

MALTA

ATT Nru. VIII ta' l-2007

ATT mahruġ b'liġi mill-Parlament ta' Malta.

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

ACT No. VIII of 2007

AN ACT enacted by the Parliament of Malta.

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

Naghti l-kunsens tiegħi.

(L.S.)

EDWARD FENECH ADAMI
President

26 ta' Ġunju, 2007

ATT Nru VIII ta' l-2007

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

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

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

Titolu fil-qosor u bidu fis-sehh.

Kap. 16.

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

2. Minnufih wara l-artikolu 57 tal-Kodiċi għandu jiżdied l-artikolu ġdid li ġej:

Żieda ta' artikolu ġdid fil-Kodiċi.

"Likwidazzjoni tal-komunjoni ta' l-akkwisti riferita liċ-Ċentru ta' Arbitraġġ.

57A. Minkejja d-disposizzjonijiet ta' qabel ta' dan is-Sub-Titolu, il-Qorti tista' tagħzel li fis-sentenza tagħha tillimita d-deċiżjoni tagħha u minflok ma tiddeċiedi fuq il-likwidazzjoni tal-komunjoni ta' l-akkwisti prevja dikjarazzjoni tax-xoljiment, tirreferi dan sabiex jiġi deċiż quddiem iċ-Ċentru ta' l-Arbitraġġ ta' Malta."

Sostituzzjoni ta' l-artikolu 59 tal-Kodiċi.

3. L-artikolu 59 tal-Kodiċi għandu jiġi sostitwit bl-artikolu ġdid li ġej:

"59. (1) Il-firda personali tista', bis-setgħa tal-qorti permezz ta' digriet skond l-artikolu 35, issir bil-kunsens tat-tnejn, b'att pubbliku.

(2) Il-qorti għandha, qabel ma tagħti din is-setgħa, twissi lill-partijiet dwar dak li ġġib magħha l-firda, u tfittex li tirrikonċiljahom, u tista' tħassar, tvarja u ddaħħal dawk il-kondizzjonijiet li hija tħoss xierqa.

(3) Dan id-digriet għandu l-istess effetti ta' sentenza tal-qorti kompetenti."

Emenda ta' l-artikolu 70 tal-Kodiċi.

4. Minnufih wara s-subartikolu (3) ta' l-artikolu 70 tal-Kodiċi għandu jiżdied s-subartikolu ġdid li ġej:

"(4) Għar-rigward ta' tifel imwieled qabel l-1 ta' Diċembru, 1993, ir-raġel ikun jista' wkoll jiċhad li jagħraf it-tifel imnissel matul iż-żwieġ għar-raġunijiet elenkati fis-subartikolu (1) kif kienu fis-sehħ wara dik id-data, jekk il-kawża għaċ-ċaħda ta' l-għarfien tat-tifel tiġi preżentata mhux aktar tard mill-31 ta' Diċembru, 2008."

Emenda ta' l-artikolu 251 tal-Kodiċi.

5. Minnufih wara l-proviso tas-subartikolu (3) ta' l-artikolu 251 tal-Kodiċi, għandu jiżdied il-proviso ġdid li ġej:

"Iżda wkoll f'kopja jew f'estratt ta' xi att ta' stat ċivili reġistrat qabel l-1 ta' Settembru, 2006 -

(a) il-kliem "mhux miżżewġa", dwar l-istat ta' l-omm, m'għandhomx jissemmew;

(b) m'għandha tissemma l-ebda referenza għad-divorzju jew l-annullament taż-żwieġ ta' l-omm;

(ċ) meta tarbija titwieled matul iż-żwieġ, għandha tingħata indikazzjoni, fl-att ta' stat ċivili, taż-żwieġ ta' l-omm lir-raġel biswit l-isem u l-kunjom tagħha billi jintużaw il-kliem "mart l-imsemmi"."

Emenda ta' l-artikolu 272 tal-Kodiċi.

6. Fl-artikolu 272 tal-Kodiċi, minflok il-kliem "dmir tal-missier, u fin-nuqqas ta' dan, tat-tabib," għandhom jidhlu l-kliem "dmir tal-missier u ta' l-omm, u fin-nuqqas tat-tnejn, tat-tabib,".

Emenda ta' l-artikolu 275 tal-Kodiċi.

7. Fl-artikolu 275 tal-Kodiċi, u fin-nota marginali tiegħu, minnufih wara l-kliem "mill-missier innifsu" għandhom jidhlu l-

kliem "jew mill-omm innifisha".

8. L-artikolu 276 tal-Kodiċi għandu jiġi sostitwit bl-artikolu ġdid li ġej: Sostituzzjoni ta' l-artikolu 276 tal-Kodiċi.

"276. Jekk l-avviż tat-twelid jiġi mogħti minn persuna li ma tkunx missier jew omm it-tarbija, jew meta dak l-avviż jiġi mogħti mill-ġenituri jew minn persuna oħra b'ittra, l-uffiċjal hawn fuq imsemmi għandu, fit-tlett ijiem ta' wara, isejjaħ fl-uffiċċju tiegħu lill-missier jew lill-omm jew lit-tnejn sabiex jagħmlu d-dikjarazzjoni dwar il-partikolaritajiet hawn fuq imsemmija."

9. Fl-artikolu 277 tal-Kodiċi, u fin-nota marginali tiegħu, minnufih wara l-kelma "missier", kull fejn din tinsab, għandhom jidhlu l-kliem "jew l-omm". Emenda ta' l-artikolu 277 tal-Kodiċi.

10. L-artikolu 278 tal-Kodiċi għandu jiġi emendat kif ġej: Emenda ta' l-artikolu 278 tal-Kodiċi.

(a) fil-paragrafu (d) tiegħu, minnufih wara l-kliem "għandha tiġi msejha", għandhom jiżdiedu l-kliem "u l-kunjom tat-tarbija"; u

(b) minflok il-proviso li hemm mal-paragrafu (e) tiegħu, għandu jidhol il-proviso ġdid li ġej:

"Izda:

(i) meta t-tarbija titwieled matul iż-żwieġ, għandha tingħata indikazzjoni fl-att tat-twelid, taż-żwieġ ta' l-omm lir-raġel biswit l-isem u l-kunjom tagħha billi jintużaw il-kliem "mart l-imsemmi";

(ii) fil-każ li l-omm tkun kisbet firda personali iżjed minn tliet mitt ġurnata qabel il-ġurnata tat-twelid tat-tarbija, dak il-fatt għandu jissema billi ssir annotazzjoni fl-att tat-twelid ta' dik it-tarbija; u

(iii) fil-każ li jkunu japplikaw id-disposizzjonijiet ta' l-artikolu 280(2), għandha tisemma referenza għal dak il-fatt billi ssir annotazzjoni fl-att tat-twelid ta' dik it-tarbija."

11. Fis-subartikolu (1) ta' l-artikolu 279 tal-Kodiċi, wara l-kliem "dik it-tarbija" għandu jiżdied il-kliem "u l-istatus ta' l-omm m'għandux jiġi dikjarat jew b'xi mod indikat". Emenda ta' l-artikolu 279 tal-Kodiċi.

12. Fl-artikolu 292A tal-Kodiċi, minnufih wara l-kliem "Isem jew ismijiet li bih it-tarbija għandha tiġi msejha", għandhom jidhlu l- Emenda ta' l-artikolu 292A tal-Kodiċi.

kliem "u l-Kunjom".

Żieda ta' artikoli ġodda fil-Kodiċi.

13. Minnufih wara l-artikolu 1028 tal-Kodiċi għandhom jiżdiedu l-artikoli ġodda li ġejjin:

"Arrikkiment għad-dannu ta' haddiehor. *Actio de in rem verso.*

1028A. (1) Min, minghajr kawża ġusta, jarrikkixxi ruħu għad-dannu ta' haddiehor għandu fil-limiti ta' l-arrikkiment iħallas lura u jikkumpensa għal kull tnaqqis patrimonjali li setgħet sofriet dik il-persuna.

(2) Jekk l-arrikkiment huwa ta' oġġett determinat, dak li rċevih huwa marbut li jagħti lura l-oġġett in natura jekk dan ikun għadu jeżisti fil-mument tat-talba.

Meta ma tistax tiġi eżerċitata l-*actio de in rem verso.*

1028B. L-*actio de in rem verso* ma tistax tiġi eżerċitata meta min sofra t-telf jista' juża azzjoni oħra sabiex tagħmel tajjeb għad-dannu."

Emenda ta' l-artikolu 1203 tal-Kodiċi.

14. Minnufih wara s-subartikolu (2) ta' l-artikolu 1203 tal-Kodiċi għandu jiżdied il-proviso ġdid li ġej:

Kap. 12.

"Izda xejn f'dan l-artikolu ma għandu jipprojbixxi tpaċija ta' kreditu li jinholoq fil-kors ta' l-għoti jew tal-kontinwazzjoni ta' faċilitajiet imsemmija fl-artikolu 381(1)(f), (g) u (h) tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili."

Sostituzzjoni ta' l-artikolu 2002 tal-Kodiċi.

15. L-artikolu 2002 tal-Kodiċi għandu jiġi sostitwit bl-artikolu ġdid li ġej:

"2002. (1) Il-privileġġi speċjali fuq hwejjeġ mobbli, hliet għal dawk speċifikati taht is-subartikolu (2), u l-privileġġi generali kif imsemmijin fl-artikolu 2003, ma jibqgħux isehħu fuq il-ħaġa jekk din tgħaddi f'idejn it-terzi.

(2) Il-privileġġi speċjali fuq l-immobbli u fuq dawk il-mobbli li l-Ministru, minn żmien għal żmien, jistabbilixxi jibqgħu mgħaqqdin ma' dawn l-immobbli jew mobbli, għalkemm dawn jgħaddu għand persuni oħra."

Sostituzzjoni ta' l-artikolu 2008 tal-Kodiċi.

16. L-artikolu 2008 tal-Kodiċi għandu jiġi sostitwit bl-artikolu ġdid li ġej:

"2008. Il-privileġġ dwar provvisti u oġġetti ta' forniture jgħodd biss għall-hwejjeġ li ma jistgħux jgħaddu minghajrhom id-debitur u l-familja tiegħu, u li, għal kull fini u għan tal-liġi, ma għandhomx jeċċedu s-somma ta' elf u

hames mitt lira, jew dik is-somma l-oħra li l-Ministru responsabbli għall-ġustizzja jista' jippreskrivi minn żmien għal żmien:

Iżda fil-każ ta' armel jew armla jew id-dipendenti tagħhom, is-somma għandha tkun elfejn u hames mitt lira, jew dik is-somma l-oħra li l-Ministru responsabbli għall-ġustizzja jista' jippreskrivi minn żmien għal żmien."

17. Fl-artikolu 2012 tal-Kodiċi, is-subartikolu (1) għandu jithassar u jiġi sostitwit bis-subartikolu ġdid li ġej:

Emenda ta' l-artikolu 2012 tal-Kodiċi.

"(1) Ipoteka hija ġenerali jew speċjali: hija ġenerali jekk tolgot il-beni kollha li għandu u li għad ikollu d-debitur; hija speċjali jekk tolgot biss wiehed jew iżjed:

(a) minn immobbli partikolari tax-xorta li ġejjin:

(i) l-immobbli minnhom infushom, u l-prodott ta' dawn l-immobbli sakemm ma jiġix mifrud minnhom;

(ii) il-jedd ta' użufrutt fuq l-immobbli hawn fuq imsemmija, għaż-żmien li jdum l-użufrutt;

(iii) id-dominju dirett fuq l-immobbli hawn fuq imsemmija mogħtijin b'enfitewsi, u l-utili dominju fuq dawk l-immobbli; u

(b) minn mobbli kif il-Ministru jista' minn żmien għal żmien, jistabbilixxi."

18. Fl-artikolu 2013 tal-Kodiċi, is-subartikolu (1) għandu jithassar u jiġi sostitwit bis-subartikolu ġdid li ġej:

Emenda ta' l-artikolu 2013 tal-Kodiċi.

"(1) Ipoteka speċjali tibqa' mgħaqda ma' kull immobbli li jkun suġġett għaliha, kif imfisser fl-artikolu 2012(1)(a) u ma' kull mobbli li jkun suġġett għaliha skond is-subartikolu (1)(b) ta' l-istess artikolu allavolja dak l-immobbli jew mobbli jkun għadda f'idejn haddiehor."

19. Fis-subartikolu (1) ta' l-artikolu 2016 tal-Kodiċi, minnufih wara l-kelma "immobbli" għandhom jiżdedu l-kliem "u mobbli".

Emenda ta' l-artikolu 2016 tal-Kodiċi.

20. Fis-subartikolu (2) ta' l-artikolu 2028 tal-Kodiċi, minnufih wara l-kelma "immobbli" għandhom jiżdedu l-kliem "u mobbli".

Emenda ta' l-artikolu 2028 tal-Kodiċi.

Sostituzzjoni ta' l-artikolu 2029 tal-Kodiċi.

21. L-artikolu 2029 tal-Kodiċi għandu jiġi sostitwit bl-artikolu ġdid li ġej:

"2029. Il-privileġġi speċjali fuq l-immobbli u fuq hwejjeġ mobbli kif speċifikat fl-artikoli 2002(2) u 2012(1)(b) m'għandhomx effett jekk ma jiġux imnizzlin fir-Registru Pubbliku fiż-żmien ta' xahrejn."

Sostituzzjoni ta' l-artikolu 2032 tal-Kodiċi.

22. L-artikolu 2032 tal-Kodiċi għandu jiġi sostitwit bl-artikolu ġdid li ġej:

"2032. Hlief għal dawk il-privileġġi speċjali msemminjin fl-artikoli 2002(2) u 2012(1)(b), il-privileġġi ġenerali u l-privileġġi speċjali fuq hwejjeġ mobbli mhumiex soġġetti għall-iskrizzjoni."

Emenda ta' l-artikolu 2042 tal-Kodiċi.

23. Fil-paragrafu (h) ta' l-artikolu 2042 tal-Kodiċi, minflok il-kliem "l-immobbli suġġett" għandhom jidhlu l-kliem "l-immobbli u l-mobbli suġġetti".

Emenda ta' l-artikolu 2048 tal-Kodiċi.

24. Fl-artikolu 2048 tal-Kodiċi, minflok il-kliem "l-immobbli jkun" għandhom jidhlu l-kliem "l-immobbli u l-mobbli jkunu".

Emenda ta' l-artikolu 2149 tal-Kodiċi.

25. Fl-artikolu 2149 tal-Kodiċi, il-paragrafu (e) għandu jiġi mħassar.

Emenda ta' l-artikolu 2156 tal-Kodiċi.

26. Fl-artikolu 2156 tal-Kodiċi, il-paragrafu ġdid li ġej għandu jiżdied wara l-paragrafu (f) tiegħu:

"(g) salv kif provdut f'xi ligi speċjali, l-azzjonijiet tal-Gvern ta' Malta, għall-hlas ta' drittijiet ġudizzjarji, dazji jew taxxi oħra."

Emenda fil-Formula Ċ ta' l-Iskeda fil-Kodiċi.

27. Il-Formula Ċ fit-Taqsima II ta' l-Iskeda li tinsab mal-Kodiċi għandha tiġi emendata kif ġej:

(a) fl-ahħar kolonna tagħha, minflok il-kliem "Isem jew ismijiet li bih it-tarbija għandha tiġi msejha", għandhom jidhlu l-kliem "Isem jew ismijiet li bih it-tarbija għandha tiġi msejha u l-Kunjom"; u

(b) fil-kolonna msemmija "Isem u Kunjom", il-kliem "(1)", "(2)" u "(3)" għandhom jithassru, u n-noti f'qiegħ il-formula li jikkorrispondu għalihom li jinsabu wara l-kliem "Uffiċjal Inkarigat" għandhom jithassru.

28. L-artikolu 199 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili għandu jiġi emendat kif ġej:

Emenda ta' l-artikolu 199 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili. Kap. 12.

(a) fis-subartikolu (1) tiegħu minnufih wara l-kliem "tissejjaħ tliet darbiet" għandhom jiżdiedu l-kliem "f'żewġ udjenzi konsekuttivi miżmuma fi għranet differenti";

(b) fis-subartikolu (3) tiegħu minflok il-kliem "fiż-żmien ta' għaxart ijiem" għandhom jidhlu l-kliem "fiż-żmien ta' tliet xhur"; u

(ċ) minnufih wara s-subartikolu (3) tiegħu għandu jiżdied is-subartikolu ġdid li ġej:

"(4) Id-disposizzjonijiet ta' dan l-artikolu m'għandhomx japplikaw meta kawża tkun qed tistenna l-eżitu ta' kawża oħra."

29. L-artikolu 963 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili għandu jiġi emendat kif ġej:

Emenda ta' l-artikolu 963 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili. Kap. 12.

(a) fis-subartikolu (1) tiegħu, minflok il-kliem "Bla ħsara tad-disposizzjonijiet ta' l-artikoli 416 u 420," għandhom jidhlu l-kliem "Bla ħsara għad-disposizzjonijiet tas-subartikolu (3) u ta' l-artikoli 416 u 420,";

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

"(3) Jekk, ukoll jekk ikunu għaddew iż-żminijiet perentorji msemmijin fis-subartikolu (1), jinsab li l-proċeduri bil-miktub f'kawża m'humieq magħluqa, il-qorti għandha għal darba waħda biss tagħti dawk l-ordnijiet li jidhrilha xierqa sabieq l-istess proċeduri jingħalqu kemm jista' jkun malajr u sabieq jiġi evitat illi l-kawża tmur deżerta minhabba f'xi nuqqas ta' notifika jew minhabba f'xi nuqqas ta' twettiq ta' xi proċedura jew formalità.";

(ċ) minnufih wara s-subartikolu (3) tiegħu għandu jiżdied is-subartikolu ġdid li ġej:

"(3A) Id-deżerzjoni ta' kawża għandha tiġi dikjarata b'digriet mogħti fil-qorti bil-miftuħ jekk, wara li jkunu ngħataw l-ordnijiet imsemmijin fis-subartikolu (3), il-proċeduri bil-miktub jibqgħu ma jingħalqux."; u

(d) fis-subartikolu (5) tiegħu, minnufih wara l-kliem "ma jiġux magħluqa" għandhom jiżdiedu l-kliem ", minkejja l-

ordnijiet mogħtija mill-Qorti skond is-subartikolu (3),".

Emenda ta' l-Att dwar l-Ippjanar ta' l-Iżvilupp. Kap. 356.

30. (1) Minnufih wara s-subartikolu (9) ta' l-artikolu 15 ta' l-Att dwar l-Ippjanar ta' l-Iżvilupp għandu jiżdied is-subartikolu ġdid li ġej:

"(10) Appelli lill-Qorti ta' l-Appell minn deċiżjonijiet tal-Bord kif provdut fis-subartikolu (1) għandhom isiru mhux aktar tard minn hmistax-il ġurnata minn meta d-deċiżjoni tkun inqrat fil-pubbliku; u dawn l-appelli għandhom jiġu regolati minn regoli tal-qrati magħmulin bis-saħħa ta' l-artikolu 29 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili."

Kap. 12.

(2) Id-disposizzjonijiet tas-subartikolu (1) ta' dan l-artikolu għandhom, għall-effetti u għanijiet kollha tal-liġi, jitqiesu li kienu fis-seħħ mit-28 ta' Ottubru 1992 'il quddiem.

Disposizzjoni transitorja. Kap. 12.

31. Id-disposizzjonijiet ta' l-artikoli 199 u 963 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, kif emendati bl-artikoli 28 u 29 ta' dan l-Att, għandhom japplikaw għall-kawżi kollha li jkun għadhom pendenti u li ma jkunux ġew dikjarati deżerti jew kanċellati fid-data tal-bidu fis-seħħ ta' l-imsemmijin artikoli 28 u 29 ta' dan l-Att li jemendaw l-imsemmijin artikoli 199 u 963 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili.

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

ANTON TABONE
Speaker

RICHARD J. CAUCHI
CSkrivan tal-Kamra tad-Deputati

MALTA

ATT Nru. VIII ta' l-2007

ATT mahruġ b'liġi mill-Parlament ta' Malta.

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

ACT No. VIII of 2007

AN ACT enacted by the Parliament of Malta.

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

I assent.

(L.S.)

EDWARD FENECH ADAMI
President

26th June, 2007

ACT No. VIII of 2007

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

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

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

Short title and commencement.

Cap. 16.

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

2. Immediately after article 57 of the Code there shall be added the following new article:

Addition of new article to the Code.

"Liquidation of the community of acquests referred to the Arbitration Centre.

57A. Notwithstanding the foregoing provisions of this Sub-Title, the Court may choose that in its judgment it limits its decision and instead of deciding on the liquidation of the community of acquests subject to a declaration of dissolution, refer the same to be decided by the Malta Arbitration Centre."

Substitution of article 59 of the Code.

3. Article 59 of the Code shall be substituted by the following new article:

"59. (1) Personal separation may, subject to the authority of the court by means of a decree in accordance with article 35, be effected by mutual consent of the spouses, by means of a public deed.

(2) The court shall, before giving its authority, admonish the parties as to the consequences of the separation, shall endeavour to reconcile them, and may revoke, modify or add those conditions it may deem fit."

Amendment of article 70 of the Code.

4. Immediately after subarticle (3) of article 70 of the Code, there shall be added the following new subarticle:

"(4) With regard to a child born before the 1st December, 1993, the husband may also repudiate the child conceived during wedlock for the reasons listed in subarticle (1), as these were in force after that date, if the cause for the repudiation of the child is presented in court not later than the 31st December, 2008."

Amendment of article 251 of the Code.

5. Immediately after the proviso to subarticle (3) of article 251 of the Code, there shall be added the following new proviso:

"Provided further that in any copy or extract of any act of civil status registered before the 1st September, 2006 -

(a) the term "single", as relating to the status of the mother, shall not be stated;

(b) any reference to the divorce or the annulment relating to the marriage of the mother shall not be stated;

(c) where the child is born in wedlock, an indication of the marriage to the husband shall be stated in the act of civil status next to the name and surname of the mother by using the words "wife of the said"."

Amendment of article 272 of the Code.

6. In article 272 of the Code, for the words "duty of the father, and in default of the father, of the physician," there shall be substituted the words "duty of the father and the mother, and in default of both, of the physician,".

Amendment of article 275 of the Code.

7. In article 275 of the Code, and in the marginal note thereto, immediately after the words "the father" there shall be added the words "or the mother".

8. Article 276 of the Code shall be substituted by the following new article: Substitution of article 276 of the Code.

"276. Where notice of the birth is given by any person other than the father or the mother of the child, or where such notice is given by the parents or any other person by means of a letter, the said officer shall, within the three next following days, require the father or the mother of the child, or both, to attend at his office to make the declaration respecting the said particulars."

9. In article 277 of the Code, and in the marginal note thereto, immediately after the word "father", wherever it occurs, there shall be added the words "or mother". Amendment of article 277 of the Code.

10. Article 278 of the Code shall be amended as follows: Amendment of article 278 of the Code.

(a) in paragraph (d) thereof, immediately after the words "is to be called", there shall be added the words "and the surname of the child"; and

(b) for the proviso to paragraph (e) thereof, there shall be substituted the following new proviso:

"Provided that:

(i) where the child is born in wedlock, an indication of the marriage to the husband shall be stated in the act of birth next to the name and surname of the mother by using the words "wife of the said";

(ii) in the case where the mother has obtained a legal separation more than three hundred days preceding the day of the birth of the child, such fact shall be stated by way of annotation on the act of birth of the said child; and

(iii) in the case where the provisions of article 280(2) apply, reference to such applicability shall be stated by way of annotation in the act of birth of the said child."

11. In subarticle (1) of article 279 of the Code, immediately after the words "of such child" there shall be added the words "and the mother's status shall not be declared or in any other manner indicated". Amendment of article 279 of the Code.

12. In article 292A of the Code, immediately after the words "Name or names by which the child is to be called", there shall be added the words "and Surname". Amendment of article 292A of the Code.

Addition of new articles to the Code.

13. Immediately after article 1028 of the Code there shall be added the following new articles:

"Enrichment to the detriment of others.
Actio de in rem verso.

1028A. (1) Whosoever, without a just cause, enriches himself to the detriment of others shall, to the limits of such enrichment, reimburse and compensate any patrimonial loss which such other person may have suffered.

(2) If the enrichment constituted a determinate object, the recipient is bound to return the object in kind, if such object is still in existence at the time of the claim.

Where the *actio de in rem verso* may not be exercised.

1028B. The *actio de in rem verso* may not be exercised where the person who suffers the loss may take another action to make up for such loss."

Amendment of article 1203 of the Code.

14. Immediately after subarticle (2) of article 1203 of the Code, there shall be added the following new proviso:

Cap. 12.

"Provided that nothing in this article shall prohibit a set-off of a credit arising in the course of the granting of facilities referred to in article 381(1)(f), (g) and (h) of the Code of Organization and Civil Procedure."

Substitution of article 2002 of the Code.

15. Article 2002 of the Code shall be substituted by the following new article:

"2002. (1) Special privileges over movables, except those specified under subarticle (2), and general privileges as referred to in article 2003, cease to exist if the property passes into the hands of a third party.

(2) Special privileges over immovables and those movables which the Minister shall, from time to time, establish shall continue to attach to such immovables or movables whatever transfers to other persons take place."

Substitution of article 2008 of the Code.

16. Article 2008 of the Code shall be substituted by the following new article:

"2008. The supplies and provisions which are privileged include all objects that are necessary for the support of the debtor and his family, and which shall, for all intents and purposes of law, not exceed the sum of one thousand five hundred liri or such other amount as the Minister responsible for justice may from time to time prescribe:

Provided that in the case of a widow or a widower or of their dependants, the sum shall be two thousand five hundred liri or such other amount as the Minister responsible for justice may from time to time prescribe."

17. In article 2012 of the Code, subarticle (1) shall be deleted and substituted by the following new subarticle:

Amendment of article 2012 of the Code.

"(1) A hypothec is general or special: it is general when it affects all the property present and future of the debtor; it is special when it affects only one or more:

(a) particular immovables of the following kind:

(i) things which are immovable by their nature, and products of such immovables so long as they are not separated therefrom;

(ii) the right of usufruct over the said immovables, during the continuance of such right;

(iii) the *dominium directum* over the said immovables given on emphyteusis, and the *dominium utile* over such immovables; and

(b) particular movables as the Minister may, from time to time, establish."

18. In article 2013 of the Code, subarticle (1) shall be deleted and substituted by the following new subarticle:

Amendment of article 2013 of the Code.

"(1) A special hypothec continues to attach to any immovables charged therewith as defined in article 2012(1)(a) and movables charged therewith under subarticle (1)(b) of the said article into whosoever's possession such immovable or movable may pass."

19. In subarticle (1) of article 2016 of the Code, immediately after the word "immovable" there shall be inserted the words "and movable".

Amendment of article 2016 of the Code.

20. In subarticle (2) of article 2028 of the Code, immediately after the word "immovables" there shall be inserted the words "and movables".

Amendment of article 2028 of the Code.

21. Article 2029 of the Code shall be substituted by the following new article:

Substitution of article 2029 of the Code.

"2029. Special privileges over immovables and over those

movables as specified in articles 2002(2) and 2012(1)(b) are ineffectual unless they are registered in the Public Registry within the time of two months."

Substitution of article 2032 of the Code.

22. Article 2032 of the Code shall be substituted by the following new article:

"2032. Except for those special privileges specified in articles 2002(2) and 2012(1)(b), general privileges and special privileges over movables are not subject to registration."

Amendment of article 2042 of the Code.

23. In paragraph (h) of article 2042 of the Code, for the words "immovable charged" there shall be substituted the words "immovable and movable charged".

Amendment of article 2048 of the Code.

24. In article 2048 of the Code, for the words "the immovables are" there shall be substituted the words "the immovables and movables are".

Amendment of article 2149 of the Code.

25. In article 2149 of the Code, paragraph (e) shall be deleted.

Amendment of article 2156 of the Code.

26. In article 2156 of the Code, the following new paragraph shall be added immediately after paragraph (f) thereof:

"(g) except as provided for in any special law, actions of the Government of Malta for the payment of judicial fees, customs or other dues."

Amendment of Form C in the Schedule to the Code.

27. Form C in Part II of the Schedule to the Code shall be amended as follows:

(a) in the last column thereto, for the words "Name or names by which the child is to be called", there shall be substituted the words "Name or names by which the child is to be called and Surname"; and

(b) in the column entitled "Name and Surname", the words "(1)", "(2)" and "(3)" shall be deleted, and their corresponding footnotes after the words "Officer in Charge" shall be deleted.

Amendment of article 199 of the Code of Organization and Civil Procedure. Cap. 12.

28. Article 199 of the Code of Organization and Civil Procedure shall be amended as follows:

(a) in subarticle (1) thereof, immediately after the words "is called on three times" there shall be added the words "in two consecutive hearings held on different days";

(b) in subarticle (3) thereof, for the words "within ten days" there shall be substituted the words "within three months"; and

(c) immediately after subarticle (3) thereof there shall be added the following new subarticle:

"(4) The provisions of this article shall not apply when a cause is awaiting the outcome of another cause."

29. Article 963 of the Code of Organization and Civil Procedure shall be amended as follows:

Amendment of article 963 of the Code of Organization and Civil Procedure. Cap. 12.

(a) in subarticle (1) thereof, for the words "Saving the provisions of articles 416 and 420," there shall be substituted the words "Saving the provisions of subarticle (3) and of articles 416 and 420,";

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

"(3) If, even where the peremptory times referred to in subarticle (1) shall have lapsed, it is found that the written pleadings in any cause are not closed, the court shall once only give such orders which it may deem fit so that such pleadings may be closed as soon as possible in order to avoid that such cause be deserted by reason of some failure to notify or by reason of the failure of performance of a procedure or formality.";

(c) immediately after subarticle (3) thereof there shall be added the following new subarticle:

"(3A) The desertion of a cause shall be declared by means of a decree delivered in open court if, after the orders referred to in subarticle (3) shall have been given, the written pleadings are not closed."; and

(d) in subarticle (5) thereof, immediately after the words "are not closed" there shall be added the words ", in spite of the orders given by the Court in accordance with subarticle (3),".

30. (1) Immediately after subarticle (9) of article 15 of the Development Planning Act, there shall be added the following new

Amendment of the Development Planning Act. Cap. 356.

subarticle:

Cap. 12. "(10) Appeals to the Court of Appeal from decisions of the Board as provided in subarticle (1) shall be made within fifteen days from the day the decision is delivered in public; and such appeals shall be regulated by rules of court made under article 29 of the Code of Organisation and Civil Procedure."

(2) The provisions of subarticle (1) of this article shall, for all effects and purposes of law, be deemed to have been in force as from the 28 October 1992 onwards.

Transitory
provision.
Cap. 12.

31. The provisions of articles 199 and 963 of the Code of Organization and Civil Procedure, as amended by articles 28 and 29 of this Act, shall apply to all causes which will be pending and which will not have been declared deserted or cancelled on the date of the coming into force of the said articles 28 and 29 of this Act which amend the said articles 199 and 963 of the Code of Organization and Civil Procedure.

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