

**MALTA**



**ATT Nru. XXIII ta' l-1971**

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

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

**ACT No. XXIII of 1971**

AN ACT enacted by the Parliament of Malta.

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



Nagħti l-kunsens tiegħi.

*R. Mamo*  
Gvernatur-Generali

9 ta' Ottubru, 1971

### ATT Nru. XXIII ta' l-1971

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

Il-Maestà Tagħha r-Regina, bil-parir u kunsens tal-Kamra tad-Deputati ta' Malta, imlaqqgħa f'dan il-Parlament, u bl-awtorità ta' l-istess, harghet b'ligi dan li ġej: —

Titolu fil-qosor u bidu fis-sehh.

1. (1) Dan l-Att jista' jissejjah l-Att ta' l-1971 li jemenda l-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili u għandu jinqara u jiftiehem haġa waħda mal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, hawnhekk iżjed 'il quddiem imsejjah "il-ligi prinċipali".

(2) Dan l-Att għandu jibda jsehh fit-18 ta' Ottubru, 1971.

Emenda ta' l-artikolu 11 tal-ligi prinċipali.

2. Minnufih wara s-subartikolu (3) ta' l-artikolu 11 tal-ligi prinċipali għandhom jiżdiedu s-subartikoli ġodda li ġejjin: —

"(4) Kull assenjazzjoni jew tibdil ta' dmirijiet, kull surroga u kull taqsim ta' dmirijiet in ġenerali, dwar l-Imħallfin tal-Maestà Tagħha r-Regina, għandhom jitqiesu li jkunu ġew notifikati kif imiss u biżżejjed għall-finijiet kollha jekk jitwawhhal avvż dwarhom fir-Registru tal-Qrati Superjuri qabel jew malli jibda l-perjodu li fih dik l-assenjazzjoni, dak it-tibdil, dik is-surroga jew dak it-taqsim għandhom isehhu.

(5) Ir-Registatur għandu jzomm notament ta' l-avvizi kollha li jitwawhhu skond is-subartikolu minnufih qabel dan u tad-data ta' meta jkunu twawhhu."

3. Fis-subartikoli (1) u (3) ta' l-artikolu 46 tal-liġi prinċipali minflok il-kliem "għaxar liri" għandhom jidhlu l-kliem "hamsin lira".

Emenda ta' l-artikolu 46 tal-liġi prinċipali.

4. Fl-artikolu 47 tal-liġi prinċipali, minflok il-kliem "għaxar liri" għandhom jidhlu l-kliem "hamsin lira".

Emenda ta' l-artikolu 47 tal-liġi prinċipali.

5. Fl-artikolu 50 tal-liġi prinċipali, minflok il-kliem "mitt lira" għandhom jidhlu l-kliem "tliet mitt lira".

Emenda ta' l-artikolu 50 tal-liġi prinċipali.

6. Fis-subartikolu (1) u fil-paragrafu (b) tas-subartikolu (2), ta' l-artikolu 51 tal-liġi prinċipali, minflok il-kliem "mitt lira" għandhom jidhlu l-kliem "tliet mitt lira".

Emenda ta' l-artikolu 51 tal-liġi prinċipali.

7. Minflok l-artikolu 65 tal-liġi prinċipali għandu jidhol dan li ġej:—

Sostituzzjoni ta' l-artikolu 65 tal-liġi prinċipali.

"Dmirijiet tal-Marixxalli.

65. (1) Il-Marixxalli Prinċipali, il-Marixxalli Anzjani u l-Marixxalli huma l-uffiċjali inkarigati min-notifika ta' atti ġudizzjarji u mill-eżekuzzjoni ta' mandati, jew ordnijiet oħra tal-Qrati Superjuri, u tal-Qrati tal-Maġistrati tal-Pulizija Ġudizzjarja.

(2) Kull riferenza f'dan il-Kodiċi għal Marixxall għandha tiftiehem li tinkludi riferenza għal Marixxall Prinċipali jew Marixxall Anzjan tal-Qrati."

8. Fil-paragrafu (d) ta' l-artikolu 85 tal-liġi prinċipali minflok il-kliem "f'kull żmien li jkun wara l-aħħar ta' Frar" għandhom jidhlu l-kliem "f'kull żmien li jkun wara l-31 ta' Diċembru".

Emenda ta' l-artikolu 85 tal-liġi prinċipali.

9. Minflok it-Titolu "FUQ IL-KURATURI 'EX OFFICIO', FUQ L-AVUKATI U L-PROKURATURI LEGALI TAL-FOQRA, U FUQ IL-KOMPUTISTI", minnufih qabel l-artikolu 87 tal-liġi prinċipali, għandu jidhol it-Titolu li ġej:—

Emenda ta' Titolu.

"FUQ IL-KURATURI, FUQ L-AVUKATI U L-PROKURATURI LEGALI 'EX OFFICIO', U FUQ IL-KOMPUTISTI".

10. L-artikolu 87 tal-liġi prinċipali għandu jiġi emendat kif ġej:—

Emenda ta' l-artikolu 87 tal-liġi prinċipali.

(a) fis-subartikolu (1), minflok il-kliem "Avukati jew Prokuraturi Legali tal-Foqra" għandhom jidhlu l-kliem "Avukati jew Prokuraturi Legali *ex officio*";

(b) fis-subartikolu (2), minflok il-kliem "għad li ma jkollux jedd li jinqeda bil-benefiċċju *in forma pauperis*", għandhom jidhlu l-kliem "għad li ma jkollux jedd għall-benefiċċju ta' għaj-nuna legali".

11. Fl-artikolu 93 tal-liġi prinċipali, minflok il-kliem "li jaġixxu *in forma pauperis*" għandhom jidhlu l-kliem "li jaġixxu bil-benefiċċju ta' għaj-nuna legali".

Emenda ta' l-artikolu 93 tal-liġi prinċipali.

12. L-artikolu 171 tal-liġi prinċipali għandu jiġi emendat billi, fit-tarf tas-subartikolu (3) tiegħu, jiżdiedu l-kliem "meta l-kreditu jew il-prensjoni ma jkunux aktar minn £10".

Emenda ta' l-artikolu 171 tal-liġi prinċipali.

Emenda ta' l-artikolu 174 tal-liġi prinċipali.

13. Għandu jiżdied il-*proviso* li ġej fit-tarf tal-paragrafu (b) tas-subartikolu (1) ta' l-artikolu 174 tal-liġi prinċipali:—

“Iżda f'kull każ imsemmi fis-subartikolu (1) ta' l-artikolu 180A ikun biżżejjed li tisemma l-kariga tal-parti li tipprezenta jew li kontra tagħha tiġi ipprezentata l-iskrittura, skond il-każ”.

Emenda ta' l-artikolu 180 tal-liġi prinċipali.

14. Fis-subartikolu (1) ta' l-artikolu 180 tal-liġi prinċipali, min-flok il-kliem “Il-prezentata ta' l-iskritturi tista' ssir” għandhom jidhlu l-kliem “Bla ħsara tad-disposizzjonijiet ta' l-artikolu 180A, il-prezentata ta' l-iskritturi tista' ssir”.

Zieda ta' artikolu ġdid 180A mal-liġi prinċipali.

15. Minnufih wara l-artikolu 180 tal-liġi prinċipali għandu jiżdied l-artikolu ġdid li ġej:—

“Skritturi prezentati minn Ministru jew minn uffiċjal pubbliku.

180A. (1) Meta skrittura għandha tiġi pprezentata mill-Prim Ministru jew minn Ministru iehor, minn kap ta' dipartiment jew minn amministratur pubbliku iehor, ikun biżżejjed jekk tkun imsemmija f'dik l-iskrittura l-kariga tal-persuna li tkun qegħda timliha u ma jkunx meħtieġ li tisemma l-persuna li f'dak iż-żmien ikollha dik il-kariga.

(2) Ebda formalità ma tkun meħtieġa fl-attijiet ta' kawża jew fi kwalunkwe proċediment ta' Qorti meta jkun hemm tibdil fil-persuna li timla xi kariga msemmija kif intqal fuq jew tinħatar xi persuna biex tagixxi f'xi kariga bħal dik.

(3) Id-disposizzjoni tas-subartikolu minnufih qabel dan għandha tapplika wkoll meta jkun hemm imsemmija f'xi skrittura l-persuna li f'dak iż-żmien tkun qegħda timla l-kariga msemmija f'dik l-iskrittura, jekk dik il-kariga tkun imsemmija b'mod ċar.

(4) Id-disposizzjonijiet tas-subartikoli (1), (2) u (3) ta' dan l-artikolu għandhom japplikaw ukoll dwar il-parti li kontra tagħha għandha ssir l-iskrittura, meta dik il-parti tkun timla kariga li għaliha hemm riferenza fl-imsemmi subartikolu (1).”

Emenda ta' l-artikolu 181 tal-liġi prinċipali.

16. Fis-subartikolu (1) ta' l-artikolu 181 tal-liġi prinċipali min-flok il-kliem “ta' l-artikolu qabel dan” għandhom jidhlu l-kliem “ta' l-artikolu 180”.

Emenda ta' l-artikolu 226 tal-liġi prinċipali.

17. Fis-subartikolu (2) ta' l-artikolu 226 tal-liġi prinċipali, min-flok il-kliem “hames liri” għandhom jidhlu l-kliem “għaxar liri”.

Emenda ta' l-artikolu 276 tal-liġi prinċipali.

18. Minflok is-subartikolu (1) ta' l-artikolu 276 tal-liġi prinċipali għandu jidhul dan li ġej:-

“(1) Din it-talba għandha ssir b'rikors, ħlief li, fil-Qorti tal-Maġistrati tal-Pulizija Gudizzjarja għall-Gżira ta' Malta u fil-Qorti tal-Maġistrati tal-Pulizija Gudizzjarja għall-Gżejjer ta' Għawdex u Kemmuna fil-kompetenza tagħha inferjuri, meta l-kreditu jew il-pretensjoni jkun għal mhux aktar minn għaxar liri, it-talba tista' ssir bil-fomm.”

Emenda ta' l-artikolu 360 tal-liġi prinċipali.

19. Fl-artikolu 360 tal-liġi prinċipali, minflok il-kliem “għoxrin lira” għandhom jidhlu l-kliem “mitt lira”.

20. Fl-artikolu 368 tal-liġi prinċipali, minflok il-kliem "fil-kazijiet biss li d-dejn ikun jiskorri għoxrin lira, jew fil-kazijiet ta' eghmil doluż jew ta' frodi" għandhom jidhlu l-kliem "u l-kreditur ikollu d-dritt li jiġbor minn għandu kull somma depożitata skond l-aħħar subartikolu qabel dan u li ma tkunx ġiet irtirata".

Emenda ta'  
l-artikolu 368  
tal-liġi prinċipali.

21. Fis-subartikolu (2) ta' l-artikolu 405 tal-liġi prinċipali, minflok il-kliem "rikors għat-tmexxija *in forma pauperis*" għandhom jidhlu l-kliem "rikors għat-tmexxija bil-benefiċċju ta' għajnuna legali".

Emenda ta'  
l-artikolu 405  
tal-liġi prinċipali.

22. Minnufih wara s-subartikolu (2) ta' l-artikolu 534 tal-liġi prinċipali għandu jżied is-subartikolu ġdid li ġej:—

Emenda ta'  
l-artikolu 534  
tal-liġi prinċipali.

"(3) Kull testment ikkunsinnat skond is-subartikolu (1) ta' dan l-artikolu ma għandux jitqies li hu mħassar mill-ktieb imsemmi fl-artikolu 529 għall-fini ta' kull dokument li jiċċertifika hemmx jew le testmentijiet sigrieti, u għandu jkun hemm imsemmin f'kull dokument tali, dwar kull testment bħal dak, isem inutar li jkun ippubblikah u d-data tal-pubblikazzjoni tiegħu."

23. L-artikolu 671 tal-liġi prinċipali għandu jiġi emendat kif ġej:—

Emenda ta'  
l-artikolu 671  
tal-liġi prinċipali.

(a) fis-subartikolu (1), minflok il-kliem "li tħarrek jew li tiddefendi ruħha *in forma pauperis*" għandhom jidhlu l-kliem "li tħarrek jew li tiddefendi ruħha bil-benefiċċju ta' għajnuna legali";

(b) fit-test Ingliż tas-subartikolu (1), minflok il-kliem "by the party not appearing as a 'poor person'" għandhom jidhlu l-kliem "by the party not appearing with such benefit";

(c) fis-subartikolu (1), minflok il-kliem "jekk il-parti li ma tkunx fil-kawża bil-benefiċċju tal-fqar tibqa' telliefa fl-ispejjeż" għandhom jidhlu l-kliem "jekk il-parti li ma tkunx fil-kawża bil-benefiċċju ta' għajnuna legali tibqa' telliefa fl-ispejjeż";

(d) fis-subartikolu (2), minflok il-kliem "Jekk iż-żewġ partijiet ikunu ġew mogħtija l-benefiċċju tal-foqra" għandhom jidhlu l-kliem "Jekk iż-żewġ partijiet ikunu ġew mogħtija l-benefiċċju ta' għajnuna legali".

24. Minflok is-subartikolu (4) ta' l-artikolu 702 tal-liġi prinċipali għandu jidhol dan li ġej:—

Emenda ta'  
l-artikolu 702  
tal-liġi prinċipali.

"(4) Jekk il-parti, li tagħha tintalab is-subizzjoni, tonqos li tidher fil-jum mogħti għas-smigh tal-kawża —

(a) il-kapitoli kif ikunu ġew imniżżlin mill-Qorti jitqiesu mistqarri, kemm-il darba ma tingibx raġuni tajba li minhabba fiha l-parti tkun naqset li tidher, f'kull kawża fejn il-pretensjoni miġjuba quddiem il-Qorti ma tkunx ta' iktar minn għaxar liri;

(b) il-Qorti thalli l-kawża għal darb'ohra, jekk il-parti li titlob is-subizzjoni ma tirrinunzjax għall-istess, f'kull kawża fejn il-pretensjoni miġjuba quddiem il-Qorti hija ta' iktar minn għaxar liri, u l-kapitoli kif ikunu ġew imniżżlin mill-Qorti jitqiesu mistqarri kemm-il darba l-parti li tagħha tintalab is-subizzjoni, mingħajr ma tingieb raġuni tajba għal dak in-nuqqas, terġa' tonqos li tidher fil-jum li għalih il-Qorti tkun halliet il-kawża kif intqal."

Emenda ta' l-artikolu 764 tal-liġi prinċipali.

25. Minnufih wara s-subartikolu (3) ta' l-artikolu 764 tal-liġi prinċipali għandu jiddied is-subartikolu ġdid li ġej:—

“(4) In-nuqqas ta' stima magħmula skond is-subartikolu (1) ta' dan l-artikolu fiż-żmien hemmhekk stabbilit ma għandux ikun kawża ta' nullità ta' l-appell jekk, wara li ssir stima skond ordni tal-Qorti li quddiemha jkun tressaq l-appell, jirriżulta illi l-oġġett tal-pretensjoni jaqa', minhabba l-valur tiegħu, taht il-gurisdizzjoni ta' dik il-Qorti bħala Qorti ta' appell.”

Sostituzzjoni ta' l-artikolu 779 tal-liġi prinċipali.

26. Minflok l-artikolu 779 tal-liġi prinċipali għandu jidhrol dan li ġej:—

“Kwistjonijiet ta' gurisdizzjoni *ratione materiae*.”

779. (1) Meta f'xi wahda mill-Qrati Superjuri ta' l-ewwel grad, il-kwistjoni ta' l-inkompetenza tal-Qorti, minhabba x-xorta ta' l-oġġett fil-kawża, tingieb 'il quddiem mill-Qorti *ex officio*, jew bil-mezz ta' eċċezzjoni, il-Qorti, wara li tisma' sommarjament il-partijiet, tiddeċiedi l-kwistjoni, u, jekk tiddikjara li hija kompetenti, dik id-deċiżjoni tagħha tkun finali; iżda jekk il-Qorti tiddikjara ruħha inkompetenti, hija tordna illi l-attijiet tal-kawża jintbagħtu fi żmien sebat ijiem tax-xogħol mid-deċiżjoni tagħha, permezz tar-Registatur, lill-Qorti ta' l-Appell, li tiddeċiedi definittivament liema hija l-Qorti kompetenti.

(2) Kull wahda mill-partijiet f'kawża li tiġi mibgħuta lill-Qorti ta' l-Appell għall-finijiet tas-subartikolu minnufih qabel dan tista', permezz ta' nota ipprezentata fir-Registru ta' l-istess Qorti fiż-żmien fuq imsemmi ta' sebat ijiem tax-xogħol, tqiegħed quddiem il-Qorti ta' l-Appell ir-raġunijiet tagħha għaliex id-deċiżjoni tal-Qorti ta' l-ewwel grad imissa tiġi konfermata jew xort'ohra.

(3) Jekk il-partijiet kollha fil-kawża jipprezentaw nota fir-Registru tal-Qorti ta' l-Appell fis-sens illi huma jaqblu illi mhux meħtieġ li l-kawża dwar il-kwistjoni mibgħuta lill-Qorti ta' l-Appell skond is-subartikolu (1) ta' dan l-artikolu tinstema' fil-pubbliku u illi ma hux meħtieġ illi l-Qorti tisma' sottomissjonijiet ohra barra dawk li jistgħu jingiebu f'xi noti pprezentati skond is-subartikolu minnufih qabel dan, il-Qorti ta' l-Appell tista' tiddeċiedi dwar dik il-kwistjoni *in camera*.

(4) Ir-Registatur għandu jibgħat, fi żmien erbat ijiem tax-xogħol mid-deċiżjoni tal-Qorti ta' l-Appell dwar liema Qorti hija kompetenti, l-attijiet tal-kawża lill-Qorti dikjarata hekk kompetenti li tkompli tittratta dwar il-każ fuq l-istess attijiet.

(5) Id-deċiżjonijiet tal-Qorti ta' l-ewwel grad u tal-Qorti ta' l-Appell skond is-subartikolu (1) ta' dan l-artikolu, dwar liema hija l-Qorti kompetenti, jingħataw permezz ta' Digriet u ma għandhom jithallsu ebda drittijiet biex jintbagħtu l-attijiet tal-kawża skond is-subartikoli (1) u (4) ta' dan l-artikolu.

(6) Ebda dritt tar-registru u ebda dritt favur l-avukati u prokuraturi legali li jidhru għall-partijiet f'kawża ma għandu jiġi ntaxxat dwar Digriet mogħti taht dan l-artikolu.”

27. L-artikolu 838 tal-liġi prinċipali għandu jiġi emendat billi jiżdiedu l-kliem "meta l-pretensjoni ma tkunx għal ammont akbar minn għaxar liri" fit-tarf tiegħu.

Emenda ta' l-artikolu 838 tal-liġi prinċipali.

28. Fis-subartikolu (1) ta' l-artikolu 840 tal-liġi prinċipali, min-flok il-kliem "ta' impediment tas-safar" għandhom jidhlu l-kliem "ta' impediment tas-safar sabiex tittiehed is-subizzjoni tal-parti kuntrarja inkella biex jassigura l-eżekuzzjoni ta' sentenza li ma tkunx għall-hlas ta' ammont kanonizzat, ta' impediment ta' tluq ta' bastiment jew biċċa oħra tal-baħar".

Emenda ta' l-artikolu 840 tal-liġi prinċipali.

29. Fl-artikolu 851 tal-liġi prinċipali, min-flok il-kliem "jekk it-talba għal dan il-mandat ma ssirx flimkien ma' talba sabiex il-kreditu jew il-pretensjoni jiġu kanonizzati b'sentenza" għandhom jidhlu l-kliem "jekk, meta l-kreditu jew il-pretensjoni ma jkunux aktar minn għaxar liri, it-talba għal dak il-mandat ma ssirx flimkien ma' talba sabiex il-kreditu jew il-pretensjoni jiġu kanonizzati b'sentenza".

Emenda ta' l-artikolu 851 tal-liġi prinċipali.

30. Fis-subartikolu (1) ta' l-artikolu 859 tal-liġi prinċipali, min-flok il-kliem "u li jagħti lid-Direttur tal-Portijiet kopja tal-mandat" għandhom jidhlu l-kliem "u li jagħti lill-Kontrollur tad-Dwana kopja tal-mandat".

Emenda ta' l-artikolu 859 tal-liġi prinċipali.

31. Fl-artikolu 861 tal-liġi prinċipali, min-flok il-kliem "il-mandat ikun fih partikolaritajiet biżżejjed biex tista' tkun magħrufa l-persuna miżmuma mis-safar" għandhom jidhlu l-kliem "il-mandat ikun fih partikolaritajiet biżżejjed biex tista' tkun magħrufa l-persuna miżmuma mis-safar u li jkunu tali li jiġi evitat illi l-imsemmija persuna tiġi mehuda bi żball minflok persuna oħra li jkollha l-istess partikolaritajiet bħal dawk li jkun hemm imniżżlin fil-mandat".

Emenda ta' l-artikolu 861 tal-liġi prinċipali.

32. Minflok l-artikolu 862 tal-liġi prinċipali għandu jidhlo dan li ġej:—

Sostituzzjoni ta' l-artikolu 862 tal-liġi prinċipali.

"Setgħat ta' l-uffiċjal eżekuttur fl-eżekuzzjoni ta' mandat ta' impediment ta' tluq ta' bastiment.

862. Bis-saħħa tal-mandat ta' impediment ta' tluq ta' bastiment jew biċċa oħra tal-baħar, il-Marixxall hu awtorizzat li jagħmel, sugġett għad-direttivi mogħtija mir-Registatur, dak kollu li jidhirlu meħtieġ sabiex il-mandat jiġi eżegwit sewwa."

33. Minflok is-subartikolu (3) ta' l-artikolu 869 tal-liġi prinċipali għandu jidhlo dan li ġej:—

Emenda ta' l-artikolu 869 tal-liġi prinċipali.

"(3) Il-penali f'ebda każ ma għandha tkun inqas minn mitt lira."

34. Fl-artikolu 871 tal-liġi prinċipali, minflok il-kliem "f'somma stabbilita ta' mhux iżjed minn mitt lira" għandhom jidhlu l-kliem "f'somma stabbilita ta' mhux anqas minn mitt lira".

Emenda ta' l-artikolu 871 tal-liġi prinċipali.

Emenda ta' l-artikolu 874 tal-liġi prinċipali.

35. L-artikolu 874 tal-liġi prinċipali għandu jiġi emendat kif ġej:—

(a) minflok il-kliem “għal erbghin ġurnata biss, li jib dew jgħoddu minn dak in-nhar li jinħareġ” li hemm fis-subartikolu (1) tiegħu għandhom jidhlu l-kliem “għal sitt xhur biss, li jib dew jgħoddu minn dak in-nhar li jinħareġ”, u

(b) minflok il-kliem “erbghin ġurnata kull darba” li hemm fis-subartikolu (2) tiegħu għandhom jidhlu l-kliem “sitt xhur kull darba”.

Emenda ta' l-artikolu 879 tal-liġi prinċipali.

36. Fl-artikolu 879 tal-liġi prinċipali, minflok il-kliem “għoxrin lira” għandhom jidhlu l-kliem “mitt lira”.

Emenda ta' l-artikolu 883 tal-liġi prinċipali.

37. Fis-subartikolu (3) ta' l-artikolu 883 tal-liġi prinċipali, minflok il-kliem “mhux iżjed minn mija u ħamsin lira” għandhom jidhlu l-kliem “mhux anqas minn mija u ħamsin lira”.

Emenda ta' Titlu.

38. Minflok it-*Titlu* “FUQ IL-BENEFIĊĊJU SABIEX WIEHED IĦARREK JEW JIDDEFENDI RUĦU *in forma pauperis*”, minnufih qabel l-artikolu 914 tal-liġi prinċipali, għandu jidhol it-*Titlu* li ġej:—

“FUQ IL-BENEFIĊĊJU SABIEX WIEHED IĦARREK JEW JIDDEFENDI RUĦU B'GĦAJNUNA LEGALI”.

Emenda ta' l-artikolu 914 tal-liġi prinċipali.

39. L-artikolu 914 tal-liġi prinċipali għandu jiġi emendat kif ġej:—

(a) fis-subartikolu (1), minflok il-kliem “it-talba għall-benefiċċju sabiex wiehed iħarrek jew jiddefendi ruħu *in forma pauperis* issir b'rikors” għandhom jidhlu l-kliem “it-talba sabiex wiehed ikun jista' jħarrek jew jiddefendi ruħu bil-benefiċċju ta' għajjnuna legali ssir b'rikors”;

(b) fis-subartikolu (2) minflok il-kliem “Avukat tal-Fqar” għandhom jidhlu l-kliem “Avukat għal Għajjnuna Legali”.

Sostituzzjoni ta' l-artikolu 915 tal-liġi prinċipali.

40. Minflok l-artikolu 915 tal-liġi prinċipali, għandu jidhol dan li ġej:—

“Kondizzjonijiet sabiex jingħata l-benefiċċju ta' għajjnuna legali.

915. It-talba hawn fuq imsemmija ma tiġix milqugħa jekk ir-rikorrent ma jaħlifx quddiem ir-Registatur jew quddiem l-Avukat għal Għajjnuna Legali —

(a) illi hu jidhirlu li għandu jedd tajjeb biex iħarrek jew jiddefendi ruħu; u

(b) illi, minbarra l-oġġett fil-kawża, hu m'għandu ebda xorta ta' proprjetà, bla ma jitqiesu l-ilbiesi ta' kuljum, illi, mingħajr ma jitnaqqsu d-djun li jista' jkun hemm fuqha, tiswa hames mitt lira u illi l-*income* tiegħu ta' kull sena huwa inqas minn tliet mija u ħamsa u sittin lira.”

41. L-artikolu 916 tal-liġi prinċipali għandu jiġi emendat kif ġej:—
- Emenda ta' l-artikolu 916 tal-liġi prinċipali.
- (a) minflok il-kliem "Avukat tal-Fqar", kull fejn jinsabu, għandhom jidhlu l-kliem "Avukat għal Għajjnuna Legali";
- (b) minflok il-*proviso* għas-subartikolu (1) għandu jidhol dan li ġej:—
- "Izda dak l-eżami ma jkunx meħtieġ meta t-talba biex jingħata l-benefiċċju ta' għajjnuna legali ssir mill-konvenut fil-Qorti ta' l-ewwel grad, jew mill-appellat fil-Qorti fi grad ta' appell; u dan il-konvenut jew appellat għandu dejjem jingħata li jiddefendi ruħu b'dak il-benefiċċju wara li jieħu l-gurament stabbilit fl-artikolu ta' qabel dan".
42. L-artikolu 917 tal-liġi prinċipali għandu jiġi emendat kif ġej:—
- Emenda ta' l-artikolu 917 tal-liġi prinċipali.
- (a) minflok il-kliem "Avukat tal-Fqar", kull fejn jinsabu, għandhom jidhlu l-kliem "Avukat għal Għajjnuna Legali";
- (b) minflok il-kliem "Fuq talba għall-benefiċċju *in forma pauperis*", li hemm fis-subartikolu (1), għandhom jidhlu l-kliem "Fuq talba biex jingħata l-benefiċċju ta' għajjnuna legali".
43. Fl-artikolu 918 tal-liġi prinċipali, minflok il-kliem "Avukat tal-Fqar" għandhom jidhlu l-kliem "Avukat għal Għajjnuna Legali".
- Emenda ta' l-artikolu 918 tal-liġi prinċipali.
44. Fl-artikolu 919 tal-liġi prinċipali, minflok il-kliem "Avukat tal-Fqar" għandhom jidhlu l-kliem "Avukat għal Għajjnuna Legali".
- Emenda ta' l-artikolu 919 tal-liġi prinċipali.
45. L-artikolu 920 tal-liġi prinċipali għandu jiġi emendat kif ġej:—
- Emenda ta' l-artikolu 920 tal-liġi prinċipali.
- (a) minflok il-kliem "li lilha jiġi mogħti l-benefiċċju li timxi *in forma pauperis*" għandhom jidhlu l-kliem "li tingħata li timxi bil-benefiċċju ta' għajjnuna legali", u
- (b) il-*proviso* li ġej għandu jizzied fit-tarf tiegħu:
- "Izda jekk il-parti tingħata li tappella bil-benefiċċju ta' għajjnuna legali minn sentenza ta' l-ewwel grad, hija għandha tkompli tiġi moqdiya mill-Avukat u mill-Prokuratur Legali li jkun għew maħtura għaliha qabel kif ġa ingħad."
46. L-artikolu 921 tal-liġi prinċipali għandu jiġi emendat kif ġej:—
- Emenda ta' l-artikolu 921 tal-liġi prinċipali.
- (a) fis-subartikolu (1), minflok il-kliem "Il-benefiċċju *in forma pauperis* ma jingħatax lill-parti", għandhom jidhlu l-kliem "Persuna ma tingħatax li timxi bil-benefiċċju ta' għajjnuna legali";
- (b) fil-paragrafu (b) tas-subartikolu (1), minflok il-kliem "għall-benefiċċju *in forma pauperis*" għandhom jidhlu l-kliem "biex timxi bil-benefiċċju ta' għajjnuna legali".
47. L-artikolu 922 tal-liġi prinċipali għandu jiġi emendat kif ġej:—
- Emenda ta' l-artikolu 922 tal-liġi prinċipali.

(a) fis-subartikolu (1), minflok il-kliem "Il-persuna li lilha jiġi mogħti l-benefiċċju li timxi *in forma pauperis*" għandhom jidhlu l-kliem "Il-persuna li tingħata li timxi bil-benefiċċju ta' għajjnuna legali";

(b) fis-subartikolu (2), minflok il-kliem "Mita l-parti li timxi bil-benefiċċju *in forma pauperis*" għandhom jidhlu l-kliem "Meta l-parti li timxi bil-benefiċċju ta' għajjnuna legali".

Emenda ta'  
l-artikolu 923  
tal-liġi prinċipali.

48. Fl-artikolu 923 tal-liġi prinċipali, minflok il-kliem "Mita l-parti li timxi bil-benefiċċju *in forma pauperis*" għandhom jidhlu l-kliem "Meta l-parti li tingħata li timxi bil-benefiċċju ta' għajjnuna legali".

Emenda ta'  
l-artikolu 924  
tal-liġi prinċipali.

49. L-artikolu 924 tal-liġi prinċipali għandu jiġi emendat kif ġej:—

(a) fis-subartikolu (1), minflok il-kliem "l-attijiet kollha li jiġu ipprezentati mill-parti ammassa għall-benefiċċju *in forma pauperis*" għandhom jidhlu l-kliem "l-attijiet kollha li jiġu ipprezentati mill-parti li tkun qed timxi bil-benefiċċju ta' għajjnuna legali";

(b) fis-subartikolu (2), minflok il-kliem "għall-parti li tkun ġiet ammassa għall-benefiċċju *in forma pauperis*" għandhom jidhlu l-kliem "għall-parti li tkun ingħatat li timxi bil-benefiċċju ta' għajjnuna legali", u minflok il-kliem "Avukat tal-Fqar" għandhom jidhlu l-kliem "Avukat għal Għajjnuna Legali".

Emenda ta'  
l-artikolu 925  
tal-liġi prinċipali.

50. Minflok is-subartikolu (1) ta' l-artikolu 925 tal-liġi prinċipali għandu jidhol dan li ġej:—

"(1) Il-Qorti tneħhi dak il-benefiċċju lill-persuna li tkun ingħatat li timxi bil-benefiċċju ta' għajjnuna legali u tikkundanna ha għall-ispejjeż kollha tal-kawża, meta jiġi ppruvat, f'kull waqt tal-kawża, illi hija għandha proprjetà li tiswa ħames mitt lira jew iżjed jew għandha qliegħ u dñul ta' kull sena ta' tliet mija u ħamsa u sittin lira jew iżjed, jew inkella li qed tillitiga b'mod vessatorju."

Emenda ta'  
l-artikolu 926  
tal-liġi prinċipali.

51. Fl-artikolu 926 tal-liġi prinċipali, minflok il-kliem "maħtur għal persuna fqira" għandhom jidhlu l-kliem "maħtur għal persuna li tkun ingħatat l-benefiċċju ta' għajjnuna legali".

Emenda ta'  
l-artikolu 927  
tal-liġi prinċipali.

52. Fl-artikolu 927 tal-liġi prinċipali, minflok il-kliem "l-benefiċċju ta' l-assistenza legali bla ħlas" għandhom jidhlu l-kliem "l-benefiċċju ta' għajjnuna legali".

Dhul ta'  
artikoli godda  
fil-liġi prinċipali.

53. Minnufih wara l-artikolu 927 tal-liġi prinċipali għandhom jidhlu l-artikoli godda li ġejjin:

"Benefiċċju ta' għajjnuna legali quddiem is-Sekond'Awla tal-Qorti Civili tal-Maesta' Tagħha. 927A. Il-benefiċċju ta' għajjnuna legali għandu jin-għata wkoll lil kull min, skond id-disposizzjonijiet ta' dan il-Kodiċi jew ta' xi liġi oħra, għandu jipprezenta rikors quddiem is-Sekond'Awla tal-Qorti Civili tal-Maesta' Tagħha, u dan —

(a) ma għandu ebda xorta ta' proprjetà, bla ma jitqiesu l-ilbiesi ta' kuljum, illi, mingħajr ma jitnaqqsu

d-djun li jista' jkun hemm fuqha, tiswa hames mitt lira, u

(b) l-*income* tieghu ta' kull sena huwa inqas minn tliet mija u hamsa u sittin lira.

Talba u ghoti ta' benefiċċju ta' għajjnuna legali.

927B. (1) Talba għal benefiċċju ta' għajjnuna legali skond l-artikolu li jaħbat l-aħħar qabel dan għandha ssir bil-fomm lill-Avukat għal Għajjnuna Legali.

(2) L-Avukat għal Għajjnuna Legali, qabel ma jirrikmanda talba skond is-subartikolu (1) ta' dan l-artikolu, għandu jeżamina bil-ġurament lill-applikant dwar il-kondizzjonijiet imsemmija fil-paragrafi (a) u (b) ta' l-artikolu 927A ta' dan il-Kodiċi.

(3) Meta l-Avukat għal Għajjnuna Legali jkun tal-fehma li talba magħmula skond dan l-artikolu għandha tiġi milqugħa, huwa għandu, fi żmien erbat ijiem, iressaq ir-rapport tiegħu lill-Qorti u l-Qorti għandha tagħti lill-applikant il-benefiċċju għal għajjnuna legali; u għandha taħtar għall-applikant l-Avukat u l-Prokuratur Legali li lilhom ikun imiss skond l-elenku msemmi fl-artikolu 89 ta' dan il-Kodiċi.

Applikabilità ta' artikoli ta' qabel.

927C. Id-disposizzjonijiet li hemm fl-artikoli ta' qabel ta' dan it-*Titlu* għandhom japplikaw *mutatis mutandis* safejn ikunu applikabbli dwar l-ghoti tal-benefiċċju ta' għajjnuna legali skond id-disposizzjonijiet ta' l-artikolu 927A ta' dan il-Kodiċi."

54. L-artikolu 928 tal-liġi prinċipali għandu jiġi emendat kif ġej:—

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

(a) fit-tarf tal-paragrafu (ċ) għandha tiżdied il-kelma "jew";

(b) minnufih wara l-paragrafu (ċ) għandu jiżdied il-paragrafu ġdid li ġej:—

"(d) fl-interess ta' kull soċjetà kummerċjali jew kull għaqda ta' persuni li jkollha personalità ġuridika distinta jekk il-persuna jew il-persuni li jkunu mogħtija r-rappreżentanza ġuridika tas-soċjetà jew tal-għaqda jkunu assenti minn dawn il-Gzejjer".

55. (1) L-emendi magħmula bl-artikoli 3, 4, 5, 6, 17 u 24 ta' dan l-Att ma għandhomx japplikaw dwar kull kawża li tkun inġiebet quddiem il-Qorti ta' l-ewwel grad qabel il-bidu fis-sehħ ta' dawk l-artikoli.

Disposizzjonijiet transitorji.


(2) L-emendi magħmula bl-artikoli 19, 20, 33, 34, 35, 36 u 37 ta' dan l-Att ma għandhom japplikaw għal ebda mandat, jew proroga tiegħu li jkunu diġà ġew preżentati fir-Registru tal-Qorti fid-data tal-bidu fis-sehħ ta' dan l-Att.

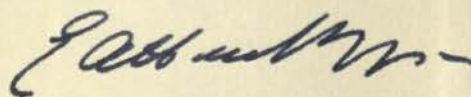
(3) L-emendi magħmula bl-artikoli 40 u 50 ta' dan l-Att ma għandhom japplikaw għal ebda proċediment li dwaru persuna tkun giet mogħtija li taġixxi jew tiddefendi ruhha bil-benefiċċju ta' għajjnuna legali qabel il-bidu fis-sehħ ta' dawk l-artikoli.

(4) Lemendi magħmula b'dan l-Att dwar isem tal-benefiċċju ta' ghajnuna legali, tal-karigi li għandhom x'jaqsmu magħha u tal-persuni li għandhom dritt għaliha, u kull emenda oħra fid-diċitura ta' espressjonijiet dwar dak il-benefiċċju, għandhom jaħdmu hekk illi kull riferenza, fi proċeduri legali, f'kull att ġudizzjarju, f'kull kuntratt, skrittura privata jew dokument ieħor ikun x'ikun, għall-isem jew espressjoni li qed tiġi sostitwita għandha tiftiehem b'ala riferenza għall-isem jew espressjoni korrispondenti li qed tissostitwiha bis-saħha ta' dan l-Att.

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Mghoddi mill-Kamra tad-Deputati fis-Seduta Nru. 18 ta' l-4 ta' Ottubru, 1971.

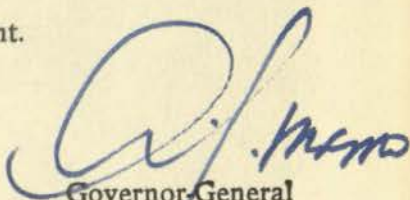
  
Skrivan tal-Kamra tad-Deputati



President



I assent.

  
Governor-General  
9<sup>th</sup> October, 1971

### ACT No. XXIII of 1971

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

BE IT ENACTED by Her Majesty the Queen, by and with the advice and consent of the House of Representatives of Malta, in this present Parliament assembled, and by the authority of the same as follows:—

Short title and commencement.

1. (1) This Act may be cited as the Code of Organization and Civil Procedure (Amendment) Act, 1971, and shall be read and construed as one with the Code of Organization and Civil Procedure, hereinafter referred to as "the principal law".

(2) This Act shall come into force on the 18th day of October, 1971.

Amendment of section 11 of the principal law.

2. Immediately after subsection (3) of section 11 of the principal law there shall be added the following new subsections:—

"(4) Any assignment of duties, transfer or surrogation, and any distribution of duties in general, in respect of Her Majesty's Judges, shall be deemed to have been properly and sufficiently notified for all purposes if notice thereof is posted up in the Registry of the Superior Courts before or at the beginning of the period during which such assignment, transfer, surrogation or distribution is to take effect.

(5) The Registrar shall keep a record of all notices posted up in terms of the last preceding subsection and of the date of such posting."

3. In subsections (1) and (3) of section 46 of the principal law, for the words "ten pounds sterling" there shall be substituted the words "fifty pounds".

Amendment of section 46 of the principal law.

4. In section 47 of the principal law, for the words "ten pounds sterling" there shall be substituted the words "fifty pounds".

Amendment of section 47 of the principal law.

5. In section 50 of the principal law, for the words "one hundred pounds sterling" there shall be substituted the words "three hundred pounds".

Amendment of section 50 of the principal law.

6. In subsection (1) and in paragraph (b) of subsection (2), of section 51 of the principal law, for the words "one hundred pounds sterling" there shall be substituted the words "three hundred pounds".

Amendment of section 51 of the principal law.

7. For section 65 of the principal law there shall be substituted the following:—

Substitution of section 65 of the principal law.

"Duties of Marshals. 65. (1) Chief Marshals, Senior Marshals and Marshals are the officers charged with service of judicial acts and the execution of warrants or other orders of the Superior Courts and of the Courts of Magistrates of Judicial Police.

(2) Any reference in this Act to a Marshal shall be deemed to include a reference to a Chief Marshal or Senior Marshal of the Courts."

8. In paragraph (d) of section 85 of the principal law for the words "at any time after the end of February" there shall be substituted the words "at any time after the 31st day of December".

Amendment of section 85 of the principal law.

9. For the Title "OF OFFICIAL CURATORS, ADVOCATES AND LEGAL PROCURATORS FOR THE POOR AND ACCOUNTANTS", immediately preceding section 87 of the principal law, there shall be substituted the following Title:—

Amendment of Title.

"OF CURATORS, ADVOCATES and LEGAL PROCURATORS 'EX OFFICIO' AND ACCOUNTANTS".

10. Section 87 of the principal law shall be amended as follows:—

Amendment of section 87 of the principal law.

(a) in subsection (1), for the words "Advocates or Legal Procurators for the Poor" there shall be substituted the words "Advocates or Legal Procurators *ex officio*";

(b) in subsection (2), for the words "not being entitled to free legal aid as 'a poor person'", there shall be substituted the words "not being entitled to the benefit of legal aid".

11. In section 93 of the principal law, for the words "to sue or defend *in forma pauperis*" there shall be substituted the words "to sue or defend with the benefit of legal aid".

Amendment of section 93 of the principal law.

Amendment of section 171 of the principal law.

12. Section 171 of the principal law shall be amended by the addition, at the end of its subsection (3), of the words "where the debt or claim does not exceed £10".

Amendment of section 174 of the principal law.

13. There shall be added the following proviso at the end of paragraph (b) of subsection (1) of section 174 of the principal law:—

"Provided that in any case as is referred to in subsection (1) of section 180A it shall be sufficient to designate the office of the party pleading or of the party against whom the pleading is directed, as the case may be."

Amendment of section 180 of the principal law.

14. In subsection (1) of section 180 of the principal law, for the words "Written pleadings may be filed" there shall be substituted the words "Subject to the provisions of section 180A, written pleadings may be filed".

Addition of new section 180A in the principal law.

15. Immediately after section 180 of the principal law there shall be added the following new section:—

"Written pleadings filed by a Minister or a public officer.

180A. (1) When a written pleading is to be filed by the Prime Minister or other Minister, by a head of department or other public administrator, it shall be sufficient if there is designated in such pleading the office of the person filling it and it shall not be necessary to name the person for the time being holding such office.

(2) No formality shall be necessary in the records of a case or in any Court proceedings upon any change in the person of the holder of any office designated as aforesaid or on the appointment of any person in an acting capacity in any such office.

(3) The provision of the last preceding subsection shall apply also where there is named in any written pleading the person for the time being filling the office designated in such pleading, provided that such office is clearly designated.

(4) The provisions of subsections (1), (2) and (3) of this section shall apply also in respect of the party against whom the pleading is to be directed where such party is the holder of an office referred to in the said subsection (1)."

Amendment of section 181 of the principal law.

16. In subsection (1) of section 181 of the principal law, for the words "of the last preceding section" there shall be substituted the words "of section 180".

Amendment of section 226 of the principal law.

17. In subsection (2) of section 226 of the principal law, for the words "five pounds" there shall be substituted the words "ten pounds".

Amendment of section 276 of the principal law.

18. For subsection (1) of section 276 of the principal law there shall be substituted the following:

"(1) Such demand shall be made by an application, except that, in the Court of Magistrates of Judicial Police for the Island of Malta and in the Court of Magistrates of Judicial Police for

the Islands of Gozo and Comino in its inferior jurisdiction, where the debt or claim do not exceed ten pounds, the demand may be made orally."

19. In section 360 of the principal law, for the words "twenty pounds sterling" there shall be substituted the words "one hundred pounds".

Amendment of section 360 of the principal law.

20. In section 368 of the principal law, for the words "only in cases where the debt exceeds twenty pounds sterling, or in cases of deceit or fraud" there shall be substituted the words "and the creditor shall be entitled to recover from him any sum deposited under the last preceding section and not withdrawn".

Amendment of section 368 of the principal law.

21. In subsection (2) of section 405 of the principal law, for the words "an application to sue *in forma pauperis*" there shall be substituted the words "an application to sue with the benefit of legal aid".

Amendment of section 405 of the principal law.

22. Immediately after subsection (2) of section 534 of the principal law there shall be added the following new subsection:—

Amendment of section 534 of the principal law.

"(3) Any will delivered in terms of subsection (1) of this section shall not be deemed to be cancelled from the book referred to in section 529 for the purpose of any document certifying the existence or non-existence of secret wills, and there shall be indicated in any such document, in respect of any such will, the name of the notary who published it and the date of its publication."

23. Section 671 of the principal law shall be amended as follows:—

Amendment of section 671 of the principal law.

(a) in subsection (1), for the words "to sue or defend *in forma pauperis*" there shall be substituted the words "to sue or defend with the benefit of legal aid";

(b) in the English text of subsection (1), for the words "by the party not appearing as a 'poor person'" there shall be substituted the words "by the party not appearing with such benefit";

(c) in subsection (1), for the words "if the party not appearing as 'a poor person' is condemned in costs" there shall be substituted the words "if the party not appearing with the benefit of legal aid is condemned in costs";

(d) in subsection (2), for the words "Where both parties appear as 'poor persons'" there shall be substituted the words "Where both parties appear with the benefit of legal aid".

24. For subsection (4) of section 702 of the principal law there shall be substituted the following:—

Amendment of section 702 of the principal law.

"(4) If the party to whose oath reference is required fails to appear on the day appointed for the trial:—

(a) the questions as taken down by the Court shall be deemed to be admitted, unless good cause is shown for his non-appearance, in any case in which the claim before the Court does not exceed the amount of ten pounds;

(b) the Court shall adjourn the trial, unless the party making the reference renounces thereto, in any case in which the claim before the Court exceeds the amount of ten pounds, and the questions as taken down by the Court shall be deemed to be admitted if the party to whose oath reference is required, without good cause being shown for his non-appearance, fails again to appear on the day to which the Court has adjourned the trial as aforesaid."

Amendment of section 764 of the principal law.

25. Immediately after subsection (3) of section 764 of the principal law there shall be added the following new subsection:—

"(4) The default of a valuation made under subsection (1) of this section within the period therein prescribed shall not be a cause of the nullity of the appeal if, upon a valuation made in pursuance of an order of the Court before whom the appeal has been brought, it results that the matter of the claim is, by reason of its value, within the appellate jurisdiction of that Court."

Substitution of section 779 of the principal law.

26. For section 779 of the principal law there shall be substituted the following:—

"Question of jurisdiction *ratione materiae*."

779. (1) Where in any of the Superior Courts of first instance the question of the jurisdiction of the Court, by reason of the subject-matter of the claim, is raised either by the Court of its own motion, or by plea, the Court shall, after summarily hearing the parties, determine the question, and if it affirms its own jurisdiction such decision shall be final; but, if the Court declares that it has no jurisdiction, it shall order the records of the case to be transmitted through the Registrar, within seven working days of its decision, to the Court of Appeal, which shall determine finally which is the competent Court.

(2) Any party to a case which is transmitted to the Court of Appeal for the purpose of the last preceding subsection may, by a note filed in the Registry of the said Court within the said period of seven working days, submit to the Court of Appeal its reasons why the decision of the Court of first instance should be confirmed or otherwise.

(3) If all the parties to the case file a note in the Registry of the Court of Appeal to the effect that they agree that the proceedings in respect of the matter referred to the Court of Appeal under subsection (1) of this section need not be heard in public and that the Court need not take cognizance of any submissions other than those contained in any notes filed under the last preceding subsection, the Court of Appeal may decide upon such matter in chambers.

(4) The Registrar, shall, within seven working days from the decision of the Court of Appeal as to which Court is competent, transmit the records of the case to the Court declared so competent which shall proceed to deal with the case on such records.

(5) The decisions of the Court of first instance and of the Court of Appeal under subsection (1) of this section, concerning the competent Court, shall be given by Decree and no fees shall be charged for the transmission of the records under subsections (1) and (4) of this section.

(6) No registry fees and no fees in favour of the advocates and legal procurators appearing on behalf of the parties to a case shall be taxed in respect of any Decree given under this section."

27. Section 838 of the principal law shall be amended by the addition of the words "when the claim is not for an amount exceeding ten pounds" at the end thereof.

Amendment of section 838 of the principal law.

28. In subsection (1) of section 840 of the principal law, for the words "impediment of departure" there shall be inserted the words "impediment of departure for the purpose of a reference to the oath of the opposite party or for the purpose of securing the enforcement of a judgment not being for the payment of an acknowledged amount, impediment of departure of any ship or vessel".

Amendment of section 840 of the principal law.

29. In section 851 of the principal law, for the words "unless the demand for such warrant be accompanied by a demand for the judicial acknowledgment of the debt or claim" there shall be substituted the words "unless, where the debt or claim does not exceed ten pounds, the demand for such warrant be accompanied by a demand for the judicial acknowledgment of such debt or claim".

Amendment of section 851 of the principal law.

30. In subsection (1) of section 859 of the principal law, for the words "and to deliver to the Director of Ports a copy of the warrant" there shall be substituted the words "and to deliver to the Comptroller of Customs a copy of the warrant".

Amendment of section 859 of the principal law.

31. In section 861 of the principal law, for the words "the warrant contains sufficient particulars for the identification of the person restrained" there shall be substituted the words "the warrant contains particulars which are sufficient for the identification of the person restrained and are such as to avoid that the said person is mistaken for another person having the same particulars as those contained in the warrant".

Amendment of section 861 of the principal law.

32. For section 862 of the principal law there shall be substituted the following:—

Substitution of section 862 of the principal law.

"Powers of execution officer in the execution of warrant of impediment of departure of ship. 862. By virtue of the warrant of impediment of departure of a ship or other vessel the Marshal is authorized to adopt, subject to the directives of the Registrar, all such measures as he may deem necessary for the due execution of the warrant."

33. For subsection (3) of section 869 of the principal law there shall be substituted the following:—

Amendment of section 869 of the principal law.

"(3) The penalty shall in no case be less than one hundred pounds".

Amendment of section 871 of the principal law.

34. In section 871 of the principal law, for the words "in a fixed sum not exceeding one hundred pounds" there shall be substituted the words "in a fixed sum not less than one hundred pounds".

Amendment of section 874 of the principal law.

35. Section 874 of the principal law shall be amended as follows:

(a) for the words "for forty days only, to be reckoned from the day on which it was issued" in subsection (1) thereof there shall be substituted the words "for six months only, to be reckoned from the day on which it was issued", and

(b) for the words "forty days each time" in subsection (2) thereof there shall be substituted the words "six months each time".

Amendment of section 879 of the principal law.

36. In section 879 of the principal law, for the words "twenty pounds" there shall be substituted the words "one hundred pounds".

Amendment of section 883 of the principal law.

37. In subsection (3) of section 883 of the principal law, for the words "not exceeding one hundred and fifty pounds" there shall be substituted the words "not less than one hundred and fifty pounds".

Amendment of Title.

38. For the Title "OF THE ADMISSION TO SUE OR DEFEND *in forma pauperis*", immediately preceding section 914 of the principal law, there shall be substituted the following Title:—

"OF THE ADMISSION TO SUE OR DEFEND WITH THE BENEFIT OF LEGAL AID".

Amendment of section 914 of the principal law.

39. Section 914 of the principal law shall be amended as follows:—

(a) in subsection (1), for the words "the demand for admission to sue or defend *in forma pauperis* shall be made by an application" there shall be substituted the words "the demand for admission to sue or defend with the benefit of legal aid shall be made by an application";

(b) in subsection (2) for the words "Advocate for the Poor" there shall be substituted the words "Advocate for Legal Aid".

Substitution of section 915 of the principal law.

40. For section 915 of the principal law, there shall be substituted the following:—

"Conditions for admission to the benefit of legal aid.

915. No such demand shall be granted unless the applicant swears before the Registrar or before the Advocate for Legal Aid —

(a) that he believes that he has reasonable grounds for taking or defending proceedings; and

(b) that, excluding the subject-matter of the proceedings, he does not possess property of any sort, not including wearing apparel, whereof the value, without deducting the debts to which the said property may be liable, amounts to the sum of five hundred pounds, and that his yearly income is less than three hundred and sixty-five pounds."

41. Section 916 of the principal law shall be amended as follows:—

Amendment of section 916 of the principal law.

(a) for the words "Advocate for the Poor", wherever they occur, there shall be substituted the words "Advocate for Legal Aid".

(b) for the proviso to subsection (1) there shall be substituted the following:—

"Provided that no such examination shall be necessary where the demand for admission to the benefit of legal aid is made by the defendant in first instance or the respondent in second instance; and such defendant or respondent shall always be admitted to defend with such benefit upon taking the oath prescribed in the last preceding section."

42. Section 917 of the principal law shall be amended as follows:—

Amendment of section 917 of the principal law.

(a) for the words "Advocate for the Poor", wherever they occur, there shall be substituted the words "Advocate for Legal Aid";

(b) for the words "Upon a demand for leave to proceed *in forma pauperis*", in subsection (1), there shall be substituted the words "Upon a demand for leave to proceed with the benefit of legal aid".

43. In section 918 of the principal law, for the words "Advocate for the Poor" there shall be substituted the words "Advocate for Legal Aid".

Amendment of section 918 of the principal law.

44. In section 919 of the principal law, for the words "Advocate for the Poor" there shall be substituted the words "Advocate for Legal Aid".

Amendment of section 919 of the principal law.

45. Section 920 of the principal law shall be amended as follows:

Amendment of section 920 of the principal law.

(a) for the words "admitted to proceed *in forma pauperis*" there shall be substituted the words "admitted to proceed with the benefit of legal aid", and

(b) the following proviso shall be added at the end thereof:

"Provided that if the party is admitted to appeal with the benefit of legal aid from a judgment of first instance, he shall continue to be served by the Advocate and Legal Procurator first assigned to him as aforesaid."

46. Section 921 of the principal law shall be amended as follows:—

Amendment of section 921 of the principal law.

(a) in subsection (1), for the words "A party shall not be admitted to proceed *in forma pauperis*" there shall be substituted the words "A person shall not be admitted to proceed with the benefit of legal aid";

(b) in paragraph (b) of subsection (1), for the words "to proceed *in forma pauperis*" there shall be substituted the words "to proceed with the benefit of legal aid".

Amendment of section 922 of the principal law.

47. Section 922 of the principal law shall be amended as follows:—

(a) in subsection (1), for the words "The person admitted to proceed *in forma pauperis*" there shall be substituted the words "The person admitted to proceed with the benefit of legal aid";

(b) in subsection (2), for the words "Where the party proceeding *in forma pauperis*" there shall be substituted the words "Where the party proceeding with the benefit of legal aid".

Amendment of section 923 of the principal law.

48. In section 923 of the principal law, for the words "If the party admitted to proceed *in forma pauperis*" there shall be substituted the words "If the party admitted to proceed with the benefit of legal aid".

Amendment of section 924 of the principal law.

49. Section 924 of the principal law shall be amended as follows:—

(a) in subsection (1), for the words "All acts filed by the party proceeding *in forma pauperis*" there shall be substituted the words "All acts filed by the party proceeding with the benefit of legal aid";

(b) in subsection (2), for the words "to the party admitted to proceed *in forma pauperis*" there shall be substituted the words "to the party admitted to proceed with the benefit of legal aid", and for the words "Advocate for the Poor" there shall be substituted the words "Advocate for Legal Aid".

Amendment of section 925 of the principal law.

50. For subsection (1) of section 925 of the principal law there shall be substituted the following:—

"(1) The Court shall deprive of such benefit the person admitted to proceed with the benefit of legal aid and order him to pay all the costs of the suit, if it is shown, at any stage of the cause, that he possesses property of the value of five hundred pounds or more or has a yearly income of three hundred and sixty-five pounds or more, or that he is proceeding vexatiously."

Amendment of section 926 of the principal law.

51. In section 926 of the principal law, for the words "assigned to the poor person" there shall be substituted the words "assigned to the person admitted to the benefit of legal aid".

Amendment of section 927 of the principal law.

52. In section 927 of the principal law, for the words "to free legal aid" there shall be substituted the words "to the benefit of legal aid".

Addition of new sections to the principal law.

53. Immediately after section 927 of the principal law there shall be added the following new sections:

927A. The benefit of legal aid shall also be granted to any person who, according to the provisions of this Code or of any other law, is to file an application before Her Majesty's Civil Court, Second Hall, and such person —

(a) does not possess property of any sort, not including wearing apparel, whereof the value, without deducting the debts to which the said property may be liable, amounts to the sum of five hundred pounds, and

(b) his yearly income is less than three hundred and sixty-five pounds.

Demand and grant of benefit of legal aid. 927B. (1) A demand for the benefit of legal aid in accordance with the last preceding section shall be made orally to the Advocate for Legal Aid.

(2) The Advocate for Legal Aid, before recommending a demand under subsection (1) of this section, shall examine the applicant on oath with respect to the conditions set out in paragraphs (a) and (b) of section 927A of this Code.

(3) Where the Advocate for Legal Aid is of opinion that a demand made under this section should be granted, he shall, within four days, submit his report to the Court and the Court shall admit the applicant to the benefit of legal aid and shall assign to him the Advocate and the Legal Procurator whose turn it is according to the rota referred to in section 89 of this Code.

Applicability of preceding sections. 927C. The provisions contained in the preceding sections of this Title shall apply *mutatis mutandis* where applicable in connection with the grant of the benefit of legal aid in accordance with the provisions of section 927A of this Code."

54. Section 928 of the principal law shall be amended as follows:—

Amendment of section 928 of the principal law.

(a) at the end of paragraph (c) there shall be added the word "or";

(b) immediately after paragraph (c) there shall be added the following new paragraph:—

"(d) in the interest of any commercial partnership or any body of persons which has a distinct legal personality if the person or persons vested with the legal representation thereof is or are absent from these Islands."

55. (1) The amendments made by sections 3, 4, 5, 6, 17 and 24 of this Act shall not apply in respect of any case which was introduced in the Court of first instance before the coming into force of the said sections.

Transitory provisions.


(2) The amendments made by sections 19, 20, 33, 34, 35, 36 and 37 of this Act shall not apply to any warrant, or extension thereof, which is already filed in the Registry of the Court on the date of the coming into force of this Act.

(3) The amendments made by sections 40 and 50 of this Act shall not apply to any proceedings in respect of which a person has been admitted to sue or defend with the benefit of legal aid before the coming into force of the said sections.

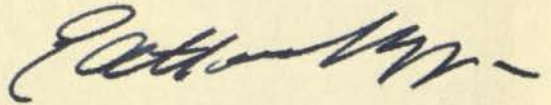
(4) The amendments made by this Act regarding the designation of the benefit of legal aid, of the offices connected therewith and of the persons entitled thereto, and any other amendment in the wording of expressions relating to such benefit, shall operate so that any reference, in the records of any judicial proceedings, in any judicial act, in any deed, private writing or other document whatsoever, to a substituted designation or expression shall be construed as a reference to the corresponding designation or expression substituting it by virtue of this Act.

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Passed by the House of Representatives at Sitting No. 18 of the 4th October, 1971.



*Clerk to the House of Representatives*



*Speaker*