

**ABBOZZ TA' LIĠI**  
**msejjah**

*ATT biex jemenda l-Kodiċi Ċivili, Kap. 16.*

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 Ċivili, u għandu jinqara u jinftiehem haġa waħda mal-Kodiċi Ċivili, hawnhekk iżjed 'il quddiem f'dan l-Att imsejjah "il-Kodiċi".

Titolu fil-qosor.

Kap. 16.

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

**2.** Minnufih wara l-artikolu 57 tal-Kodiċi għandu jiżdied l-artikolu ġdid li ġej:

Żieda ta' artikolu ġdid fil-Kodiċi.

"Likwidazzjoni tal-komunġoni ta' l-akkwisti riferita liċ-Ċentru ta' Arbitraġġ.

**57A.** Minkejja d-disposizzjonijiet hawn fuq imsemmija, il-Qorti tista' tagħzel li fis-sentenza tagħha tillimita d-deċiżjoni tagħha u minflok ma tiddeċiedi fuq il-likwidazzjoni tal-komunġoni ta' l-akkwisti prevja dikjarazzjoni tax-xoljiment, tirreferi dan sabiex jiġi deċiż quddiem iċ-Ċentru ta' l-Arbitraġġ ta' Malta."

Sostituzzjoni ta' l-artikolu 59 tal-Kodiċi.

3. L-artikolu 59 tal-Kodiċi għandu jiġi sostitwit bl-artikolu ġdid li ġejj:

"59. (1) Il-firda personali tista', bis-setgħa tal-qorti permezz ta' digriet skond l-artikolu 35, issir bil-kunsens tat-tnejn, b'att pubbliku.

(2) Il-qorti għandha, qabel ma tagħti din is-setgħa, twissi lill-partijiet dwar dak li ġġib magħha l-firda, u tfittex li tirrikonċiljahom, u tista' tħassar, tvarja u ddaħħal dawk il-kondizzjonijiet li hija thoss xierqa.

(3) Dan id-digriet għandu l-istess effetti ta' sentenza tal-qorti kompetenti."

Emenda ta' l-artikolu 70 tal-Kodiċi.

4. Minnufih wara s-subartikolu (4) ta' l-artikolu 70 tal-Kodiċi għandu jiżdied s-subartikolu ġdid li ġejj:

"(4) Għar-rigward ta' tifel imwieled qabel l-1 ta' Diċembru, 1993, ir-raġel ikun jista' wkoll jiċhad li jagħraf it-tifel innissel matul iż-żwieġ għar-raġunijiet elenkati fis-subartikolu (1) kif kienu fis-seħħ wara dik id-data, jekk il-kawża għaċ-ċaħda ta' l-għarfien tat-tifel tiġi prezentata mhux aktar tard mill-31 ta' Diċembru, 2006."

Emenda ta' l-artikolu 278 tal-Kodiċi.

5. Fil-proviso tal-paragrafu (e) ta' l-artikolu 278 tal-Kodiċi, wara l-kliem "l-ewwel raġel tagħha;" għandhom jidhlu l-kliem "u salv meta l-omm tkun miżżewġa ma għandhomx jidhlu kliem li jiddeskrivu l-istat tagħha;"

Emenda ta' l-artikolu 279 tal-Kodiċi.

6. Fis-subartikolu (1) ta' l-artikolu 279 tal-Kodiċi, wara l-kliem "dik it-tarbija" għandu jiżdied il-kliem "u l-istatus ta' l-omm m'għandux jiġi dikjarat jew b'xi mod indikat".

Żieda ta' artikoli ġodda fil-Kodiċi.

7. Minnufih wara l-artikolu 1028 tal-Kodiċi għandhom jiżdiedu l-artikoli ġodda li ġejjin:

"Arrikkiment għad-dannu ta' haddiehor.

**1028A.** (1) Min, mingħajr kawża ġusta, jarrikkixxi ruħu għad-dannu ta' haddiehor għandu fil-limiti ta' l-arrikkiment iħallas lura u jikkumpensa għal kull tnaqqis patrimonjali li setgħet sofriet dik il-persuna.

(2) Jekk l-arrikkiment huwa ta' oġġett determinat, dak li rċevih huwa marbut li jagħti lura l-oġġett in natura jekk dan ikun għadu jeżisti fil-mument tat-talba.

Meta ma tistax  
tigi eżerċitata l-  
*actio de in rem*  
*verso*.

**1028B.** *L-actio de in rem verso* ma tistax tigi eżerċitata meta min soffra t-telf jista' juża azzjoni oħra sabiex tagħmel tajjeb għadannu."

**8.** L-artikolu 2002 tal-Kodiċi għandu jiġi sostitwit bl-artikolu ġdid li ġej:

Sostituzzjoni ta'  
l-artikolu 2002  
tal-Kodiċi.

"**2002.** (1) Il-privileġġi speċjali u ġenerali fuq hwejjeġ mobbli, hlief għal dawk speċifikati taħt is-subartikolu (2), ma jibqgħux isehħu fuq il-ħaġa jekk din tgħaddi f'idejn it-terzi.

(2) Il-privileġġi speċjali fuq l-immobbli u fuq dawk il-mobbli li l-Ministru, minn żmien għal żmien, jistabbilixxi jibqgħu mgħaqqdin ma' dawn l-immobbli jew mobbli, għalkemm dawn iġhadu għand persuni oħra."

**9.** L-artikolu 2008 tal-Kodiċi għandu jiġi sostitwit bl-artikolu ġdid li ġej:

Sostituzzjoni ta'  
l-artikolu 2008  
tal-Kodiċi.

"**2008.** Il-privileġġ dwar provvisti u oġġetti ta' forniture jgħodd biss għall-hwejjeġ li ma jistgħux jgħaddu mingħajrom id-debitur u l-familja tiegħu, u li, għal kull fini u għan tal-liġi, ma għandhomx jeċċedu s-somma ta' elf u hames mitt lira, jew dik is-somma l-oħra li l-Ministru responsabbli għall-ġustizzja jista' jippreskrivi minn żmien għal żmien:

Izda fil-każ ta' armel jew armla jew id-dipendenti tagħhom, is-somma għandha tkun elfejn u hames mitt lira, jew dik is-somma l-oħra li l-Ministru responsabbli għall-ġustizzja jista' jippreskrivi minn żmien għal żmien."

**10.** Fl-artikolu 2012 tal-Kodiċi, is-subartikolu (1) għandu jithassar u jiġi sostitwit bis-subartikolu ġdid li ġej:

Emenda ta' l-  
artikolu 2012  
tal-Kodiċi.

"(1) Ipoteka hija ġenerali jew speċjali: hija ġenerali jekk tolqot il-beni kollha li għandu u li għad ikollu d-debitur; hija speċjali jekk tolqot biss wiehed jew iżjed:

(a) minn immobbli partikolari tax-xorta li ġejjin:

(i) l-immobbli minnhom infushom, u l-prodott ta' dawn l-immobbli sakemm ma jiġix mifrud minnhom;

(ii) il-jedd ta' użufrutt fuq l-immobbli hawn fuq imsemmija, għaż-żmien li jdum l-użufrutt;

(iii) id-dominju dirett fuq l-immobbli hawn fuq imsemmija moghtijin b'enfitewsi, u l-utili dominju fuq daww l-immobbli; u

(b) minn mobbli kif il-Ministru jista' minn zmien għal zmien, jistabbilixxi."

Emenda ta' l-artikolu 2013 tal-Kodiċi.

**11.** Fl-artikolu 2013 tal-Kodiċi, is-subartikolu (1) għandu jithassar u jiġi sostitwit bis-subartikolu ġdid li ġej:

"(1) Ipoteka speċjali tibqa' mgħaqqda ma' kull immobbli li jkun suġġett għaliha, kif imfisser fl-artikolu 2012(1)(a) u ma' kull mobbli li jkun suġġett għaliha skond is-subartikolu (1)(b) ta' l-istess artikolu allavolja dak l-immobbli jew mobbli jkun għadda f'idejn haddiehor."

Emenda ta' l-artikolu 2016 tal-Kodiċi.

**12.** Fis-subartikolu (1) ta' l-artikolu 2016 tal-Kodiċi, minnufih wara l-kelma "immobbli" għandhom jiżdiedu l-kliem "u mobbli".

Emenda ta' l-artikolu 2028 tal-Kodiċi.

**13.** Fis-subartikolu (2) ta' l-artikolu 2028 tal-Kodiċi, minnufih wara l-kelma "immobbli" għandhom jiżdiedu l-kliem "u mobbli".

Emenda ta' l-artikolu 2029 tal-Kodiċi.

**14.** Fl-artikolu 2029 tal-Kodiċi, minnufih wara l-kelma "immobbli" għandhom jiżdiedu l-kliem "u mobbli".

Emenda ta' l-artikolu 2030 tal-Kodiċi.

**15.** L-artikolu 2030 tal-Kodiċi għandu jiġi emendat kif ġej:

(a) fil-paragrafu (a) tiegħu, minflok il-kliem "fl-artikolu 2010(a), (ċ) u (d)" għandhom jidhru l-kliem "fl-artikolu 2009(a) u (d) u fl-artikolu 2010(a), (ċ) u (d)";

(b) fil-paragrafu (b) tiegħu, minflok il-kliem "fil-paragrafu (b) ta' dak l-artikolu" għandhom jidhru l-kliem "fl-artikolu 2010(b)"; u

(ċ) fil-paragrafu (ċ) tiegħu, minflok il-kliem "fil-paragrafu (e) ta' dak l-artikolu" għandhom jidhru l-kliem "fl-artikolu 2010(e)".

Sostituzzjoni ta' l-artikolu 2032 tal-Kodiċi.

**16.** L-artikolu 2032 tal-Kodiċi għandu jiġi sostitwit bl-artikolu ġdid li ġej:

"**2032.** Hlief għal daww imsemmijin fl-artikolu 2012(1)(b), il-privileġġi ġenerali, u l-privileġġi speċjali fuq hwejjeġ mobbli, mhumiex suġġetti għall-iskrizzjoni."

Emenda ta' l-artikolu 2042 tal-Kodiċi.

**17.** Fil-paragrafu (h) ta' l-artikolu 2042 tal-Kodiċi, minflok il-kliem "l-immobbli suġġetti" għandhom jidhru l-kliem "l-immobbli u l-mobbli suġġetti".

- 18.** Fl-artikolu 2048 tal-Kodiċi, minflok il-kliem "l-immobbli jkun" għandhom jidhlu l-kliem "l-immobbli u l-mobbli jkunu". Emenda ta' l-artikolu 2048 tal-Kodiċi.
- 19.** Fl-artikolu 2149 tal-Kodiċi, il-paragrafu (e) għandu jiġi mħassar. Emenda ta' l-artikolu 2149 tal-Kodiċi.
- 20.** Fl-artikolu 2156 tal-Kodiċi, il-paragrafu ġdid li ġej għandu jiżdied minnufih wara l-paragrafu (f) tiegħu: Emenda ta' l-artikolu 2156 tal-Kodiċi.
- "(g) l-azzjonijiet tal-Gvern ta' Malta, għall-hlas ta' drittijiet ġudizzjarji, dazji jew taxxi oħra."
- 21.** In-nota spjegattiva (1) tal-Formola Ċ ta' l-Iskeda għandha tithassar u tiġi sostitwita bin-nota li ġejja: Emenda fil-Formola Ċ ta' l-Iskeda tal-Kodiċi .
- "(1) Jekk l-att ikun dwar tifel imwieled barra miż-żwieġ ara l-artikoli 279 u dawk ta' warajh tal-Kodiċi Ċivili (Kap. 16)."

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### Għanijiet u Raġunijiet

L-għanijiet ta' dan l-Abbozz huma biex jintroduċi diversi emendi fil-Kodiċi Ċivili.

**A BILL  
entitled**

*AN ACT to amend the Civil Code, Cap. 16.*

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same, as follows:-

Short title.  
Cap. 16.

**1.** (1) The short title of this Act is the Civil Code (Amendment) Act, 2006, and it shall be read and construed as one with the Civil Code, 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.

Addition of new  
articles to the  
Code.

**2.** Immediately after article 57 of the Code there shall be added the following new article:

“Liquidation of  
the community  
of acquests  
referred to the  
Arbitration  
Centre.

**57A.** Notwithstanding the foregoing provisions, the Court may choose that in its judgment it limits its decision and instead of deciding on the liquidation of the community of acquests subject to a declaration of dissolution, refer the same to be decided by the Malta Arbitration Centre.”.

Substitution of  
article 59 of the  
Code.

**3.** Article 59 of the Code shall be substituted by the following new article:

“**59.** (1) Personal separation may, subject to the authority of the court by means of a decree in accordance with article 35, be effected by mutual consent of the spouses, by means of a public deed.

(2) The court shall, before giving its authority, admonish the parties as to the consequences of the separation, shall endeavour to reconcile them, and may revoke, modify or add those conditions it may deem fit.”.

**4.** Immediately after subarticle (4) of article 70 of the Code, there shall be added the following new subarticle: Amendment of article 70 of the Code.

"(4) With regard to a child born before the 1st December, 1993, the husband may also repudiate the child conceived during wedlock for the reasons listed in subarticle (1), as these were in force after that date, if the cause for the repudiation of the child is presented in court not later than the 31st December, 2006."

**5.** In the proviso to paragraph (e) of article 278 of the Code, immediately after the words "shall also be stated;" there shall be added the words "and saving the case where the mother is married there shall be added no words which describe her status;" Amendment of article 278 of the Code.

**6.** In subarticle (1) of article 279 of the Code, immediately after the words "of such child" there shall be added the words "and the mother's status shall not be declared or in any other manner indicated" Amendment of article 279 of the Code.

**7.** Immediately after article 1028 of the Code there shall be added the following new articles: Addition of new articles to the Code.

“Enrichment to the detriment of others.

**1028A.** (1) Whosoever, without a just cause, enriches himself to the detriment of others shall, to the limits of such enrichment, reimburse and compensate any patrimonial loss which such other person may have suffered.

(2) If the enrichment constituted a determinate object, the recipient is bound to return the object in kind, if such object is still in existence at the time of the claim.

Where the *actio de in rem verso* may not be exercised.

**1028B.** The *actio de in rem verso* may not be exercised where the person who suffers the loss may take another action to make up for such loss.”.

Substitution of article 2002 of the Code.

**8.** Article 2002 of the Code shall be substituted by the following new article:

“**2002.** (1) Special and general privileges over movables, except those specified under subarticle (2), cease to exist if the property passes into the hands of a third party.

(2) Special privileges over immovables and those movables which the Minister shall, from time to time, establish shall continue to attach to such immovables or movables whatever transfers to other persons take place.”.

Substitution of article 2008 of the Code.

**9.** Article 2008 of the Code shall be substituted by the following new article:

“**2008.** The supplies and provisions which are privileged include all objects that are necessary for the support of the debtor and his family, and which shall, for all intents and purposes of law, not exceed the sum of one thousand five hundred liri or such other amount as the Minister responsible for justice may from time to time prescribe:

Provided that in the case of a widow or a widower or of their dependants, the sum shall be two thousand five hundred liri or such other amount as the Minister responsible for justice may from time to time prescribe.”.

Amendment of article 2012 of the Code.

**10.** In article 2012 of the Code, subarticle (1) shall be deleted and substituted by the following new subarticle:

“(1) A hypothec is general or special: it is general when it affects all the property present and future of the debtor; it is special when it affects only one or more:

(a) particular immovables of the following kind:

(i) things which are immovable by their nature, and products of such immovables so long as they are not separated therefrom;

(ii) the right of usufruct over the said immovables, during the continuance of such right;

(iii) the *dominium directum* over the said immovables given on emphyteusis, and the *dominium utile* over such immovables; and

(b) particular movables as the Minister may, from



time to time, establish.”.

**11.** In article 2013 of the Code, subarticle (1) shall be deleted and substituted by the following new subarticle: Amendment of article 2013 of the Code.

“(1) A special hypothec continues to attach to any immovables charged therewith as defined in article 2012(1)(a) and movables charged therewith under subarticle (1)(b) of the said article into whosoever’s possession such immovable or immovable may pass.”.

**12.** In subarticle (1) of article 2016 of the Code, immediately after the word “immovable” there shall be inserted the words “and movable”. Amendment of article 2016 of the Code.

**13.** In subarticle (2) of article 2028 of the Code, immediately after the word “immovables” there shall be inserted the words “and movables”. Amendment of article 2028 of the Code.

**14.** In article 2029 of the Code, immediately after the word “immovables” there shall be inserted the words “and movables”. Amendment of article 2029 of the Code.

**15.** Article 2030 of the Code shall be amended as follows: Amendment of article 2030 of the Code.

(a) in paragraph (a) thereof, for the words “in paragraph (a), (c) and (d) of article 2010” there shall be substituted the words “in article 2009(a) and (d) and in article 2010(a), (c) and (d)”;

(b) in paragraph (b) thereof, for the words “in paragraph (b) of the said article” there shall be substituted the words “in article 2010(b)”;

(c) in paragraph (c) thereof, for the words “in paragraph (e) of the same article” there shall be substituted the words “in article 2010(e)”.

**16.** Article 2032 of the Code shall be substituted by the following new article: Substitution of article 2032 of the Code.

“**2032.** Except for those mentioned in article 2012(1)(b), general privileges and special privileges over movables are not subject to registration.”.

**17.** In paragraph (h) of article 2042 of the Code, for the words “immovable charged” there shall be substituted the words “immovable and movable charged”. Amendment of article 2042 of the Code.

Amendment of article 2048 of the Code.

**18.** In article 2048 of the Code, for the words “the immovables are” there shall be substituted the words “the immovables and movables are”.

Amendment of article 2149 of the Code.

**19.** In article 2149 of the Code, paragraph (e) shall be deleted.

Amendment of article 2156 of the Code.

**20.** In article 2156 of the Code, the following new paragraph shall be added immediately after paragraph (f) thereof:

“(g) actions of the Government of Malta for the payment of judicial fees, customs or other dues.”.

Amendment of Form C of the Schedule to the Code.

**21.** Explanatory note (1) of Form C of the Schedule shall be deleted and substituted by the following note:

"(1) If the act relates to the birth of a child outside wedlock see article 279 *et sequitur* of the Civil Code (Cap. 16.)".

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### **Objects and reasons**

The objects of this Bill are to introduce various amendments in the Civil Code.