

## **Nru. 136**

18. 4. 80

### **MALTA**

#### **KAMRA TAD-DEPUTATI**

ABBOZZ ta' Liġi mressaq mill-Onorevoli Joe Brincat, M.P., Ministru tal-Ġustizzja, Artijiet, Djar u Affarijiet tal-Parlament u moqri għall-Ewwel darba fis-Seduta tal-25 ta' Marzu, 1980.

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

C. MIFSUD

*Skirvan tal-Kamra tad-Deputati*

#### **HOUSE OF REPRESENTATIVES**

A BILL introduced by the Honourable Joe Brincat, M.P., Minister of Justice, Lands, Housing and Parliamentary Affairs and read the First time at the Sitting of the 25th March, 1980.

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

C. MIFSUD

*Clerk to the House of Representatives*

## ABBOZZ TA' LIĠI

### msejjah

*ATT biex ikompli jemenda l-Kodiċi ta' Organizzazzjoni u Proċedura Civili, 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' jissejjah l-Att ta' l-1980 li jemenda l-Kodiċi ta' Organizzazzjoni u Proċedura Civili (Emenda Nru. 2) u għandu jinqara u jiftiehem haġa waħda mal-Kodiċi ta' Organizzazzjoni u Proċedura Civili, hawnhekk iżjed 'il quddiem imsejjah "il-liġi prinċipali".

Emenda ta' l-artikolu 55 tal-liġi prinċipali.

2. Minflok is-subartikolu (1) ta' l-artikolu 55 tal-liġi prinċipali għandu jidhol dan li ġej:

"(1) Ir-Regjstratur ikollu l-funzjonijiet, setgħat u dmirijiet mogħtija lilu bid-disposizzjonijiet ta' dan il-Kodiċi u jkollu taħt it-treġġja u r-responsabbiltà tiegħu r-Regjstru u l-uffiċjali ta' l-istess Regjstru."

Sostituzzjoni ta' l-artikolu 106 tal-liġi prinċipali.

3. Minflok l-artikolu 106 tal-liġi prinċipali għandu jidhol dan li ġej:

"Fil-btajjel pubbliċi ma jinżammux seduti, eċċ.

106. Fis-Sibtijiet, fil-btajjel pubbliċi kif provdut fl-Att ta' l-1975 dwar il-Jum Nazzjonalj u Btajjel Pubbliċi oħra, kif ukoll l-Erbgħa u l-Ħamis tal-Gimgha l-Kbira ma jsirux seduti u lanqas jistgħu jiġu pprezentati, maħruġa, notifikati jew eżegwiti attijiet ġudizzjarji:

Iżda, f'każijiet urġenti, jistgħu jsiru seduti, u, b'ordni speċjali tal-Qorti, jew b'ordni mogħti bil-miktub mir-Regjstratur personalment, jistgħu jiġu pprezentati, maħruġa, notifikati jew eżegwiti attijiet ġudizzjarji wkoll fl-imsemmija jiem:

Iżda wkoll, meta taht xi regola magħmula taht is-subartikolu (4) ta' l-artikolu 186, in-notifika għandha ssir minn uffiċjali ta' l-uffiċċju tal-posta, dik in-notifika tista', minkejja kull disposizzjoni oħra, issir f'dawk il-jiem u hinijiet li matulhom dawk l-uffiċjali jkunu fuq dmirhom skond ir-regoli ta' l-uffiċċju tal-posta.”.

4. Minflok is-subartikolu (1) ta' l-artikolu 275 tal-liġi prinċipali għandu jidhrol dan li ġej:

Emenda ta' l-artikolu 275 tal-liġi prinċipali.

“(1) Il-mandati msemmija fl-artikolu ta' qabel dan, jiġu maħruġa mill-Qorti fuq talba tal-eżekutant:

Iżda, meta fil-fehma tar-Reġistratur il-firma tal-Imħallef jew tal-Maġistrat li għandu s-setgħa li johroġ mandat ta' qbid ta' hwej-jeġ mobbli jew mandat ta' sekwestru eżekuttiv ma tistax tinkiseb fi żmien raġonevoli, u illi d-dewmien jista' jkun ta' preġudizzju, l-imsemmi mandat jista' jiġi maħruġ bil-firma tar-Reġistratur personali, u hadd ma jkun jista' jattakka r-regolarità ta' dak il-mandat minhabba li l-mandat ikun setgħa johroġ bil-firma ta' Mħallef jew Maġistrat, skond il-każ.”.

5. Minnufih wara s-subartikolu (4) ta' l-artikolu 834 tal-liġi prinċipali għandu jiżded is-subartikolu ġdid li ġej:

Emenda ta' l-artikolu 834 tal-liġi prinċipali.

“(5) Kull mandat imsemmi fl-artikolu ta' qabel dan għandu jinħareġ mill-Qorti:

Iżda, meta fil-fehma tar-Reġistratur il-firma tal-Imħallef jew tal-Maġistrat li għandu s-setgħa li johroġ mandat ta' qbid jew mandat ta' sekwestru jew mandat ta' impediment tas-safar ma tistax tinkiseb fi żmien raġonevoli, u illi d-dewmien jista' jkun ta' preġudizzju, l-imsemmi mandat jista' jiġi maħruġ bil-firma tar-Reġistratur personali, u hadd ma jkun jista' jattakka r-regolarità ta' dak il-mandat minhabba li l-mandat setgħa nħareġ bil-firma ta' Mħallef jew Maġistrat, skond il-każ.”.

### Għanijiet u Raġunijiet

L-Għan ta' dan l-Abbozz huwa li jipprovdi għall-hruġ u notifika ta' atti ġudizzjarji b'aktar heffa.

**A BILL**

**entitled**

*AN ACT further to amend the Code of Organisation 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:—

Short title.

1. This Act may be cited as the Code of Organisation and Civil Procedure (Amendment) (No. 2) Act, 1980, and shall be read and construed as one with the Code of Organisation and Civil Procedure, hereinafter referred to as "the principal law".

Amendment of section 55 of the principal law.

2. For subsection (1) of section 55 of the principal law there shall be substituted the following:

"(1) The Registrar shall have the functions, powers and duties vested in him by the provisions of this Code and shall have under his direction and responsibility the Registry and the officers attached to it."

Substitution of section 106 of the principal law.

3. For section 106 of the principal law there shall be substituted the following:

"Sittings not to be held on public holidays, etc.

106. No sitting may be held, nor may any judicial act be filed, issued, served or carried into execution on Saturdays, on public holidays as provided in the National Day and other Public Holidays Act, 1975, or on Wednesday or Thursday of Holy Week:

Provided that, in cases of urgency, it shall be lawful to hold sittings and, by special order of the Court, or by order given in writing by the Registrar personally, to file, issue, serve or carry into execution any judicial act also on the said days:

Provided further that, where under any rules made under subsection (4) of section 186, service is to be effected by officers of the post office, such service may, notwithstanding any other provision, be effected on such days and times during which such officers are called for duty in accordance with the rules of the post office.”.

4. For subsection (1) of section 275 of the principal law there shall be substituted the following:

Amendment of section 275 of the principal law.

“(1) Any of the warrants or the order mentioned in the last preceding section is issued by the Court on the demand of the party suing out execution:

Provided that where in the opinion of the Registrar the signature of the Judge or Magistrate empowered to issue a warrant of seizure of movable property or an executive garnishee order cannot be obtained within a reasonable time and that delay may be prejudicial, the said warrant or order may be issued over the signature of the Registrar personally, and no action shall be available to impugn the regularity of such warrant or order on the grounds that the warrant or order could have been issued over the signature of a Judge or a Magistrate, as the case may be.”.

5. Immediately after subsection (4) of section 834 of the principal law there shall be added the following new subsection:

Amendment of section 834 of the principal law.

“(5) Any of the warrants or orders mentioned in the preceding section shall be issued by the Court:

Provided that, where in the opinion of the Registrar the signature of a Judge or Magistrate empowered to issue a warrant of seizure on a garnishee order or a warrant of impediment of departure cannot be obtained within a reasonable time and that delay may be prejudicial, the said warrants or order may be issued over the signature of the Registrar personally, and no action shall be available to impugn the regularity of such warrants or order on the grounds that the warrant or order could have been issued over the signature of a Judge or a Magistrate, as the case may be.”.

### Objects and Reasons

The Object of this Bill is to provide for the issue and service of judicial acts more expeditiously.