

## **Nru. 160**

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12. 1. 96

### MALTA

KAMRA TAD-DEPUTATI

HOUSE OF REPRESENTATIVES

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ABBOZZ ta' Liġi mressaq mill-Onorevoli Michael Refalo, M.P., Ministru tal-Ġustizzja u Kultura, u moqri għall-Ewwel darba fis-Seduta tat-12 ta' Diċembru, 1995.

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A BILL introduced by the Honourable Michael Refalo, M.P., Minister for Justice and the Arts, and read for the First time at the Sitting of the 12th December, 1995.

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

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

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

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

## ABBOZZ TA' LIĠI msejjah

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

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

1. Dan l-Att jista' jissejjah l-Att ta' l-1996 li jemenda l-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, u għandu jinqara u jftiehem haġa waħda mal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, hawnhekk iżjed 'il quddiem imsejjah "il-Kodiċi".

Titolu fil-qosor.

Kap. 12.

2. L-artikolu 229 tal-Kodiċi għandu jiġi emendat kif ġej: —

Emenda ta'  
l-artikolu 229  
tal-Kodiċi.

(a) fis-subartikolu (3) tiegħu, minflok il-kliem "minn kull digriet iehor" għandhom jidhlu l-kliem "minn kull digriet interlokutorju iehor"; u

(b) minnufih wara s-subartikolu (9) tiegħu għandu jidhol dan is-subartikolu li ġej:

"(10) Meta digriet interlokutorju jkun ingħata *in camera*, dan għandu għall-ghanijiet ta' dan l-artikolu u għall-ghanijiet tal-kalkolu ta' kull żmien li jkun hemm fih stabbilit, jitqies bħala li jkun inqara bil-miftuh fil-qorti fid-data ta' l-ewwel seduta ta' dik il-kawża li tiġi minnufih wara li jkun ingħata d-digriet mill-qorti *in camera*."

Emenda ta' l-artikolu 283A tal-Kodiċi.

3. Fis-subartikolu (3) ta' l-artikolu 283A tal-Kodiċi, minflok il-kliem “hija ghandha mhux aktar tard mill-jum” ghandhom jidhlu l-kliem “hija tista' mhux aktar tard mill-jum”.

Emenda ta' l-artikolu 314 tal-Kodiċi.

4. Minflok is-subartikolu (2) ta' l-artikolu 314 tal-Kodiċi ghandu jidhol dan li ġej:

“(2) (a) Il-Qorti ghandha tordna li dan l-avviż jiġi pubblikat fil-Gazzetta.

(b) Il-Qorti ghandha wkoll tordna li dak l-avviż jiġi pubblikat f'gazzetta wahda jew iżjed fil-każ ta':—

(i) proprjetà immobbli; jew

(ii) jeddijiet li ghandhom x'jaqsmu ma' proprjetà immobbli; jew

(iii) proprjetà mobbli li tkun tikkonsisti f'oġġetti tad-deheb jew tal-fidda, perli jew haġar prezzjuż, li l-valur tagħhom ikun ta' iżjed minn hames mitt lira; jew

(iv) azzjenda; jew

(v) bastimenti jew bçeġġeċ ohra tal-baħar; jew

(vi) inġenji ta' l-ajru; jew

(vii) titoli elenkati fil-Borża bis-sahha ta' l-Att dwar il-Borża ta' Malta; jew

(viii) poloz ta' l-assigurazzjoni; jew

(ix) kull oġġett iehor minbarra dawk imsemmija qabel kull meta l-qorti tqis li jkun hekk xieraq li taġixxi.”.

Emenda ta' l-artikolu 327 tal-Kodiċi.

5. Fis-subartikolu (2) ta' l-artikolu 327 tal-Kodiċi, minflok il-kliem “li jippubblika avviżi ġodda fil-Gazzetta u ġurnal ta' kuljum li fihom jintwera” ghandhom jidhlu l-kliem “li jħares il-htigiet stabbiliti fis-subartikolu (2) ta' l-artikolu 314 u li jkunu juru”.

Emenda ta' l-artikolu 469A tal-Kodiċi.

6. Fis-subartikolu (3) ta' l-artikolu 469A tal-Kodiċi minflok il-kliem “taht is-subartikolu (1)” ghandhom jidhlu l-kliem “taht il-paragrafu (6) tas-subartikolu (1)”.

Emenda ta' l-artikolu 857 tal-Kodiċi.

7. Fit-test Inġliż ta' l-artikolu 857 tal-Kodiċi, minflok il-kliem “ship of other vessel” ghandhom jidhlu l-kliem “ship or other vessel”.

- 8.** Fit-test Malti tas-subartikolu (4) ta' l-artikolu 877 tal-Kodiċi minflok il-kliem "u/jew" ghandha tidhol il-kelma "jew". Emenda ta' l-artikolu 877 tal-Kodiċi.
- 9.** Fil-paragrafu (b) ta' l-artikolu 912 tal-Kodiċi, minflok il-kliem "jammonta ghal mhux aktar minn tlett elef lira" ghandhom jidhlu l-kliem "jammonta ghal, jew ikun aktar minn, tlett elef lira". Emenda ta' l-artikolu 912 tal-Kodiċi.
- 10.** Minflok is-subartikolu (5) ta' l-artikolu 963 tal-Kodiċi, ghandu jidhol dan li ġej: Emenda ta' l-artikolu 963 tal-Kodiċi.
- “(5) Bla hsara tad-dispożizzjonijiet tas-subartikolu (2) ta' l-artikolu 732, kawża, li l-proċeduri bil-miktub taghha ma jiġux maghluqa fiż-żmien hawn fuq imsemmi:
- (a) meta l-kawża tkun quddiem qorti ta' l-ewwel grad, din ghandha titqies bhala kawża li tkun tqeghdet fuq il-lista ta' kawzi ghas-smiegh u li sussegwentement b'ordni tal-Qorti, tkun thalliet ghal data mhux speċifikata, u d-dispożizzjonijiet ta' l-artikoli 964 sa 967 ta' dan il-Kodiċi ghandhom ikunu japplikaw ghaliha; u
- (b) meta l-kawża tkun quddiem qorti tat-tieni grad, din ghandha titqies bhala kawża dezerta.”.
- 11.** Fl-artikolu 1003A tal-Kodiċi minflok il-kliem "F'kull proċediment ghal disprezz" ghandhom jidhlu l-kliem "Bla hsara ghad-dispożizzjonijiet ta' dan it-titolu, f'kull proċediment ghal disprezz". Emenda ta' l-artikolu 1003A tal-Kodiċi.
- 12.** Fl-artikolu 1008 tal-Kodiċi, il-kliem "u li ma jkunx aktar minn kemm tiswa" ghandhom jithassru. Emenda ta' l-artikolu 1008 tal-Kodiċi.
- 13.** Fit-test Ingliż tal-paragrafu (b) tas-subartikolu (1) fil-paragrafu (a) ta' l-artikolu 76 ta' l-Att ta' l-1995 li jemenda l-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, minflok il-kliem "rural tenement" ghandhom jidhlu l-kliem "urban or rural tenement". Emenda ta' l-Att ta' l-1995 li jemenda l-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili. (Att Nru. XXIV ta' l-1995).
- 14.** Id-dispożizzjonijiet ta' dan l-Att ma ghandhomx ikunu japplikaw ghal kull kwistjoni li bejn l-1 ta' Ottubru, 1995 u meta dan l-Att isir liġi, tkun ghaddiet f'gudikat. Dispożizzjoni transitorja.

### Ghanijiet u Raġunijiet

L-ghan ewlieni ta' l-Abbozz huwa sabiex jaghmel emendi fil-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili sabiex jelimina problemi ta' interpretazzjoni li qamu wara li sar liġi l-Att ta' l-1995 li jemenda l-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili (Att Nru. XXIV ta' l-1995).

**A BILL  
entitled**

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

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

Short title and commencement.

Cap. 12.

1. This Act may be cited at the Code of Organization and Civil Procedure (Amendment) Act, 1996, and shall be read and construed as one with the Code of Organization and Civil Procedure, hereinafter referred to as “the Code”.

Amendment of section 229 of the Code.

2. Section 229 of the Code shall be amended as follows:

(a) for the words “other decree” in subsection (3) thereof, there shall be substituted the words “other interlocutory decree”; and

(b) immediately after subsection (9) thereof there shall be added the following subsection:

“(10) Where an interlocutory decree has been given *in camera*, it shall for the purposes of this section and for the purposes of the calculation of any time therein established be deemed to have been read out in open court on the date of the first sitting in the case immediately after the decree was given *in camera* by the court.”.

3. For the words “who shall not later than the day” in subsection (3) of section 283A of the Code, there shall be substituted the words “who may not later than the day”. Amendment of section 283A of the Code.

4. For subsection (2) of section 314 of the Code there shall be substituted the following: Amendment of section 314 of the Code.

“(2) (a) The Court shall order such advertisement to be published in the Gazette.

(b) The Court shall also order such advertisement to be published in one or more daily newspapers in the case of:—

(i) immovable property; or

(ii) rights annexed to immovable property; or

(iii) movable property consisting of gold or silver articles, pearls or precious stones, the value of which exceeds five hundred liri; or

(iv) a going concern; or

(v) ships or other vessels; or

(vi) aircraft; or

(vii) securities listed in the Stock Exchange under the Stock Exchange Act; or

(viii) insurance policies; or

(ix) any other object other than the above where the court deems it expedient so to do.”.

5. In subsection (2) of section 327 of the Code, for the words “to publish a fresh advertisement in the Gazette and in a daily newspaper which shall specify that” there shall be substituted the words “to comply with the requirements set out in subsection (2) of section 314 and to specify that”. Amendment of section 327 of the Code.

6. In subsection (3) of section 469A of the Code for the words “under subsection (1)” there shall be inserted the words “under paragraph (6) of subsection (1)”. Amendment of section 469A of the Code.

7. In the English text of section 857 of the Code, for the words “ship of other vessel” there shall be substituted the words “ship or other vessel”. Amendment of section 857 of the Code.

Amendment of section 877 of the Code.

8. In the Maltese text of subsection (4) of section 877 of the Code for the words “u/jew” there shall be substituted the word “jew”.

Amendment of section 912 of the Code.

9. In paragraph (b) in section 912 of the Code, for the words “amounts to a sum of not more than three thousand liri” there shall be substituted the words “amounts to, or exceeds, three thousand liri”.

Amendment of section 963 of the Code.

10. For subsection (5) of section 963 of the Code, there shall be substituted the following:

“(5) Saving the provisions of subsection (2) of section 732, the causes the written pleadings whereof are not closed within the said time shall:

(a) where the cause is before a court of first instance be deemed to be a cause which has been set down for hearing and subsequently by order of the Court, adjourned to an unspecified date, and the provisions of sections 964 to 967 of this Code shall apply thereto; and

(b) where the cause is before a court of second instance, be deemed to be deserted.”.

Amendment of section 1003A of the Code.

11. In section 1003A of the Code for the words “In any proceedings for contempt” there shall be substituted the words “Subject to the provisions of this title, in any proceedings for contempt”.

Amendment of section 1008 of the Code.

12. In section 1008 of the Code, the words “, not exceeding the cost of the form” shall be deleted.

Amendment of the Code of Organization and Civil Procedure (Amendment) Act, 1995. (Act No. XXIV of 1995).

13. In the English text of paragraph (b) of subsection (1) in paragraph (a) of section 76 of the Code of Organization and Civil Procedure (Amendment) Act, 1995, for the words “rural tenement” there shall be substituted the words “urban or rural tenement”.

Transitory provision.

14. The provisions of this Act shall not apply to any matter which between the 1st October, 1995 and the enactment thereof, has become *res judicata*.

## Objects and Reasons

The main object of the Bill is to make amendments to the Code of Organization and Civil Procedure to eliminate problems of interpretation which have arisen after the enactment of the Code of Organization and Civil Procedure (Amendment) Act, 1995 (Act No. XXIV of 1995).