

ABBOZZ TA' LIĠI
msejjah

ATT biex jemenda l-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, Kap. 12.

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:-

1. (1) It-titolu fil-qosor ta' dan l-Att huwa l-Att ta' l-2006 li jemenda l-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili (Emenda Nru. 2), u dan l-Att għandu jinqara u jinftiehem haġa wahda mal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, hawnhekk iżjed 'il quddiem f'dan l-Att imsejjaha "il-Kodiċi".

Titolu fil-qosor
u bidu fis-sehh.

(2) Dan l-Att għandu jibda' jsehh f'dik id-data li l-Ministru responsabbli għall-ġustizzja jista' jistabbilixxi b'avviż fil-Gazzetta, u jistgħu jiġu hekk stabbiliti dati differenti għal disposizzjonijiet differenti u għal għanijiet differenti ta' dan l-Att.

2. L-artikolu 7 tal-Kodiċi għandu jiġi emendat kif ġej:

Emenda ta' l-
artikolu 7 tal-
Kodiċi.

(a) id-disposizzjoni preżenti għandha tiġi enumerata mill-ġdid bħal s-subartikolu (1) tiegħu; u

(b) minnufih wara s-subartikolu (1), kif enumerat mill-ġdid, għandhom jiżdied s-subartikoli ġodda li ġejjin:

"(2) Il-Prim Imhalled jista' jahtar wiehed mill-maġistrati bħala Maġistrat Anzjan; dik il-hatra tkun għal żmien speċifikat jew sakemm jinhatar maġistrat ieħor f'dik il-kariga.

(3) Mingħajr preġudizzju għad-disposizzjonijiet ta' dan il-Kodiċi jew ta' xi liġi oħra li tippreskrivi l-qorti jew il-qrati li fihom maġistrat għandu jippresjedi, il-Maġistrat Anzjan għandu jwettaq dawk idmirijiet u funzjonijiet li jistgħu jiġu assenjati lilu mill-Prim Imħallef jew kif jista' jiġi preskritt minn xi liġi li tkun fis-seħħ f'dak iż-żmien.”.

Emenda ta' l-artikolu 9 tal-Kodiċi.

3. Fl-artikolu 9 tal-Kodiċi, minflok il-kliem "barra minn dawk li għalihom taħtarhom il-liġi" għandhom jidhlu l-kliem "barra minn attivitajiet fi hdan il-Kumitat ta' l-Istudji Ġudizzjarji u dawk li għalihom taħtarhom il-liġi".

Sostituzzjoni ta' l-artikolu 11 tal-Kodiċi.

4. L-artikolu 11 tal-Kodiċi għandu jiġi sostitwit bl-artikolu ġdid li ġej:

"11. (1) Il-President ta' Malta għandu jassenja lil kull wiehed mill-Imħallfin billi jassenjalu l-qorti jew l-awla tal-qorti jew is-sezzjoni li fiha għandu ordinarjament joqgħod, u jista' jbidel imħallef minn qorti jew awla jew sezzjoni ta' qorti għal oħra:

Iżda mħallef jista' jiġi assenjat li joqgħod ordinarjament f'iktar minn qorti waħda jew iktar minn awla jew sezzjoni waħda ta' qorti waħda jew aktar minn waħda.

(2) Il-President ta' Malta għandu wkoll is-setgħa li jissurroga mħallef fil-każ li titbattal kariga ta' mħallef.

(3) Meta iktar minn imħallef wiehed jiġi assenjat li joqgħod ordinarjament f'qorti, jew f'awla jew f'sezzjoni ta' qorti, it-tqassim ta' dmirijiet b'mod ġenerali bejn dawk l-imħallfin għandu jsir mill-Prim Imħallef, u r-registratur għandu jassenja l-kawżi u atti ġudizzjarji oħra lill-imħallfin kif ordnat mill-Prim Imħallef:

Iżda, hlief meta każijiet jew atti ġudizzjarji huma assenjati skond direttivi ġenerali jew skond regoli magħmulin skond is-subartikolu (6), meta l-Prim Imħallef jista' jiġi rikuzat jew jista' jastjeni milli jieħu konjizzjoni ta' kawża għal xi waħda mir-raġunijiet imsemmija fl-artikolu 734(1)(a), (b), (ċ), (d)(ii) u (iii), (e) u (g), l-assenjazzjoni ta' dak il-każ għandha ssir mid-Deputat Prim Imħallef.

(4) Kull meta xi mħallef, hlief il-Prim Imħallef, ikun rikuzat jew xort'oħra legalment impedut, il-Prim Imħallef għandu jassenja mħallef ieħor biex jieħu konjizzjoni tal-kawża:

Iżda, hlief meta każijiet jew atti ġudizzjarji huma assenjati skond direttivi ġenerali jew skond regoli magħmulin skond is-subartikolu (6), meta l-Prim Imħallef jista' jiġi rikuzat jew jista' jastjeni milli jiehu konjizzjoni ta' kawża għal xi waħda mir-raġunijiet imsemmija fl-artikolu 734(1)(a), (b), (ċ), (d)(ii) u (iii), (e) u (g), l-assenjazzjoni ta' imħallef biex jiehu konjizzjoni ta' dak il-każ għandha ssir mid-Deputat Prim Imħallef.

(5) Mingħajr preġudizzju għad-disposizzjonijiet ta' l-artikolu 12(2), u hlief fejn każijiet jew atti ġudizzjarji huma assenjati skond direttivi ġenerali jew skond regoli magħmulin skond is-subartikolu (6), meta l-Prim Imħallef jiġi rikuzat jew xort'ohra legalment impedit, id-Deputat Prim Imħallef għandu jassenja mħallef ieħor biex jiehu konjizzjoni tal-kawża.

(6) Il-Bord bis-Setgħa li jagħmel ir-Regoli stabbilit skond l-artikolu 29 jista' jagħmel regoli li jipprovdu għall-mod kif jiġu mqassma każijiet u atti ġudizzjarji oħra għall-finijiet tas-subartikoli (3), (4) u (5).

(7) Kull assenjazzjoni, tibdil jew surroga magħmulin mill-President ta' Malta, u kull tqassim ta' dmirijiet in ġenerali, u kull assenjazzjoni ta' każijiet bħala riżultat ta' rikuzi jew astensjoni magħmula mill-Prim Imħallef jew, kif ikun il-każ, mid-Deputat Prim Imħallef, għandhom jitqiesu li jkunu ġew notifikati kif imiss u biżżejjed għall-finijiet kollha jekk jitwaħħal avviż dwarhom f'dak ir-registru li l-Ministru jista' jippreskrivi għal dan il-ghan taht l-artikolu 27 qabel jew malli jibda il-perijodu li fih dik l-assenjazzjoni, dak it-tibdil, dik is-surroga jew dak it-tqassim għandhom isehhu.

(8) Meta tinqala' tilwima dwar jekk kawża jew att ġudizzjarju ieħor għandhom jiġu assenjati lil imħallef jew lil imħallef ieħor li jippresjedi fl-istess qorti jew fl-istess awla jew sezzjoni tal-qorti, jew meta tinqala' tilwima dwar liema awla jew sezzjoni ta' qorti għandhom jittrattaw kawża partikolari jew att ġudizzjarju partikolari, il-kwistjoni għandha tintbagħat lill-Prim Imħallef li għandu, *in camera*, jiddeċiedi lil liema imħallef jew awla jew sezzjoni l-kawża jew l-att ġudizzjarju għandhom jiġu assenjati:

Iżda meta l-Prim Imħallef jista' jiġi rikuzat jew jista' jastjeni milli jiehu konjizzjoni ta' dik il-kawża jew dak l-att ġudizzjarju għal xi waħda mir-raġunijiet imsemmija fl-artikolu 734(1)(a), (b), (ċ), (d)(ii) u (iii), (e) u (g), id-deċizzjoni għandha tittiehed mid-Deputat Prim Imħallef."

Emenda ta' l-artikolu 12 tal-Kodiċi.

5. Is-subartikolu (1) ta' l-artikolu 12 tal-Kodiċi għandu jiġi sostitwit bis-subartikolu ġdid li ġej:

"(1) Id-disposizzjonijiet ta' l-artikoli 8, 9, 10 u 11(1) għandhom, *mutatis mutandis*, ukoll japplikaw għall-President tal-Qorti ta' l-Appell."

Emenda ta' l-artikolu 29 tal-Kodiċi.

6. L-artikolu 29 tal-Kodiċi għandu jiġi emendat kif ġej:

(a) is-subartikolu (1) tiegħu għandu jiġi sostitwit bis-subartikolu li ġej:

"(1) Għandu jkun hemm Bord, magħmul mill-Prim Imhalled, bħala president li jkollu wkoll *casting vote*, minn imhalled li ordinarjament iservi fil-Qorti ta' l-Appell u maġistrat li jiġu appuntati mill-President ta' Malta fuq ir-rakkomandazzjoni tal-Prim Imhalled, mill-Avukat Ġenerali, mill-President tal-Kamra ta' l-Avukati u mill-President tal-Kamra tal-Prokuraturi Legali, li jkollu l-funzjoni li jagħmel regoli, imsejhin Regoli tal-Qrati, għall-għanijiet imsemmija fis-subartikolu (2) jew f'xi disposizzjoni oħra ta' dan il-Kodiċi jew ta' xi liġi oħra.";

(b) fis-subartikolu (2) tiegħu, il-kliem minn "Ir-Regoli tal-Qrati jistgħu b'mod ġenerali jintgħamli" sa "izda bla hsara għas-sens ġenerali ta' dak imsemmi qabel -" għandhom jiġu sostitwiti bil-kliem li ġejjin:

"Ir-Regoli tal-Qrati jistgħu b'mod ġenerali jintgħamli għal kull haġa li tolqot it-tmexxija tal-qrati u t-tmexxija tal-kawzi bil-għan li jassiguraw amministrazzjoni tal-ġustizzja xierqa u effiċjenti, u b'mod partikolari, izda bla hsara għas-sens ġenerali ta' dak imsemmi qabel -";

(ċ) il-paragrafu (a) tas-subartikolu (2) tiegħu għandu jiġi sostitwit bis-subartikolu li ġej:

(a) sabiex jirregolaw it-tmexxija tal-qrati u sabiex jiżguraw iż-żamma ta' l-ordni u d-dekor fil-bini tal-qrati";

(d) minnufih wara l-paragrafu (g) tas-subartikolu (2) tiegħu għandu jiżdied il-paragrafu ġdid li ġej:

(h) sabiex jistabilixxu s-sessjonijiet tas-sena tal-qrati u l-ferjat fil-qrati superjuri u fil-qrati inferjuri, u għal hwejjeġ anċillari u inċidentali għal dawk is-sessjonijiet u dak il-ferjat"; u

(e) minnufih wara s-subartikolu (7) tiegħu, għandu jiżdied is-subartikolu ġdid li ġej:

"(8) Mingħajr preġudizzju għad-disposizzjonijiet tas-subartikolu (7), il-Prim Imħallef jista', fid-diskrezzjoni tiegħu, jittrasferixxi kull kawża minn qorti għal oħra:

Iżda fl-eżekuzzjoni ta' din il-funzjoni l-Prim Imħallef għandu jiddiskuti l-kwistjoni ma' l-imħallfin jew il-maġistrati interessati, jew waqt xi wahda mil-laqgħat imsejha skond is-subartikolu (6) jew waqt laqgħa *ad hoc* miżmuma għal dan il-ghan."

7. Fil-proviso ta' l-artikolu 34 tal-Kodiċi, minnufih wara l-kliem "minn tali sentenza tal-Prim'Awla tal-Qorti Ċivili" għandhom jiżdiedu "jew minn kull sezzjoni ta' l-istess Qorti Ċivili".

Emenda ta' l-artikolu 34 tal-Kodiċi.

8. Fis-subartikolu (1) ta' l-artikolu 47 tal-Kodiċi, minflok il-kliem "sa l-ammont ta' hamest elef lira" għandhom jidhlu l-kliem "sa l-ammont ta' għaxart elef lira".

Emenda ta' l-artikolu 47 tal-Kodiċi.

9. L-artikolu 79 tal-Kodiċi għandu jiġi sostitwit bl-artikolu ġdid li ġej:

Sostituzzjoni ta' l-artikolu 79 tal-Kodiċi.

"79. Ebda persuna ma tista' teżerċita b'xi mod il-professjoni ta' avukat mingħajr l-awtorità tal-Gvern ta' Malta mogħtija b'*warrant* taht is-Siġill Pubbliku ta' Malta."

10. L-artikolu 89 tal-Kodiċi għandu jiġi sostitwit bl-artikolu ġdid li ġej:

Sostituzzjoni ta' l-artikolu 89 tal-Kodiċi.

"89. (1) Il-Ministru responsabbli għall-ġustizzja għandu, b'konsultazzjoni mal-Kamra ta' l-Avukati u l-Kamra tal-Prokuraturi Legali, jahtar lista ta' avukati, prokuraturi legali u esperti oħra, li abitwalment jeżerċitaw il-professjoni tagħhom fil-qrati tal-ġustizzja biex iwettqu d-dmirijiet ta' kuraturi, avukati jew prokuraturi legali *ex officio* u ta' esperti fil-Qrati ta' Malta u ta' Ghawdex, mingħajr hłas skond ma jkun jenhtieg taht dan il-Kodiċi.

(2) L-Avukat għall-Għajnuna Legali msemmi fl-artikolu 911(6) għandu jhejji listi separati, mil-lista msemmija fis-subartikolu (1).

(3) L-avukati u l-prokuraturi legali mahtura kif jingħad fis-subartikolu (1), għandhom ukoll id-dmir li jagħtu l-assistenza tagħhom lil kull min, għad li ma jkollux jedd għal

benefiċċju ta' għajnuna legali, jagħmel talba għal dik l-assistenza lill-qorti kompetenti u jissodisfa lill-istess qorti, bil-mod u l-mezz li dik il-qorti tordna, illi *prima facie* hu għandu raġunijiet tajba biex iħarrekk jew jiddefendi ruħu jew jieħu parti fi proċeduri u li hu ma rnexxilhux li jqabba avukat jew prokuratur legali ieħor."

Sostituzzjoni ta' l-artikolu 91 tal-Kodiċi.

11. L-artikolu 91 tal-Kodiċi għandu jiġi sostitwit bl-artikolu ġdid li ġej:

"**91.** L-elenku ta' l-avukati, il-prokuraturi legali u esperti oħra msemmija fl-artikolu 89 jiġi ppubblikat f'lista li titqiegħed fil-Kamra ta' l-Avukati, il-Kamra tal-Prokuraturi Legali u kull post ieħor fl-edifiċċju tal-qorti kif il-Ministru responsabbli għall-ġustizzja jista' jqis xieraq."

Emenda ta' l-artikolu 152 tal-Kodiċi.

12. Fis-subartikolu (1) ta' l-artikolu 152 tal-Kodiċi, minnufih wara l-kliem "u mhux aktar tard minn sitt xhur wara l-prezentata tar-rikors ta' appell" għandhom jidhlu l-kliem "u l-hlas tal-kawtela"

Emenda ta' l-artikolu 166A tal-Kodiċi.

13. L-artikolu 166A tal-Kodiċi għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1), u fl-ewwel proviso tiegħu, minflok il-kliem "hamest elef lira", kull fejn jinsabu, għandhom jidhlu l-kliem "għaxart elef lira, jew dik is-somma l-oħra li tista' tiġi stabbilita minn żmien għal żmien b'Ordni fil-Gazzetta mill-Ministru"; u

(b) minnufih wara s-subparagrafu (ii) tas-subartikolu (5) tiegħu, għandu jżidded il-proviso ġdid li ġej:

"B'dan illi dan ir-rikors għandu jiġi appuntat għas-smiġh fi żmien ġimgħatejn."

Emenda ta' l-artikolu 167 tal-Kodiċi.

14. Is-subartikolu (3) ta' l-artikolu 167 tal-Kodiċi għandu jiġi sostitwit bis-subartikolu ġdid li ġej:

"(3) Id-disposizzjonijiet ta' l-artikolu 156(1)(a), (b), u (ċ), (2) u (3) u ta' l-artikolu 159 jghoddu għal dan ir-rikors ġuramentat."

Emenda ta' l-artikolu 195 tal-Kodiċi.

15. Is-subartikolu (5) ta' l-artikolu 195 tal-Kodiċi għandu jiġi numerat mill-ġdid bhala s-subartikolu (6) tiegħu u, minnufih wara s-subartikolu (4) tiegħu, għandu jżidded is-subartikolu ġdid li ġej:

"(5) (a) Meta kawża tkun ilha pendent quddiem qorti partikolari għal tliet snin jew aktar, kull parti fil-każ tista', personalment, u mingħajr il-ħtieġa li tkun rappreżentata minn xi avukat, tagħmel rikors (liema rikors, madankollu, ma jkunx

jiffirma parti mill-atti tal-kawża) lill-Prim Imħallef fejn jintalab li, għas-sempliċi raġuni li l-kawża damet daqshekk, il-membru tal-ġudikatura li jippresjedi f'dik il-qorti jinbidel u li l-każ jiġi assenjat lil membru ieħor tal-ġudikatura; id-deċiżjoni tal-Prim Imħallef, li tittiehed *in camera*, tkun finali u konkluziva; u fejn isir assenjament bħal dan ma jkunx hemm bżonn ta' notifika dwar dak l-assenjament.

(b) Meta kawża tkun ilha pendenti għas-sentenza quddiem qorti partikolari għal tmintax-il xahar jew aktar, kull parti fil-każ tista', personalment, u mingħajr il-htieġa li tkun rappreżentata minn xi avukat, tagħmel rikors (liema rikors, madankollu, ma jkunx jiffirma parti mill-atti tal-kawża) lill-Prim Imħallef fejn jintalab li, għas-sempliċi raġuni li s-sentenza damet daqshekk biex tingħata, il-membru tal-ġudikatura li jippresjedi f'dik il-qorti jinbidel u li l-każ għas-sentenza jiġi assenjat lil membru ieħor tal-ġudikatura; id-deċiżjoni tal-Prim Imħallef, li tittiehed *in camera*, tkun finali u konkluziva; u fejn isir assenjament bħal dan ma jkunx hemm bżonn ta' notifika dwar dak l-assenjament.

(ċ) Il-Prim Imħallef għandu jhejji rapport annwali dwar il-kawżi li jkunu ġew trasferiti skond id-disposizzjonijiet tal-paragrafi (a) u (b), fejn jiġu speċifikati r-raġunijiet possibbli għal dak id-dewmien, u għandu jibgħat ir-rapport lill-Kummissjoni dwar l-Amministrazzjoni tal-Ġustizzja. Il-Kummissjoni għandha tiegħu dik l-azzjoni kif jidhrilha xieraq skond id-disposizzjonijiet ta' l-Att dwar il-Kummissjoni dwar l-Amministrazzjoni tal-Ġustizzja, u għandha, fi żmien tliet xhur, tippubblika dak ir-rapport."

Kap. 369.

16. Minnufih wara l-artikolu 195 tal-Kodiċi, għandu jiżdied l-artikolu ġdid li ġej:

Żieda ta' artikolu 195A ġdid fil-Kodiċi.

"Smigh ta' kawżi li għandhom x'jaqsmu ma' diviżjoni ta' proprjetà u ma' suċċessjoni.

195A. (1) Kawża li jkollha x'taqsam ma' diviżjoni ta' proprjetà u suċċessjoni għandha, meta tkun appuntata għas-smigh, sakemm ma hemmx provdut mod ieħor f'dan il-Kodiċi, tibqa' tinstama' mingħajr waqfien sakemm tiġi konkluziva.

(2) Xejn f'dan l-artikolu ma jzomm il-qorti milli tiddeċiedi kawża fil-ġurnata msemmija fir-rikors meta l-konvenut ma jopponix it-talba inkella meta l-qorti hija sodisfatta li l-attur m'għandu ebda jedd jew li l-konvenut m'għandu ebda eċċezzjoni tajba x'jagħti.

(3) Id-diferiment ta' kawża ma jingħatax hliet biex tithares xi proċedura stabbilita f'dan il-Kodiċi jew, f'ċirkostanzi eċċezzjonali, skond il-disposizzjonijiet tas-subartikolu (4).

(4) Kawża tista' tiġi differita f'ċirkostanzi eċċezzjonali biss jekk il-qorti tkun sodisfatta li dawk iċ-ċirkostanzi jkunu jeżistu u hekk tiddikjara fid-digriet li bih tordna d-differiment u fejn tispeċifika dawk iċ-ċirkostanzi, u biss fuq rikors ipprezentat mill-parti li titlob id-differiment mhux iktar tard minn jumejn tax-xogħol qabel id-data li fiha l-kawża tkun għas-smiġh jew, jekk ir-raġuni tad-differiment tinqala' wara li jgħaddi l-imsemmi żmien kemm jista' jkun malajr wara; u r-rikors għandu jispeċifika bid-dettal iċ-ċirkostanzi li jiġġustifikaw it-talba u għandu jiġi konfermat bil-ġurament mir-rikorrent jew, jekk ir-rikorrent ikun nieqes minn Malta jew xort'oħra ma jkunx jista' jikkonferma rrikors personalment, mill-avukat li jiffirma r-rikors li għandu f'dak il-każ jikkonferma wkoll bil-ġurament li r-rikorrent ma setgħax jikkonfermah hu nnifsu.

(5) Il-Ministru responsabbli għall-ġustizzja jista' jagħmel regolamenti għall-aħjar twettieq tad-disposizzjonijiet ta' dan l-artikolu."

Sostituzzjoni ta' l-artikolu 218 tal-Kodiċi.

17. L-artikolu 218 tal-Kodiċi għandu jiġi sostitwit bl-artikolu ġdid li ġej:

"**218.** Fis-sentenza għandhom qabel xejn jingħataw ir-raġunijiet li fuqhom il-qorti tkun ibbażat id-deċiżjoni tagħha, u għandu jkun hemm fiha wkoll riferenza għall-proċedimenti, għat-talbiet ta' lattur u għall-eċċezzjonijiet tal-konvenut:

Iżda il-Bord tar-Regoli mahtur skond l-artikolu 29 jista', permezz ta' Regoli tal-Qorti, jidderoga mid-disposizzjonijiet ta' dan l-artikolu."

18. Is-subartikolu (1) ta' l-artikolu 223 tal-Kodiċi għandu jiġi sostitwit bis-subartikolu ġdid li ġej:

Emenda ta' l-artikolu 223 tal-Kodiċi.

"(1) Fil-każijiet ta' appelli u ritrattazzjonijiet fiergħa u vessatorji, il-Qorti ta' l-Appell jew il-Qorti Kostituzzjonali tista' tikkundanna lill-appellant li jhallas lill-appellat l-ispejjeż għal darbtejn."

19. Is-subartikolu (1) ta' l-artikolu 249 tal-Kodiċi għandu jiġi sostitwit bis-subartikolu ġdid li ġej:

Emenda ta' l-artikolu 249 tal-Kodiċi.

"(1) Mingħajr hsara għad-disposizzjonijiet tal-proviso li hemm ma' l-artikolu 209(1), u sakemm ma jiġix provdut mod ieħor f'xi liġi oħra, fil-każ ta' appell minn sentenzi jew digrieti mogħtija f'kawża mibdija b'rikors ġuramentat, il-garanzija għall-ispejjeż għandha ssir u tiġi depożitata fil-qorti fi żmien sitt xhur mid-data tan-notifika ta' l-ammont li għandu jiġi depożitat jew, jekk l-appell għandu jinstama' qabel sitt xhur min-notifika hawn imsemmija, mhux aktar tard minn jumejn mid-data stabbilita għas-smiġħ ta' dak l-appell."

20. L-artikolu 258 tal-Kodiċi għandu jiġi sostitwit bl-artikolu ġdid li ġej:

Sostituzzjoni ta' l-artikolu 258 tal-Kodiċi.

"Tmexxija għall-esekuzzjoni ta' titolu esekuttiv.

258. Wara -

(a) l-għeluq ta' għaxar snin minn dak in-nhar li fih skond il-liġi it-titolu esekuttiv imsemmi fil-paragrafu (a), (ċ) u (d) ta' l-artikolu 253, rigward sentenzi u digrieti tal-Qrati Superjuri seta' ġie esegwit; jew

(b) l-għeluq ta' hames snin minn dak in-nhar li fih skond il-liġi it-titolu esekuttiv imsemmi fil-paragrafi (a), (ċ) u (d) ta' l-artikolu 253, rigward sentenzi u digrieti tal-Qrati Inferjuri jew tat-Tribunal tat-Talbiet Żgħar seta' ġie esegwit; jew

(ċ) l-gheluq ta' tliet snin minn dak in-nhar li fih skond il-liġi it-titolu esekuttiv imsemmi fil-paragrafi (b), u (e) ta' l-artikolu 253, jew rigward il-proċeduri meħudin skond l-artikolu 166A seta' ġie esegwit,

l-esekuzzjoni tista' ssir biss wara talba magħmula b'rikors quddiem il-qorti kompetenti. Ir-rikorrent għandu wkoll jikkonferma bil-ġurament ix-xorta tad-dejn jew tat-talba li jkun qed ifittex l-esekuzzjoni tagħha, u li d-dejn jew parti minnu jkun għadu dovut."

Emenda ta' l-artikolu 734 tal-Kodiċi.

21. Is-subartikolu (1) ta' l-artikolu 734 tal-Kodiċi għandu jiġi emendat kif ġej:

(a) il-paragrafu (g) tiegħu għandu jiġi numerat mill-ġdid bħala l-paragrafu (h); u

(b) minnufih wara l-paragrafu (f) tiegħu għandu jiżdied il-paragrafu ġdid li ġej:

"(g) jekk l-avukat jew prokuratur legali li jkun qed jidher quddiem imħallef ikun hu jew oħt l-istess ġudikant;"

Emenda ta' l-artikolu 811 tal-Kodiċi.

22. L-artikolu 811 tal-Kodiċi għandu jiġi emendat kif ġej:

(a) in-nota marginali tiegħu għandha tiġi sostitwita bin-nota marginali ġdida li ġejja: "Ritrattazzjoni ta' kawża deċiża.";

(b) minflok il-kliem minn "Kawża deċiża b'sentenza" sa "għal waħda minn dawn ir-raġunijiet li ġejjin:" għandhom jidhlu l-kliem "Kawża deċiża b'sentenza mogħtija fi grad ta' appell jew mill-Qorti Ċivili, Prim Awla, fil-ġurisdizzjoni kostituzzjonali tagħha, tista', fuq talba ta' waħda mill-partijiet li jkollha interess, tiġi ritrattata, wara li qabel xejn tiġi mħassra dik is-sentenza, għal waħda minn dawn ir-raġunijiet li ġejjin:";

(ċ) il-paragrafu (e) tiegħu għandu jiġi sostitwit bil-paragrafu ġdid li ġej:

"(e) jekk is-sentenza tkun applikat il-liġi hażin, jew kien hemm ksur ta' xi regola ta' proċedura ċivili, jew hemm nuqqas ta' konformità ma' xi regola ta' proċedura ċivili;

Ghall-finijiet ta' dan il-paragrafu, jitqies li kien hemm applikazzjoni hażina tal-liġi fil-każ biss li d-deċiżjoni, meta l-fatt kien tassew kif stabbilit fis-sentenza attakkata, ma tkunx skond il-liġi, basta li l-kwistjoni ma tkunx dwar interpretazzjoni ta' liġi, li fuqha l-qorti tkun espressament tat deċiżjoni;"

23. Is-subartikolu (6) ta' l-artikolu 911 għandu jiġi sostitwit bis-subartikolu li ġej:

Emenda ta' l-artikolu 911 tal-Kodiċi.

"(6) Għandu jkun hemm Avukat għal Ghajnuna Legali u l-kliem "Avukat għal Ghajnuna Legali" f'dan il-Kodiċi jew f'kull liġi oħra jinkludu lil kull avukat, uffiċjal jew uffiċjal pubbliku iehor li jinhatru mill-Ministru responsabbli għall-gustizzja biex iwettqu, taħt it-tmexxija ta' l-Avukat għal Ghajnuna Legali, kull funzjoni li tappartjeni lill-Avukat għal Ghajnuna Legali jew għall-amministrazzjoni tal-benefiċċju ta' l-ghajnuna legali kif imfisser fl-artikolu 89."

24. Il-paragrafu (a) tas-subartikolu (1) ta' l-artikolu 925 tal-Kodiċi għandu jiġi sostitwit bil-paragrafu li ġej:

Emenda ta' l-artikolu 925 tal-Kodiċi.

"(a) jaġixxi fl-aħjar interess ta' min ikun inghata l-benefiċċju ta' l-ghajnuna legali, u ma għandu jitlob l-ebda form ta' hlas minn dik il-parti;"

25. Minnufih wara l-artikolu 925 tal-Kodiċi, għandu jżied l-artikolu ġdid li ġej:

Żieda ta' l-artikolu 926 fil-Kodiċi.

"Kumpanniji mhumieħ intitolati għall-benefiċċju ta' l-ghajnuna legali. Kap. 386.

926. Kumpanniji reġistrati skond l-Att dwar il-Kumpanniji mhumieħ intitolati għall-benefiċċju ta' l-ghajnuna legali."

26. Fil-paragrafu 19 tat-Tariffa K fl-Iskeda A tal-Kodiċi, minflok il-kliem "skond il-partita (f) ta' l-Iskeda A li tinsab ma' l-Ordinanza dwar id-Drittijiet tax-Xhieda" għandhom jidhlu l-kliem "skond l-Iskedi li jinsabu ma' l-Ordinanza dwar id-Drittijiet tax-Xhieda".

Emenda tat-Tariffa K fl-Iskeda A tal-Kodiċi.

27. L-Ordinanza dwar id-Drittijiet tax-Xhieda għandha tiġi emendata kif ġej:

Emendi għall-Ordinanza dwar id-Drittijiet tax-Xhieda. Kap. 108.

(a) l-artikolu 3 tagħha għandu jiġi sostitwit bl-artikolu ġdid li ġej:

"3. Ix-xhieda għandhom jedd għad-drittijiet stabbiliti fl-Iskedi A u D li hawn ma' din l-Ordinanza għal kull attendenza quddiem il-qorti superjuri u għad-drittijiet stabbiliti fl-Iskeda B għal kull attendenza quddiem kull

qorti ohra:

Iżda ebda persuna impjegata fis-servizz tal-Gvern ta' Malta m'għandha jedd għal ebda dritt meta tiġi msejha biex tagħti xieħda mill-Gvern.";

(b) l-artikolu 5 tagħha għandu jiġi sostitwit bl-artikolu ġdid li ġej:

"5. Ix-xhieda li joqogħdu Malta, li jiġu msejha quddiem qorti f'Għawdex u x-xhieda li joqogħdu Għawdex, li jiġu msejha quddiem qorti f'Malta, għandhom ukoll jedd għall-ispejjeż ta' l-ikel u rqađ li fil-fatt ikunu għamlu biex qagħdu Għawdex jew Malta, skond il-każ. Dawn l-ispejjeż m'għandhomx ikunu iżjed mil-limiti stabbiliti fl-Iskedi Ċ jew D, kif ikun il-każ, li hawn ma' din l-Ordinanza.";

(ċ) fl-Iskeda A tagħha, minflok il-kliem "Id-drittijiet li ġejjin iġħoddu għax-xhieda quddiem qorti superjuri:" għandhom jidhlu l-kliem "Id-drittijiet li ġejjin iġħoddu għax-xhieda quddiem qorti superjuri ta' ġurisdizzjoni kriminali:";

(d) fl-Iskeda Ċ tagħha, minflok il-kliem "L-ispejjeż li ġejjin għal ikel u rqađ jingħataw skond l-artikolu 5 għal kull jum li fih ix-xhud jattendi l-qorti:" għandhom jidhlu l-kliem "L-ispejjeż li ġejjin għal ikel u rqađ jingħataw skond l-artikolu 5 għal kull jum li fih ix-xhud jattendi f'xi qorti ta' ġurisdizzjoni kriminali:"; u

(e) minnufih wara l-Iskeda Ċ tagħha, għandha tiżdied l-iskeda ġdida li ġejja:

"SKEDA D

(Artikoli 3 u 5)

Drittijiet li jithallsu li xhieda f'kawżi ta' ġurisdizzjoni ċivili

- | | |
|--|----------------|
| 1 Għal xiedha mogħtija fil-qrati ċivili jew bordijiet u tribunali li jkollhom funzjoni ċivili | Lm10
kuljum |
| Iżda jekk ix-xiedha tkun ta' natura xjentifika jew teknika, u tingħata minn persuna li ma tkunx inħatret bħala espert fil-kawża, ir-rimunerazzjoni għandha tiżdied għal | Lm20
kuljum |
| 2 Meta jgħoddu d-disposizzjonijiet ta' l-artikolu 5 ta' din l-Ordinanza, l-ispejjeż għall-ikel u akkommodazzjoni għandhom ikunu ekwivalenti għar-rata li tapplika f'dak iż-żmien fl-lukanda ta' Erba' Stilel." | |

28. (1) L-Att li jirregola l-Qsim ta' Wirt huwa b'dan imhassar.

Thassir ta' l-Att li jirregola l-Qsim ta' Wirt. Kap. 308.

(2) Minkejja d-disposizzjonijiet tas-subartikolu (1), kull kawża li hemm pendent quddiem it-Tribunal ta' Arbitraġġ dwar il-Qsim ta' Wirt għandha tibqa' tinstema' quddiem dak it-Tribunal sas-sentenza finali.

Ghanijiet u Raġunijiet

L-ghanijiet ta' dan l-Abbozz huma biex jintroduci emendi fil-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, kif ukoll emendi konsegwenzjali f'ligijiet oħra, biex jintlaħaq twettieq tal-ġustizzja aħjar u ehfef.

**A BILL
entitled**

AN ACT to amend the Code of Organization and Civil Procedure, Cap. 12.

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:-

Title and commencement.

1. (1) The short title of this Act is the Code of Organization and Civil Procedure (Amendment) (No.2) Act, 2006, and shall be read and construed as one with the Code of Organization and Civil Procedure, hereinafter referred to as “the Code”.

(2) This Act shall come into force on such date as the Minister responsible for justice may by notice in the Gazette appoint, and different dates may be so appointed for different purposes and for different provisions of this Act.

Amendment of article 7 of the Code.

2. Article 7 of the Code shall be amended as follows:

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

(b) immediately after subarticle (1), as renumbered, there shall be added the following new subarticles:

“(2) The Chief Justice may designate one of the magistrates as Senior Magistrate; such designation shall be for a specified time or until another magistrate is so designated.

(3) Without prejudice to the provisions of this Code or of any other law prescribing the court or courts in

which a magistrate shall sit, the Senior Magistrate shall perform such duties and functions as may be assigned by the Chief Justice or as may be provided by any law for the time being in force.”.

3. In article 9 of the Code, for the words “except such as may be assigned to him by law” there shall be substituted the words “except activities within the Judicial Studies Committee or such as may be assigned to him by law”.

Amendment of article 9 of the Code.

4. Article 11 of the Code shall be substituted by the following new article:

Substitution of article 11 of the Code.

“11. (1) The President of Malta shall assign to each of the judges his duties by assigning to him the court or the chamber of the court or section in which he is to sit ordinarily, and may transfer a judge from one court or chamber or section of a court to another:

Provided that a judge may be assigned to sit ordinarily in more than one court or more than one chamber or section of one or more courts.

(2) The President of Malta is also empowered to surrogate a judge in case of a vacancy in the number of judges.

(3) Where more than one judge is assigned to sit ordinarily in a court, or in a chamber or section of a court, the distribution of duties in general between the said judges shall be made by the Chief Justice, and the registrar shall assign cases and other judicial acts to the judges as directed by the Chief Justice:

Provided that, except where cases or judicial acts are assigned according to general directives or according to rules made pursuant to subarticle (6), where the Chief Justice may be challenged or may abstain from taking cognizance of a case for any of the reasons mentioned in article 734(1)(a), (b), (c), (d)(ii) and (iii), (e) and (g), the assignment of such a case shall be made by the Deputy Chief Justice.

(4) Whenever any judge, other than the Chief Justice, is challenged or otherwise lawfully impeded, the Chief Justice shall assign another judge to take cognizance of the case:

Provided that, except where cases or judicial acts are assigned according to general directives or according to rules made pursuant to subarticle (6), where the Chief Justice may be

challenged or may abstain from taking cognizance of a case for any of the reasons mentioned in article 734(1)(a), (b), (c), (d)(ii) and (iii), (e) and (g), the assignment of a judge to take cognizance of that case shall be made by the Deputy Chief Justice.

(5) Without prejudice to the provisions of article 12(2), and except where cases and judicial acts are assigned according to general directives or according to rules made pursuant to subarticle (6), where the Chief Justice is challenged or otherwise lawfully impeded, the Deputy Chief Justice shall assign another judge to take cognizance of the case.

(6) The Rule-Making Board established under article 29 may make rules providing for the manner of the distribution of cases and other judicial acts for the purposes of subarticles (3), (4) and (5).

(7) Any assignment, transfer or subrogation made by the President of Malta, and any distribution of duties in general, and the assignment of cases pursuant to a challenge or abstention made by the Chief Justice or, as the case may be, by the Deputy Chief Justice, shall be deemed to have been properly and sufficiently notified for all purposes if notice thereof is posted in such registry as the Minister may under article 27 prescribe for the purpose before or at the beginning of the period during which such assignment, transfer, subrogation or distribution is to take effect.

(8) Where any dispute arises as to whether a case or other judicial act is to be assigned to one judge or to another judge sitting in the same court or in the same chamber or section of a court, or when a dispute arises as to which chamber or section of a court is to deal with a particular case or a particular judicial act, the matter shall be referred to the Chief Justice who shall, *in camera*, determine the judge or chamber or section to which the case or judicial act shall be assigned. The determination by the Chief Justice shall be registered in the records of the case and shall be final:

Provided that where the Chief Justice may be challenged or may abstain from taking cognizance of that case or judicial act for any of the reasons mentioned in article 734(1)(a), (b), (c), (d)(ii) and (iii), (e) and (g), the determination shall be made by the Deputy Chief Justice.”.

5. Subarticle (1) of article 12 of the Code shall be substituted by the following new subarticle: Amendment of article 12 of the Code.

“(1) The provisions of articles 8, 9, 10 and 11(1) shall, *mutatis mutandis*, also apply to the President of the Court of Appeal.”.

6. Article 29 of the Code shall be amended as follows: Amendment of article 29 of the Code.

(a) for subarticle (1) thereof, there shall be substituted the following:

“(1) There shall be a Board composed of the Chief Justice, as chairman, who shall also have a casting vote, a judge ordinarily sitting in the Court of Appeal and a magistrate appointed by the President of Malta on the recommendation of the Chief Justice, the Attorney General, the President of the Chamber of Advocates and the President of the Chamber of Legal Procurators whose function shall be to make rules, to be called Rules of Court, for the purposes specified in subarticle (2) or in any other provision of this Code or of any other law.”.;

(b) in subarticle (2) thereof, for the words from “Rules of Court may be made generally” to the words “but without prejudice to the generality of the aforesaid -”, there shall be substituted the following:

“Rules of Court may be made generally in respect of all matters concerning the conduct of the courts and the conduct of causes with the object of ensuring a proper and efficient administration of justice and, in particular, but without prejudice to the generality of the aforesaid -”;

(c) for paragraph (a) of subarticle (2) thereof, there shall be substituted the following:

“(a) for governing the conduct of the courts and for securing and maintaining order and decorum within the building of the courts;”;

(d) immediately after paragraph (g) of subarticle (2) thereof, there shall be substituted the following new paragraph:

“(h) for fixing the sessions of the forensic year and the vacation days in the superior and inferior courts, and matters ancillary or incidental to such sessions and vacation days:”;

(e) immediately after subarticle (7) thereof, there shall be added the following new subarticle:

“(8) Without prejudice to the provisions of subarticle (7), the Chief Justice may, in his discretion, transfer any case from one court to another:

Provided that in the execution of this function the Chief Justice shall discuss the matter with the judges or magistrates concerned, either during any of the meetings convened in accordance with subarticle (6) or during an *ad hoc* meeting held for the purpose.”.

Amendment of article 34 of the Code.

7. In the proviso to article 34 of the Code, immediately after the words “from such judgment of the First Hall of the Civil Court” there shall be added the words “or from any section of the said Civil Court”.

Amendment of article 47 of the Code.

8. In subarticle (1) of article 47 of the Code for the words “of an amount not exceeding five thousand liri” there shall be substituted the words “of an amount not exceeding ten thousand liri”.

Substitution of article 79 of the Code.

9. Article 79 of the Code shall be substituted by the following new article:

“**79.** No person may exercise the profession of advocate without the authority of the Government of Malta granted by warrant under the public seal of Malta.”.

Substitution of article 89 of the Code.

10. Article 89 of the Code shall be substituted by the following new article:

“**89.** (1) The Minister responsible for justice shall, in consultation with the Chamber of Advocates and the Chamber of Legal Procurators, draw up a list of advocates, legal procurators and other experts, who habitually exercise their profession in the courts of justice to perform the duties of curators, advocates or legal procurators *ex officio* and experts in the Courts of Malta and Gozo, free of charge as may be required under this Code.

(2) The Advocate for Legal Aid referred to in article 911(6) shall draw up separate lists, from the list referred to in subarticle (1).

(3) The advocates and legal procurators appointed under subarticle (1) shall also be bound to give their assistance

to any person who, not being entitled to the benefit of legal aid, shall apply to the competent court for such assistance, and shall satisfy the court, in such manner and by such means as the court may prescribe, that *prima facie* he has reasonable grounds for taking or defending or being a party to proceedings and that he did not succeed in engaging the services of another advocate or legal procurator.”.

11. Article 91 of the Code shall be substituted by the following new article. Substitution of article 91 of the Code.

“**91.** The names of advocates, legal procurators and other experts referred in article 89 shall be published in a list to be placed at the Chamber of Advocates, the Chamber of Legal Procurators and any other place within the precincts of the courts of justice as the Minister responsible for justice may deem fit.”.

12. In subarticle (1) of article 152 of the Code, immediately after the words “but not later than six months after the filing of the application for appeal”, there shall be inserted the words “and the payment of the deposit”.

Amendment of article 152 of the Code.

13. Article 166A of the Code shall be amended as follows: Amendment of article 166A of the Code.

(a) in subarticle (1), and in the first proviso thereto, for the words “five thousand liri”, wherever they occur, there shall be substituted the words “ten thousand liri, or such other sum as may be established from time to time by Order in the Gazette by the Minister”; and

(b) immediately after sub-paragraph (ii) of subarticle (5) thereof, there shall be added the following new proviso:

“Provided that the said application shall be appointed for hearing within two weeks.”.

14. Subarticle (3) of article 167 of the Code shall be substituted by the following new subarticle: Amendment of article 167 of the Code.

“(3) The provisions of article 156(1)(a), (b) and (c), (2) and (3) and of article 159 shall apply to the said sworn application.”.

15. Subarticle (5) of article 195 of the Code shall be renumbered as subarticle (6) thereof and, immediately after subarticle (4) thereof, there shall be added the following new subarticle: Amendment of article 195 of the Code.

“(5) (a) Where a cause has been pending before a

particular court for three or more years, any party to the case may, personally, and without the need of representation by any advocate, present an application, (which application shall, however, not form part of the acts of the case) to the Chief Justice requesting that, for the simple reason that the cause has taken so long, the presiding member of the court be changed and the case assigned to another member of the judiciary; the decision of the Chief Justice, which shall be taken *in camera*, shall be final and conclusive; and where such assignment takes place there shall be no need for any notification of such assignment.

(b) Where a cause has been pending for judgment before a particular court for eighteen months or more, any party to the case may, personally, and without the need of representation by any advocate, present an application, (which application shall, however, not form part of the acts of the case) to the Chief Justice requesting that, for the simple reason that the judgment has taken so long to be delivered, the presiding member of the court be changed and the case for judgment assigned to another member of the judiciary; the decision of the Chief Justice, which shall be taken *in camera*, shall be final and conclusive; and where such assignment takes place there shall be no need for any notification of such assignment.

(c) The Chief Justice shall draw up a yearly report on any causes transferred in accordance with the provisions of paragraphs (a) and (b), detailing the possible reasons for such delays, and shall send the report to the Commission for the Administration of Justice. The Commission shall take such action as it may deem appropriate in accordance with the provisions of the Commission for the Administration of Justice Act, and shall, within three months, publish such report.”.

Cap. 369.

Addition of new article 195A to the Code.

16. Immediately after article 195 of the Code, there shall be added the following new article

"Trial of causes relating to division of property.

195A.(1) A cause relating to the division of property and succession shall, when set down for trial, unless otherwise provided for in this Code, be tried uninterruptedly to a conclusion.

(2) Nothing in this article contained shall prevent the court from deciding a cause on the day stated in the application where the claim is not contested or the court is satisfied that the plaintiff has no claim or the defendant has no valid defence.

(3) The adjournment of a cause shall not be granted except for the purpose of compliance with any procedure laid down in this Code or, in exceptional circumstances, in accordance with the provisions of subarticle (4).

(4) A cause may be adjourned in exceptional circumstances only if the court is satisfied that such circumstances exist and so states in the decree ordering the adjournment specifying those circumstances, and only on an application filed by the party demanding the adjournment not later than two working days before the day due for hearing or, if the cause of the adjournment arises after the expiration of the said time limit, as soon as practicable thereafter; and the application shall specify in detail the circumstances justifying the demand and shall be confirmed on oath by the applicant or, if the applicant is absent from Malta or is otherwise unable to confirm the application in person, by the advocate signing the application who shall, in such case, further confirm on oath the applicant's inability to confirm it himself.

(5) The Minister responsible for justice may make regulations for the better carrying into effect of the provisions of this article.”.

17. Article 218 of the Code shall be substituted by the following new article:

Substitution of
article 218 of
the Code.

“218. The court shall in the judgment premise the reasons on which the decision of the court is based, and shall include a reference to the proceedings, the claims of the plaintiff and the pleas of defendant:

Provided that the Rule-Making Board appointed under article 29 may, by Rules of Court, derogate from the provisions of this article.”.

Amendment of article 243 of the Code.

18. Subarticle (4) of article 243 of the Code shall be substituted by the following new subarticle:

“(4) In the case of any frivolous and vexatious appeal or re-trial, the Court of Appeal or the Constitutional Court may award double costs against the appellant in favour of the respondent.”.

Amendment of article 249 of the Code.

19. Subarticle (1) of article 249 of the Code shall be substituted by the following new subarticle:

“(1) Saving the provisions of the proviso to article 209(1) and unless otherwise provided in any other law, in the case of an appeal from judgments or decrees given in a cause initiated by sworn application, security for costs is to be produced and deposited in court within six months from the date of the notification of the amount to be deposited or, if the appeal is to be heard earlier than six months from the notification herein mentioned, not later than two days before the date set for the hearing of such appeal.”.

Substitution of article 258 of the Code.

20. Article 258 of the Code shall be substituted by the following new article:

“Procedure for enforcement of executive titles.

258. Where -

(a) a period of ten years has expired since the day on which according to law an executive title mentioned in paragraph (a) of article 253, in respect of judgments and decrees of the Superior Courts could have been enforced; or

(b) a period of five years has expired since the day on which according to law an executive title mentioned in paragraphs (a), (c) and (d) of article 253, in respect of judgments and decrees of the Inferior Courts or of the Small Claims Tribunal could have been enforced; or

(c) a period of three years has expired since the day on which according to law an executive title mentioned in paragraphs (b), and (e) of article 253, or in respect of proceedings taken under article 166A could have been enforced,

the enforcement may only be proceeded with upon a demand to be made by an application filed before the competent court. The applicant shall also confirm on oath the nature of the debt or claim sought to be enforced, and that the debt or part thereof is still due.”.

21. Subarticle (1) of article 734 of the Code shall be amended as follows: Amendment of article 734 of the Code.

(a) paragraph (g) thereof shall be re-numbered as paragraph (h); and

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

“(g) if the advocate or legal procurator pleading before a judge is the brother or sister of the said judge;”.

22. Article 811 of the Code shall be amended as follows: Amendment of article 811 of the Code.

(a) the marginal note thereof shall be substituted by the following new marginal note “New trial of decided causes.”;

(b) for the words from “A new trial of a cause” to the words “in any of the following cases:” there shall be substituted the words “A new trial of a cause decided by a judgment given in second instance or by the Civil Court, First Hall, in its Constitutional Jurisdiction, may be demanded by any of the parties concerned, such judgment being first set aside, in any of the following cases:”;

(c) paragraph (e) thereof shall be substituted by the following new paragraph:

“(e) where the judgment contains a wrong application of the law, or there has been a breach of any rule of civil procedure, or there is lack of conformity with any rule of civil procedure.

For the purposes of this paragraph there shall be deemed to be a wrong application of the law only where the decision, assuming the fact to be as established in the judgment which it is sought to set aside, is not in accordance with the law, or that rule of procedure, provided the issue was not in reference to an interpretation of the law expressly dealt with in the judgment;”.

Amendment to article 911 of the Code.

23. Subarticle (6) of article 911 of the Code shall be substituted by the following subarticle:

“(6) There shall be an Advocate for Legal Aid and the expression "Advocate for Legal Aid" in this Code or in any other law includes any other lawyer, officer or public officer designated by the Minister responsible for justice to perform, under the guidance of the Advocate for Legal Aid, any function pertaining to the Advocate of Legal Aid or to the administration of the benefit of legal aid as provided for in article 89.”.

Amendment of article 925 of the Code.

24. Paragraph (a) of subarticle (1) of article 925 of the Code shall be substituted by the following paragraph:

“(a) act in the best interest of the person admitted to the benefit of legal aid, and may not demand any form of payment from that party;”.

Addition of article 926 to the Code.

25. Immediately after article 925 of the Code, there shall be added the following new article:

“Companies not entitled to legal aid. Cap. 386.

926. Companies registered under the Companies Act shall not be entitled to the benefit of legal aid.”.

Amendment to Tariff K in Schedule A of the Code.

26. In paragraph 19 of Tariff K in Schedule A to the Code, for the words "in accordance with item (f) of Schedule A to the Witnesses (Fees) Ordinance" there shall be substituted the words "in accordance with the Schedules to the Witnesses (Fees) Ordinance".

Amendment of the Witnesses (Fees) Ordinance. Cap. 108.

27. The Witnesses (Fees) Ordinance shall be amended as follows:

(a) article 3 thereof shall be substituted by the following new article:

“**3.** Witnesses shall be entitled to the fees prescribed in Schedule A and D to this Ordinance for attendance before a superior court and to the fees prescribed in Schedule B for attendance before any other court:

Provided that no person employed in the service of the Government of Malta shall be entitled to any fee when called to give evidence by the Government.”;

(b) article 5 thereof shall be substituted by the following new article:

“5. Witnesses residing in Malta whose attendance is required before a court in Gozo and witnesses residing in Gozo whose attendance is required before a court in Malta shall also be entitled to expenses for board and lodging actually incurred by them in staying in Gozo or in Malta as the case may be. Such expenses shall not exceed the limits laid down in Schedules C or D, as the case may be, to this Ordinance.”;

(c) in Schedule A thereof, for the words “The following fees shall be allowed to witnesses before a superior court:”, there shall be substituted the words “The following fees shall be allowed to witnesses before a superior court of criminal jurisdiction:”;

(d) in Schedule C thereof, for the words “The following expenses for board and lodging shall be allowed in terms of article 5 for each day a witness attends at any court:”, there shall be substituted the words “The following expenses for board and lodging shall be allowed in terms of article 5 for each day a witness attends at any court of criminal jurisdiction:”; and

(e) immediately after Schedule C thereof, there shall be added the following new schedule:

"SCHEDULE D

(Articles 3 and 5)

Fees payable to witnesses in cases of civil jurisdiction

1 For testimony given before civil courts or boards and tribunals having a civil function	Lm10 per day
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Provided that if evidence is of a scientific or technical nature, and is given by a person who has not been appointed as an expert in the cause, the remuneration shall be increased to	Lm20 per day
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2 Where the provisions of article 5 of this Ordinance apply, the expenses for board and lodging will be equivalent to the then prevailing rate in a Four Star hotel."

28. (1) The Partition of Inheritances Act is hereby repealed.

(2) Notwithstanding the provisions of subarticle (1), any cause pending before the Partition of Inheritances Tribunal shall continue to be heard before the said Tribunal until final decision.

Repeal of
Partition of
Inheritances
Act.
Cap. 308.

Objects and reasons

The objects of this Bill are to introduce amendments to the Code of Organization and Civil Procedure, as well as consequential amendments to other laws, in order to achieve a better and more expeditious administration of justice.