

MALTA

ATT Nru. XV ta' l-1983

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

ATT biex jemenda l-Kodiċi ta' Organiz-
zazzjoni u Proċedura Ċivili (Kap. 15).

ACT No. XV of 1983

AN ACT enacted by the Parliament
of Malta.

AN ACT to amend the Code of Or-
ganization and Civil Procedure (Cap.
15).

Nagħti l-kunsens tiegħi.

(L.S.)

AGATHA BARBARA
President

19 ta' Lulju, 1983

ATT Nru. XV ta' l-1983

*ATT biex jemenda l-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili
(Kap. 15).*

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

- Titolu fil-qosor. **1.** Dan l-Att jista' jissejjaħ l-Att ta' l-1983 li jemenda l-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, u għandu jinqara u jiftiehem haġa waħda mal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, hawn-hekk iżjed 'il quddiem imsejha "il-liġi prinċipali".
- Emenda ta' l-artikolu 158 tal-liġi prinċipali. **2.** Fis-subartikolu (5) ta' l-artikolu 158 tal-liġi prinċipali, minflok il-kliem "fil-paragrafu (ċ) ta' l-artikolu 149" għandhom jidhru l-kliem "fil-paragrafu (ċ) tas-subartikolu (1) ta' l-artikolu 149".
- Emenda ta' l-artikolu 251 tal-liġi prinċipali. **3.** Minflok is-subartikolu (d) ta' l-artikolu 251 tal-liġi prinċipali għandu jidhol dan li ġej:
" (d) id-deċiżjonijiet ta' arbitri magħmulin skond id-disposizzjonijiet ta' l-artikolu 967 u l-artikoli ta' wara. ".
- Emenda ta' l-artikolu 470 tal-liġi prinċipali. **4.** Minnufih wara s-subartikolu (1) ta' l-artikolu 470 tal-liġi prinċipali għandu jiżdied il-proviso li ġej:
"Izda fir-rikors għal permess biex issir kawża għal separazzjoni personali jew f'data wara iżda qabel jinb dew il-proċedimenti quddiem il-Qorti ta' ġurisdizzjoni kontenzjuża, tista' ssir talba sabiex jiġi stabbilit l-ammont tas-somma għall-manteniment fil-waqt li l-proċedimenti jkunu pendenti quddiem il-Qorti ta' ġurisdizzjoni volontarja u l-Qorti ta' ġurisdizzjoni kontenzjuża u għall-ghoti ta' digriet li jordna l-ħlas ta' dik is-somma. ".

5. Minnufih wara l-artikolu 479 tal-liġi prinċipali għandhom jidhru l-artikoli ġodda li ġejjin:

Zieda ta' artikoli ġodda mal-liġi prinċipali.

"Smiegh ta' rikors għal manteniment provvizorju.

479A. (1) Ir-rikors li jkun fih it-talba msemija fil-proviso għas-subartikolu (1) ta' l-artikolu 470 għandu jiġi appuntat għas-smiegh f'data kmieni, f'kull każ mhux iktar tard minn sitt ijiem tax-xogħol mid-data tal-preżentata tiegħu u għandu jiġi notifikat lill-intimat minghajr dewmien flimkien ma' l-avviż ta' dak l-appuntament.

(2) Il-Qorti għandha tisma' lir-rikorrent u lill-intimat sommarjament u mbagħad għandha, b'digriet, tiddeċiedi fuq ir-rikors:

Iżda l-Qorti tista' tiddeċiedi fuq it-talba meta r-rikorrent jew l-intimat jew kemm ir-rikorrent kif ukoll l-intimat jonqsu li jidhru fil-jum tas-smiegh.

Eżekuzzjoni ta' digriet li jordna manteniment provvizorju.

(3) (a) Id-digriet imsemmi fis-subartikolu (2) ta' dan l-artikolu jkun titlu eżekuttiv meqjus bħala inkluż fost id-digrieti msemija fl-artikolu 251 u jkun eżegwibbli wara erbgħa u għoxrin siegħa mill-għoti tiegħu bil-mezz ta' xi att eżekuttiv imsemmi fl-artikolu 274 bl-istess mod u taħt l-istess kondizzjonijiet kif jiġu eżegwiti atti bħal dan.

(b) Id-digriet imsemmi fis-subartikolu (2) ta' dan l-artikolu jkun eżegwibbli mill-Qorti ta' ġurisdiżżjoni kontenzjuża li quddiemha tista' tingieb jew tkun pendenti azzjoni għal separazzjoni personali.

(4) Id-digriet imsemmi fis-subartikolu (2) ta' dan l-artikolu ma jibqax eżegwibbli jekk l-azzjoni għas-separazzjoni li għaliha jingħata permess ma tinbedix fi żmien xahrejn mid-data tad-digriet jew f'dak iż-żmien itwal li tista' tagħti l-Qorti fl-istess digriet jew f'digriet ieħor wara.

(5) Id-dispożizzjonijiet tas-subartikolu (3) ta' l-artikolu 382 li bis-saħħa tagħhom il-Qorti ta' ġurisdiżżjoni kontenzjuża tista' tagħmel il-mandat hemm speċifikat għandhom japplikaw, *mutatis mutandis*, daqslikieku r-riferenza għall-Qorti f'dak is-subartikolu, kienet riferenza għall-Qorti ta' ġurisdiżżjoni volontarja li quddiemha tkun saret it-talba msemija fil-proviso għas-subartikolu (1) ta' l-artikolu 470.

Reviżjoni ta' digriet.

479B. Id-digriet u l-ordni msemija fl-artikolu 479A jistgħu biss jiġu riveduti, mibdula jew revokati fuq rikors lill-Qorti ta' ġurisdiżżjoni volontarja jew lill-Qorti ta' ġurisdiżżjoni kontenzjuża li quddiemha l-azzjoni għal separazzjoni tkun pendenti, skond il-każ."

6. Fit-tarf ta' l-artikolu 483 tal-liġi prinċipali għandu jidied il-proviso li ġej:

Emenda ta' l-artikolu 483 tal-liġi prinċipali.

"Iżda l-Qorti m'għandhiex tibgħat il-partijiet quddiem il-Qorti ta' ġurisdiżżjoni kontenzjuża meta, fil-każ ta' talba magħmula skond il-proviso għas-subartikolu (1) ta' l-artikolu 470, il-Qorti tkun laqgħet l-opposizzjoni għall-imsemmija talba."

7. L-artikolu 526 tal-liġi prinċipali għandu jiġi emendat kif ġej:

Emenda ta' l-artikolu 526 tal-liġi prinċipali.

(a) is-subartikolu (4) tiegħu għandu jiġi numerat mill-ġdid bħala subartikolu (5); u

(b) minnufih wara s-subartikolu (3) tiegħu għandu jiżdied is-subartikolu ġdid li ġej:

“(4) Ir-Registratur għandu qabel l-aħħar tax-xahar ta’ Jannar ta’ kull sena jiehu ħsieb li tiġi pubblikata fil-Gazzetta, lista li turi f’ordni alfabetiku l-ismijiet u l-kunjomijiet tal-persuni li jidhru fil-ktieb miżmum skond is-subartikolu (3) ta’ dan l-artikolu, flimkien ma’ l-ismijiet tal-missier, il-post tat-twelid u n-numru tal-Karta ta’ l-Identità ta’ daww il-persuni u d-data tad-digriet ta’ l-interdizzjoni jew ta’ l-inabilitazzjoni.”.

Emenda ta’
l-artikolu 552
tal-liġi prinċipali.

8. Fl-artikolu 552 tal-liġi prinċipali minflok il-kelma “xahrejn” għandhom jidhru l-kliem “sitt xhur”.

Emenda ta’
l-artikolu 568
tal-liġi prinċipali.

9. Fis-subartikolu (1) ta’ l-artikolu 568 tal-liġi prinċipali, minflok il-kliem “il-Qorti, jew quddiem periti” għandhom jidhru l-kliem “il-Qorti, l-arbitri, jew quddiem periti”.

Emenda ta’
l-artikolu 634
tal-liġi prinċipali.

10. Fis-subartikolu (2) ta’ l-artikolu 634 tal-liġi prinċipali, il-kliem “jew, għall-għanijiet tal-proviso li hemm mas-subartikolu (4) ta’ l-artikolu 995, minn xi wieħed mir-Registraturi msemmijin f’dak l-artikolu” u “jew ir-Registratur” għandhom jithassru.

Emenda ta’
l-artikolu 928
tal-liġi prinċipali.

11. Minnufih fit-tarf tal-paragrafu (d) ta’ l-artikolu 928 tal-liġi prinċipali għandhom jiżdiedu l-kliem “jew jekk ebda persuna jew persuni kif imsemmija ma jkollhom dik il-personalità ġuridika distinta”.

Sostituzzjoni ta’
l-artikolu 930
tal-liġi
prinċipali.

12. Minflok l-artikolu 930 tal-liġi prinċipali għandu jidhol dan li ġej:

“930. (1) Il-Qorti, wara d-digriet tal-hatra tal-kuraturi, toħroġ bandi, illi għandhom jiġu mwahħla fid-daħla ta’ l-edifizzju fejn il-Qorti toqgħod.

(2) Kopja ta’ dawn il-bandi għandha tiġi nnotifikata lil wieħed mill-eqreb qraba tal-persuna li għandu jkollha kuratur li jidher għaliha jew li għall-wirt tagħha tintalab il-hatra ta’ kuraturi, u jekk ebda qarib ma jkun magħruf, din il-kopja għandha tiġi notifikata lil xi hadd ieħor magħruf bħala li hu jew li kien haħib tal-persuna li għandha interess.

(3) Meta l-persuna li tkun qed titlob il-hatra ta’ kuraturi kif imsemmi fis-subartikolu (2) ta’ dan l-artikolu, ma tkun taf b’ebda qarib jew haħib, il-Qorti tista’ tordna li minflok in-notifika msemmija fis-subartikolu (2) ta’ dan l-artikolu kopja tal-bandi tiġi pubblikata fil-Gazzetta u f’għall-anqas żewġ gazzetti ta’ kuljum bi spejjeż għall-applikant.”.

Sostituzzjoni ta’
l-artikolu 969
tal-liġi
prinċipali.

13. Minflok l-artikolu 969 tal-liġi prinċipali għandu jidhol dan li ġej:

“969. (1) L-att ta’ arbitraġġ jista’ jsir sew b’att pubbliku kemm b’kitba privata jew skond id-dispożizzjonijiet ta’ dan l-artikolu.

(2) (a) Meta tkun diġà giet ipprezentata kawża quddiem Qorti ta’ Ġustizzja dwar xi haġa li fuqha jkun

hemm kwistjoni, il-partijiet jistgħu f'kull stadju jipprezentaw nota tagħhom flimkien fir-Registru ta' dik il-Qorti, iffirmata mill-partijiet jew mill-avukati tagħhom, fejn jitolbu lill-Qorti li tibgħat il-kawża lill-arbitru jew lill-arbitri li jkunu wrew l-aċċettazzjoni tagħhom biex hekk jaġixxu fl-istess nota.

(b) Il-Qorti għandha tordna li l-proċess jintbagħat lill-arbitri.

(ċ) Mal-preżentata tan-nota msemija f'dan l-artikolu l-artijiet jitqiesu li ġew irtirati mill-ġurisdizzjoni ta' dik il-Qorti; iżda ma jingabru ebda drittijiet tar-registru dwar dik il-kawża li ma tkomplitx.

(d) L-arbitri jkunu kompetenti li jsimgħu u jiddeċiedu l-kwistjoni fil-limiti ta' l-azzjoni oriġinali, ta' l-eċċezzjonijiet ippreżentati u ta' kull rikonvenzjoni magħmula skond il-liġi.

(e) Minkejja d-dispożizzjonijiet tal-paragrafu (a) ta' dan is-subartikolu u ta' l-artikolu 973, il-partijiet jistgħu fin-nota tagħhom flimkien jitolbu lill-Qorti li tinnomina arbitru jew arbitri, u dik in-nomina tibda ssehh minn dak il-jum meta l-persuni hekk nominati juru l-kunsens tagħhom biex hekk jaġixxu.

(3) Il-partijiet jistgħu fin-nota msemija fil-paragrafu (a) tas-subartikolu (2) ta' dan l-artikolu jirriżervaw id-dritt li jappellaw mid-deċiżjoni finali fuq punt ta' liġi maqtuġh mill-Arbitru jew Arbitri lill-Qorti ta' l-Appell, bl-istess mod u skond il-formalitajiet stabbiliti għal appelli minn deċiżjonijiet tal-qrati tal-prim'istanza.

(4) Id-drittijiet li jifhallsu lill-arbitri jkunu daww stabbiliti għal esperti, kemm-il darba l-partijiet u l-arbitri ma jiftehmux bil-miktub xort'ohra dwar id-drittijiet li għandhom jiġu ntaxxati.

(5) Meta jintużaw mezzi elettromanjetiċi għar-registrazzjoni tax-xiehda, ma jkunx hemm għalfejn li x-xiehda li hekk tittiehed tiġi traskritta, kemm-il darba *t-tape* elettromanjetiku wżat jiġi esebit mad-deċiżjoni finali.

(6) L-arbitri jistgħu jzommu s-seduti f'kull post u f'kull hin u f'kull jum.”.

14. Minflok l-artikolu 970 tal-liġi prinċipali għandu jidhol dan li ġej:

Sostituzzjoni ta' l-artikolu 970 tal-liġi prinċipali.

“970. (1) Il-Qorti li kienet tkun kompetenti biex tisma' l-kwistjoni miġjuba fl-arbitraġġ għandha toħroġ mandati tat-taħrika tax-xiehda biex jidhru quddiem l-arbitru jew l-arbitri, u jekk xi xhud bħal dak jonqos li jidher il-qorti għandha, fuq rapport bil-miktub ta' l-arbitru jew ta' l-arbitri tipproċedi bil-mod provdut fl-artikolu 574.

(2) Id-dispożizzjonijiet tas-subartikolu (2) ta' l-artikolu 568 għandhom japplikaw għal daww il-mandati.

(3) L-arbitri jkollhom is-setgħa li jagħtu ġuramenti lix-xhieda eżaminati minnhom.”.

Emenda ta' l-artikolu 976 tal-liġi prinċipali.

15. L-artikolu 976 tal-liġi prinċipali għandu jiġi emendat kif ġej:

(a) id-dispożizzjoni preżenti għandha tiġi numerata mill-ġdid subartikolu (1); u

(b) minnufih wara s-subartikolu (1) tiegħu għandu jidhol is-subartikolu ġdid li ġej:

“(2) Qabel ma jgħaddu biex jaqdu l-inkarigu l-arbitri għandhom jiehdu għurament quddiem il-Qorti li kienet tkun kompetenti li tisma' l-każ mibgħut għall-arbitraġġ, li jaqdu l-inkarigu b'fedeltà u b'imparzjalità u skond l-aħjar ħila tagħhom.”.

Emenda ta' l-artikolu 985 tal-liġi prinċipali.

16. Minflok is-subartikolu (1) ta' l-artikolu 985 tal-liġi prinċipali għandu jidhol dan li ġej:

“(1) Bla ħsara għal kull dritt għal appell riżervat skond id-dispożizzjonijiet tas-subartikolu (3) ta' l-artikolu 969, fil-każijiet hemm imsemmija, deċiżjoni ta' l-arbitri tista' tiġi mħassra jew annullata biss għal raġunijiet li għalihom, skond il-liġi, jista' jiġi mħassar jew annullat kuntratt.”.

Mgħoddi mill-Kamra tad-Deputati fis-Seduta Nru. 120 tat-13 ta' Lulju, 1983.

C. MIFSUD

Skriivan tal-Kamra tad-Deputati

DANIEL MICALLEF

Speaker

I assent.

(L.S.)

AGATHA BARBARA
President

19th July, 1983

ACT No. XV of 1983

AN ACT to amend the Code of Organization and Civil Procedure (Cap. 15).

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 Code of Organization and Civil Procedure (Amendment) Act, 1983, and shall be read and construed as one with the Code of Organization and Civil Procedure, hereinafter referred to as “the principal law”. Short title.
2. In subsection (5) of section 158 of the principal law, for the words “paragraph (c) of section 149” there shall be substituted the words “paragraph (c) of subsection (1) of section 149”. Amendment of section 158 of the principal law.
3. For subsection (d) of section 251 of the principal law there shall be substituted the following: Amendment of section 251 of the principal law.

“(d) awards of arbitrators made according to the provisions of section 967 and the sections following.”.
4. Immediately after subsection (l) of section 470 of the principal law there shall be added the following proviso: Amendment of section 470 of the principal law.

“Provided that in the application for leave to sue for personal separation or at a subsequent date but prior to the commencement of proceedings before the Court of contentious jurisdiction, a demand may be made for determining the amount of an allowance for maintenance during the pendency of the proceedings before the Court of voluntary jurisdiction and the Court of contentious jurisdiction and for the issue of a decree ordering the payment of such allowance.”.

Addition of new sections to the principal law.

5. Immediately after section 479 of the principal law there shall be added the following new sections:

"Hearing of application for provisional maintenance.

479A. (1) The application containing the demand referred to in the proviso to subsection (1) of section 470 shall be appointed for hearing at an early date, in any case not later than six working days from the date of its filing, and shall be served on the respondent without delay together with the notice of such appointment.

(2) The Court shall summarily hear the applicant and the respondent and shall then, by decree, decide on the demand:

Provided that the Court may decide on the demand where the applicant or the respondent or both the applicant and the respondent fail to appear on the day of the hearing.

Enforcement of decree ordering provisional maintenance.

(3) (a) The decree referred to in subsection (2) of this section shall be an executive title deemed to be included amongst the decrees mentioned in section 251 and shall be enforceable after twenty-four hours from its delivery by means of any executive act mentioned in section 274 in the same manner and under the same conditions in which such acts are executed.

(b) The decree referred to in subsection (2) of this section shall be enforceable by the Court of contentious jurisdiction before which the action for personal separation may be brought or is pending.

(4) The decree referred to in subsection (2) of this section shall cease to be enforceable if the action for separation for which leave is granted is not instituted within two months of the date of the decree or within such longer period as the Court may in the same or in a subsequent decree allow.

(5) The provisions of subsection (3) of section 382 in pursuance of which the Court of contentious jurisdiction may make the order therein specified shall apply, *mutatis mutandis*, as if the reference to the Court in that subsection were a reference to the Court of voluntary jurisdiction before which the demand referred to in the proviso to subsection (1) of section 470 is made.

Review of decree.

479B. The decree and the order mentioned in section 479A may be only reviewed, altered or revoked upon an application to the Court of voluntary jurisdiction or to the Court of contentious jurisdiction before which the action for separation is pending, as the case may be."

Amendment of section 483 of the principal law.

6. At the end of section 483 of the principal law there shall be added the following proviso:

"Provided that the Court shall not refer the parties to the Court of contentious jurisdiction where, in the case of a demand made in accordance with the proviso to subsection (1) of section 470, the Court shall have upheld the opposition to the said demand."

7. Section 526 of the principal law shall be amended as follows: Amendment of section 526 of the principal law.
- (a) subsection (4) thereof shall be renumbered as subsection (5); and
- (b) immediately after subsection (3) thereof there shall be added the following new subsection:

“(4) The Registrar shall before the end of the month of January of every year cause to be published in the Gazette, a list showing in alphabetical order the names and surnames of the persons appearing in the book kept in accordance with subsection (3) of this section, together with the names of the father, the place of birth and the number of the Identity Card of such persons and the date of the decree of interdiction or incapacitation.”.

8. In section 552 of the principal law for the words “two months” there shall be substituted the words “six months”. Amendment of section 552 of the principal law.

9. In subsection (1) of section 568 of the principal law, for the words “the Court, or before referees” there shall be substituted the words “the Court, arbitrators, or before referees”. Amendment of section 568 of the principal law.

10. In subsection (2) of section 634 of the principal law, the words “or, for the purposes of the proviso to subsection (4) of section 995, any one of the Registrars mentioned in that section” and “or Registrar” shall be deleted. Amendment of section 634 of the principal law.

11. Immediately at the end of paragraph (d) of section 928 of the principal law there shall be added the words “or where no such person or persons have been vested with such legal representation”. Amendment of section 928 of the principal law.

12. For section 930 of the principal law there shall be substituted the following: Substitution of section 930 of the principal law.

“930. (1) The Court, upon making an order for the appointment of curators shall issue banns to be posted up at the entrance of the building in which the Court sits.

(2) A copy of such banns shall be served on one of the persons most closely related to the person to be represented or in respect of whose inheritance the appointment of curators is demanded, and where no relations are known, such copy shall be served on some other person known to be or have been a friend of the person concerned.

(3) Where no relation or friend as is mentioned in subsection (2) of this section is known to the person demanding the appointment of curators, the Court may order that instead of the service mentioned in subsection (2) of this section a copy of the banns be published in the Gazette and in at least two daily newspapers at the expense of the applicant.”.

13. For section 969 of the principal law there shall be substituted the following: Substitution of section 969 of the principal law.

“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 in 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 signed their acceptance so to act in the same note.

(b) The Court shall order that the records of the case shall be transmitted to the arbitrators.

(c) 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 paragraph (a) of this subsection and of section 973, the parties may in the joint note request the Court to appoint an arbitrator or arbitrators, and such appointment shall be effective from the day when the persons so appointed signify their consent so to act.

(3) The parties may in the note mentioned in paragraph (a) of subsection (2) of this section reserve the right to appeal from the final award on a point of law determined by the arbitrator or arbitrators to the Court of Appeal, in the same manner and according to the formalities established for appeals from judgments of courts of first instance.

(4) The fees payable to the arbitrators shall be those established for referees, unless the parties and the arbitrators have otherwise agreed in writing about the fees that should be taxed.

(5) 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.

(6) The arbitrators may hold their sittings at any place and at any time or day.”.

Substitution of section 970 of the principal law.

14. For section 970 of the principal law there shall be substituted the following:

“970. (1) The Court which would be competent to take cognizance of the matter referred to arbitration shall issue writs of subpoena to witnesses to appear before the arbitrator or arbitrators, and if any such witness fails to attend the court shall, on a report in writing by the arbitrator or arbitrators proceed in the manner provided in section 574.

(2) The provisions of subsection (2) of section 568 shall apply to such writs.

(3) The arbitrators shall have power to administer oaths to witnesses examined by them.”.

15. Section 976 of the principal law shall be amended as follows:

Amendment of section 976 of the principal law.

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

(b) immediately after subsection (1) thereof there shall be added the following new subsection:

“(2) Before proceeding to discharge the reference the arbitrators shall take an oath before the Court which would be competent to take cognizance of the matter referred for arbitration, to discharge the reference faithfully and impartially and to the best of their ability.”.

16. For subsection (1) of section 985 of the principal law there shall be substituted the following:

Amendment of section 985 of the principal law.

“(1) Without prejudice to any right of appeal that may be reserved in accordance with the provisions of subsection (3) of section 969, in the cases therein mentioned, an award may only be rescinded or annulled on the grounds on which a contract may, according to law, be rescinded or annulled.”.

Passed by the House of Representatives at Sitting No. 120 of the 13th July, 1983.

DANIEL MICALLEF
Speaker

C. MIFSUD
Clerk to the House of Representatives