

Nru. 45

14. 10. 77

MALTA

KAMRA TAD-DEPUTATI

HOUSE OF REPRESENTATIVES

ABBOZZ ta' Liġi mressaq mill-Onorevoli Joseph Cassar, M.P., Ministru tal-Gustizzja, Artijiet, Djar u Affarijiet tal-Parlament, u moqri għall-Ewwel darba fis-Seduta tat-3 ta' Ottubru, 1977.

A BILL introduced by the Honourable Joseph Cassar, M.P., Minister of Justice, Lands, Housing and Parliamentary Affairs, and read the First time at the Sitting of the 3rd October, 1977.

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

AN ACT further to amend the Code of Organization and Civil Procedure, Cap. 15.

C. MIFSUD

Skrivan tal-Kamra tad-Deputati

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Clerk to the House of Representatives

ABBOZZ TA' LIĠI

msejjah

ATT biex ikompli 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, hareġ b'liġi dan li ġej:—

Titolu
fil-qosor.

1. Dan l-Att jista' jissejjaħ l-Att ta' l-1977 li jemenda l-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili (Emenda Nru. 2), u għandu jinqara u jftiehem haġa waħda mal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, hawnhekk iżjed 'il quddiem imsejha "il-liġi prinċipali".

Emenda ta'
l-artikolu 10
tal-liġi
prinċipali.

2. L-artikolu 10 tal-liġi prinċipali għandu jiġi emendat kif ġej:
(a) id-disposizzjoni preżenti għandha tiġi numerata mill-ġdid bħala s-subartikolu (1) tiegħu; u
(b) minnufih wara s-subartikolu (1) tiegħu għandu jżiddied is-subartikolu ġdid li ġej:

"(2) Meta xi kumnikazzjoni kif imsemmija fil-forma tal-gurament li hemm fis-subartikolu (1) ta' dan l-artikolu tkun tikkonsisti f'ittra anonima jew f'ittra li min kitibha ma jkunx jista' jiġi magħruf malajr, jew meta xi kumnikazzjoni bħal dik ikun fiha xi kliem ingurjuż jew offensiv, l-Imħallef li rċieva l-kumnikazzjoni ma jkollux għalfejn jaqra l-kumnikazzjoni fil-qorti bil-miftuħ iżda jista' minflok iġid fil-Qorti bil-miftuħ il-fatt li jkun irċeviha u għandu f'kull każ iġharraf il-kontenut tagħha lill-President tar-Repubblika."

Emenda ta'
l-artikolu 18
tal-liġi
prinċipali.

3. L-artikolu 18 tal-liġi prinċipali għandu jiġi emendat kif ġej:
(a) id-disposizzjoni preżenti għandha tiġi numerata mill-ġdid bħala s-subartikolu (1) tiegħu, u
(b) minnufih wara s-subartikolu (1) tiegħu għandu jżiddied is-subartikolu ġdid li ġej:

“(2) Meta xi kumnikazzjoni kif imsemmija fil-forma tal-gurament li hemm fis-subartikolu (1) ta’ dan l-artikolu tkun tikkonsisti f’ittra anonima jew f’ittra li min kitibha ma jkunx jista’ jiġi magħruf malajr, jew meta xi kumnikazzjoni bħal dik ikun fiha xi kliem inġurjuż jew offensiv, il-Magistrat li rċieva l-kumnikazzjoni ma jkollux għalfejn jaqra l-kumnikazzjoni fil-qorti bil-miftuħ iżda jista’ min-flok iġhid fil-qorti bil-miftuħ il-fatt li jkun irċeviha u għandu f’kull każ iġharraf il-kontenut tagħha lill-President tar-Repubblika.”.

4. Fit-test ingliz tas-subartikolu (2) ta’ l-artikolu 65 tal-liġi prinċipali, minflok il-kliem “in this Act” għandhom jidhlu l-kliem “in this Code”.
- Emenda ta’ l-artikolu 65 tal-liġi prinċipali.
5. Fit-test Malti tas-sub-paragrafu (iv) tal-paragrafu (c) tas-subartikolu (3) ta’ l-artikolu 77 tal-liġi prinċipali, minflok il-kelma “emigrazzjoni” għandha tidhol il-kelma “immigrazzjoni”.
- Emenda ta’ l-artikolu 77 tal-liġi prinċipali.
6. L-artikolu 989 tal-liġi prinċipali għandu jiġi emendat kif ġej:
- (a) minflok il-kliem “bl-ammenda” li hemm fil-paragrafu (d) tiegħu għandhom jidhlu l-kliem “b’ammenda jew multa”, u
- (b) minnufih wara l-paragrafu (d) tiegħu għandu jidied il-paragrafu ġdid li ġej:
- “(e) b’detenzjoni skond il-Kodiċi Kriminali (Kapitlu 12).”.
- Emenda ta’ l-artikolu 989 tal-liġi prinċipali.
7. Fl-artikolu 992 tal-liġi prinċipali minflok il-kliem “fl-artikolu 990” għandhom jidhlu l-kliem “fl-artikolu 990 jew 993”.
- Emenda ta’ l-artikolu 992 tal-liġi prinċipali.
8. Minflok l-artikolu 993 tal-liġi prinċipali għandu jidhol dan li ġej:
- “993. (1) Hadd ma jista’ juża, f’ebda skrittura jew waqt ismiegħ tal-kawża kliem inġurjuż jew offensiv illi ma jkunx mehtieg fil-kawża jew li jipproduċi mingħajr il-permess bil-quddiem tal-Qorti xi dokument li jkun fih xi kliem bħal dak; u l-Qorti tista’, fid-diskrezzjoni tagħha, tikkundanna lill-ħati għall-piena taċ-ċanfir, jew ta’ ammenda jew multa jew ta’ detenzjoni skond il-Kodiċi Kriminali (Kapitlu 12); il-Qorti tista’ wkoll, sew *ex officio* jew fuq talba tal-parti offiċja, tordna li kull kliem bħal dak jiħassar mill-iskritturi jew mid-dokument, skond il-każ.
- (2) Il-Qorti tista’ wkoll, minflok li tordna t-ħassir ta’ l-imsemmi kliem, tordna li l-iskrittura kollha jew id-dokument kollu li jkun fih xi kliem bħal dak jiġi sfilzat mill-proċess u, f’każ bħal dan, l-iskrittura jew id-dokument jitqiesu, għall-finijiet kollha, bħallikieku qatt ma ġew ipprezentati.”.
- Sosċitazzjoni ta’ l-artikolu 993 tal-liġi prinċipali.
9. Fl-artikolu 1000 tal-liġi prinċipali, minflok il-kliem “favur il-Kuruna” għandhom jidhlu l-kliem “favur il-Gvern ta’ Malta”.
- Emenda ta’ l-artikolu 1000 tal-liġi prinċipali.

Emenda
ta' liġi
fl-Iskeda.

10. Il-liġi murija fl-ewwel kolonna ta' l-Iskeda li tinsab ma' dan l-Att għandu jkollha effett skond l-emenda murija fit-tieni kolonna ta' dik l-Iskeda.

SKEDA

L-Ewwel Kolonna <i>Liġi</i>	It-Tieni Kolonna <i>Safejn tiġi emendata</i>
Att ta' l-1974 dwar l-Istampa (Att Nru. XL ta' l-1974)	Minflok il-proviso għall-paragrafu (e) ta' l-artikolu 33 għandu jidhol dan li ġej: "Izda ma jkunux jistgħu jiġu pubblikati — (a) xi haġa li, bl-artikolu 993 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili (Kapitlu 15), hi projbita li tiġi wżata jew prodotta, jew (b) xi rapport tal-proċedimenti f'xi każ ta' malafama, li fiha l-prova tal-verità tal-fatti attribwiti ma tkunx tista' ssir bil-liġi."

Ghanijiet u Raġunijiet

L-Għan ewlieni ta' dan l-Abbozz huwa li jemenda l-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili sabiex jipprovdri pieni oġhla u disposizzjonijiet iktar iebesha dwar disprezz tal-qorti. F'dan ir-rigward, l-Abbozz qed jemenda wkoll l-Att ta' l-1974 dwar l-Istampa.

L-Abbozz fih ukoll emenda għall-imsemmi Kodiċi sabiex Imħallfin u Maġistrati jkun jistgħu ma jaqrawx f'qorti bil-miftuħ il-kontenut ta' xi kumunikazzjoni riċevuta minnhom u li jkun fih kliem inġurjuż u offensiv.

Fl-aħħarnett l-Abbozz fih ukoll xi emendi żgħar oħra għall-imsemmi Kodiċi.

A BILL**entitled**

AN ACT further 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) (No. 2) Act, 1977, 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. Section 10 of the principal law shall be amended as follows:

Amendment
of section 10
of the
principal
law.

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

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

"(2) Where any communication as is referred to in the form of oath contained in subsection (1) of this section consists in an anonymous letter or in a letter the writer whereof cannot be readily identified, or where any such communication contains insulting or offensive expressions, the Judge who received the communication need not read out the communication in open court but may instead disclose in open court the fact of such receipt and shall in any case make the contents thereof known to the President of the Republic."

3. Section 18 of the principal law shall be amended as follows:

Amendment
of section 18
of the
principal
law.

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

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

"(2) Where any communication as is referred to in the form of oath contained in subsection (1) of this section consists in an anonymous letter or in a letter the writer whereof cannot be readily identified, or where any such communication contains insulting or offensive expressions, the Magistrate who received the communication need not read out the communication in open court but may instead disclose in open court the fact of such receipt and shall in any case make the contents thereof known to the President of the Republic."

Amendment of section 65 of the principal law.

4. In the English text of subsection (2) of section 65 of the principal law, for the words "in this Act" there shall be substituted the words "in this Code".

Amendment of section 77 of the principal law.

5. In the Maltese text of sub-paragraph (iv) of paragraph (c) of subsection 3 of section 77 of the principal law, for the word "emigrazzjoni" there shall be substituted the word "immigrazzjoni".

Amendment of section 989 of the principal law.

6. Section 989 of the principal law shall be amended as follows:

(a) for the words "with a fine (*ammenda*)" in paragraph (d) thereof there shall be substituted the words "with a fine (*ammenda* or *multa*)", and

(b) immediately after paragraph (d) thereof there shall be added the following new paragraph:

"(e) with detention in terms of the Criminal Code (Chapter 12)."

Amendment of section 992 of the principal law.

7. In section 992 of the principal law, for the words "in section 990" there shall be substituted the words "in section 990 or 993".

Substitution of section 993 of the principal law.

8. For section 993 of the principal law there shall be substituted the following:

"993. (1) It is forbidden to use in any written pleading or during the hearing insulting or offensive expressions which are not necessary for the cause or to produce without the previous permission of the Court any document containing any such expression; and it shall be lawful for the Court, in its discretion, to sentence the offender to reprimand or to a fine (*ammenda* or *multa*) or to detention in terms of the Criminal Code (Chapter 12); it shall also be lawful for the Court, either of its own motion or upon the demand of the aggrieved party, to cause any such expression to be struck out from the written pleading or document, as the case may be.

(2) The Court may also, instead of causing the striking out of the said expressions, order that the whole written pleading or document containing any such expression be expunged from the record of proceedings and, in such case, the pleading or document shall for all purposes be deemed never to have been filed."

Amendment of section 1000 of the principal law.

9. In section 1000 of the principal law, for the words "to the Crown" there shall be substituted the words "to the Government of Malta".

10. The enactment set out in the first column of the Schedule to this Act shall have effect subject to the amendment set out in the second column of that Schedule. Amendment of enactment in Schedule.

SCHEDULE

First Column <i>Enactment</i>	Second Column <i>Extent of amendment</i>
Press Act, 1974 (Act No. XL of 1974)	<p>For the proviso to paragraph (e) of section 33 there shall be substituted the following:</p> <p>“Provided that it shall not be lawful to publish —</p> <p>(a) anything which, by section 993 of the Code of Organization and Civil Procedure (Chapter 15), is forbidden to be used or produced, or</p> <p>(b) any report of the proceedings in any case of defamation, in which evidence of the truth of the matters charged is not allowed by law.”.</p>

Objects and Reasons

The main Object of this Bill is to amend the Code of Organization and Civil Procedure so as to provide heavier punishments and stricter provisions in connection with contempt of court. In this connection, the Bill seeks to amend also the Press Act, 1974.

The Bill contains also an amendment to the said Code so as to enable Judges and Magistrates not to disclose in open court the contents of any communication received by them and which contains insulting or offensive expressions.

Finally, the Bill contains some other minor amendments to the said Code.