

Naghti l-kunsens tieghi.

(L.S.)

EDWARD FENECH ADAMI  
President

6 ta' Awissu, 2004

### ATT Nru. IX ta' l-2004

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

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

#### Taqsimi I

1. (1) It-titolu fil-qosor ta' dan l-Att hu Att ta' l-2004 li jemenda l-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili. Titolu fil-qosor u bidu fis-sehh.

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

#### Taqsimi II

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

3. Minnufih fi tmiem l-artikolu 34 tal-Kodiċi, għandu jiżdied il-proviso li ġej: Emenda ta' l-artikolu 34 tal-Kodiċi.

“Iżda fil-każijiet fejn kawża li tkun inbdiet permezz ta’ ċitazzjoni, u fejn ebda deċiżjoni esplicita ma tkun intalbet u nghatat dwar l-interpretazzjoni tal-Kostituzzjoni skond l-artikolu 95(2)(d) ta’ l-imsemmija Kostituzzjoni, tkun giet deċiża mill-Prim’Awla tal-Qorti Ċivili b’sentenza li fiha jkunu ġew diskussi u deċiżi punti ta’ liġi dwar drittijiet fundamentali tal-bniedem jew referenzi għall-Kostituzzjoni bhala parti mill-meritu tal-kawża, il-Qorti ta’ l-Appell ghandha xorta wahda titqies li hija kompetenti u li ghandha ġurisdizzjoni biex tiddeċiedi appell minn tali sentenza tal-Prim’Awla tal-Qorti Ċivili.”.

Żieda ta’ l-artikoli  
godda 166A u  
166B mal-Kodiċi.

**4. Minnufih wara l-artikolu 166 tal-Kodiċi, ghandhom jiżdedu dawn l-artikoli godda li ġejjin:–**

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

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

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

Iżda wkoll il-kreditur ikun jista’ jimxi skond dan l-artikolu biss jekk id-debitur ikun preżenti f’Malta u ma jkunx minuri jew persuna inkapaċitata skond il-liġi u jekk id-dejn ma jkunx dovut minn eredità ġjaċenti. Il-hatra ta’ kuraturi skond it-Titolu XI tat-Tielet Ktieb ta’ dan il-Kodiċi ma ghandhiex tapplika għal proċeduri skond dan l-artikolu:

Kap. 104.

Iżda wkoll, bla hsara għad-disposizzjonijiet ta’ l-Ordinanza dwar l-Assigurazzjoni ta’ Vetturi tal-Mutur għar-Riskji ta’ Terzi Persuni, meta dejn illi għalih ikun japplika dan l-artikolu jkun kopert b’polza ta’ assigurazzjoni, l-assigurat għandu, bla hsara għal dak stipulat fil-polza ta’ assigurazzjoni, fi żmien hmistax-il ġurnata minu jiġi notifikat b’ittra uffiċjali magħmula skond dan l-artikolu javża bil-miktub lill-assigurazzjoni b’dik l-ittra uffiċjali u jagħtiha dawk id-dettalji dwar it-talba illi huwa jkun jaf bihom. Fin-nuqqas, kull titolu eżekuttiv li jinkiseb skond dan l-artikolu ma jkollu l-ebda effett fir-rigward ta’ l-assigurat.

(2) Il-kreditur ghandu jmexxi billi jippreżenta ittra ufficjali, illi ghandha tkun skond forma stabbilita mill-Ministru responsabbli għall-Ġustizzja b'Avviż Legali u illi l-kontenut tagħha ghandu jiġi konfermat bil-ġurament mill-kreditur, li ghandha tiġi notifikata lid-debitur fejn ghandu jiġi dikjarat b'mod ċar, taht piena ta' nullità, ir-raġuni li fuqha tkun imsejsa t-talba, ir-raġunijiet għaliex it-talba ghandha tintlaqa', u dikjarazzjoni tal-fatti b'sostenn tat-talba:

Izda ma jistax isir użu mid-disposizzjonijiet tas-subartikoli (3), (5) jew (6) ta' l-artikolu 187 ta' dan il-Kodiċi biex issir in-notifika ta' l-imsemmija ittra ufficjali.

(3) L-ittra ufficjali ghandu wkoll ikun fiha taht piena ta' nullità intimazzjoni lid-debitur li jekk huwa ma jwegibx fi żmien tletin jum mindu jiġi notifikat bl-imsemmija ittra ufficjali billi jippreżenta nota fl-atti ta' dik l-ittra ufficjali li fiha tiġi respinta t-talba u li tista' tiġi ffirmata u pprezentata fil-qorti mid-debitur stess minghajr il-htieġa ta' firma ta' Avukat jew Prokuratur Legali, dik l-ittra ufficjali tkun tikkostitwixxi titolu eżekuttiv:

Izda:

(a) d-debitur jista' fl-istess nota jammetti t-talba f'parti minnha biss u jopponiha f'partijiet ohra, u meta t-talba tkun opposta f'xi parti minnha biss din titqies bhala li tkun ġiet ammissa sal-limitu li din ma tkunx ġiet opposta;

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

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

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

(e) meta t-talba toriġina taht l-Ordinanza dwar l-Assigurazzjoni ta' Vetturi tal-Mutur ghar-Riskji ta' Terzi Persuni, dik l-ittra uffiċjali ghandha taht piena ta' nullità tiġi wkoll notifikata lill-assigurazzjoni awtorizzata li ghandu jkollha l-istess drittijiet taht dan l-artikolu daqslikieku kienet id-debitur fuq imsemmi.

(4) Meta d-debitur ma jopponix it-talba, fi żmien tletin jum minn notifika tagħha lid-debitur, jew meta d-debitur jopponi biss it-talba f'parti minnha fiż-żmien hawn qabel imsemmi, l-ittra uffiċjali ghandha ghar-rigward tat-talba hekk mhux opposta, jew dik il-parti fiha hekk mhux opposta, tkun tikkostitwixxi titolu eżekuttiv bhallikieku dik l-ittra uffiċjali kienet inkluża fl-artikolu 253(a) ta' dan il-Kodiċi.

(5) Titolu eżekuttiv li jinkiseb skond id-disposizzjonijiet ta' dan l-artikolu, dejjem jekk ma jkunx hemm oppożizzjoni min-naħa tad-debitur, ghandu jiġi rexiss u ddikjarat null u bla ebda effett jekk meta ssir talba permezz ta' rikors fil-Qorti tal-Maġistrati (Malta) jew fil-Qorti tal-Maġistrati (Għawdex), skond il-każ, li tiġi pprezentata mid-debitur fi żmien ghoxrin ġurnata minn l-ewwel notifika li ssirlu ta' xi mandat eżekuttiv jew xi att ġudizzjarju iehor imsejjes fuq dak it-titolu, il-qorti tkun sodisfatta:

(i) li d-debitur ma kienx jaf b'dik l-ittra uffiċjali ghaliex huwa ma kienx notifikat kif imiss; jew

(ii) li l-ittra uffiċjali ma kienx fiha l-htigijiet stipulati fis-subartikoli (1), (2) jew (3) ta' dan l-artikolu.

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

Reġistrazzjoni ta' Titoli Eżekuttivi miksuba skond l-artikolu 166A.

166B. (1) Ittra uffiċjali mahruġa skond l-artikolu 166A ma tkunx tikkostitwixxi titolu eżekuttiv sakemm ma tkunx ġiet reġistrata skond id-disposizzjonijiet ta' dan l-artikolu li ghandhom japplikaw ghar-reġistrazzjoni ta' dawk l-ittri uffiċjali bhala titoli eżekuttivi.

(2) L-applikant ghar-registrazzjoni ta' ittra ufficjali li tkun tikkwalifika bhala titolu eżekuttiv ghandu jipprezenta lir-Registratur tal-Qorti kopja legali ta' l-ittra ufficjali, inkluża l-prova tan-notifika u kopja ta' kull risposta li tkun giet riċevuta ghalha jekk ikun hemm.

(3) Meta jirċievi d-dokumenti msemija fis-subartikolu (2) ta' dan l-artikolu r-Registratur ghandu jeżamina d-dokumenti pprezentati, jivverifika jekk id-debitur ipprezentax nota ta' tweġiba fiż-żmien stipulat u jekk huwa jkun sodisfatt illi l-kondizzjonijiet ghar-registrazzjoni ta' l-ittra ufficjali bhala titolu eżekuttiv jkunu jissussistu, huwa ghandu jipproċedi biex jirreġistra d-dokumenti pprezentati f'registru li jissejjah ir-Registru ta' Ittri Ufficjali bhala Titoli Eżekuttivi li ghandu jinżamm mir-Registratur ghall-iskopijiet ta' l-artikolu 166A.”.

5. Fis-subartikolu (4) ta' l-artikolu 195 tal-Kodiċi, minnufih wara l-kliem “l-qorti tista' tiddeċiedi,” ghandu jidhol il-kliem “jew jekk thoss li huwa hekk xieraq jew”.

Emenda ta' l-artikolu 195 tal-Kodiċi.

6. Fis-subartikolu (3) ta' l-artikolu 229 tal-Kodiċi, il-kliem “fi żmien sitt ijiem” ghandu jiġi sostitwit bil-kliem “fi żmien għaxart ijiem” u fl-aħhar tas-subartikolu minnufih wara l-kliem “tingieb quddiem il-Qorti ta' l-Appell qabel ma tinghata s-sentenza definittiva” ghandu jiżdied il-kliem “u t-terminu biex jiġi preżentat tali appell ghandu jibda jghaddi mid-data tad-digriet li bih il-Qorti tkun laqghet li jsir dak l-appell”.

Emenda ta' l-artikolu 229 tal-Kodiċi.

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

Emenda ta' l-artikolu 253 tal-Kodiċi.

“(e) kambjali u *promissory notes* mahruġa skond il-Kodiċi tal-Kummerċ:

B'dan iżda illi l-qorti kompetenti skond il-valur tal-kambjala jew *promissory note* tista', b'digriet li ma jkunx appellabbli, tissospendi l-eżekuzzjoni ta' dik il-kambjala jew *promissory note* kollha jew f'parti minnha u sew suġġett għal garanzija kif ukoll minghajrha, fuq rikors tal-persuna li tkun qed topponi l-eżekuzzjoni ta' dik il-kambjala jew *promissory note* kif fuq imsemmi minhabba illi l-firma fuq dik il-kambjala jew *promissory note* ma tkunx tagħha jew tal-mandatarju tagħha jew fejn dik il-persuna tressaq raġunijiet ohra gravi u validi biex topponi dik l-eżekuzzjoni u f'dak il-każ biex persuna tesigi l-hlas ta' dik il-kambjala jew *promissory note* tkun trid

tipproċedi b'kawża skond id-disposizzjonijiet tal-Kodiċi tal-Kummerċ.”.

Emenda ta' l-artikolu 306 tal-Kodiċi.

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

Kap. 56.

“(5) Id-disposizzjonijiet ta' l-artikolu 8 ta' l-Att dwar ir-Registru Pubbliku ghandhom *mutatis mutandis* ikunu japplikaw ghar-registrazzjonijiet li jsiru taht dan l-artikolu.”.

Emenda ta' l-artikolu 911 tal-Kodiċi.

**9.** Fis-subartikolu (1) ta' l-artikolu 911 tal-Kodiċi, minnufih wara l-kliem “f”kull qorti msemmija fl-artikoli 3 u 4 ta' dan il-Kodiċi” ghandu jidhol il-kliem “, f”kull arbitraġġ fejn l-arbitraġġ ikun obligatorju bil-liġi”.

Thassir ta' l-artikolu 915 tal-Kodiċi.

**10.** L-artikolu 915 tal-Kodiċi ghandu jiġi mhassar.

Sostituzzjoni tat-titolu “Sekond'Awla tal-Qorti Ċivili” kull fejn jokkorri.

**11.** Il-kliem “Sekond'Awla tal-Qorti Ċivili” ghandhom jiġu sostitwiti bil-kliem “qorti ta' ġurisdizzjoni volontarja” fit-Tqassim tal-Kodiċi kull fejn jokkorri, u fl-artikolu 35 u fin-nota marginali tiegħu, fl-artikolu 121(1), fit-titolu tat-Taqsima II tat-Tieni Ktieb, fl-artikoli 499, 512, 518, 520(1), 536, 540, 541, 549, fit-Titolu VIII tat-Taqsima II tat-Tieni Ktieb, fin-nota marginali għall-artikolu 552 u fl-artikolu 734(2).

### Taqsimha III

Emenda tal-Kodiċi Ċivili, Kap. 16.

**12.** Din it-Taqsima temenda u ghandha tinqara u tiftiehem haġa wahda mal-Kodiċi Ċivili, hawnhekk iżjed 'il quddiem imsejjah “il-Kodiċi”.

Emenda ta' l-artikolu 2042 tal-Kodiċi.

**13.** L-artikolu 2042 tal-Kodiċi ghandu jiġi emendat kif ġej:

(i) fil-paragrafu (a) minflok il-kliem “l-isem u l-kunjom tal-kreditur,” ghandhom jidhlu l-kliem “l-isem u l-kunjom tal-kreditur u n-numru tal-karta ta' l-identita' tiegħu miktuba bil-figuri biss u fejn ma jistax ikollu karta ta' l-identità, in-numru f'dokument iehor ta' identifikazzjoni,”; u

(ii) fil-paragrafu (b) minflok il-kliem “l-isem u l-kunjom tad-debitur,” ghandhom jidhlu l-kliem “l-isem u l-kunjom tad-debitur u n-numru tal-karta ta' l-identita' tiegħu miktuba bil-figuri biss u fejn ma jistax ikollu karta ta' l-identità, in-numru f'dokument iehor ta' identifikazzjoni,”.

**14.** (1) Il-kliem “qorti ta’ ġurisdizzjoni volontarja” fl-artikoli 3A(2)(b), 6A(1), 101, fin-nota marginali għall-artikolu 107, fl-artikoli 114(1), 126(1), 128(4), 133(1), 175(2), 194, 205, 208, 216(1), 223, 253(4) u 666 tal-Kodiċi, għandhom jiġu sostitwiti bil-kliem “il-qorti kompetenti”.

Sostituzzjoni tat-titolu “qorti ta’ ġurisdizzjoni volontarja” kull fejn jokkorri.

(2) Fl-artikoli 92(2)(b) u 253(4) tal-Kodiċi, il-kliem “il-Prim ’Awla tal-Qorti Ċivili jew quddiem il-Qorti tal-Maġistrati (Għawdex), skond il-każ,” għandu jiġi sostitwit bil-kliem “il-qorti kompetenti”.

(3) Fl-artikolu 523 tal-Kodiċi, il-kliem “tal-qorti ta’ ġurisdizzjoni volontarja jew kontenjuża, skond il-każ” għandu jiġi sostitwit bil-kliem “tal-qorti kompetenti”.

(4) Fl-artikolu 679(1) tal-Kodiċi, il-kliem “fis-Sekond’Awla tal-Qorti Ċivili” għandu jiġi sostitwit bil-kliem “fil-qorti ta’ ġurisdizzjoni volontarja”.

(5) Fl-artikoli 1323(1) u 1325(1) tal-Kodiċi, il-kliem “lill-qorti kompetenti ta’ ġurisdizzjoni kontenjuża” għandu jiġi sostitwit bil-kliem “lill-qorti kompetenti”.

(6) Fl-artikolu 1340(7) tal-Kodiċi, il-kliem “Reġistru tal-Prim’Awla tal-Qorti Ċivili” għandu jiġi sostitwit bil-kliem “qorti kompetenti”.

(7) Il-kliem “MIR-REĠISTRU TAS-SEKOND’AWLA TAL-QORTI ĊIVILI” u l-kliem “Sekond’Awla tal-Qorti Ċivili” fil-Formula A tal-Kodiċi għandhom jiġu sostitwiti rispettivament bil-kliem “MIR-REĠISTRU TAL-QORTI ĊIVILI SEZZJONI ĠURISDIZZJONI VOLONTARJA” u bil-kliem “Qorti Ċivili (Sezzjoni Ġurisdizzjoni Volontarja)” rispettivament.

#### Taqsimi IV

**15.** Din it-Taqsima temenda l-Att dwar il-Professjoni Nutarili u l-Arkivji Nutarili hawn iżjed ’il quddiem imsejjah “l-Att prinċipali”.

Emenda ta’ l-Att dwar il-Professjoni Nutarili u l-Arkivji Nutarili, Kap. 55.

**16.** Il-punt (.) illi hemm fit-tmiem tal-paragrafu (i) ta’ l-artikolu 2(2) ta’ l-Att prinċipali, għandu jiġi sostitwit b’punt u virgola (;) u minnufih wara l-imsemmi paragrafu (i) ta’ l-artikolu 2(2) għandu jidhol il-paragrafu ġdid li ġej:

Emenda ta’ l-artikolu 2 ta’ l-Att prinċipali.

“(j) li jagħmluha ta’ medjaturi.”.

## Taqsimha V

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

**17.** Din it-Taqsimha temenda u għandha tinqara u tiftiehem haġa waħda ma' l-Ordinanza dwar l-Assigurazzjoni ta' Vetturi tal-Mutur għar-Riskji ta' Terzi Persuni, hawnhekk f'din it-Taqsimha msejha "l-Ordinanza".

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

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

Kap. 12.

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

## Taqsimha VI

Emenda ta' l-Att dwar iż-Żwieġ, Kap. 255.

**19.** Din it-Taqsimha temenda l-Att dwar iż-Żwieġ, hawn iżjed 'il quddiem imsejjah "l-Att prinċipali".

Żieda ta' artikolu 38 ma' l-Att prinċipali.

**20.** Minnufih wara l-artikolu 37 ta' l-Att prinċipali, għandu jidhol l-artikolu li ġej:

“Żwiġijiet ta' konvenjenza.

**38.** (1) Kull persuna li tikkontratta żwieġ bl-iskop uniku li tikseb:

- (a) ċittadinanza Maltija; jew
- (b) libertà ta' moviment f'Malta; jew
- (ċ) permess biex taħdem jew biex tirisjedi f'Malta; jew
- (d) id-dritt li tidhol f'Malta; jew
- (e) id-dritt li tikseb kura medika f'Malta,

tkun hatja ta' reat u tehel, meta tinsab hatja, piena ta' priġunerija għal mhux iżjed minn sentejn.

(2) Kull dritt jew beneficiċju miksub minn persuna li tkun insabet hatja ta' reat taht is-subartikolu (1) abbażi taż-żwieġ illi għalih hemm referenza f'dak is-subartikolu (1) jista' jiġi rexiss jew annullat mill-awtorità pubblika li minghandha jkun inkiseb.

(3) Kull persuna li tikkuntratta żwieġ ma' persuna oħra meta tkun taf illi l-iskop uniku ta' dik il-persuna l-oħra fl-ikkuntrattar taż-żwieġ huwa wiehed jew iżjed mill-iskopijiet imsemmija fis-subartikolu (1) tkun hatja ta' reat u tehel meta tinsab hatja l-istess piena stipulata fis-subartikolu (1).”.

## Taqsimha VII

**21.** Din it-Taqsimha temenda, u għandha tinqara u tiftiehem haġa waħda, ma' l-Att dwar l-Arbitraġġ, hawn iżjed 'il quddiem f'din it-Taqsimha imsejjah “l-Att prinċipali”.

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

**22.** L-artikolu 15 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

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

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

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

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

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

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

(ċ) minnufih wara s-subartikolu (10) għandhom jizdiedu dawn is-subartikoli li ġejjin:

“(11) B'żieda ma' dawk imsemmija b'kull liġi oħra, il-klassijiet ta' tilwimiet imsemmija fir-Raba' Skeda li tinsab ma' dan l-Att huma soġġetti għal arbitraġġ mandatorju u f'dawk il-każijiet il-partijiet għandhom

jitqiesu li jkunu marbutin bi ftehim ta' arbitraġġ relatat ma' dawk it-tilwimiet.

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

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

(i) ix-xorta speċifika tat-tilwimiet;

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

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

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

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

(15) Bla hsara għar-raġunijiet fejn huwa permess illi l-istampa jew il-pubbliku jiġu esklużi mill-proċeduri kollha jew minn parti minnhom li huma stipulati fil-paragrafu (1) ta' l-artikolu 6 tal-Konvenzjoni Ewropea tad-Drittijiet tal-Bniedem, il-proċeduri f'arbitraġġ mandatorju għandhom jinstemgħu u d-deċiżjoni għandha tingħata fil-miftuh.”.

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

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

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

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

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

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

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

**24.** L-artikolu 51 ta’ l-Att prinċipali għandu jithassar u minfloku għandu jidhol dan l-artikolu 51 ġdid li ġej:

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

51. (1) It-tribunal ta’ l-arbitraġġ għandu jistabbilixxi d-drittijiet u l-ispejjeż skond dawk ir-regoli u linji direttivi li jistgħu jsiru mill-Ministru responsabbli għall-ġustizzja bi ftehim maċ-Ċentru minn żmien għal żmien u kull ma jiġi stabbilit fuq drittijiet u spejjeż ikun jista’ jiġi rivedut skond ma jista’ jiġi ordnat f’dawk ir-regoli jew linji direttivi.

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

**25.** Fl-artikolu 71B ta’ l-Att prinċipali, minflok is-subartikolu (3) għandu jidhol dan li ġej:

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

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

**26.** Minnufih wara t-Tielet Skeda li tinsab ma’ l-Att prinċipali, għandha tiżdied din ir-Raba’ Skeda li ġejja:

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

## “IR-RABA’ SKEDA

(Artikolu 15)

### Arbitraġġ Mandatorju

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

### Taqsima A

#### 1.1 Tilwimiet dwar *Condominium*

Kull tilwima li tirrigwarda *condominium* u li skond l-Att dwar il-*Condominia* (Kap. 398) għandha tiġi sottomessa għal arbitraġġ.

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

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

- (a) kollizjoni bejn vetturi, jew
- (b) hsara involontarja fil-proprjetà li tinvolvi l-vetturi, jew
- (ċ) talba bħal dik kontra assiguratatur awtorizzat, kumpannija assiguratrici fuq il-hajja, *underwriter* approvat mill-Ministru responsabbli għat-trasport jew persuna oħra li skond l-Ordinanza dwar l-Assigurazzjoni ta' Vetturi tal-Mutur għar-Riskji ta' Terzi Persuni (Kap. 104) jew xi polza ta' assigurarazzjoni, tista' tkun responsabbli dwarha, u
- (d) li l-valur tagħha ma jkunx jeċċedi l-hamest elef lira.

### Taqsima B

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

2. It-tribunal ta' arbitraġġ għandu jkun magħmul minn arbitru wiehed kemm-il darba l-partijiet ma jiftiehmux li dan ikun magħmul

minn tliet arbitri u javżaw liċ-Ċentru fi żmien 15-il ġurnata minn meta r-risponent jirċievi l-avviż ta' arbitraġġ;

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

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

5. Ir-regoli dwar il-konfidenzjalita', inklużi dawk imsemmija fl-artikoli 37 u 70 ta' l-Att, ma għandhomx japplikaw għal arbitraġġi mandatorji kemm-il darba l-partijiet ma jiftehmu b'mod espress għal dawk ir-regoli u javżaw lill-arbitru u liċ-Ċentru skond dan.”.

### Taqsimi VIII

27. Din it-Taqsimi temenda u għandha tinqara u tiftiehem haġa waħda ma' l-Att dwar il-*Condominia*, hawnhekk iżjed 'il quddiem f'dan l-Att imsejja "l-Att prinċipali".

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

28. Fl-artikolu 26 ta' l-Att prinċipali minflok il-kliem minn "il-partijiet fit-tilwima" sa "taċ-Ċentru dwar l-Arbitraġġ ta' Malta." għandhom jidhlu l-kliem "għandhom japplikaw ir-regoli li jinsabu fl-Att dwar l-Arbitraġġ jew magħmulin tahtu li għandhom x'jaqsmu ma' arbitraġġ mandatorju.”.

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

29. L-artikolu 27 ta' l-Att prinċipali, għandu jithassar.

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

30. Fl-artikolu 28 ta' l-Att prinċipali, minflok il-kliem minn "taht l-awtorita' u bl-approvazzjoni" sal-kliem "hadd ma jiġi ippreġudikat" għandhom jidhlu l-kliem "skond dawk ir-regoli li jinsabu fl-Att dwar l-Arbitraġġ jew li huma magħmulin taht dak l-Att." u minflok il-kliem "kif maħsub fl-artikolu 27" għandhom jidhlu l-kliem "kif maħsub fl-artikolu 26”.

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

### Taqsimi IX

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

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

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

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

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

“Il-Qrati tal-Maġistrati ghandhom ikompli jitttrattaw kawzi li jkunu pendenti quddiemhom.

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

## Taqsima X

Disposizzjonijiet transitorji.

**33.** Minkejja d-disposizzjonijiet tat-Taqsima VII ta' dan l-Att, meta mad-dhul fis-sehh ta' dak l-artikolu jkun hemm xi każ pendenti quddiem xi qorti, dak il-każ ghandu jkompli jinstema' minn dik il-Qorti.

Kawzi pendenti quddiem il-Qorti Ċivili.

**34.** (1) Salv il-provvedimenti li ġejjin ta' dan l-artikolu, kawzi pendenti quddiem il-Qorti Ċivili qabel il-bidu fis-sehh ta' dan l-artikolu meta l-valur tat-talba jew ta' xi kontro-talba:

- (i) ma jkunx iżjed minn hamest elef lira; jew
- (ii) ma jkunx dikjarat; jew
- (iii) jiġi dikjarat li ma jkunx iżjed minn hamest elef lira,

ghandhom jibqghu jiġu ttrattati minn dik il-Qorti u ghandha ssir taxxa dwarhom bhallikieku l-valur tat-talba u tal-kontro-talba kien jeċċedi l-hamest elef lira.

(2) Meta xi parti f'kawża bhalma hemm imsemmija fis-subartikolu (1) b'nota pprezentata fi żmien sittin jum mill-bidu fis-sehh ta' dan l-artikolu tagħzel li l-kawża tiġi deċiża mill-Qorti tal-

Maġistrati, l-inkartament tal-kawża ghandu jintbaghat lill-Qorti tal-Maġistrati kompetenti biex tkun dik il-Qorti li tiddeciedi dwaru u dik il-kawża ghandha ssir taxxa dwarha u ghandha tiġi għall-finijiet u l-effetti kollha tal-liġi kkunsidrata bhallikieku kienet kawża illi sa mill-bidu tagħha giet introdotta fil-Qorti tal-Maġistrati.

(3) Kawżi li l-inkartament tagħhom jintbaghat lill-Qorti tal-Maġistrati kompetenti skond is-subartikolu (2) ghandhom jitqassmu fost il-Maġistrati li jippresjedu s-smiegh ta' kawżi ċivili fil-Qorti tal-Maġistrati kompetenti bhallikieku kienu kawżi godda introdotti f'dik il-Qorti tal-Maġistrati dakinhar illi l-inkartament tagħhom ikun intbaghat lil dik il-Qorti.

(4) Dan l-artikolu ma japplikax għal:

(i) kawżi li jkunu jinsabu differiti għas-sentenza quddiem il-Qorti Ċivili fid-data tad-dhul fis-sehh ta' dan l-artikolu; jew

(ii) kawżi li jirrigwardaw kontestazzjonijiet illi skond xi disposizzjoni ta' xi liġi speċjali huma assenjati speċifikament lill-kompetenza tal-Prim'Awla tal-Qorti Ċivili irrispettivament mill-valur tagħhom.

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Mghoddi mill-Kamra tad-Deputati fis-Seduta Nru. 163 tas-27 ta' Lulju, 2004.

ANTON TABONE  
*Speaker*

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

I assent.

(L.S.)

EDWARD FENECH ADAMI  
President

6th August, 2004

**ACT No. IX of 2004**

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

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

**Part I**

Short title  
and  
commencement.

**1.** (1) The short title of this Act is the Code of Organization and Civil Procedure (Amendment) Act, 2004.

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

**Part II**

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

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

Amendment of  
article 34 of the  
Code.

**3.** Immediately at the end of article 34 of the Code, there shall be added the following proviso:

“Provided that in cases where a cause commenced by writ of summons, and where no explicit decision has been requested and given as to the interpretation of the Constitution in terms of article 95(2)(d) of the said Constitution, is decided by the First Hall of the Civil Court by a judgement wherein points of law about fundamental human rights or references to the Constitution are discussed and decided as part of the merits of the cause, the Court of Appeal shall still be deemed to be competent and to have jurisdiction to decide an appeal from such judgement of the First Hall of the Civil Court.”.

4. Immediately after article 166 of the Code, there shall be added the following new articles:–

Addition of new articles 166A and 166B to the Code.

“Special procedures in respect of certain unopposed claims etc.

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

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

Provided further that the creditor may only proceed according to this article if the debtor is present in Malta and is not a minor or a person incapacitated according to law or if the debt is not due by a vacant inheritance. The appointment of curators under Title XI of Book Third of this Code shall not apply to proceedings under this article:

Cap. 104.

Provided further that, without prejudice to the provisions of the Motor Vehicle Insurance (Third Party Risk) Ordinance, when a debt to which this article applies is covered by an insurance policy the insured shall, without prejudice to that stipulated in the insurance policy, within fifteen days from service upon him of the judicial letter made in accordance with this article, give to the insurer notice in writing of the said judicial letter and of any particulars of the claim of which he is aware. In default,

any executive title obtained in accordance with this article shall have no effect with regard to the insurer.

(2) The creditor shall proceed by filing a judicial letter which shall be drawn up in the form established by Legal Notice by the Minister responsible for Justice and the content of which shall be confirmed on oath by the creditor, to be served upon the debtor wherein shall be stated clearly, under pain of nullity, the cause of the claim, the reasons why the claim should be upheld, and a statement of facts in support of the claim:

Provided that subarticles (3), (5) and (6) of article 187 of this Code may not be availed of to effect the service of the aforesaid judicial letter.

(3) The judicial letter shall also on pain of nullity contain an intimation to the debtor that if he does not reply within thirty days from service upon him of the said judicial letter by presenting a note in the record of the said judicial letter rebutting the claim and which note may be signed and presented in court by the debtor himself without the signature of an Advocate or of a Legal Procurator being required, such official letter shall, constitute an executive title:

Provided that:

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

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

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

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

(e) where the claim arises under the Motor Vehicle Insurance (Third Party Risk) Ordinance the said judicial letter shall under pain of nullity be also notified to the authorised insurance which shall have the same rights under this article as though it were the debtor as aforesaid.

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

(5) Any executive title obtained according to the provisions of this article in the absence of any opposition on the part of the debtor shall be rescinded and declared null and void if upon a request by application in the Court of Magistrates (Malta) or in the Court of Magistrates (Gozo), as the case may be, to be filed by the debtor within twenty days from the first service upon him of any executive warrant or other judicial act based on the said title, the court is satisfied that:

(i) the debtor was unaware of the said judicial letter because he was not duly notified; or

(ii) the judicial letter did not contain the requirements laid down in subarticles (1), (2) or (3) of this article.

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

Registration  
of Executive  
Titles  
obtained  
pursuant to  
article 166A.

166B (1) A judicial letter issued in terms of article 166A shall not constitute an executive title unless it is registered according to the provisions of this article which shall apply to the registration of such judicial letters as executive titles.

(2) The applicant for the registration of a judicial letter which qualifies as an executive title shall present to the Registrar of the Court a legal copy of the judicial letter, including evidence of service, and a copy of any response received thereto, if any.

(3) Upon receipt of the documents described in subarticle (2) of this article the Registrar shall examine the documents presented and shall verify whether the debtor has filed a note of reply within the stipulated time and if he is satisfied that the conditions for the registration of the judicial letter as an executive title subsist he shall proceed to register the documents presented in a register to be known as the Register of Judicial Letters as Executive Titles which shall be maintained by the Registrar for the purposes of article 166A.”.

Amendment of article 195 of the Code.

**5.** In subarticle (4) of article 195 of the Code, immediately after the words “provided that the court may decide,” there shall be inserted the words “either where it deems to be appropriate or”.

Amendment of article 229 of the Code.

**6.** In subarticle (3) of article 229 of the Code, the words “within six days” shall be substituted by the words “within ten days” and at the end of the said subarticle (3) of article 229 immediately after the words “before the Court of Appeal before the definitive judgement” there shall be added the words “and the time limit for the filing of such an appeal shall commence to run from the date of the said decree”.

Amendment of article 253 of the Code.

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

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

Provided that the court which is competent according to the value of the bill of exchange or promissory note may, by decree which shall not be subject to appeal, suspend the execution of such a bill of exchange or promissory note in whole or in part and with or without security, upon an application of the person opposing the execution of such bill of exchange or promissory note on the grounds that the signature on the said bill of exchange or promissory note is not that of the said person or of his mandatory or where such person brings forward grave and valid reasons to oppose the said execution and in such case any person demanding the payment of the bill of exchange or

promissory note shall file an action according to the provisions of the Commercial Code.”.

**8.** Immediately after sub-article (4) of article 306 of the Code, there shall be added the following sub-article: Amendment of article 306 of the Code.

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

**9.** In subarticle (1) of article 911 of the Code, immediately after the words “in any court mentioned in articles 3 and 4” there shall be added the words “, in any arbitration which is compulsory by law”. Amendment of article 911 of the Code.

**10.** Article 915 of the Code shall be repealed. Repeal of article 915 of the Code.

**11.** The words “Civil Court, Second Hall,” shall be substituted by the words “court of voluntary jurisdiction” in the Arrangement of Code, wherever they occur, and in article 35 and the marginal note thereto, article 121(1), the title of Part II of Book Second, articles 499, 512, 518, 520(1), 536, 540, 541, 549, Title VIII of Part II of Book Second, the marginal note to article 552 and article 734(2). Substitution of title “Civil Court, Second Hall” wherever it occurs.

### Part III

**12.** This Part amends and shall be read and construed as one with the Civil Code hereinafter referred to as “the Code”. Amendment of the Civil Code, Cap. 16.

**13.** Article 2042 of the Code shall be amended as follows: Amendment of article 2042 of the Code.

(i) in paragraph (a) thereof for the words “the name and surname of the creditor” there shall be substituted the words “the name and surname of the creditor and his identity card number written in figures only and where the person is not eligible to hold an identity card, the number as appearing in another document of identification,”; and

(ii) in paragraph (b) thereof for the words “the name and surname of the debtor” there shall be substituted the words “the name and surname of the debtor and his identity card number written in figures only and where the person is not eligible to hold an identity card, the number as appearing in another document of identification,”.

Substitution of title “court of voluntary jurisdiction” wherever it occurs.

**14.** (1) The words “court of voluntary jurisdiction”, in articles 3A(2)(b), 6A(1), 101, in the marginal note to article 107, articles 114(1), 126(1), 128(4), 133(1), 175(2), 194, 205, 208, 216(1), 223, 253(4) and 666 of the Code, shall be substituted by the words “the competent court”.

(2) The words “Civil Court, First Hall, or the Court of Magistrates (Gozo), as the case may be,” in articles 92(2)(b) and 253(4) of the Code, shall be substituted by the words “competent court”.

(3) The words “court of voluntary or contentious jurisdiction, as the case may be,” in the proviso to article 523 of the Code, shall be substituted by the words “competent court”.

(4) The words “Civil Court, Second Hall,” in article 679(1) of the Code, shall be substituted by the words “court of voluntary jurisdiction”.

(5) The words “competent court of contentious jurisdiction” in articles 1323(1) and 1325(1) of the Code, shall be substituted by the words “competent court”.

(6) The words “Registry of the First Hall of the Civil Court” in article 1340(7) of the Code, shall be substituted by the words “registry of the competent court”.

(7) The words “REGISTRY OF THE CIVIL COURT, SECOND HALL” and the words “Civil Court, Second Hall” in Form A of the Code shall be respectively substituted by the words “REGISTRY OF THE CIVIL COURT (VOLUNTARY JURISDICTION SECTION)” and “Civil Court (Voluntary Jurisdiction Section)”.

#### Part IV

Amendment of the Notarial Profession and Notarial Archives Act, Cap. 55.

**15.** This Part amends the Notarial Profession and Notarial Archives Act hereinafter referred to as “the principal Act”.

Amendment of article 2 of the principal Act.

**16.** The full stop (.) at the end of paragraph (i) of article 2(2) of the principal Act, shall be replaced with a semicolon (;) and immediately after the said paragraph (i) of article 2(2) there shall be added the following:

“(j) to act as mediators.”.

### Part V

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

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

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

Amendment of article 10 of the Ordinance.

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

### Part VI

**19.** This Part amends the Marriage Act, hereinafter referred to as “the principal Act”.

Amendment of the Marriage Act, Cap. 255.

**20.** Immediately after article 37 of the principal Act, there shall be added the following:

Addition of article 38 to the principal Act.

“Marriages of convenience. **38.** (1) Any person who contracts a marriage with the sole purpose of obtaining:

- (a) Maltese citizenship; or
- (b) freedom of movement in Malta; or
- (c) a work or residence permit in Malta; or
- (d) the right to enter Malta; or
- (e) the right to obtain medical care in Malta,

shall be guilty of an offence and shall on conviction be liable to imprisonment for a term not exceeding two years.

(2) Any right or benefit obtained by a person convicted of an offence under subarticle (1) on the basis

of the marriage referred to in that subarticle (1) may be rescinded or annulled by the public authority from which it was obtained.

(3) Any person who contracts a marriage with another person knowing that the sole purpose of such other person in contracting the marriage is one or more of the purposes referred to in subarticle (1) shall be guilty of an offence and shall on conviction be liable for the same punishment laid down in subarticle (1).”.

## Part VII

Amendments to the Arbitration Act, Cap. 387.

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

Amendment of article 15 of the principal Act.

**22.** Article 15 of the principal Act shall be amended as follows:

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

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

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

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

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

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

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

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

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

- (i) the specific nature of the disputes;
- (ii) the maximum monetary value of such disputes;
- (iii) the remedies sought and awardable in relation to such disputes; and
- (iv) the manner in which an arbitrator or arbitrators are to be appointed.

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

(15) Saving the grounds allowing for the press and the public to be excluded from all or part of the proceedings provided for in paragraph 1 of Article 6 of the European Convention on Human Rights, the proceedings in a compulsory arbitration shall be conducted and the decision shall be delivered in public.”.

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

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

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

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

(c) immediately after subarticle (9) there shall be added the following subarticle:

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

Substitution of article 51 of the principal Act.

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

“Arbitral tribunal to determine fees and costs.

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

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

Amendment of article 71B of the principal Act.

**25.** In article 71B of the principal Act, for subarticle (3) there shall be substituted the following:

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

Addition of new Fourth Schedule to the principal Act.

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

## **“FOURTH SCHEDULE**

(Article 15)

### **Mandatory Arbitration**

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

#### **Part A**

##### **1.1 Condominium Disputes.**

All disputes regarding a condominium which according to the Condominium Act (Cap. 398) are to be submitted to for arbitration.

##### **1.2 Motor Traffic Disputes**

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

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

#### **Part B**

1. The arbitration, being domestic arbitration, shall be governed by Part IV of the Act.

2. The arbitral tribunal shall be composed of one arbitrator unless the parties agree that it shall be composed of three arbitrators

and notify the Centre within 15 days of the receipt by the respondent of the notice of arbitration;

3. The sole arbitrator, or any of the members of the arbitral tribunal in case it is composed of three arbitrators, shall be appointed by the Chairman of the Centre in accordance with the provisions of the Act unless the Centre is notified of the appointment of an arbitral tribunal within 15 days of the receipt by the respondent of the notice of arbitration;

4. Unless the parties expressly agree otherwise, there shall be a right of appeal from a final award as provided by the Act;

5. The rules on confidentiality, including those stated in articles 37 and 70 of the Act shall not apply to mandatory arbitrations unless the parties expressly agree to such rules and notify the arbitrator and the Centre accordingly.”.

### Part VIII

Amendment of the Condominium Act, Cap. 398.

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

Amendment of article 26 of the principal Act.

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

Repeal of article 27 of the principal Act.

**29.** Article 27 of the principal Act shall be repealed.

Amendment of article 28 of the principal Act.

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

## Part IX

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

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

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

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

Addition of new  
article  
197B to the  
principal Act.

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

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

## Part X

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

Transitory  
Provisions.

**34.** (1) Saving the following provisions of this article, cases pending before the Civil Court before the coming into force of this article where the value of the claim or of any counter-claim:

Cases pending  
before  
the Civil Court.

- (i) does not exceed five thousand liri; or
- (ii) is not declared; or
- (iii) is declared not to exceed five thousand liri,

shall continue to be heard by that court and shall be taxed as if the value of the claim and counter-claim were over five thousand liri.

(2) When a party of a case as is referred to in subarticle (1) by note filed within sixty days from the coming into force of this article elects that the lawsuit be decided by the Court of Magistrates, then the record of the case shall be transmitted to the competent Court of Magistrates to be decided by it and that case shall be taxed and shall for all effects and purposes of law be considered as if it were a case which was as from its commencement introduced in the Court of Magistrates.

(3) Cases the record of which is transmitted to the competent Court of Magistrates in accordance with subarticle (2) shall be distributed amongst the Magistrates who preside over the hearing of civil cases in the competent Court of Magistrates as though they were new cases which were introduced in that Court of Magistrates on the day when their record was transmitted to that Court.

(4) This article shall not apply to:

(i) cases which stand adjourned for judgement in the Civil Court on the date of coming into force of this article; and

(ii) cases regarding contestations which according to a provision of a special law are specifically assigned to the competence of the First Hall of the Civil Court irrespective of their value.

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Passed by the House of Representatives at Sitting No. 163 of the 27th July, 2004.

ANTON TABONE  
*Speaker*

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