

32. L-Onor. Joe Brincat jipproponi:

Illi dan il-Parlament jikkunsidra u jgħaddi mill-istadji tiegħu kollha l-abbozz ta' liġi anness ma' din il-mozzjoni imsejjaħ "Att biex jemenda l-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili (Cap. 15), u dan bħala private members' bill, u li għad-diskussjoni tiegħu u biex jgħaddi mill-istadji meħtieġa, jingħata dak il-ħin u dawk il-ġranet, jekk hemm bżonn anke waqt il-ħin riservat għax-xogħol tal-Gvern".

27.04.1982

A BILL

entitled

An Act to amend the Code of Organisation and Civil Procedure (Cap.15) regarding the submission of disputes to arbitration.

Be it enacted by and with the consent and advice 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 Code of Organisation and Civil Procedure (Amendment) Act 1982, and shall be read and construed as one with the Code of Organisation and Civil Procedure, hereinafter referred to as "the principal Law".

2. For Section 969 of the principal Law there shall be substituted the following:-

"969. (1) The submission shall be made in writing, either by a public deed, or by a private writing, or in accordance with the provisions of this section.

(2) (a) Where an action about any matter is dispute has already been brought before a Court of Justice, the parties may at any stage file a joint note in the Registry of that Court, signed by the parties or their advocates, requesting the Court to transmit the cause to the arbitrator or arbitrators who shall have signified their acceptance so to act in the same note.

(b) The Court shall order that a photocopy of the records of the case be made at the expense of the party suing, which copy shall be transmitted to the arbitrators.

(d) The filing of the note mentioned in this Section shall be deemed to be a withdrawal of the action from the jurisdiction of that Court; but no registry fees shall be levied for such discontinuance.

(d) The arbitrators shall be competent to hear and decide the matter in dispute within the limits of the original action, on the pleas filed and on any counterclaim made according to law.

(e) Notwithstanding the provisions of subsection(a) of this Section, the parties may in the joint note request the Court to appoint the arbitrator or arbitrators, and such appointment shall be effective from the day when the persons so appointed signify their consent so to act.

- (3) (a) The parties may in submission reserve the right to appeal to the Court of Appeal on the final award, in the same manner and according to the formalities established for appeals from judgements of courts of first instance.
- (b) The fees payable to the arbitrators shall be those established for referees, unless the parties and the arbitrators had otherwise agreed in writing about the fees that should be taken.
- (4) Where electromagnetic means are used for the recording of the evidence, it shall not be necessary to transcribe the evidence so taken, provided that the electromagnetic tape used is filed with the final award.
- (5) The arbitrators may hold their sittings at any place and at any time or day, except on Sundays and on public holidays.

Objects and Reasons.

This Amending Act is intended to facilitate the recourse to arbitration, which is becoming a useful alternative to settling civil disputes in most progressive countries. The advantages of such a system would be to reduce costs for parties, to avoid burdening the courts with cases that could be settled or decided outside court procedures. Furthermore, our system has developed to a very great extent the appointment of referees, who in actual fact decide issues of fact and law. Sometimes, especially in highly technical matters, the expert is better equipped than the judge to decide. Consequently it is more natural to have these people arbitrate.

To avoid the possibility of an irregularity, and to assure that the system would remain within the established principles of law, the right of appeal may be reserved by the parties.

It is hoped that this amendment would give the opportunity to many cases being referred to arbitration, although proceedings have already been instituted. The bill makes provision for the reduction of costs in this respect.