

Nru. 181

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MALTA

KAMRA TAD-DEPUTATI

HOUSE OF REPRESENTATIVES

ABBOZZ ta' Ligi mressaq mill-Onorevoli Joseph Brincat, M.P., Ministru tal-Gustizzja, Artijiet, Djar u Affarijiet tal-Parlament u moqri għall-Ewwel darba fis-Seduta tas-16 ta' Marzu, 1981.

A BILL introduced by the Honourable Joseph Brincat, M.P., Minister of Justice, Lands, Housing and Parliamentary Affairs and read the First time at the Sitting of the 16th March, 1981.

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, imlaqqga f'dan il-Parlament, u bl-awtorità ta' l-istess, hareġ b'liġi dan li ġej:—

Titolu fil-qosor u bidu fis-sehħ.

1. (1) Dan l-Att jista' jissejjah l-Att ta' l-1981 li jemenda l-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili (Emenda Nru. 2), u għandu jinqara u jiftiehem haġa waħda mal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, hawnhekk iżjed 'il quddiem imsejjah il-liġi prinċipali".

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

Sostituzzjoni ta' l-artikolu 963 tal-liġi prinċipali.

2. Minflok l-artikolu 963 tal-liġi prinċipali għandu jidhol dan li ġej:

"963. (1) Jekk f'Qorti ta' ġurisdizzjoni ċivili jkunu jinsabu kawżi ġa' mressqa għas-smiġħ, u, wara, b'ordni tal-Qorti, differiti *sine die* jew xort'ohra sospiżi, u jdumu hekk differiti jew sospiżi għal iżjed minn tliet xhur, ir-Regjstratur għandu fl-aħħar tax-xahar li matulu jkun għadda ż-żmien hawn fuq imsemmi, jagħmel lista tagħhom, imsejja "Lista tal-kawżi sospiżi fil-Qorti" (u jdahħal hawn l-isem tal-Qorti) u għandu jsemmi fiha d-data ta' l-aħħar digriet jew ordni li bihom kull waħda mill-kawżi tkun ġiet differita, u r-Regjstratur għandu jippubblika din il-lista billi jiehu ħsieb li tiġi mwaħħla fid-dahla ta' l-edifizzju fejn il-Qorti toqgħod.

(2) Ir-Registatur tal-Qrati Superjuri għandu jagħmel u jippubblika listi separati tal-kawzi hekk sospiżi f'kull waħda minn dawk il-Qrati, jiġifieri, fl-Prim'Awla tal-Qorti Ċivili, fil-Qorti tal-Kummerċ, fil-Qorti ta' l-Appell u fil-Qorti Kostituzzjonali. Listi bħal dawn għandhom ukoll isiru u jiġu ippubblikati mir-Registatur tal-Qorti tal-Magistrati tal-Pulizija Ġudizzjarja għall-Gżejjer ta' Għawdex u Kemmuna fil-kompetenza tagħha superjuri fil-każ ta' kawzi pendenti quddiem dik il-Qorti.

(3) Kull lista għandha ġġib id-data tal-pubblikazzjoni tagħha, u għandha tibqa' mwaħħla fil-lok hawn fuq imsemmi għal mill-inqas xahar minn dik id-data.”.

3. Minflok l-artikolu 964 tal-liġi prinċipali għandu jidhol dan li ġej:

Sostituzzjoni ta' l-artikolu 964 tal-liġi prinċipali.

“964. Kull kawża mdaħħla fil-lista bħalma jingħad fl-artikolu ta' qabel dan, titqies deżerta kemm-il darba, fi żmien xahar li jibda jghodd mill-aħħar ġurnata taż-żmien ta' xahar hawn fuq imsemmi, ma jiġux imharsa, skond ma jkun il-każ, id-disposizzjonijiet li ġejjin, jiġifieri —

(a) jekk, meta l-kawża tkun giet sospiża minhabba l-mewt, l-inkapaċità, jew l-assenza ta' waħda mill-partijiet, jew minhabba xi difett fil-proċedura, ebda waħda mill-partijiet ma tagħmel dak li hu meħtieġ biex tqiegħed il-kawża hekk sospiża fi stat li jista' jinbeda jew jissokta s-smiġh tagħha; jew

(b) jekk, meta l-kawża tkun giet sospiża sakemm tiġi deċiża kawża oħra, u din il-kawża l-oħra tiġi wara deċiża b'sentenza li tgħaddi f'ġudikat qabel il-pubblikazzjoni tal-lista fuq imsemmija, ebda waħda mill-partijiet ma tagħmel rikors sabiex il-kawża hekk sospiża tiġi mill-ġdid miġjuba l quddiem sabiex jinbeda jew jissokta s-smiġh tagħha; jew

(ċ) jekk, meta l-kawża tkun giet sospiża sakemm xi waħda mill-partijiet tagħmel kawża oħra, jew tesegwixxi obbligu mpost mill-Qorti jew li jkun ġej minn kuntratt jew mil-liġi, din il-kawża l-oħra ma tiġix magħmula, jew dan l-obbligu ma jiġix eżegwit, u l-ebda waħda mill-partijiet ma tagħmel rikors sabiex tinbeda jew tissokta l-kawża hekk sospiża; jew

(d) jekk, f'xi kawża oħra, li ma tkunx waħda msemmiya fil-paragrafu (a) jew (b) jew (ċ) ta' hawn fuq, jew li ma tkunx kawża għal firda personali jew għal manteniment, id-drittijiet li għandhom jiġihallu lir-Registatur skond it-Tariffa A ta' l-Iskeda A li tinsab ma' dan il-Kodiċi, dwar dawk il-kawzi, ma jiġihallsux lir-Registatur flimkien mat-talba biex il-kawża terġa' titqiegħed għas-smiġh.”.

4. Minflok is-subartikolu (1) ta' l-artikolu 965 tal-liġi prinċipali għandu jidhol dan li ġej:

Emenda ta' l-artikolu 965 tal-liġi prinċipali.

“(1) Il-Qorti tista', għal raġuni tajba, iġġedded, għal darba waħda biss, iż-żmien stabbilit fl-artikolu ta' qabel dan, għal mhux iktar minn xahrejn, fuq talba ta' kull min ikollu interess, bil-mezz ta' rikors, basta li dan ir-rikors jiġi ppreżentat qabel ma jagħlaq l-ewwel żmien.”.

Għanijiet u Raġunijiet

L-Għan ta' dan l-Abbozz huwa li jqassar iż-żmien legali biex kawża tiġi deżerta.

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:—

1. (1) This Act may be cited as the Code of Organisation and Civil Procedure (Amendment) (No. 2) Act, 1981, and shall be read and construed as one with the Code of Organisation and Civil Procedure, 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 appoint.

2. For section 963 of the principal law there shall be substituted the following:

Substitution of section 963 of the principal law.

"963. (1) Where in any Court of civil jurisdiction there are causes which had been set down for hearing and subsequently, by order of the Court, adjourned to an unspecified date or otherwise suspended and more than three months have elapsed from such adjournment or suspension, the Registrar shall, at the end of the month during which the period abovementioned shall have elapsed, draw up a list thereof entitled "List of causes suspended in the Court" (inserting here the name of the Court) stating therein the date of the last decree or order whereby each cause had been adjourned, and publish such list by posting it up at the entrance of the building in which the Court sits.

(2) The Registrar of the Superior Courts shall draw up and publish separate lists of the causes thus pending before each of such Courts, namely, the Civil Court, First Hall, the Commercial Court, the Court of Appeal and the Constitutional Court. Similar lists shall likewise be drawn up and published by the Registrar of the Court of Magistrates of Judicial Police for the Islands of Gozo and Comino indits superior jurisdiction in regard to causes pending before such Court.

(3) Each list shall bear the date of its publication, and shall remain posted up at the said place for a period of at least one month from that date.”

Substitution
of section 964
of the principal
law.

3. For section 964 of the principal law there shall be substituted the following:

“964. Any cause included in any list as provided in the last preceding section, shall be deemed to be deserted if, within the time of one month to be reckoned from the last day of the said period of one month, the requirements hereunder mentioned, as the case may be, are not complied with, that is —

(a) if, where the cause has been suspended in consequence of the death, incapacity, or absense of any of the parties, or owing to any defect in the procedure, none of the parties shall have taken the necessary steps in order that the trial of the cause may be commenced or proceeded with; or

(b) if, where the cause has been suspended until judgment is pronounced in another cause and such other cause has afterwards been disposed of by a judgment which has become *res judicata* before the publication of the said list, none of the parties shall have made an application for the cause so suspended to be again set down for the commencement or prosecution of its trial; or

(c) if, where the cause has been suspended until any of the parties shall have instituted another action, or carried out any obligation imposed by the Court or created by any contract or provision of law, such other action or such obligation shall not have been instituted, or carried out, and none of the parties shall have made an application for the commencement or prosecution of the trial of the cause so suspended; or

(d) if, in any other cause, not being one mentioned in paragraphs (a) or (b) or (c) above, or not being a cause for personal separation or maintenance, the fees payable to the Registry in accordance with Tariff A in Schedule A annexed to this Code, in respect of such causes, are not paid to the Registrar concurrently with the request for the reappointment of the cause.”

Amendment
of section 965
of the principal
law.

4. For subsection (1) of section 965 of the principal law there shall be substituted the following:

“(1) The Court may, on just cause being shown, extend, once only, the time prescribed in the last preceding section to a further period not exceeding two months, on the demand, by application, of any party interested, provided such application is filed before the expiration of the original time.”

Objects and Reasons

The objects of this Bill is to curtail the legal time necessary for the desertion of causes.