

Suppliment tal-Gazzetta tal-Gvern ta' Malta, Nru. 19,487, 20 ta' Ottubru, 2015
Taqsimha C

Nru. 123

20. 10. 2015

MALTA

KAMRA TAD-DEPUTATI

HOUSE OF REPRESENTATIVES

ABBOZZ ta' Ligi mressaq mill-Onorevoli Justyne Caruana, M.P., Segretarju Parlamentari għad-Drittijiet ta' Persuni b'Dizabilità u Anzjanità Attiva, f'isem il-Ministru għall-Familja u Solidarjetà Soċjali, u moqri għall-Ewwel darba fis-Seduta tal-5 ta' Ottubru, 2015.

A BILL introduced by the Honourable Justyne Caruana, M.P., Parliamentary Secretary for Rights of Persons with Disability and Active Ageing, on behalf of the Minister for the Family and Social Solidarity, and read the First time at the Sitting of the 5th October, 2015.

ATT biex ikompli jemenda l-Kodiċi Ċivili, Kap. 16, u biex jipprovdi għal hwejjeg ancillari jew konsegwenzjali għal dan.

AN ACT to further amend the Civil Code, Cap. 16, and to provide for matters ancillary or consequential thereto.

RAYMOND SCICLUNA
Skrivan tal-Kamra tad-Deputati

RAYMOND SCICLUNA
Clerk of the House of Representatives

Abbozz ta' Liġi msejjah

ATT biex ikompli jemenda l-Kodiċi Ċivili, Kap. 16, u biex jipprovi għal hwejjeġ ancillari jew konsegwenzjali għal dan.

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

1. It-titolu fil-qosor ta' dan l-Att huwa l-Att tal-2015 li jemenda l-Kodiċi Ċivili (Emenda Nru. 2), u dan l-Att għandu jinqara u jinftiehem haġa waħda mal-Kodiċi Ċivili, hawn iżjed 'il quddiem imsejjah il-Kodiċi.

Titolu fil-qosor.

Kap. 16.

2. Minnufih wara l-artikolu 1864 tal-Kodiċi, għandu jizjed l-artikolu ġdid li ġej::

Izid artikolu ġdid mal-Kodiċi.

"Mandat mogħti minn persuna b'anticipazzjoni tal-inkapaċità tagħha.

1864A. (1) Il-mandat mogħti minn persuna maġġorenni, b'anticipazzjoni tal-inkapaċità tagħha, jew minn adult dipendenti, lill-mandatarju sabiex dan tal-aħħar jieħu hsieb lill-mandant jew sabiex jamministralu l-proprjetà, għandu jkun miktub taħt piena ta' nullità minn nutar pubbliku, quddiem żewġ xhieda skont id-dispożizzjonijiet tal-artikolu 655(1) ta' dan il-Kodiċi, wara li jkun kiseb dikjarazzjoni medika illi è-ċirkostanzi jirrikjedu dan, fl-aħjar interess ta' dik il-persuna jew adult. Għall-finijiet ta' dan l-artikolu "adult dipendenti" għandu jkollha t-tifsira mogħtija lilha fl-artikolu 257F tal-Kodiċi Kriminali.

Kap. 9.

(2) F'każ ta' persuna maġġorenni, l-esekuzzjoni tal-mandat għandha tkun taht kondizzjoni li ssehh l-inkapaçità u wara li tinkiseb l-approvazzjoni neçessarja mill-Qorti wara rikors mill-mandatarju msemmi fl-att:

Izda dak il-mandat għandu jiġi terminat *ipso jure* meta tintemm dik l-inkapaçità.

(3) (a) Għall-fini ta' dik it-terminazzjoni, sempliçi dikjarazzjoni medika pprezentata l-Qorti illi dik l-inkapaçità ntemmet għandha tkun biżżejjed sabiex jiġi terminat il-mandat mingħajr il-bżonn ta' aktar formalità.

(b) Dik it-terminazzjoni għandha tkun ikkomunikata jew notifikata, skont il-każ, lill-mandatarju li għandu jieqaf milli jirrappreżenta lill-mandant b'effett immedjat.

(c) Fin-nuqqas il-mandatarju għandu jinżamm personalment responsabbli għad-danni u għandu jiġi kkunsidrat li jkun qed jikser id-dispożizzjonijiet ta' dan l-artikolu.

Kap. 55. (4) In-nutar li jikteb il-mandat għandu jirreġistrah bhala wiehed mill-atti msemmija fl-artikolu 58 tal-Att dwar il-Professjoni Nutarili u Arkivji Nutarili, izda għall-finijiet ta' dan l-artikolu, il-perjodu ta' żmien imsemmi fih għandu jkun ta' ġimghatejn.

(5) It-terminazzjoni tal-mandat taht id-dispożizzjonijiet ta' dan l-artikolu għandhom minnufih ikunu kkomunikati, mill-persuna maġġorenni jew minn xi persuna oħra fil-każ ta' adult dipendenti, lid-Direttur tar-Registru Pubbliku, li għandu jirreġistra dik-terminazzjoni b'effett immedjat.

Kap. 9. (6) Id-dispożizzjonijiet tal-artikolu 257E tal-Kodiçi Kriminali għandhom, *mutatis mutandis*, japplikaw għall-mandatarju li jikser id-dispożizzjonijiet ta' dan l-artikolu.

Ghanijiet u Raġunijiet

L-għan prinċipali ta' dan l-abbozz hu li jkabbar il-protezzjoni mogħtija lil persuni vulnerabbli, billi jimponi ċerti kondizzjonijiet fuq mandati mogħtija f'każ ta' persuni maġġorenni b'antiċipazzjoni tal-inkapaċità jew minn adulti dipendenti, u li jagħmel il-ksur ta' dawn il-kondizzjonijiet reat kriminali fl-ambitu tas-Sub-Titolu XI tat-Titolu VIII tal-Kodiċi Kriminali.

C 1682

**A Bill
entitled**

AN ACT to further amend the Civil Code, Cap. 16, and to provide for matters ancillary or consequential thereto.

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:-

Short title. **1.** The short title of this Act is the Civil Code (Amendment No. 2) Act, 2015, and this Act shall be read and construed as one with Cap. 16. the Civil Code, hereinafter referred to as "the Code".

Addition of new article to the Code. **2.** Immediately after article 1864 of the Code, there shall be added the following new article:

"Mandate given by a person in anticipation of his incapacity or by a dependent adult.

1864A. (1) A mandate given by a person of full age in anticipation of his incapacity or by a dependent adult to a mandatary, for the latter to take care of the mandator or to administer his property shall be drawn, under pain of nullity, by a notary public in the presence of two witnesses in accordance with the requirements of article 655(1) of this Code, after having obtained a medical declaration that circumstances so require in the best interests of the that person or adult. For the purposes of this article, "dependent adult" shall have the same meaning as in article 257F of the Criminal Code.

Cap. 9.

(2) In the case of a person of full age, performance of the mandate shall be conditional upon the occurrence of the incapacity and after obtaining the necessary approval by the Court upon application by the mandatary designated in the act:

Provided that the said mandate shall *ipso jure* be terminated with the cessation of the said incapacity.

(3) (a) For the purpose of such cessation, a mere medical declaration filed in Court that such incapacity has ceased shall be sufficient for the termination of the mandate without the need of any further formality.

(b) Such cessation shall be communicated or notified, as the case may be, to the mandatary who shall be bound to cease from representing the mandator with immediate effect.

(c) In default the mandatary shall be held personally responsible for damages and shall be considered as acting in contravention of this article.

(4) The notary drawing up the mandate shall be bound to register it as any one of the acts mentioned in article 58 of the Notarial Profession and Notarial Archives Act, but for the purposes of this article, the period of time mentioned in therein shall be of two weeks.

(5) The termination of the mandate under the provisions of this article shall forthwith be communicated, by the person of age or any person in the case of a dependent adult, to the Director of Public Registry, who shall with immediate effect register such termination.

(6) The provisions of article 257E of the Criminal Code shall, *mutatis mutandis*, apply to a mandatary who contravenes the provisions of this article.

C 1684

Objects and Reasons

The main object of this Bill is to widen the protection afforded to vulnerable persons, by imposing certain conditions on mandates given in the case of persons of full age in anticipation of incapacity or by dependent adults, and making the infringement of such conditions a criminal offence within the ambit of Sub-title XI of Title VIII of the Criminal Code.

