
Nru. 169

9. 10. 2020

MALTA

KAMRA TAD-DEPUTATI

HOUSE OF REPRESENTATIVES

ABBOZZ ta' Liġi mressaq mill-Onorevoli Edward Zammit Lewis, M.P., Ministru għall-Ġustizzja, l-Ugwaljanza u l-Governanza, u moqri għall-Ewwel darba fis-Seduta tal-5 ta' Ottubru 2020.

A BILL introduced by the Honourable Edward Zammit Lewis, M.P., Minister for Justice, Equality and Governance, and read the First time at the Sitting of the 5th October 2020.

ATT sabiex ikompli jemenda l-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, Kap. 12, bħala parti mir-riforma tal-ġustizzja fl-isfera tal-proċedura ċivili.

AN ACT to further amend the Code of Organization and Civil Procedure, Cap. 12, as part of the justice reform in the sphere of civil procedure.

RAYMOND SCICLUNA
Skrivan tal-Kamra tad-Deputati

RAYMOND SCICLUNA
Clerk of the House of Representatives

ABBOZZ TA' LIĠI
imsejjah

ATT sabiex ikompli jemenda l-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, Kap. 12, bħala parti mir-riforma tal-gustizzja fl-isfera tal-proċedura ċivili.

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

1. (1) It-titolu fil-qosor ta' dan l-Att hu l-Att tal-2020 dwar ir-Riforma tal-Ġustizzja tal-Proċedura Ċivili u dan l-Att għandu jinqara u jinftiehem ħaġa waħda ma l-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili hawn iżjed 'il quddiem imsejjah "il-Kodiċi".

Titolu fil-qosor u bidu fis-seħħ.

Kap. 12.

(2) Dan l-Att għandu jidhol fis-seħħ f'dik id-data li l-Ministru responsabbli għall-Ġustizzja jista' b'ordni jistabbilixxi fil-Gazzetta u jistgħu jiġu stabbiliti dati differenti għal dispożizzjonijiet u għanijiet differenti ta' dan l-Att.

2. L-artikolu 141 tal-Kodiċi għandu jiġi sostitwit bl-artikolu li ġej:

Sostituzzjoni tal-artikolu 141 tal-Kodiċi.

"Nota tal-appell.

141. L-ebda rikors ta' appell skont id-dispożizzjonijiet tal-artikolu 142 ma jista' jiġi ppreżentat sakemm ma tkunx giet ippreżentata nota tal-appell fir-reġistru tal-qorti tal-appell skont id-dispożizzjonijiet tal-artikolu 226:

Iżda d-dispożizzjonijiet ta' dan l-artikolu ma japplikawx għal appelli ppreżentati quddiem il-Qorti Kostituzzjonali."

3. Fis-subartikolu (1) tal-artikolu 142 tal-Kodiċi, minnufih wara l-kliem "skont xi liġi oħra" għandhom jiżdiedu l-kliem ", u skont id-dispożizzjonijiet tal-artikolu 141,".

Emenda tal-artikolu 142 tal-Kodiċi.

C 4778

Emenda tal-artikolu 144 tal-Kodiċi .

4. Fis-subartikoli (1) u (2) tal-artikolu 144 tal-Kodiċi, il-kliem "għoxrin jum" għandhom jiġi sostitwiti bil-kliem "tletin jum".

Emenda tal-artikolu 145 tal-Kodiċi.

5. L-artikolu 145 tal-Kodiċi għandu jiġi enumerat mill-ġdid bħala s-subartikolu (1) tiegħu u minnufih wara għandu jiżdied is-subartikolu ġdid li ġej:

"(2) Fejn id-dokumenti in sostenn tat-talba jew tad-difiża jkunu diġà prodotti fir-rekords tal-proċeduri tal-ewwel istanza, u referenza għal tali dokumenti hija meħtieġa fir-rikors tal-appell, ir-risposta jew it-tweġiba, dawk id-dokumenti ma għandhomx jiġu prodotti mar-rikors, risposta jew tweġiba iżda għandha ssir referenza għad-dokumenti fir-rekords tal-proċeduri li jirreferi għalihom l-appell."

Emenda tal-artikolu 147 tal-Kodiċi .

6. L-artikolu 147 tal-Kodiċi għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, il-kliem "jinbeda s-smiġħ tal-kawża" għandhom jiġu sostitwiti bil-kliem "jingħalqu l-atti bil-miktub";

(b) is-subartikolu (2) tiegħu għandu jiġi enumerat mill-ġdid bħala subartikolu (3) u minnufih wara s-subartikolu (1) tiegħu għandu jiżdied is-subartikolu (2) ġdid li ġej:

"(2) Fid-digriet magħmul taħt is-subartikolu (1) il-qorti għandha tindika lill-partijiet il-mistoqsijiet u l-kjarifiki li tista' teħtieġ minnhom u li tikkunsidra neċessarji li jkunu ċċarati qabel ma tipproċedi għas-sentenza."; u

(ċ) minnufih wara subartikolu (3) kif enumerat mill-ġdid, għandu jiżdied is-subartikolu (4) ġdid li ġej:

"(4) Xejn fid-dispożizzjonijiet ta' dan l-artikolu m'għandu jipprekludi lill-qorti milli titlob kjarifika ulterjuri f'seduta appuntata għall-iskop skont id-dispożizzjonijiet tal-artikolu 207(5)."

Emenda tal-artikolu 152 tal-Kodiċi .

7. L-artikolu 152 tal-Kodiċi għandu jiġi emendat kif ġej:

(a) is-subartikolu (1) tiegħu għandu jiġi sostitwit bis-subartikolu ġdid li ġej:

"(1) Ir-registratur, wara l-ordni msemmija fl-artikolu preċedenti, u wara verifika li l-garanzija għall-ispejjeż fir-rigward ta' appell giet prodotta u depożitata skont l-artikoli 207 (6) u 249, għandu, mill-aktar fis possibbli, jippubblika dawn il-kawżi fil-lista ta' kawżi

mħollija għal sentenza mingħajr preġudizzju għas-setgħa tal-qorti taht l-artikolu 147 biex tordna noti addizzjonali bil-miktub jew seduta skont l-artikolu 207(5). ";

(b) is-subartikoli (2) u (3) għandhom jiġu enumerati mill-ġdid bħala s-subartikoli (3) u (4) rispettivament, u minnufih wara s-subartikolu (1) tiegħu għandu jżded is-subartikolu ġdid li ġej:

"(2) Il-lista għandha tindika l-kawżi mħollija għas-sentenza u għandha tikkawża li l-partijiet jiġu notifikati b'avviż li jiddikjara li l-kawża għet mħollija għal sentenza mingħajr preġudizzju għas-setgħa tal-qorti li tordna noti addizzjonali bil-miktub jew li tiffissa data għal smigh skont l-artikolu 207 (5):

Iżda kwalunkwe mill-partijiet tista', permezz ta' nota pprezentata fir-reġistru, teżenta lir-reġistratur mid-dover tan-notifika ta' dak l-avviż."; u

(c) fis-subartikolu (4) tiegħu kif enumerat mill-ġdid, minnufih wara l-kliem "għal raġuni tajba," għandu jżded il-kliem "jipproċedi għal sentenza f'kawża jew".

8. L-artikolu 153 tal-Kodiċi għandu jiġi sostitwit bl-artikolu ġdid li ġej:

Jissostitwixxi l-artikolu 153 tal-Kodiċi.

"Nuqqas fil-preżentata tal-atti bil-miktub.

153. (1) In-nuqqas ta' preżentata ta' kwalunkwe att bil-miktub ma għandux, minkejja li n-noti bil-miktub ikunu ngħalqu, jipprekludi l-parti, li kellha d-dritt li tressaq dak l-att bil-miktub, milli titlob lill-Qorti permezz ta' rikors sabiex tippermetti l-preżentata ta' dak l-att bil-miktub fi hdan dak it-terminu ta' żmien kif tista' tordna l-qorti; u l-qorti tista', jekk tkun sodisfatta li l-parti kellha raġuni tajba għal dan in-nuqqas, tippermetti terminu li ma jkunx aktar minn tletin jum għall-preżentata ta' dak l-att bil-miktub.

(2) Fejn rikors kif imsemmi fis-subartikolu (1) jiġi preżentat mill-parti li tkun naqset wara li l-atti bil-miktub ikunu ngħalqu, dan ir-rikors għandu jiġi ppreżentat fi żmien għaxart ijiem min-notifika lil dik il-parti tal-avviż b'dikjarazzjoni li l-kawża għet mħollija għas-sentenza."

9. L-artikolu 207 tal-Kodiċi għandu jiġi sostitwit bl-artikolu ġdid li ġej:

Jissostitwixxi l-artikolu 207 tal-Kodiċi.

"Proċedura għat-trattazzjoni fil-qorti tal-appell.

207. (1) Flief għad-dispożizzjonijiet tas-subartikoli (5) u (7), il-proċeduri kollha quddiem qorti tal-appell għandhom isiru bil-miktub u għandhom jikkonsistu minn:

(a) in-nota tal-appell meħtieġa taħt l-artikolu 141;

(b) ir-rikors tal-appell meħtieġ taħt l-artikolu 142;

(ċ) it-twegiba għar-rikors tal-appell meħtieġa taħt l-artikolu 144;

(d) jekk ikun applikabbli, kwalunkwe appell inċidentali skont l-artikolu 240 u risposta għal tali appell inċidentali; u

(e) kontro-replika tal-appellant għal kwalunkwe kwistjoni ġdida mqajma fit-twegiba jew fir-risposta, jekk permezz tal-qorti jkun ingħata biex din il-kontro-replika tkun ipprezentata.

(2) Il-proċeduri bil-miktub għandhom jitqiesu magħluqa kif provduti fid-dispożizzjonijiet tal-artikolu 146.

(3) Meta risposta jew twegiba għal rikors pprezentat mill-persuna li kontriha ġie ipprezentat l-appell fiha referenza għal fatti jew punti ta' liġi li ma tqajmux mill-appellant fir-rikors tal-appell, l-appellant jista' fi żmien hamest ijiem minn meta jkun ġie notifikat bit-twegiba, permezz ta' rikors, jitlob lill-qorti biex tawtorizza lill-appellant jipprezenta kontro-replika li tindirizza biss dawk il-punti ta' fatt jew ta' liġi li tqajmu għall-ewwel darba fit-twegiba jew ir-risposta għar-rikors. Il-Qorti għandha, jekk tqis li huwa raġonevoli u espedjenti fiċ-ċirkostanzi, tagħti lill-appellant permess biex jipprezenta l-kontro-replika f'perijodu li ma għandux jeċċedi t-tletin jum mid-data tad-digriet li jawtorizza l-prezentata ta' tali kontro-replika.

(4) Meta jingħalqu l-atti bil-miktub, il-Qorti għandha tipproċedi għal sentenza.

(5) Minkejja d-dispożizzjonijiet tas-subartikolu (4) il-Qorti tista' meta tikkunsidra li ma tistax tipproċedi għas-sentenza mingħajr kjarifiki ulterjuri dwar l-atti bil-miktub tal-partijiet, inklużi dawk l-atti addizzjonali li tista' tordna skont l-artikolu 147(1), tipproċedi biex tappunta seduta sabiex il-qorti tistaqsi dawn il-mistoqsijiet u kjarifiki mill-partijiet li tista' tikkunsidra neċessarji biex hija tkun tista' tipproċedi għas-sentenza. Il-qorti tista' wkoll titlob lill-partijiet biex jagħmlu sottomissjonijiet konklużivi jekk tikkunsidra li dawn is-sottomissjonijiet meħtieġa wara li tkun semgħet il-kjarifiki jew ir-risposti orali tal-partijiet.

(6) Il-garanzija għall-ispejjeż fir-rigward tal-appelli kollha għandha tiġi prodotta u depożitata kif provdut fl-artikolu 249 sa mhux aktar tard minn tliet (3) xhur mill-preżentata tar-rikors tal-appell. Fin-nuqqas ta' produzzjoni u depożitu ta' garanzija għall-ispejjeż kif intqal qabel il-Qorti għandha tiddikjara l-appell deżert.

(7) Minkejja d-dispożizzjonijiet tas-subartikoli (1) sa (6) l-kawżi kollha quddiem il-Qorti Kostituzzjonali għandhom jiġu appuntati għal smiġħ orali.

(8) Meta, skont id-dispożizzjonijiet tas-subartikolu (7), il-qorti fi grad ta' appell tagħmel seduta orali, is-segweni għandha tkun it-trattazzjoni tal-kawża:

(a) meta l-appell jiddaħhal biss mill-attur, jew miż-żewġ partijiet, t-trattazzjoni tal-kawża għandha tkun l-istess kif provduta fl-artikolu 204(1);

(b) meta l-appell jiddaħhal biss mill-konvenut, huwa għandu jibda billi jiddikjara fil-qosor ir-raġunijiet allegati għall-ilment u jitlob li s-sentenza appellata tiġi mregġġa' lura jew varjata, u t-trattazzjoni tal-kawża għandha tkun kif provduta fl-artikolu 204 (1):

Izda fil-każ tal-paragrafi (a) u (b), jekk il-partijiet, fi żmien tletin jum minn meta l-atti bil-miktub ikunu meqjusa konklużi, jipprezentaw fir-reġistru nota kongunta li tiddikjara li ma għandhom l-ebda sottomissjonijiet orali jew bil-miktub x'jagħmlu, il-qorti fi grad ta' appell għandha tappunta l-kawża għas-sentenza sa mhux aktar tard minn sitt (6) xhur mill-preżentata tan-nota."

10. L-artikolu 209 tal-Kodiċi għandu jiġi mħassar.

Thassir tal-artikolu 209 tal-Kodiċi.

11. L-artikolu 226 tal-Kodiċi għandu jiġi sostitwit bl-artikolu

Sostituzzjoni tal-artikolu 226 tal-Kodiċi.

gdid li ġejj:

"Żmien għall-preżentata tal-appell.

226. (1) Appell għandu jiddaħhal permezz ta' nota ppreżentata fir-reġistru tal-qorti tal-appell fi żmien għaxart (10) ijiem mid-data tas-sentenza appellata li mbagħad għandha tiġi segwita mill-preżentata ta' rikors li jiġi ppreżentat fir-reġistru tal-Qorti tal-Appell fi żmien tletin (30) jum mill-preżentata tan-nota tal-appell.

(2) In-nota tal-appell għandha tindika s-sentenza li fir-rigward tagħha tkun ġiet ippreżentata n-nota tal-appell u li l-applikant għandu l-intenzjoni li jressaq appell minn dik is-sentenza.

(3) In-nuqqas tal-preżentata tan-nota tal-appell fiż-żmien stipulat fis-subartikolu (1) għandu jipprekludi lil kull parti għas-sentenza mill-preżentata ta' rikors ta' appell u s-sentenza tal-qorti inferjuri għandha ssir *res judicata*."

Emenda tal-artikolu 249 tal-Kodiċi.

12. Is-subartikolu (1) tal-artikolu 249 tal-Kodiċi għandu jiġi sostitwit bis-subartikolu gdid li ġejj:

"(1) Sakemm ma jiġix provdut mod ieħor f'xi ligi oħra, fil-każ ta' appell minn sentenzi jew digrieti mogħtija f'kawża mibdija minn rikors mahluf, il-garanzija għall-ispejjeż għandha tiġi prodotta u depożitata fil-qorti fi żmien tliet xhur mill-preżentata tar-rikors tat-talba għall-appell."

Dispożizzjoni tranżitorja.

13. (1) Sentenzi mogħtija qabel id-dhul fis-seħħ ta' dan l-Att għandhom ikunu soġġetti għal appell skont id-dispożizzjonijiet tal-Kodiċi kif fis-seħħ qabel id-dhul fis-seħħ ta' dan l-Att.

(2) Il-garanzija għall-ispejjeż fir-rigward ta' appelli fejn l-atti bil-miktub ingħalqu iżda mhumiex appuntati għas-smiġħ fid-data tad-dhul fis-seħħ ta' dan l-Att għandha, sakemm din il-garanzija għall-ispejjeż ma tiġix prodotta f'data aktar bikrija skont id-dispożizzjonijiet tal-Kodiċi fis-seħħ qabel id-dhul fis-seħħ ta' dan l-Att u li jistgħu jkunu applikabbli għal tali appelli, tiġi prodotta fil-limiti ta' żmien li ġejjin:

(a) fejn s-sottomissjonijiet bil-miktub ingħalqu sal-31 ta' Diċembru 2015, il-garanzija għall-ispejjeż għandha tiġi pprovduta fi żmien tliet (3) xhur mid-dhul fis-seħħ ta' dan l-Att;

(b) fejn s-sottomissjonijiet bil-miktub ingħalqu wara l-31 ta' Diċembru 2015 iżda mhux aktar tard mill-31 ta' Diċembru 2016, il-garanzija għall-ispejjeż għandha tiġi pprovduta fi żmien sitt (6) xhur mid-dhul fis-seħħ ta' dan l-Att;

(ċ) fejn s-sottomissjonijiet bil-miktub ingħalqu wara l-31 ta' Diċembru 2016 iżda mhux aktar tard mill-31 ta' Diċembru 2017, il-garanziji għall-ispejjeż għandha tiġi pprovduta fi żmien tmax (12)-il xahar mid-dhul fis-sehħ ta' dan l-Att;

(d) fejn s-sottomissjonijiet bil-miktub ingħalqu wara l-31 ta' Diċembru 2017 iżda mhux aktar tard mill-31 ta' Diċembru 2018 il-garanziji għall-ispejjeż għandha tiġi pprovduta fi żmien tmintax (18)-il xahar mid-dhul fis-sehħ ta' dan l-Att; u

(e) fejn is-sottomissjonijiet bil-miktub ingħalqu wara l-31 ta' Diċembru 2018 iżda mhux aktar tard mid-dhul fis-sehħ ta' dan l-Att, il-garanzija għall-ispejjeż għandha tiġi pprovduta fi żmien ghoxrin (20) xahar mid-dhul fis-sehħ ta' dan l-Att.

Għanijiet u Raġunijiet

L-għanijiet u raġunijiet ta' dan l-Abbozz ta' Liġi huma sabiex jkomplu bl-implimentazzjoni tar-riformi tal-ġustizzja fil-qasam tal-proċedura ċivili. L-Abbozz għandu l-għan li jnaqqas ix-xogħol pendenti quddiem il-Qorti tal-Appell billi jipprovdi għall-possibbiltà li l-qorti fi grad ta' appell tagħti seduta biss f'dawk il-każijiet fejn tqis li dan huwa meħtieġ. L-Abbozz jipprovdi wkoll terminu ta' żmien mnaqqas għall-ħlas tal-garanzija għall-ispejjeż fir-rigward tal-appelli. Fejn tali garanzija ma tkunx ipprovduta fil-ħin, l-appell jiġi dikjarat deżert. L-Abbozz jipprevedi wkoll limitu ta' żmien itwal għall-preżentata ta' appelli u twegibiet u b'hekk jippermetti li dawn l-atti bil-miktub jithejjew aħjar.

C 4784

**A BILL
entitled**

AN ACT to further amend the Code of Organization and Civil Procedure, Cap. 12, as part of the justice reform in the sphere of 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:-

Short title and
commencement.
Cap. 12.

1. (1) The short title of this Act is the Justice Reform (Civil Procedure) Act, 2020 and this Act shall be read and construed as one with the Code of Organization and Civil Procedure hereinafter referred to as "the Code".

(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 or provisions of this Act.

Substitution of
article 141 of
the Code.

2. Article 141 of the Code shall be substituted by the following:

"Note of
Appeal.

141. No application of appeal in accordance with the provisions of article 142 may be filed unless a note of appeal would have been filed in the registry of the court of appeal in accordance with the provisions of article 226:

Provided that the provisions of this article shall not apply to appeals filed before the Constitutional Court."

Amendment of
article 142 of
the Code.

3. In sub-article (1) of article 142 of the Code, immediately after the words "any other law" there shall be added the words ", and subject to the provisions of article 141,".

4. In sub-articles (1) and (2) of article 144 of the Code, the words "twenty days" shall be substituted by the words "thirty days".

Amendment of article 144 of the Code.

5. Article 145 of the Code shall be re-numbered as sub-article (1) thereof and immediately thereafter there shall be added the following new sub-article:

Amendment of article 145 of the Code.

"(2) Where the documents in support of the demand or defence are already produced in the records of the proceedings of first instance, and reference to such documents is required in the application of appeal, answer or the reply, such documents shall not be produced with the application answer or reply but reference to the documents in the records of the proceedings to which the appeal relates shall be made."

6. Article 147 of the Code shall be amended as follows:

Amendment of article 147 of the Code.

(a) in sub-article (1) thereof, the words "opening of the hearing" shall be substituted by the words "close of written pleadings";

(b) sub-article (2) thereof, shall be re-numbered as sub-article (3) and immediately after sub-article (1) there shall be added the following new sub-article (2):

"(2) In the order made under sub-article (1) the court shall indicate to the parties the questions and clarifications that it may require of them and which it considers necessary to have clarified before it proceeds to judgement."; and

(c) immediately after sub-article (3) thereof as renumbered, there shall be added the following new sub-article (4):

"(4) Nothing in the provisions of this article shall preclude the court from seeking further clarification at a hearing appointed for the purpose in accordance with the provisions of article 207(5)."

7. Article 152 of the Code shall be amended as follows:

Amendment of article 152 of the Code.

(a) sub-article (1) thereof shall be substituted by the following new sub-article:

"(1) The registrar, following the order mentioned in the last preceding article, and after verification that the security for costs in respect of an appeal has been produced

C 4786

and deposited according to articles 207(6) and 249; shall, as soon as may be, publish such causes in the list of causes set down for judgement saving the power of the court under article 147 to order additional written pleadings or a hearing under article 207(5).";

(b) sub-articles (2) and (3) thereof shall be re-numbered as sub-articles (3) and (4) respectively and immediately after sub-article (1) there shall be added the following new sub-article:

"(2) The list shall indicate the causes set for judgment and shall cause the parties to be served with a notice stating that the cause has been set for judgment save the power of the court to order additional written pleadings or to set a date for a hearing under article 207(5):

Provided that any of the parties may, by a note filed in the registry, exempt the registrar from the duty of service of such notice."; and

(c) in sub-article (4) thereof as re-numbered, immediately after the words "for just cause," there shall be added the words "proceed to judgment in a cause or".

Substitution of article 153 of the Code.

8. Article 153 of the Code shall be substituted by the following new article:

"Default in filing of written pleadings.

153. (1) The default of the filing of any written pleading shall, notwithstanding that the written pleadings would have been closed, not debar the party, who was entitled to file such written pleading, from requesting the Court by application to allow the filing of such written pleading within such time limit as the court shall order; and the court may, if it is satisfied that the party had a good reason for such default, allow such time not being more than thirty days for the filing of such written pleading.

(2) Where an application as is mentioned in sub-article (1) is filed by the defaulting party after written pleadings have been closed, such application shall be filed within ten days from the notification to that party of the notice stating that the cause has been set for judgment."

Substitution of article 207 of the Code.

9. Article 207 of the Code, shall be substituted by the following

new article:

"Procedure for trials in appellate court.

207. (1) Save for the provisions of sub-articles (5) and (7), all proceedings before an appellate court shall be conducted in writing and shall consist of:

(a) the note of appeal required under article 141;

(b) the application for appeal required under article 142;

(c) the reply to the appeal application required under article 144;

(d) if applicable, any cross appeal in terms of article 240 and answer to such cross appeal; and

(e) a rejoinder of the appellant for any new matters raised in the reply or answer, if leave of the court has been granted for such rejoinder to be filed.

(2) Written pleadings shall be deemed closed as provided in the provisions of article 146.

(3) Where a reply or an answer to an application filed by the person against whom the appeal was filed contains a reference to facts or points of law which were not raised by the appellant in the application of appeal, the appellant may within five days from being notified of the reply, by application, pray the court to authorise the appellant to file a rejoinder to address only those points of fact or law which were raised for the first time in the answer or reply to the application. The Court shall, if it considers it reasonable and expedient in the circumstances, grant leave to the appellant to file a rejoinder within a period which shall not exceed thirty days from the date of the decree authorising the filing of such rejoinder.

(4) Upon the closing of written pleadings, the Court shall proceed to judgment.

(5) Notwithstanding the provisions of sub-article (4) the Court may where it considers that it cannot proceed to judgement without further clarifications on the written pleadings of the parties, including such additional pleadings that it may order under article 147(1), proceed to appoint a hearing for the court to ask such questions and clarifications from the parties as it may consider necessary for it to be able to proceed to judgement. The court may also ask the parties to make concluding submissions if it considers such submissions necessary after having heard the clarifications or oral replies of the parties.

(6) Security for costs in respect of all appeals shall be produced and deposited as provided in article 249 by not later than three (3) months from the filing of the application for appeal. In the absence of production and deposit of security for costs as aforesaid the Court shall declare the appeal abandoned.

(7) Notwithstanding the provisions of sub-articles (1) to (6) all causes before the Constitutional Court shall be appointed for oral hearing.

(8) Where pursuant to the provisions of sub-article (7) an appellate court holds an oral hearing, the following shall be the order of trial at the hearing:

(a) where the appeal is entered by the plaintiff only, or by both parties, the order of hearing shall be the same as provided in article 204(1);

(b) where the appeal is entered by the defendant only, he shall commence by briefly stating the alleged grounds of complaint and praying that the judgment appealed from be reversed or varied, and the order of hearing shall then be as provided in article 204(1):

Provided that in the case of paragraphs (a) and (b), if the parties, within thirty days after the written pleadings are deemed to be concluded, file in the registry a joint note declaring that they have no oral or written submissions to make, the appellate court shall appoint the cause for judgment to a date being not later than six (6) months from the filing of the note."

Deletion of article 209 of the Code.

10. Article 209 of the Code shall be deleted.

Substitution of article 226 of the Code.

11. Article 226 of the Code shall be substituted by the following new article:

"Time for filing appeal.

226. (1) An appeal is entered by means of a note filed in the registry of the court of appeal within ten (10) days from the date of the judgement being appealed and which is then followed by the filing an application to be filed in the registry of the Court of Appeal within thirty (30) days from the filing of the note of appeal.

(2) The note of appeal shall indicate the judgement with respect to which the note of appeal is lodged and that the applicant intends to file an appeal from that judgement.

(3) The failure to file a note of appeal within the time set out in sub-article (1) shall preclude any party to a judgement from the filing of an application of appeal and the judgement of the lower court shall become *res judicata*."

12. Sub-article (1) of article 249 of the Code shall be substituted by the following new sub-article:

Amendment of article 249 of the Code.

"(1) Unless otherwise provided in any other law, in the case of an appeal from judgments or decrees given in a cause initiated by sworn application, security for costs is to be produced and deposited in court within three (3) months from the filing of the application for appeal."

13. (1) Judgments delivered before the coming into force of this Act shall be subject to appeal in accordance with the provisions of the Code as in force before the coming into force of this Act.

Transitory provision.

(2) Security for costs in respect of appeals where the written pleadings have been closed but which are not appointed for hearing on the date of the coming into force of this Act shall, unless such security for costs is to be produced at an earlier date in accordance with the provisions of the Code as in force before the coming into force of this Act and may be applicable to such appeals, be produced within the following time limits:

(a) where the written pleadings were closed by the 31st December 2015 security for costs shall be provided within three (3) months from the coming into force of this Act;

(b) where the written pleadings were closed after the 31st December 2015 but not later than the 31st December 2016 security for costs shall be provided within six (6) months from the coming into force of this Act;

(c) where the written pleadings were closed after the 31st December 2016 but not later than the 31st December 2017 security for costs shall be provided within twelve (12) months from the coming into force of this Act;

(d) where the written pleadings were closed after the 31st December 2017 but not later than the 31st December 2018 security for costs shall be provided within eighteen (18) months from the coming into force of this Act; and

(e) where the written pleadings were closed after the 31st December 2018 but not later than the coming into force of

C 4790

this Act security for costs shall be provided within twenty (20) months from the coming into force of this Act.

Objects and Reasons

The objects and reasons of this Bill are to continue with the implementation of reforms of the justice system in the field of civil procedure. The Bill principally aims to reduce the backlog of cases before the Court of Appeal by providing for the possibility of the appellate court to grant a hearing only in those cases where it considers that this is necessary. The Bill also provides for a reduced time-frame for the payment of security for costs in respect of appeals. Where such security will not be provided in time the appeal will be declared abandoned. The Bill also provides for a longer time limit for the filing of appeals and replies thereby allowing for these written pleadings to be better prepared.