

**MALTA**

**ATT Nru. XXXII ta' l-1997**

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

**ATT biex jipprovdi dwar ċerti proċeduri quddiem qrati.**

**ACT No. XXXII of 1997**

AN ACT enacted by the Parliament of Malta.

**AN ACT to provide for certain judicial procedures.**

Naghti l-kunsens tieghi.

(L.S.)

UGO MIFSUD BONNICI  
President

30 ta' Diċembru, 1997

**ATT Nru. XXXII ta' l-1997**

*ATT biex jipprovi dwar ċerti proċeduri quddiem qrati.*

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:-

1. Dan l-Att jista' jissejjah l-Att ta' l-1997 biex jagħmel Titolu fil-qosor.  
Provvedimenti Speċjali dwar Proċeduri quddiem Qrati.

2. (1) Minkejja d-dispożizzjonijiet ta' l-artikolu 24 ta' l-Ordinanza li tirregola t-Tigdid tal-Kiri ta' Bini, kif emendat bl-Att ta' l-1993 dwar Emenda fil-Liġijiet dwar Bordijiet, u ta' l-artikolu 10 ta' l-Att dwar it-Tigdid ta' Kiri ta' Raba', kif emendat bl-imsemmi Att ta' l-1993 dwar Emenda fil-Liġijiet dwar Bordijiet, appelli mill-Bord li jirregola l-Kera u mill-Bord dwar il-Kontroll tal-Kiri ta' Raba', appuntati għas-smiġh quddiem il-Qorti ta' l-Appell, kif ordinarjament magħmula, bejn l-1 ta' Ottubru, 1993 u d-dhul fis-sehh ta' dan l-Att, għandhom, minkejja li dawn ma ġewx appuntati għas-smiġh quddiem dik il-qorti kif magħmula skond is-subartikolu (6) ta' l-artikolu 41 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, jitqiesu bhala li ġew validament Kap. 12.  
appuntati u għandhom ikomplu jinstemgħu u jiġu deċiżi mill-imsemmija qorti kif ordinarjament magħmula, u kull appell li jkun ġie hekk appuntat quddiem l-imsemmija qorti, kif ordinarjament magħmula, u li jkun ġie deċiż qabel id-dhul fis-sehh ta' dan l-Att, għandu jitqies bhala li jkun ġie validament deċiż minkejja li l-Qorti ta' l-Appell ma kinetx magħmula skond ma hemm fis-subartikolu (6) ta' l-artikolu 41 ta' dak il-Kodiċi. Għoti ta' validità lil ċerti proċeduri. Kap. 69. Att XIX ta' l-1993. Kap. 199.

Kap. 12.

(2) Minkejja d-dispożizzjonijiet tas-subartikolu (6) ta' l-artikolu 41 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, appelli mill-Qorti tal-Maġistrati (Ghawdex) fil-kompetenza superjuri taghha li mill-1 ta' Jannar, 1996 sad-dhul fis-sehh ta' dan l-Att ġew appuntati ghas-smigh quddiem il-Qorti ta' l-Appell maghmula skond is-subartikolu (6) ta' l-artikolu 41 imsemmi, ghandhom, minkejja li dawn ma ġewx appuntati ghas-smigh quddiem dik il-qorti maghmula diversament, jitqiesu bhala li ġew validament appuntati u ghandhom ikomplu jinstemghu u jiġu deċiżi mill-istess qorti kif maghmula skond is-subartikolu (6) ta' l-artikolu 41 imsemmi, u kull appell li jkun ġie hekk appuntat quddiem l-imsemmija qorti u li jkun ġie deċiż qabel id-dhul fis-sehh ta' dan l-Att ghandu jitqies bhala li jkun ġie validament deċiż minkejja li l-Qorti ta' l-Appell ma kinetx maghmula skond ma hemm fis-subartikolu (1) ta' l-artikolu 41 ta' dak il-Kodiċi.

Att XXIV ta' l-1995.

Kap. 12.

(3) L-appelli kollha mid-deċiżjonijiet tal-Qorti tal-Maġistrati għall-Gzejjer ta' Ghawdex u Kemmuna li, minnufih qabel ġie fis-sehh il-paragrafu (d) ta' l-artikolu 24 ta' l-Att ta' l-1995 li jemenda l-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, kienu pendenti quddiem l-istess qorti maghmula bhala Qorti fi grad ta' appell skond is-subartikolu (3) ta' l-artikolu 50 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili qabel ġie mhassar l-istess subartikolu bil-paragrafu (d) imsemmi ta' l-artikolu 24 imsemmi ghandhom, minkejja d-dispożizzjonijiet tas-subartikolu (5) ta' l-artikolu 41 ta' l-istess Kodiċi, jiġu mill-ġdid appuntati ghas-smigh u għall-eventwali deċiżjoni quddiem il-Qorti tal-Appell maghmula kif maħsub fis-subartikolu (6) ta' l-imsemmi artikolu 41 u d-dispożizzjonijiet tas-subartikolu (7) ta' l-istess artikolu 41 ghandhom japplikaw għal dawk l-appelli kollha irrispettivament minn jekk l-appell huwiewx mill-Qorti tal-Maġistrati għall-Gzejjer ta' Ghawdex u Kemmuna fl-attribuzzjoni superjuri jew inferjuri taghha.

Emenda tal-Kodiċi  
Kriminali,  
Kap. 9.

### 3. Il-Kodiċi Kriminali ghandu jiġi emendat kif ġej:

(a) fl-artikolu 418 tiegħu:

(i) id-dispożizzjoni prezenti ghandha tiġi enumerata mill-ġdid bhala subartikolu (1); u

(ii) minnufih wara s-subartikolu (1) kif enumerat mill-ġdid ghandu jizjed is-subartikolu ġdid li ġej:

“(2) Ghas-smigh ta' appelli minn deċiżjonijiet tal-Qorti tal-Maġistrati (Ghawdex) bhala qorti ta' ġudikatura kriminali l-Qorti ta' l-Appell Kriminali ghandha żzomm is-seduti taghha f'Ghawdex.”;

(b) fl-artikolu 646 tiegħu:

(i) fis-subartikolu (2) tiegħu –

(1) minflok il-kliem “tista’ tingieb bhala prova jekk –” ghandhom jidhlu l-kliem “tista’ tingieb bhala prova:

Basta li x-xhud jingieb ukoll fil-Qorti biex jiġi eżaminat *viva voce* kif provdut fis-subartikolu (1) hlief jekk ix-xhud ikun mejjet, ikun barra minn Malta jew ma jkunx jista’ jinsab u bla hsara ghad-dispożizzjonijiet tas-subartikolu (8).”; u

(2) il-paragrafi (a) u (b) tiegħu ghandhom jithassru;

(ii) is-subartikoli (8), (9) u (10) tiegħu ghandhom jiġu enumerati mill-ġdid (9), (10) u (11) rispettivament;

(iii) minflok is-subartikolu (7) tiegħu ghandhom jidhlu dawn is-subartikoli li ġejjin:

“(7) Minkejja d-dispożizzjonijiet ta’ dan il-Kodiċi jew ta’ kull liġi oħra, ċertifikat li jkun jidher li ġie mahruġ minn tabib reġistrat jew kirurgu dentali reġistrat dwar l-eżami tiegħu ta’ xi persuna, sew jekk hajja jew mejta, jew dwar xi offiża fuq il-persuna li xi hadd isofri jew dwar xi marda fiżika jew tal-mohħ li xi hadd ikollu, jista’ jingieb bhala prova u, sakemm ma jiġix ippruvat il-kuntrarju, ghandu jkun prova tal-kontenut tiegħu, basta li ċ-ċertifikat ikollu t-timbru li jinqara ċar tat-tabib jew kirurgu dentali li johroġ dak iċ-ċertifikat li jkun juri ismu, il-kwalifiki professjonali tiegħu, l-ispeċjalizzazzjoni tiegħu u l-indirizz tiegħu u basta dak iċ-ċertifikat ikun konfermat b’affidavit mit-tabib jew mill-kirurgu dentali, skond il-każ: iżda wkoll, il-parti l-wahda u l-oħra jistgħu jġibu lill-imsemmi tabib jew lill-imsemmi kirurgu dentali, skond il-każ, biex jiġi eżaminat fil-qorti u *viva voce*, u l-qorti tista’ wkoll *ex officio* tordna dak l-eżami.

(8) Ix-xieħda ta’ tabib reġistrat jew kirurgu dentali reġistrat annessa ma’ proċess verbal, jew ta’ tabib jew kirurgu dentali bħal dak li jkun ġie mismuġħ matul il-kompilazzjoni dwar l-eżami tiegħu ta’ xi persuna, sew jekk hajja jew jekk mejta, jew dwar xi offiża fuq il-persuna li xi hadd isofri jew dwar xi marda fiżika jew tal-mohħ li xi hadd ikollu, tista’ tingieb bhala prova mingħajr il-htieġa li l-imsemmi tabib jew kirurgu dentali jingieb fil-qorti kif provdut fil-proviso tas-subartikolu

(2): iżda, hlief jekk ix-xhud ikun mejjet, ikun barra minn Malta jew ma jkunx jista' jinstab, il-parti l-wahda u l-oħra jistghu jitolbu, jew il-qorti tista' *ex officio* tordna, li dak ix-xhud jerga' jigi ezaminat fil-qorti u *viva voce*.”; u

(iv) fis-subartikolu (11) tiegħu, kif enumerat mill-ġdid, minflok il-kliem “li xi xhud miet jew siefer,” għandhom jidhlu l-kliem “li xi xhud miet, siefer jew ma jkunx jista' jinstab,” u minflok il-kliem “il-qorti tista' tippermetti li tingieb ix-xiehda tiegħu fuq ir-rapport” għandhom jidhlu l-kliem “il-qorti tista' tqis l-allegazzjoni ippruvata bir-rapport”; u

(ċ) minnufih wara s-subartikolu (5) ta' l-artikolu 650 tiegħu għandu jiżdied dan is-subartikolu ġdid li ġej:

“(6) Id-deċiżjoni tal-qorti li tahtar periti għandha titnizzel bil-miktub u għandha tiġi notifikata lill-esperti hekk mahtura.”.

Mghoddi mill-Kamra tad-Deputati fis-Seduta Nru 167 tal-15 ta' Diċembru, 1997.

MYRIAM SPITERI DEBONO  
*Speaker*

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

I assent.

(L.S.)

UGO MIFSUD BONNICI  
President

30th December, 1997

**ACT No. XXXII of 1997**

*AN ACT to provide for certain judicial procedures.*

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. This Act may be cited as the Judicial Procedures (Special Provisions) Act, 1997. Short title.

2. (1) Notwithstanding the provisions of section 24 of the Reletting of Urban Property (Regulation) Ordinance, as amended by the Laws (Boards) (Amendment) Act, 1993, and of section 10 of the Agricultural Leases (Reletting) Act, as amended by the said Laws (Boards) (Amendment) Act, 1993, appeals from the Rent Regulation Board and the Agricultural Leases Control Board, appointed for hearing before the Court of Appeal, as ordinarily constituted, between the 1st October, 1993 and the coming into force of this Act, shall, notwithstanding that they were not appointed for hearing before the said court as constituted in terms of subsection (6) of section 41 of the Code of Organization and Civil Procedure, be deemed to have been validly appointed and shall continue to be heard and determined by the said court as ordinarily constituted, and any case so appointed before the said court, as ordinarily constituted, and determined before the coming into force of this Act, shall be deemed to have been validly determined notwithstanding that the Court of Appeal was not constituted in terms of subsection (6) of section 41 of the said Code. Validation of certain procedures. Cap. 69. Act XIX of 1993. Cap. 199. Cap. 12.

Cap. 12.

(2) Notwithstanding the provisions of subsection (6) of section 41 of the Code of Organization and Civil Procedure, appeals from the Court of Magistrates (Gozo) in its superior jurisdiction which from the 1st of January, 1996 until the coming into force of this Act were appointed for hearing before the Court of Appeal as constituted in terms of subsection (6) of the said section 41, shall, notwithstanding that they were not appointed for hearing before the same court differently constituted, be deemed to have been validly appointed and shall continue to be heard and determined by the said court as constituted in terms of subsection (6) of the said section 41, and any appeal so appointed before the said court and determined before the coming into force of this Act shall be deemed to have been validly determined notwithstanding that the Court of Appeal was not constituted in terms of subsection (1) of section 41 of the said Code.

Act XXIV of 1995.

Cap. 12.

(3) All appeals from decisions of the Court of Magistrates for the Islands of Gozo and Comino which, immediately before the coming into force of paragraph (d) of section 24 of the Code of Organization and Civil Procedure (Amendment) Act, 1995, were pending before the same court constituted as an appellate Court in terms of subsection (3) of section 50 of the Code of Organization and Civil Procedure before the said subsection was repealed by the said paragraph (d) of the said section 24 shall, notwithstanding the provisions of subsection (5) of section 41 of the same Code, be reappointed for hearing and eventual judgment before the Court of Appeal constituted as provided in subsection (6) of the said section 41 and the provisions of subsection (7) of the same section 41 shall apply to all such appeals irrespective of whether the appeal is from the Court of Magistrates for the Islands of Gozo and Comino in its superior or inferior jurisdiction.

Amendment  
of the  
Criminal Code,  
Cap. 9.

3. The Criminal Code shall be amended as follows:

(a) in section 418 thereof:

(i) the present provision shall be renumbered as subsection (1); and

(ii) immediately after subsection (1) as renumbered there shall be added the following new subsection:

“(2) For the hearing of appeals from decisions of the Court of Magistrates (Gozo) as court of criminal judicature the Court of Criminal Appeal shall hold its sittings in Gozo.”;

(b) in section 646 thereof:

(i) in subsection (2) thereof –

(1) for the words “shall be admissible as evidence if –” there shall be substituted the words “shall be admissible as evidence:

Provided that the witness is also produced in Court to be examined *viva voce* as provided in subsection (1) unless the witness is dead, absent from Malta or cannot be found and saving the provisions of subsection (8).”;  
and

(2) paragraphs (a) and (b) thereof shall be deleted;

(ii) subsections (8), (9) and (10) thereof shall be numbered (9), (10) and (11) respectively;

(iii) for subsection (7) thereof there shall be substituted following subsections:

“(7) Notwithstanding the provisions of this Code or of any other law, a certificate purporting to be issued by a registered medical practitioner or registered dental surgeon concerning his examination of any person, whether alive or dead, or concerning any bodily harm suffered by, or any physical or mental infirmity afflicting, any person, shall be admissible as evidence and shall, until the contrary is proved, be evidence of its contents, provided the certificate bears the clearly legible stamp of the medical practitioner or registered dental surgeon issuing it showing his name, professional qualifications, expertise and address and provided that such certificate is confirmed by the affidavit of the medical practitioner or the dental surgeon, as the case may be: provided further that it shall be lawful for either of the parties to produce the said medical practitioner or the said dental surgeon, as the case may be, for the purpose of examining him in court and *viva voce*, as well as for the court *ex officio* to require such examination.

(8) The deposition of any registered medical practitioner or registered dental surgeon annexed to a *procès-verbal*, or of any such medical practitioner or dental surgeon examined in the course of the inquiry, in relation to his examination of any person, whether alive or dead, or in relation to any bodily harm suffered by, or

any physical or mental infirmity afflicting, any person, shall be admissible as evidence without the need of producing the said medical practitioner or dental surgeon in court as provided in the proviso to subsection (2): provided that, unless the witness is dead, absent from Malta or cannot be found, it shall be lawful for either of the parties to demand, or for the court *ex officio* to require, that such witness be again examined in court and *viva voce*.”; and

(iv) in subsection (11) thereof, as renumbered, for the words “that a witness is dead or absent,” there shall be substituted the words “that a witness is dead, absent or cannot be found,” and for the words “for the court to admit his deposition on” there shall be substituted the words “for the court to consider the allegation proved by”; and

(c) immediately after subsection (5) of section 650 thereof, there shall be added the following new subsection:

“(6) The Court’s decision to appoint experts shall be reduced to writing and shall be served on the experts so appointed.”.

Passed by the House of Representatives at Sitting No. 167 of the 15th December, 1997.

MYRIAM SPITERI DEBONO  
*Speaker*

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