall be taken *in camera*, shall be final and conclusive; and where such assignment takes place there shall be no need for any notification of such assignment.

(c) The Chief Justice shall draw up a yearly report on any causes transferred in accordance with the provisions of paragraphs (a) and (b), detailing the possible reasons for such delays, and shall send the report to the Commission for the Administration of Justice. The Commission shall take such action as it may deem appropriate in accordance with the provisions of the Commission for the Administration of Justice Act, and shall, within three months, publish such report."

**17.** The Regulations which appear in the Schedule to this Act shall be published as regulations made by the Minister responsible for justice by virtue of the powers under article 195 of the Code of Organization and Civil Procedure.

Publication of regulations.

**18.** Article 218 of the Code shall be substituted by the following new article:

Substitution of article 218 of the Code.

"218. The court shall in the judgment premise the reasons on which the decision of the court is based, and shall include a reference to the proceedings, the claims of the plaintiff and the pleas of defendant:

Provided that the Rule-Making Board appointed under article 29 may, by Rules of Court, derogate from the provisions of this article."

**19.** Subarticle (4) of article 223 of the Code shall be substituted by the following new subarticle:

Amendment of article 223 of the Code.

"(4) In the case of any frivolous or vexatious appeal or re-trial, the Court of Appeal or the Constitutional Court may award double costs against the appellant in favour of the respondent."

**20.** Subarticle (1) of article 249 of the Code shall be substituted by the following new subarticle:

Amendment of article 249 of the Code.

"(1) Saving the provisions of the proviso to article 209(1) and unless otherwise provided in any other law, in the case of an appeal from judgments or decrees given in a cause initiated by sworn application, security for costs is to be produced and deposited in court within twelve months from the date of the notification of the amount to be deposited or, if the appeal is to be heard earlier than twelve months from the notification herein mentioned, not later than two days before the date set for the hearing of such appeal."

**21.** Article 258 of the Code shall be substituted by the

Substitution of article 258 of the Code.

following new article:

"Procedure for enforcement of executive titles.

258. Where -

(a) a period of ten years has expired since the day on which according to law an executive title mentioned in paragraph (a) of article 253, in respect of judgments and decrees of the Superior Courts could have been enforced; or

(b) a period of five years has expired since the day on which according to law an executive title mentioned in paragraphs (a), (c) and (d) of article 253, in respect of judgments and decrees of the Inferior Courts or of the Small Claims Tribunal could have been enforced; or

(c) a period of three years has expired since the day on which according to law an executive title mentioned in paragraphs (b), and (e) of article 253, or in respect of proceedings taken under article 166A could have been enforced,

the enforcement may only be proceeded with upon a demand to be made by an application filed before the competent court. The applicant shall also confirm on oath the nature of the debt or claim sought to be enforced, and that the debt or part thereof is still due."

Amendment of article 734 of the Code.

**22.** Subarticle (1) of article 734 of the Code shall be amended as follows:

(a) paragraph (g) thereof shall be re-numbered as paragraph (h); and

(b) immediately after paragraph (f) thereof, there shall be added the following new paragraph:

"(g) if the advocate or legal procurator pleading before a judge is the brother or sister of the said judge;"

Amendment of article 811 of the Code.

**23.** Article 811 of the Code shall be amended as follows:

(a) the marginal note thereof shall be substituted by the

following new marginal note "New trial of decided causes."; and

(b) for the words from "A new trial of a cause" to the words "in any of the following cases:" there shall be substituted the words "A new trial of a cause decided by a judgment given in second instance or by the Civil Court, First Hall, in its Constitutional Jurisdiction, may be demanded by any of the parties concerned, such judgment being first set aside, in any of the following cases:".

**24.** (1) In article 876A of the Code, for the words "829 and 844" there shall be substituted the words "829 to 844".

Amendment of article 876A of the Code.

(2) Prohibitory injunctions issued before the coming into force of subarticle (1) of this article shall remain in force as though made under the provisions of the articles of the Code as amended by the provisions of this Act.

**25.** Paragraph (a) of subarticle (1) of article 925 of the Code shall be substituted by the following paragraph:

Amendment of article 925 of the Code.

"(a) act in the best interest of the person admitted to the benefit of legal aid, and may not demand any form of payment from that party;".

**26.** Immediately after article 925 of the Code, there shall be added the following new article:

Addition of article 926 to the Code.

"Companies not entitled to legal aid. Cap. 386. 926. Companies registered under the Companies Act shall not be entitled to the benefit of legal aid.".

**27.** Subarticle (1) of article 1203 of the Civil Code shall be substituted by the following new subarticle:

Amendment of article 1203 of the Civil Code. Cap. 16.

"(1) Without prejudice to the provisions of article 381(1)(f), (g) and (h) of the Code of Organization and Civil Procedure, set-off shall not take place to the prejudice of the rights acquired by a third party.".

Cap. 12.

**28.** (1) The Partition of Inheritances Act is hereby repealed.

(2) Notwithstanding the provisions of subarticle (1), any cause pending before the Partition of Inheritances Tribunal shall continue to be heard before the said Tribunal until final decision.

Repeal of Partition of Inheritances Act. Cap. 308.

**29.** (1) Paragraph (a) of article 50 of the Merchant Shipping Act shall be substituted by the following new paragraph:

"(a) judicial costs that are incurred in respect of the sale of the ship and the distribution of the proceeds thereof as well as the expenses mentioned in article 867(5) to (11) of the Code of Organization and Civil Procedure, incurred by the Malta Maritime Authority in pursuance of its functions under article 867 of the said Code or incurred by the person in whose favour the warrant of arrest of a ship was issued, also in terms of the same article 867;"

(2) Subarticle (2) of the new article 866 of the Code of Organization and Civil Procedure, as this new article is added by article 100 of the Code of Organization and Civil Procedure (Amendment) Act, 2006, shall be substituted by the following subarticle:

"(2) The warrant is executed for all effects of the law when notice is served on the executive officer of the authority who has the sea vessel in its hands or under its power or control."

(3) Article 867 of the Code of Organization and Civil Procedure, as this new article is added by article 100 of the Code of Organization and Civil Procedure (Amendment) Act, 2006, shall be amended as follows:

(a) for subarticle (5) thereof there shall be substituted the following new subarticle:

"(5) All expenses as may be necessary for the preservation of the arrested ship or vessel shall, from the moment that the warrant of arrest is served on the Malta Maritime Authority, be borne by the party issuing the warrant, saving his right to recover such expenses together with his claim."; and

(b) immediately after subarticle (5) thereof there shall be added the following new subarticles:

"(6) Within seven days from the issuing of the warrant of arrest of the ship or vessel, the Authority shall send by registered mail to the person in whose favour the warrant of arrest has been issued a request in the form of an invoice containing an estimate, covering a period of three weeks, of the expenses anticipated as necessary for the preservation of the arrested ship or vessel.

(7) The person in whose favour the warrant of arrest was issued shall be bound to provide to the Authority, within fourteen days from the receipt of such a request, security, in the form of either cash or a bank guarantee, guaranteeing the payment of such an invoice.

(8) In the event that such a creditor fails to pay to the Authority the said actual sum or fails to provide the guarantee within the stipulated time, the Authority may file an application for the issue of a counter warrant whereupon the said warrant shall cease to have any force and effect and this without prejudice to the Authority's rights to recover from the creditor any amounts due to it in pursuance of the exercise of its functions and responsibilities under this article.

(9) In the event that following the payment of the invoice containing the estimate, the person in whose favour the warrant is issued files a counter warrant allowing the vessel to leave, the Authority shall, within fourteen days, refund to such a person the difference between the expenses actually incurred by the Authority for the duration of the vessel's stay and the amount paid by such a person.

(10) If one week prior to the expiration of the three week period above referred to it appears that the vessel is to remain under arrest for longer than the three week period covered by the first invoice, the Authority shall issue a further invoice for a further three weeks' period and shall continue to re-issue further invoices covering three week periods if one week prior to the expiry of the relevant three week period it appears that the vessel is to remain in Malta. Within fourteen days from the receipt of the further invoices issued by the Authority, the person in whose favour the warrant of arrest would have been issued shall provide the security stipulated in subarticle (7), failing which the Authority may resort to the remedy referred to in subarticle (8).

(11) In cases where the invoices are issued for further three week periods as indicated in subarticle (10), followed by settlement of such invoices by the person in whose favour the warrant was issued, and the person in whose favour the warrant is issued files a counter warrant requesting the court to release the vessel from arrest, the Authority shall within fourteen days refund to such person

the difference between the expenses actually incurred by the Authority for the duration of the vessel's stay and the amount paid by such a person."

(4) Subarticle (3) of the new article 872A of the Code of Organization and Civil Procedure, as this new article is added by article 100 of the Code of Organization and Civil Procedure (Amendment) Act, 2006, shall be substituted by the following subarticle:

"(3) Following the arrest of a ship or vessel in any port or harbour in Malta and on the application of the Malta Maritime Authority, a court may, if it is satisfied that because of its cargo, its length or draught and, or other circumstances concerning safety, pollution, navigation or port operation, it is advisable that the seagoing vessel should leave port without delay, order that the ship or seagoing vessel be shifted from that port or harbour to any other anchorage within territorial waters."

Amendment of various articles of the Code of Organization and Civil Procedure (Amendment) Act, 2006. Act XIV of 2006.

**30.** (1) Article 15 of the Code of Organization and Civil Procedure (Amendment) Act, 2006, shall be amended as follows:

(a) for the words "after article 293" there shall be substituted the words "after article 304", and for the words "new articles 294 to 300" there shall be substituted the words "new articles 305 to 311"; and

(b) the numbers of the new articles 294, 295, 296, 297, 298, 299 and 300, as contained in the said article 15, shall be renumbered as articles 305, 306, 307, 308, 309, 310 and 311 respectively.

(2) Article 17 of the Code of Organization and Civil Procedure (Amendment) Act, 2006, shall be amended as follows:

(a) for the words "after article 300" there shall be substituted the words "after article 311", and for the words "new articles 301 to 312" there shall be substituted the words "new articles 312 to 312K";

(b) the numbers of the new articles 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311 and 312 as contained in the said article 17, shall be renumbered as articles 312, 312A, 312B, 312C, 312D, 312E, 312F, 312G, 312H, 312I, 312J and 312K respectively;

(c) in subarticle (2) of article 312B, as renumbered, for the words "in article 309" there shall be substituted the words

"in article 312K";

(d) in article 312H, as renumbered, including the marginal note thereto, for the words "articles 297 and 300" there shall be substituted the words "articles 308 to 311"; and

(e) in subarticles (1) and (2) of article 312J, as renumbered, for the words "article 310" there shall be substituted the words "article 312I".

(3) In subarticle (3) of the new article 315 of the Code of Organization and Civil Procedure, as that new article has been added by article 22 of the Code of Organization and Civil Procedure (Amendment) Act, 2006, for the words "articles 297, 300 and 357" there shall be substituted the words "articles 308, 311 and 312F".

(4) In the new article 388C of the Code of Organization and Civil Procedure, as that new article has been added by article 74 of the Code of Organization and Civil Procedure (Amendment) Act, 2006, for the words "articles 858 and 860" there shall be substituted the words "articles 868 and 870".

(5) In article 845 of the Code of Organization and Civil Procedure, as that article has been substituted by article 90 of the Code of Organization and Civil Procedure (Amendment) Act, 2006, for the words "articles 278, 279 and 282" there shall be substituted the words "articles 275, 276 and 279".

(6) Article 846 of the Code of Organization and Civil Procedure, as that article has been substituted by article 91 of the Code of Organization and Civil Procedure (Amendment) Act, 2006, shall be amended as follows:

(a) for the words "in article 276" in subarticle (1) thereof, there shall be substituted the words "in article 282"; and

(b) for the words "articles 278 to 304" in subarticle (3) thereof, there shall be substituted the words "articles 275 to 293".

Amendment of article 865 of the Code as amended by article 100 of the Code of Organization and Civil Procedure (Amendment) Act, 2006. Act XIV of 2006.

**31.** In the new article 865 of the Code of Organization and Civil Procedure, as this new article is added by article 100 of of the Code of Organization and Civil Procedure (Amendment) Act, 2006, for the words "A warrant of arrest" there shall be substituted the words "A precautionary warrant of arrest".

Amendment of article 107 of the Code of Organization and Civil Procedure (Amendment) Act, 2006. Act XIV of 2006.

**32.** Article 107 of the Code of Organization and Civil Procedure (Amendment) Act, 2006 shall be amended as follows:

(a) the current provision shall be renumbered as subarticle (1) of that article; and

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

"(2) Executive garnishee orders, as in force before the coming into force of the provisions of this Act, need not be extended. The provisions of this subarticle shall be deemed to have come into force on the 24 October, 2006."

Deletion of article 98 of the Code of Organization and Civil Procedure (Amendment) Act, 2006. Act XIV of 2006.

**33.** Article 98 of the Code of Organization and Civil Procedure (Amendment) Act, 2006, shall be deleted.

Amendment of article 100 of the Code of Organization and Civil Procedure (Amendment) Act, 2006. Act XIV of 2006.

**34.** Article 100 of the Code of Organization and Civil Procedure (Amendment) Act, 2006, as that article has been amended by article 29 of this Act, shall be amended as follows:

(a) for the words "new articles 855 to 872C" there shall be substituted the words "new articles 855 to 865";

(b) the present articles 855 to 864 shall be deleted;

(c) the words "Sub-title VI" shall be substituted by the words "Sub-title V"; and

(d) the present articles 865, 866, 867, 869, 870, 871, 872, 872A, 872B and 872C shall be renumbered as articles 855, 856, 857, 858, 859, 860, 861, 862, 863, 864 and 865 respectively.

**35.** Paragraph (h) of article 273 of the Code of Organisation and Civil Procedure, as this article has been substituted by article 4 of the Code of Organization and Civil Procedure (Amendment) Act, 2006, shall be deleted, and paragraphs (i) and (j) shall be renumbered as paragraphs (h) and (i) respectively.

Amendment of article 273 of the Code as amended by article 4 of the Code of Organization and Civil Procedure (Amendment) Act, 2006. Act XIV of 2006.

**36.** Article 2 of the Code of Organization and Civil Procedure (Amendment) Act, 2006 shall be deleted.

Deletion of article 2 of the Code of Organization and Civil Procedure (Amendment) Act, 2006. Act XIV of 2006.

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"SCHEDULE

(Article 17)

L.N. of 2007

CODE OF ORGANIZATION AND CIVIL PROCEDURE  
(CAP. 12)

Trial of Causes relating to Division of Property and to Succession  
Regulations, 2007

IN exercise of the powers granted by article 195 of the Code of Organization and Civil Procedure, the Minister responsible for justice has made the following regulations:-

**1.** The title of these regulations is the Trial of Causes relating to Division of Property and to Succession Regulations, 2007.

Title.

**2.** A cause relating to the division of property and succession shall, when set down for trial, unless otherwise provided for in the Code of Organization and Civil Procedure, be tried uninterruptedly to a conclusion.

Cause relating to division of property and succession to be tried uninterruptedly. Cap. 12.

**3.** Nothing in these regulations shall prevent the court from deciding a cause on the day stated in the application where the claim is not contested or the court is satisfied that the plaintiff has no claim or the defendant has no valid defence.

Decision of cause on the day stated in the application.

Adjournment of  
causes.  
Cap. 12.

**4.** The adjournment of a cause shall not be granted except for the purpose of compliance with any procedure laid down in the Code of Organization and Civil Procedure or, in exceptional circumstances, in accordance with the provisions of regulation 5.

Exceptional  
circumstances .

**5.** A cause may be adjourned in exceptional circumstances only if the court is satisfied that such circumstances exist and so states in the decree ordering the adjournment specifying those circumstances, and only on an application filed by the party demanding the adjournment not later than two working days before the day due for hearing or, if the cause of the adjournment arises after the expiration of the said time limit, as soon as practicable thereafter; and the application shall specify in detail the circumstances justifying the demand and shall be confirmed on oath by the applicant or, if the applicant is absent from Malta or is otherwise unable to confirm the application in person, by the advocate signing the application who shall, in such case, further confirm on oath the applicant's inability to confirm it himself."

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Passed by the House of Representatives at Sitting No. 540 of the  
19th June, 2007.

ANTON TABONE  
*Speaker*

RICHARD J. CAUCHI  
*Clerk to the House of Representatives*