

MALTA

ATT Nru. III ta' l-1994

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

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

ACT No. III of 1994

AN ACT enacted by the Parliament of Malta.

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

Naghti l-kunsens tieghi.

(L.S.)

ĊENSU TABONE
President

11 ta' Frar, 1994

ATT Nru. III ta' l-1994

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) Dan l-Att jista' jissejjaħ l-Att ta' l-1994 li jemenda l-Kodiċi Ċivili, u għandu jinqara u jinftiehem haġa waħda mal-Kodiċi Ċivili, hawnhekk iżjed 'il quddiem imsejjah "il-liġi prinċipali".

Titolu fil-qosor
u bidu fis-seħh.

(2) Dan l-Att għandu jibda jseħh f'dik id-data li l-Ministru responsabbli għall-Ġustizzja jista' jistabbilixxi b'avviż fil-Gazzetta.

2. Fis-subartikolu (6) ta' l-artikolu 125 tal-liġi prinċipali, minflok il-kliem "ta' l-artikoli 248 u 249, tas-subartikoli (2) u (3) ta' l-artikolu 251 u ta' l-artikoli 252, 260, 261" għandhom jidhlu l-kliem "ta' l-artikoli 248, 249, 252, 260 u 261 u, bla ħsara għad-dispożizzjonijiet ta' l-artikolu 269, l-artikolu 251".

Emenda ta'
l-artikolu 125
tal-liġi
prinċipali.

3. Fis-subartikolu (2) ta' l-artikolu 238 tal-liġi prinċipali, minflok il-kliem "mid-Direttur tar-Registru Pubbliku, wiehed mill-Assistenti Diretturi jew mill-uffiċjali msemminjin fis-subartikolu (1A) ta' l-artikolu 306.", għandhom jidhlu l-kliem "mid-Direttur tar-Registru Pubbliku.".

Emenda ta'
l-artikolu 238
tal-liġi
prinċipali.

4. Minnufih wara s-subartikolu (1) ta' l-artikolu 239 tal-liġi prinċipali għandu jiżdied dan li ġej:

Emenda ta'
l-artikolu 239
tal-liġi
prinċipali.

"(2) Kopja ta' att, registrata kif provdut fis-subartikolu (1) u trasmessa lid-Direttur b'makna *facsimile* foto-elettrika, jew kull kopja vera tagħha, għandha titqies li tkun kopja vera u awtentika għall-finijiet kollha tal-liġi sakemm din tkun iffirmata mid-Direttur li jirċievi dak il-*facsimile*."

Emenda ta' l-artikolu 251 tal-liġi prinċipali.

5. L-artikolu 251 tal-liġi prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, minflok il-kliem "iffirmati mid-Direttur", għandhom jidhlu l-kliem "iffirmati mid-Direttur tar-Registru Pubbliku ta' Malta jew mid-Direttur tar-Registru Pubbliku ta' Ghawdex,";

(b) fis-subartikolu (3) tiegħu, minflok il-kliem "Id-Direttur għandu wkoll, jekk jiġi mitlub, jagħti" għandhom jidhlu l-kliem "Id-Diretturi msemmijin fis-subartikolu (1) għandhom ukoll, jekk jiġu mitluba, jagħtu"; u

(ċ) is-subartikolu (4) tiegħu għandu jiġi mħassar.

Emenda ta' l-artikolu 253 tal-liġi prinċipali.

6. Minnufih wara s-subartikolu (4) ta' l-artikolu 253 tal-liġi prinċipali għandu jidher dan is-subartikolu li ġej:

"(5) F'kull talba bhal din, id-dikjarazzjoni msemmija fis-subartikolu (4) u (5) ta' l-artikolu 158 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili tista' wkoll tiġi konfermata bil-ġurament minn kull uffiċjal imsemmi fis-subartikolu (1) jew fis-subartikolu (4) ta' l-imsemmi artikolu 306."

Kap. 12.

Emenda ta' l-artikolu 261 tal-liġi prinċipali.

7. Fl-artikolu 261 tal-liġi prinċipali, minflok il-kliem "fis-subartikolu (1A)", kulfejn dawn jinsabu, għandhom jidhlu l-kliem "fis-subartikolu (1)".

Emenda ta' l-artikolu 269 tal-liġi prinċipali.

8. Fis-subartikolu (4) ta' l-artikolu 269 tal-liġi prinċipali, minflok il-kliem "kopja awtentika, jew traduzzjoni awtentika bl-Ingliż jew bil-Malti, ta' xi registrazzjoni" għandhom jidhlu l-kliem "kopja awtentika ta' xi registrazzjoni ffirmata mid-Direttur".

Sostituzzjoni ta' l-artikolu 271 tal-liġi prinċipali.

9. Minflok l-artikolu 271 tal-liġi prinċipali għandu jidher dan li ġej:

"Setgħa għall-egħmil ta' regolamenti.

271. (1) Il-Ministru responsabbli għall-Ġustizzja jista' jagħmel regolamenti:

(a) li jipprovdu għall-egħmil ta' duplikati ta' atti originali ta' l-istat ċivili jew dokumenti oħra li għandhom x'jaqsmu ma' l-istat ċivili, registrati fir-Registru Pubbliku bis-saħħa ta' dan il-Kodiċi jew ta' xi liġi oħra, kif ukoll duplikati tar-registri relattivi ta' dawk l-atti jew dokumenti, kif ukoll duplikati ta' l-indiċi relattiv ta' dawk l-atti, dokumenti jew registri fejn l-att originali, dokument, registru jew indiċi jkun intilef, inqered jew tkun ġratlu hsara, kemm jekk dak it-telf, dik il-qerda jew dik il-hsara jkunu ġraw minhabba kedd bl-użu jew xort oħra;

(b) li jippreskrivu l-mod li bih dawk id-duplikati għandhom jiġu mhejjija u awtentikati;

(ċ) li jippreskrivu li kull atti, dokumenti, registri jew indiċijiet imsemmija fil-paragrafu (a) jiġu riprodotti bil-*microfilming*, u l-mod li bih dawk ir-riproduzzjonijiet għandhom isiru, jiġu maħzuna, u jkunu aċċessibbli għall-pubbliku;

(d) li jippreskrivu l-mod li bih ir-riproduzzjonijiet li jsiru bil-*microfilming* u kopji tagħhom jistghu jiġu awtentikati;

(e) li jipprovdu għall-kompjuterizzazzjoni, inkluża l-ħażna ta' informazzjoni meħuda minn kull att jew dokument registrat fir-Registru Pubbliku u għall-produzzjoni ta' dokumenti li jkun fihom dikjarazzjonijiet ta' dik l-informazzjoni u l-awtentikazzjoni ta' daww id-dokumenti;

(f) li jippreskrivu l-forma ta' l-applikazzjoni għall-hruġ ta' ċertifikati li jkun fihom kopja shiħa jew estratt ta' xi att, dokument, registru jew indiċi;

(g) li jipprovdu għal kull haġa inċidentali jew supplementari għal xi waħda mid-disposizzjonijiet hawn fuq imsemmija.

(2) Kull kopja duplikata li ssir skond ir-regolamenti magħmula taħt is-subartikolu (1) għandha, għall-finijiet u effetti kollha, tissostitwixxi l-att, dokument, registru jew indiċi originali relattiv.”.

10. Minflok l-artikolu 295 tal-liġi prinċipali għandu jidhol dan li ġej:

Sostituzzjoni ta' l-artikolu 295 tal-liġi prinċipali.

“Registrazzjoni ta' deċiżjonijiet, dikjarazzjonijiet u projbizzjonijiet li jolqtu żwieġ.

295. (1) Kull sentenza jew deċiżjoni oħra mogħtija minn qorti kompetenti li biha żwieġ registrat ikun annullat jew ikun milqut l-istat li jirriżulta minnu, għandha, fuq it-talba ta' kull persuna, tiġi registrata b'annotazzjoni fil-margini tar-registru.

(2) Il-persuna li tagħmel it-talba għandha tagħti lid-Direttur kopja awtentika tas-sentenza jew deċiżjoni oħra rilevanti.

(3) Id-Direttur għandu wkoll jirregistra. b'annotazzjoni fil-margini ta' att dwar żwieġ registrat, kull dikjarazzjoni magħmula minn mara miżżewġa fuq il-Formula Q ikkonsenjata minnha skond id-dispożizzjonijiet tas-subartikolu (3) ta' l-artikolu 89 ta' Att ta' l-1993 li jemenda l-Kodiċi Ċivili (Emenda Nru. 2), kif ukoll kull reverżjoni għal kunjom xubitha jew kull projbizzjoni ta' l-użu ta' kunjom żewġha msemmija f'nota ta' separazzjoni personali bejn il-miżżewġin registrata skond l-artikolu 62A ta' dan il-Kodiċi, u referenza għad-data u għall-post fejn ikun sar iż-żwieġ għandha ssir f'kull nota ta' registrazzjoni bħal dik.”.

Att XXI ta' l-1993.

Sostituzzjoni ta' l-artikolu 306 tal-liġi prinċipali.

11. Minflok l-artikolu 306 tal-liġi prinċipali ghandu jidhol dan li ġej:

“Eżerċizzju tal-funzjonijiet mogħtija lid-Direttur.

306. (1) Kull uffiċjal li jkollu l-grad ta' Duttur fil-Liġijiet u jew *warrant* biex jeżerċita l-professjoni ta' avukat jew *warrant* biex jeżerċita l-professjoni ta' nutar pubbliku u li jkun jaqdi dmirijietu fir-Registru Pubbliku jista' jeżerċita l-funzjonijiet kollha jew kull waħda mill-funzjonijiet li taħt xi dispożizzjonijiet ta' dan il-Kodiċi jew ta' xi liġi oħra huma mogħtija lid-Direttur tar-Registru Pubbliku u dik il-liġi għandha tiftiehem skond hekk.

(2) Fl-eżerċizzju ta' kull funzjoni tali, l-imsemmi uffiċjal ikollu l-istess setgħat u l-istess obbligi kif inhuma mogħtija jew imposti lid-Direttur, mingħajr preġidizzju għad-dispożizzjonijiet tas-subartikolu (4) ta' dan l-artikolu.

(3) Il-kliem “iffirmati mid-Direttur” jew kliem ta' effett simili, b'riferenza għal ċertifikati ta' l-istat ċivili, għandhom jittiehdu li jinkludu kull sigill, emblema jew firma magħmula jew proċessati b'mezzi fotografici, bl-istampa jew f'kull għamla oħra fid-diskrezzjoni tad-Direttur kif ukoll awtentikati bil-firma ta' l-uffiċjal li johroġ iċ-ċertifikati li jkun awtorizzat għal dak il-ghan mid-Direttur.

(4) Fl-eżerċizzju tal-funzjonijiet tagħhom taħt dan il-Kodiċi jew xi liġi oħra, l-uffiċjali msemmija f'dan l-artikolu jkunu suġġetti għall-awtorità, direzzjoni u kontroll ta' Assistent Direttur hekk delegat mid-Direttur tar-Registru Pubbliku u f'dan l-artikolu msejjaħ bħala Deputat Direttur:

Iżda l-eżerċizzju tas-setgħat tad-Deputat Direttur taħt dan l-artikolu għandu jkun mingħajr preġudizzju għall-awtorità assoluta tad-Direttur.

(5) Id-Direttur tar-Registru Pubbliku għandu jkun l-unika persuna kompetenti biex jirrapreżenta f'kull kapaċità lir-Registru Pubbliku f'kull proċeduri legali taħt dan il-Kodiċi jew xi liġi oħra.”.

Emendi konsegwenzjali.

12. Il-liġi msemmija fl-ewwel kolonna ta' l-Iskeda li tinsab ma' dan l-Att għandu jkollha effett suġġett għall-emendi speċifikati dwarha fit-tieni kolonna ta' dik l-Iskeda.

SKEDA

(Artikolu 12)

Ligi	Safejn tiġi emendata
Att dwar ir-Registru Pubbliku, Kap. 56.	1. Minflok l-artikolu 3 għandu jidhol dan li ġej:
"Direttur tar-Registru Pubbliku.	3. (1) Kull wiehed mill-uffiċċji hawn fuq imsemmija hu mqiegħed taħt it-triġija ta' uffiċjal imsejjah Direttur tar-Registru Pubbliku, minn hawn 'il quddiem imsejjah id-Direttur, illi, huwa wkoll it-Teżorier tar-Registru Pubbliku, u jirċievi għall-Gvern il-hlasijiet ta' drittijiet skond it-Tariffa fl-Ewwel Skeda li hawn ma' dan l-Att.
Uffiċjali fir-Registru Pubbliku u Assistenti Diretturi tar-Registru Pubbliku.	(2) Fl-Uffiċċju tar-Registru Pubbliku tal-Belt Valletta (Malta) għandu jkun hemm wkoll Assistenti Diretturi magħzula bhala hekk mid-Direttur minn fost l-uffiċjali msemmija fis-subartikolu (1) ta' l-artikolu 306 tal-Kodiċi Ċivili.
Kap. 16.	(3) Minkejja d-dispożizzjonijiet ta' l-artikolu 306 tal-Kodiċi Ċivili, kull riferenza għad-Direttur fl-artikoli 35 u 37 ta' dan l-Att m'għandhiex tiftiehem li tinkludi riferenza għal xi uffiċjal iehor imsemmi f'dan l-artikolu.
Guramenti.	(4) Qabel ma jibdew l-eżerċizzju tal-kariga tagħhom, l-uffiċjali msemmija f'dan l-artikolu għandhom jieħdu quddiem il-Qorti ta' l-Appell il-gurament ta' fedeltà muri fil-Kostituzzjoni ta' Malta, u l-gurament ta' kariga kif ġej: <i>"Jien inwiegħed u nahlef li nosserva fedelment il-liġijiet kollha ta' Malta dwar il-kariga tiegħi u li nagħmel fedelment u bl-onestà u r-reqqa kollha d-dmirijiet ta' Direttur/Assistent Direttur/Uffiċjal ta'/fir-Registru Pubbliku mill-aħjar li naf u li nista'. Hekk Alla jghinni."</i>
	2. Minflok l-artikolu 37 għandu jidhol kif ġej:
"Dmirijiet tal-Qorti ta' Revizjoni.	37. Matul l-ispezzjonijiet fuq imsemmija l-Viżitatur għandu jeżamina jekk l-uffiċjali msemmija fl-artikolu 3 ta' dan l-Att harsux id-dispożizzjonijiet ta' dan l-Att u ta' xi liġi oħra u jista', għal kull kontravvenzjoni, iwahħal lill-uffiċjal li kien responsabbli, ammenda ta' mhux iżjed minn hames liri Maltin:

Iżda, meta l-kontravvenzjoni tikkonsisti fl-ommissjoni ta' xi haġa li tkun meħtieġa li ssir skond dan l-Att jew xi liġi oħra u ma jkunx possibbli għall-Qorti li tassigura ruħha min kien responsabbli għal dik l-ommissjoni, il-kontravvenzjoni għandha titqies li tkun saret mid-Direttur u l-piena għandha tiġi mwahħla lilu.”.

Mghoddi mill-Kamra tad-Deputati fis-Seduta Nru. 224 ta' l-1 ta' Frar, 1994.

LAWRENCE GONZI
Speaker

RICHARD J. CAUCHI
Skrivan tal-Kamra tad-Deputati

I assent.

(L.S.)

CENSU TABONE
President

11th February, 1994

ACT No. III of 1994*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) This Act may be cited as the Civil Code (Amendment) Act, 1994, and shall be read and construed as one with the Civil Code, hereinafter referred to as “the principal law”. Short title and commencement.

(2) This Act shall come into force on such date as the Minister responsible for Justice may by notice in the Gazette establish.

2. In subsection (6) of section 125 of the principal law, for the words “sections 248 and 249, subsections (2) and (3) of section 251 and sections 252, 260 and 261” there shall be substituted the words “sections 248, 249, 252, 260, 261 and, subject to the provisions of section 269, section 251”. Amendment of section 125 of the principal law.

3. In subsection (2) of section 238 of the principal law, for the words “the Director of the Public Registry, one of the Assistant Directors or of the officers mentioned in subsection (1A) of section 306.”, there shall be substituted the words “the Director of the Public Registry.”. Amendment of section 238 of the principal law.

4. Immediately after subsection (1) of section 239 of the principal law there shall be added the following: Amendment of section 239 of the principal law.

“(2) A copy of an act, registered as provided in subsection (1) and transmitted to the Director by photo-electric facsimile machine, or any true copy thereof, shall be deemed a true and authentic copy for all purposes of law provided it is signed by the Director receiving such facsimile.”.

Amendment of section 251 of the principal law.

5. Section 251 of the principal law shall be amended as follows:

(a) in subsection (1) thereof, for the words "signed by the Director," there shall be substituted the words "signed by the Director of the Public Registry of Malta or the Director of the Public Registry of Gozo,"

(b) in subsection (3) thereof, for the words "The Director shall also, if required, give" there shall be substituted the words "The Directors mentioned in subsection (1) shall also, if required, give"; and

(c) subsection (4) thereof shall be deleted.

Amendment of section 253 of the principal law.

6. Immediately after subsection (4) of section 253 of the principal law there shall be added the following subsection:

"(5) In any such action, the declaration referred to in subsections (4) and (5) of section 158 of the Code of Organisation and Civil Procedure may also be confirmed on oath by any officer referred to in subsection (1) or in subsection (4) of the said section 306."

(Cap. 12).

Amendment of section 261 of the principal law.

7. In section 261 of the principal law, for the words "in subsection (1A)", wherever they occur, there shall be substituted the words "in subsection (1)".

Amendment of section 269 of the principal law.

8. In subsection (4) of section 269 of the principal law, for the words "a certified copy, or a certified translation into English or Maltese, of any entry" there shall be substituted the words "a certified copy of any entry signed by the Director".

Substitution of section 271 of the principal law.

9. For section 271 of the principal law there shall be substituted the following:

"Power to make regulations.

271. (1) The Minister responsible for Justice may make regulations:

(a) providing for the making of duplicates of original acts of civil status or other documents relative to civil status, entered in the Public Registry in virtue of this Code or of any other law, as well as duplicates of the relative registers of such acts or documents, as well as duplicates of the relative index of such acts, documents or registers where the original act, document, register or index has been lost, destroyed or damaged, whether such loss, destruction or damage has occurred by wear and tear or otherwise;

(b) prescribing the mode in which such duplicates shall be prepared and authenticated;

(c) prescribing that any acts, documents, registers or indices referred to in paragraph (a) be reproduced by microfilming, and the mode in which such reproductions are to be made, stored and made accessible to the public;

(d) prescribing the manner in which reproductions made by microfilming and copies thereof may be authenticated;

(e) providing for the computerisation, including storage of information taken from any act or document entered in the Public Registry and for the production of documents containing statements of such information and the authentication of such documents;

(f) prescribing the form of the application for the issue of certificates containing a full copy or an extract of any act, document, register or index;

(g) providing for any matter incidental or supplementary to any of the foregoing provisions.

(2) Any duplicate copy made in accordance with regulations made under subsection (1) shall for all intents and purposes, replace the relative original act, document, register or index.”.

10. For section 295 of the principal law there shall be substituted the following:

Substitution of section 295 of the principal law.

“Entry of decisions, declarations and prohibitions affecting marriage.

295. (1) Any judgement or other decision given by a competent court whereby a registered marriage is annulled or the status resulting therefrom is affected shall, at the request of any person, be entered in the register by means of a note in the margin.

(2) The person making the request shall deliver to the Director an authentic copy of the relevant judgement or other decision.

(3) The Director shall also enter, by means of a note in the margin of an act in respect of a registered marriage, any declaration made by a married woman on the Form Q delivered by her in accordance with the provisions of subsection (3) of section 89 of the Civil Code (Amendment) (No. 2) Act, 1993, as well as any revision to the maiden surname or any prohibition of use of the husband’s surname referred to in a note of personal separation between the spouses enrolled in accordance with section 62A of this Code, and a reference to the date and place of marriage shall be made in any such note of enrolment.”.

Act XXI of 1993.

11. For section 306 of the principal law there shall be substituted the following:

Substitution of section 306 of the principal law.

“Exercise of functions assigned to the Director.

306. (1) Any officer who holds the degree of Doctor of Laws and either a warrant to practise as an advocate or a warrant to practise as a notary public and who performs duties in the Public Registry may exercise all or any of the functions which are under any provision of this Code or of any other law assigned to the Director of the Public Registry, and that law shall be construed accordingly.

(2) In the exercise of any such function, the said officer shall have the same powers and the same obligations as are conferred or imposed upon the Director, without prejudice to the provisions of subsection (4) of this section.

(3) The words "signed by the Director" or words to similar effect, with reference to certificates of civil status, shall be taken to include any seal, emblem or signature made or processed by photographic means, by print or in any other form at the discretion of the Director as further authenticated by the signature of the issuing officer authorised for the purpose by the Director.

(4) The officers referred to in this section shall, in the exercise of their functions under this Code or any other law, be subject to the authority, direction and control of an Assistant Director so delegated by the Director of the Public Registry and referred to in this section as the Deputy Director:

Provided that the exercise of the Deputy Director's powers under this section shall be without prejudice to the overall authority of the Director.

(5) The Director of the Public Registry shall be the only competent person to represent in any capacity the Public Registry in any legal proceedings under this Code or any other law."

Consequential Amendments.

12. The enactment mentioned in the first column of the Schedule to this Act shall have effect subject to the amendments specified in relation thereto in the second column of that Schedule.

SCHEDULE

(Section 12)

<i>Enactment</i>	<i>Extent of amendment</i>
Public Registry Act, Cap. 56.	<p>1. For section 3 there shall be substituted the following:</p> <p>3. (1) Each of the said offices shall be under the management of an officer called Director of the Public Registry, hereinafter referred to as the Director who shall also be the Treasurer of the Public Registry, and shall receive on account of the Government the fees leviable in accordance with the Tariff in the First Schedule hereto.</p>

"Director of the Public Registry.

Officer in, and Assistant Directors of, the Public Registry. (2) In the Public Registry Office of Valletta (Malta) there shall also be Assistant Directors who shall be so designated by the Director from among the officers referred to in subsection (1) of Section 306 of the Civil Code.

Cap. 16. (3) Notwithstanding the provisions of section 306 of the Civil Code, any reference made to the Director in sections 35 and 37 of this Act shall not be construed as including a reference to any other officer referred to in this section.

Oaths. (4) Before entering upon the duties of their office, the officers referred to in this section shall take before the Court of Appeal the oath of allegiance set out in the Constitution of Malta, and the oath of office as follows:

“I promise and swear to observe faithfully all the laws of Malta relating to my office and to perform faithfully and with all honesty and exactness the duties of Director /Assistant Director/Officer of/in the Public Registry to the best of my knowledge and ability. So help me God.”.

2. For section 37 there shall be substituted the following:

“Duties of Court of Revision. 37. During the said inspections the Visitor shall examine whether the officers referred to in section 3 of this Act have complied with the provisions of this Act and of any other law and may, for every contravention, inflict upon the officer responsible, a fine (*ammenda*) not exceeding five Maltese liri:

Provided that where the contravention consists in the omission of anything which is required to be done under this Act or under any other law and it is not possible for the court to ascertain who was responsible for such omission, the contravention shall be deemed to have been committed by the Director and the punishment shall be inflicted accordingly.”.

Passed by the House of Representatives at Sitting No. 224 of 1st February, 1994.

LAWRENCE GONZI
Speaker

RICHARD J. CAUCHI
Clerk to the House of Representatives

