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MALTA

KAMRA TAD-DEPUTATI

HOUSE OF REPRESENTATIVES

ABBOZZ ta' Liġi mressaq mill-Onorevoli Helena Dalli, M.P., Ministru għad-Djalogu Soċjali, Affarijiet tal-Konsumatur u Libertajiet Ċivili, u moqri għall-Ewwel darba fis-Seduta tal-10 ta' Ottubru, 2016.

A BILL introduced by the Honourable Helena Dalli, M.P., Minister for Social Dialogue, Consumer Affairs and Civil Liberties, and read the First time at the Sitting of the 10th October, 2016.

ATT biex jirregola l-koabitazzjonijiet u biex jipprovdi għal hwejjeg li għandhom x'jaqsmu magħhom jew anċillari għalihom.

AN ACT to regulate cohabitations and to provide for other matters dealing with them or ancillary to them.

RAYMOND SCICLUNA
Skrivan tal-Kamra tad-Deputati

RAYMOND SCICLUNA
Clerk of the House of Representatives

Abbozz ta' Liġi msejjah

ATT biex jirregola l-koabitazzjonijiet u biex jipprovdi għal ħwejjeg li għandhom x'jaqsmu magħhom jew anċillari għalihom.

Il-PRESIDENT, bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqa' f'dan il-Parlament, u bl-awtorità tal-istess, ħareġ b'liġi dan li ġej:-

TAQSIM TAL-ATT

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Taqsim I Preliminari

1. (1) It-titolu fil-qosor ta' dan l-Att huwa l-Att tal-2016 dwar il-Koabitazzjoni. Titolu fil-qosor u bidu fis-seħh.

(2) Dan l-Att għandu jidhol fis-seħh fid-data li l-Ministru responsabbli għall-ġustizzja jstabbilixxi b'avviż fil-Gazzetta, u dati differenti jistghu jiġu stabbiliti għal skopijiet u għal dispożizzjonijiet differenti ta' dan l-Att.

2. (1) F'dan l-Att, sakemm ir-rabta tal-kliem ma teħtieġ Tifsir. xort' oħra:

"dar ordinarja, primarja, komuni" tfisser dik id-dar li fiha l-koabitanti jghixu flimkien, kemm jekk tkun tappartjeni lil koabitant minnhom jew lit-tnejn fi kwalunkwe sehem bejniethom u kemm jekk jipposjeduha b'titolu ta' kera jew kwalunkwe titolu ieħor, flimkien jew minn wiehed mill-koabitanti;

"drittijiet u dmirijiet baziċi" tfisser id-drittijiet u dmirijiet elenkati fl-artikolu 30;

"koabitant" tfisser persuna illi kontinwament u abitwalment tgħix ma persuna oħra f'dar ordinarja, primarja komuni, li magħha jkollha relazzjoni intima u li flimkien iżommu lilhom infushom bħala koppja, u li mhix diġà legalment marbuta ma' persuna oħra:

Izda għall-fini ta' koabitazzjoni *de facto*, persuna illi għalkemm hi marbuta bi żwieġ jew unjoni ċivili, hi separata *de jure*, għandha tiġi kkunsidrata bħala koabitant ukoll;

"koabitazzjoni *de facto*" tfisser koabitazzjoni bejn żewġ persuni illi l-koabitazzjoni tagħhom ma tiġix reġistrata u lanqas unilateralment dikjarata skont dan l-Att u li tinkludi ukoll persuni illi għalkemm huma marbuta bi żwieġ jew unjoni ċivili, huma separati *de jure*;

"Ministru" sakemm mhux indikat mod ieħor tfisser il-Ministru responsabbli għall-gustizzja;

Kap. 55.

"nutar" tfisser uffiċjal pubbliku bis-setgħat kollha mogħtija lill mill-Att dwar il-Professjoni Nutarili u l-Arkivji Nutarili;

"Qorti" tfisser il-Qorti Ċivili (Sezzjoni Familja) jew xi Qorti oħra li maż-żmien tkun assenjata l-inkarigu li tiegħu konjizzjoni ta' materji familjari;

"regiŝtrat" tfisser insinwat fir-Regiŝtru Pubbliku;

"Regiŝtratur" tfisser l-uffiċjal pubbliku indikat mill-Ministru biex jaqdi l-funzjonijiet ta' Regiŝtratur tal-Koabitazzjoni għal Regiŝtru tal-Koabitazzjoni, u tinkludi, għal kull għan ta' dan l-Att, kull persuna awtorizzata mir-Regiŝtratur għal hekk;

"Regiŝtru tal-Koabitazzjoni" dwar koabitazzjonijiet li jiġu regiŝtrati fil-gżira ta' Malta tfisser it-taqsimha fl-Uffiċju tar-Regiŝtru Pubbliku fl-imsemmija gżira inkarigat b'responsabbiltà għal hwejjeġ li għandhom x'jaqsmu mal-koabitazzjonijiet, u dwar kuntratti ta' koabitazzjonijiet li jiġu regiŝtrati fil-gżira ta' Għawdex, tfisser it-taqsimha tal-Uffiċju tar-Regiŝtru Pubbliku f'Għawdex inkarigat kif intqal qabel;

"wild dipendenti" fir-rigward ta' koabitant jew koppja ta' koabitanti, tfisser kull wild illi l-koabitanti jew min minnhom huma l-ġenituri tagħhom jew li fir-rigward tagħhom huma qieghdin jaġixxu in *loco parentis* skont il-Kodiċi Ċivili u li għad għandhom id-dritt illi jirċievu manteniment mingħandhom skont l-istess Kodiċi. Kap. 16

(2) Id-dispożizzjonijiet kollha ta' dan l-Att għandhom japplikaw biss għall-koabitazzjonijiet skont id-dispożizzjonijiet ta' dan l-Att u għall-ebda forma oħra ta' koabitazzjoni li xi dikjarazzjoni dwarha ssir jew kuntratt dwarha jiġi redatt u, jew registrat li ma jkunx konformi mad-dispożizzjonijiet ta' dan l-Att.

Taqsimi II

Koabitazzjoni de facto

3. Koabitazzjoni *de facto* la tohloq drittijiet u obbligi legali tal-koabitanti lejn xulxin u, għall-finijiet u effetti kollha tal-ligi, lanqas tohloq rikonoxximent legali tar-relazzjoni bejn il-koppja, ħlief wara sentejn u limitament għas-segwenti: Koabitazzjoni *de facto*.

(a) koabitant għandu jitqies bħala inkwilin għal kull finijiet u effetti tal-ligi fir-rigward ta' kull kirja tad-dar ordinarja, primarja komuni li giet kostitwita permezz ta' kuntratt minn xi wiehed mill-koabitanti, irrispettivament mid-data tal-kostituzzjoni tal-kirja kif ukoll fir-rigward ta' kull kirja kummerċjali taht il-Kodiċi Ċivili, sakemm l-imsemmi kuntratt jintemm:

Izda s-sid tad-dar ordinarja, primarja komuni jzomm id-dritt li ma' tmiem il-kuntratt kostitwit minn xi wiehed mill-koabitanti, jirrifjuta li jgedded l-imsemmi kuntratt mal-koabitant l-iehor;

(b) koabitant għandu jiġi kkunsidrat bħala l-eqreb persuna għall-koabitant l-iehor għall-finijiet u effetti kollha tal-ligi;

(c) koabitant għandu d-dritt illi jiehu decizjoni dwar il-kura medika tal-koabitant l-iehor.

Taqsimi III

Koabitazzjoni permezz ta' kuntratt bejn il-partijiet

4. Persuni illi għandhom il-hsieb illi jikkoabitaw u, jew persuni li digà huma koabitanti jistgħu jagħzlu li jirregolaw il-koabitazzjoni tagħhom billi jidhlu f'kuntratt konformi mad-dispożizzjonijiet ta' dan l-Att, liema kuntratt għandu jiġi registrat min-nutar kif provdut aktar l-isfel f'dan l-Att. Koabitazzjoni permezz ta' kuntratt bejn il-partijiet.

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Nullità ta' kuntratt ta' koabitazzjoni.

5. (1) Kuntratt ta' koabitazzjoni li jsir bejn:

(a) persuni li waħda minnhom tkun taħt l-età illi tassumi obbligi kuntrattwali sakemm mhux awtorizzata skont il-ligi;

(b) axxendent u dixxendent f'linja diretta;

(c) aħwa, sew jekk mill-istess ġenituri sew jekk mill-istess missier jew omm biss;

(d) persuni li jkunu qraba b'affinità fil-linja diretta;

(e) min jadotta u l-persuna adottata;

(f) persuni li waħda minnhom ma tkunx tista' tagħti l-kunsens tagħha għall-kuntratt minhabba li tkun interdetta, inabilitata jew ma jkollhiex l-użu tar-raġuni;

(g) persuni illi jkunu marbutin fi żwieg jew f'unjoni ċivili ma' xulxin jew ma' terzi;

(h) persuni illi jkunu marbutin b'kuntratt ta' koabitazzjoni preċedenti ma' terzi skont dan l-Att;

(i) persuni illi jkunu f'koabitazzjoni ma terzi illi koabitant minnhom ikun unilateralment iddikjaraha bħala tali skont dan l-Att;

(j) koabitanti illi r-relazzjoni intima ta' bejniethom jew ma' terzi hija regolata b'ligi estera li ttiprovdi għad-drittijiet u dmirijiet ta' bejniethom irrispettivament min kif hija msejjha sakemm l-imsemmija rabta tkun regolata b'mod illi jkollha jew jista' jkollha effetti legali f'Malta,

ikun null u bla effett.

(2) Għall-finijiet tas-subartikolu (1), ir-relazzjoni ta' persuna adottata għandha titqies li teżisti sew b'referenza għall-familja bijologika tagħha kif ukoll għall-familja adottiva tagħha.

(3) Il-Qorti ta' Ġurisdizzjoni Voluntarja li taħtha tkun taqa' waħda mill-partijiet illi jkunu bi ħsiebhom jidhlu f'kuntratt ta' koabitazzjoni tista', jekk tintwera kawża ġusta biex isir dan, tiddispensa mid-dispożizzjonijiet tal-artikoli 5(1)(d) u (e).

Formalitajiet tal-kuntratt ta' koabitazzjoni.

6. (1) Il-kuntratt li jirregola koabitazzjoni bejn żewġ koabitanti għandu jkun magħmul b'att pubbliku li għalih għandu jiġi maħruġ ċertifikat ta' koabitazzjoni kif preskritt fl-Iskeda, wara li dan il-kuntratt jiġi registrat.

(2) Sabiex ikollu l-effetti legali ikkontemplati f'dan l-Att, kuntratt li jirregola l-koabitazzjoni bejn żewġ partijiet għandu jsir skont id-dispożizzjonijiet ta' dan l-Att u għandu jitqies validu biss jekk id-dispożizzjonijiet kollha ta' dan l-Att ikunu ġew sodisfatti u, jew imħarsa.

(3) Il-partijiet għandhom jiddikjaraw quddiem in-nutar illi m'hemm xejn illi jipprekludihom milli jidhlu f'kuntratt ta' koabitazzjoni legalment validu tenut kont dak li hemm imniżżel fl-artikolu 5, u n-nutar għandu l-obbligu li jagħmel annotazzjoni ta' din id-dikjarazzjoni fl-imsemmi kuntratt.

(4) Id-dikjarazzjoni imsemmija fis-subartikolu preċedenti għandha tagħmel tajjeb fejn in-nutar m'għandux il-mezzi sabiex jivverifika li m'hemm xejn illi jipprekludi lill-partijiet milli jkunu koabitanti, tenut kont ta' dak li hemm imniżżel fl-artikolu 5.

(5) Il-partijiet għandhom jiddikjaraw ukoll quddiem in-nutar jekk kienx hemm kuntratt ta' koabitazzjoni bejniethom fil-passat, liema kuntratt kien mitmum skont id-dispożizzjonijiet ta' dan l-Att.

(6) In-nutar, wara li jivverifika permezz tar-riċerki appositi jekk il-partijiet qabel dik id-data kinux daħlu f'kuntratt ta' koabitazzjoni bejniethom, liema kuntratt intemm skont id-dispożizzjonijiet ta' dan l-Att għandu:

(a) jekk ma kienx hemm kuntratt preċedenti, jiddikjara dan fl-imsemmi kuntratt; jew

(b) jekk kien hemm kuntratt preċedenti jgħaddi kopja tiegħu, flimkien mal-abbozz tal-kuntratt il-ġdid lill-Qorti kompetenti għall-awtorizzazzjoni tal-istess skont l-artikolu 16, u għandu jgħaddi biex jippubblika u jirreġistra l-kuntratt il-ġdid biss wara l-kisba tal-imsemmija awtorizzazzjoni.

(7) Għall-finijiet dan l-artikolu, n-nutar għandu jiżgura li r-riċerka uffiċjali maħruġa mir-Registru Pubbliku tiġi aġġornata uffiċjalment sa mhux aktar minn wieħed u għoxrin jum qabel id-data tal-pubblikazzjoni tal-kuntratt tal-koabitazzjoni, sakemm huwa ma jagħzix li jaġġornaha hu permezz ta' riċerka online, f'liema każ in-nutar għandu jaġġorna r-riċerka sa mhux aktar minn sebat ijiem qabel id-data tal-pubblikazzjoni tal-imsemmi kuntratt.

7. (1) Ir-registrazzjoni ta' kuntratt li jirregola koabitazzjoni bejn żewġ partijiet hija essenzjali għall-validità tal-imsemmi kuntratt fir-rigward tad-drittijiet u l-obbligi ta' terzi persuni.

Registrazzjoni tal-kuntratt ta' koabitazzjoni.

(2) Ir-registrazzjoni ta' kuntratt li jirregola koabitazzjoni bejn

żewġ partijiet ma tistax topera sabiex tagħmel validu kuntratt ta' koabitazzjoni li indipendentement minn dik ir-registrazzjoni, jkun null.

Materji fil-kuntratt ta' koabitazzjoni.

8. Fil-kuntratt li jirregola l-koabitazzjoni, l-partijiet, fost affarijiet oħra, għandhom jiftiehm fuq u jindikaw is-segwenti:

(a) (i) id-dar li għandha tigi meqjusa bhala d-dar ordinarja, primarja, komuni tal-koabitanti;

(ii) it-titolu legali ta' kull koabitant fuq l-imsemmija dar;

(iii) it-trasferiment tad-drittijiet reali li għandu jsehh bejn il-koabitanti fuq l-imsemmija dar f'każ ta' firda, jekk ikun il-każ;

(iv) id-drittijiet personali ta' kull wiehed mill-koabitanti, jew min minnhom fuq l-imsemmija dar f'każ ta' firda, jekk ikun il-każ;

(b) kif għandha ssir il-qasma ta' assi u djun sew jekk miżmuma in komuni kif ukoll jekk appartenenti lil koabitant wiehed jew l-iehor, meta l-koabitanti jkunu jixtiequ illi ssir assenjazzjoni ta' assi jew djun minn parti waħda għal parti l-oħra, f'każ ta' firda;

(c) manteniment, perjodiku jew f'somma globali jekk wiehed mill-koabitanti jkun jew isir dipendenti fuq il-koabitant l-iehor, flimkien mat-terminu u l-modalità tal-ħlas, kemm għal waqt il-perjodu ta' koabitazzjoni kif ukoll f'każ ta' firda, b'dan illi l-koabitanti jkunu liberi illi jindikaw illi tali manteniment ma jkunx dovut f'kull ċirkostanza jew f'ċerti ċirkostanzi;

(d) (i) perċentwal ta' awment annwali għall-imsemmi manteniment, meta u jekk ikun dovut, jew indikazzjoni ta' kif għandu jsir l-awment sabiex l-ammont jibqa' wiehed relevanti mingħajr il-ħtiega ta' bidla perjodika fil-kuntratt b'dan illi jekk l-ebda metodu ta' awment ma jissema tali awment għandu jittiehed li jkun skont l-Indiċi tal-Għoli tal-Ħajja;

(ii) meta l-awment ikun fuq bażi perjodika fissa għandu jibda' jitkejjel mill-ewwel anniversarju tar-registrazzjoni tal-kuntratt, irrISPETTIVAMENT minn jekk ikunx dovut jew le f'dak il-perjodu;

(iii) meta l-awment jiġi ndikat li għandu jkun b'zieda proporzjonali mas-salarju tal-koabitant li huwa dovut jöħroġ il-manteniment, fil-kuntratt għandu jkun hemm indikazzjoni ċara

tal-ammont illi l-imsemmi koabitant jkollu f'salarju fil-mument tal-kuntratt. Jekk ma jkun hemm l-ebda indikazzjoni oħra, s-salarju f'dak il-każ jitqies illi jkun id-dhul nett;

(e) id-dritt li t-tfal ta' wahda mill-koabitanti jghixu magħhom fid-dar meqjusa bħala d-dar ordinarja, primarja, komuni tal-koabitanti, jekk ikun il-każ u sakemm ma jkunx hemm ordni xort'oħra mill-Qorti kompetenti abbażi ta' proċeduri preċedenti;

(f) meta jkun hemm l-ulied, min mill-koabitanti ser ikollu f'idejh l-kura u l-kustodja tal-ulied dipendenti f'każ ta' firda sakemm ma jkunx hemm ordni xort'oħra mill-Qorti kompetenti abbażi ta' proċeduri preċedenti;

(g) (i) Ammont minimu ta' manteniment illi koabitant għandu jghaddi lill-koabitant l-ieħor għall-ulied dipendenti, flimkien mal-modalità tal-ħlas, sakemm ma jkunx hemm ordni xort'oħra mill-Qorti kompetenti fuq talba ta' wiehed mill-koabitanti, wara li jkunu ittiehdu in konsiderazzjoni ċ-ċirkostanzi kollha tal-koabitanti skont il-Kodiċi Ċivili:

Kap. 16.

B'dan illi għandu jkun hemm indikazzjoni ċara illi dan l-artikolu jiġi fis-seħh mingħajr il-ħtieġa ta' proċeduri legali immedjatament meta l-koabitanti jinfirdu jew ma jibqgħux jikkoabitaw flimkien, liema minnhom tiġi l-ewwel, skont il-każ;

(ii) il-koabitanti huma prekluzi milli jiftiehm li m'għandux ikun hemm manteniment dovut lill-ulied, u kull klawżola f'dan is-sens hija meqjusa bħala nulla u mingħajr effett;

(h) l-artikolu 30 għandu japplika b'mod awtomatiku bejn il-koabitanti jekk ma ssir l-ebda referenza għad-dispożizzjonijiet ta' drittijiet u dmirijiet bażiċi hekk kif elenkati fl-istess artikolu, f'każ ta' firda bejn il-koabitanti;

9. (1) Jekk ikun hemm kontestazzjoni dwar it-talba għal manteniment għall-ulied dipendenti minn wiehed mill-koabitanti skont l-artikolu 8(e), il-Qorti kompetenti m'għandhiex tiegħu bħala fiss l-ammont indikat mill-koabitanti bħala manteniment fil-kuntratt illi jirregola l-koabitazzjoni bejn il-partijiet, stante illi dan l-ammont huwa intiż illi jkun ammont minimu u mhux neċessarjament illi jkun wiehed adegwat.

Talbiet ta' manteniment.

(2) Il-Qorti m'għandhiex tiffissa manteniment f'ammont iżgħar mill-ammont illi l-koabitanti fil-kuntratt indikaw bħala l-ammont minimu illi għandu jingħata bħala manteniment għall-ulied

dipendenti:

Iżda fejn il-Qorti tara li l-koabitant li hu obligat iħallas l-imsemmi manteniment ikun tilef l-impjeg mingħajr htija tiegħu, il-Qorti tista' tikkunsidra li tiffissa manteniment f'ammont aktar baxx mill-ammont indikat mill-koabitanti fil-kuntratt bħala ammont minimu li għandu jingħata bħala manteniment għall-ulied dipendenti, kif ukoll tindika li l-ammont shiħ tal-manteniment isir immedjatament dovut malli l-koabitant dovut iħallas l-imsemmi manteniment isib impjeg.

Dikjarazzjoni mill-partijiet.

10. (1) In-nutar illi quddiemu l-partijiet ikunu sa jiffirmaw kuntratt ta' koabitazzjoni għandu l-obbligu illi jfisser fid-dettall lill-partijiet il-konsegwenzi tal-imsemmi kuntratt u tal-klawsoli li l-partijiet jkunu qed jagħzlu li jintrabtu bihom.

(2) Fil-kuntratt ta' koabitazzjoni, il-partijiet għandhom jiddikjaraw illi n-nutar fisser fid-dettall il-konsegwenzi tal-istess kuntratt u tal-klawsoli li huma jkunu qed jagħzlu li jintrabtu bihom u li huma fehmu l-obbligi u d-drittijiet tagħhom emanenti mill-istess.

Emendi għall-kuntratt ta' koabitazzjoni.

11. Il-koabitanti li jkunu jixtiequ jemendaw il-kuntratt ta' koabitazzjoni illi jkunu rreġistraw skont dan l-Att jistgħu jagħmlu dan biss:

(a) permezz ta' att korrettorju insinwat min-nutar mingħajr il-htieġa ta' awtorizzazzjoni tal-Qorti kompetenti, jekk tali att ikun intiż sabiex jagġorna kwalunkwe informazzjoni dwar propjetà, inkluż l-indirizz tad-dar ordinarja, primarja, komuni tal-koabitanti, jew biex iżid klawsoli illi jirrigwardaw ulied li twieldu wara r-reġistrazzjoni tal-att originali; jew

(b) f'kull istanza oħra, permezz ta' att korrettorju insinwat min-nutar wara li l-koabitanti konguntivament ikunu ġabu l-awtorizzazzjoni tal-Qorti kompetenti, liema Qorti għandha tassigura li ma jkun qiegħed jiġi emendat xejn li jmur kontra l-aħjar interess tal-ulied dipendenti jew illi jpoggi lil xi wieħed mill-koabitanti f'sitwazzjoni ta' vulnerabbiltà.

Awtorizzazzjoni mill-Qorti.

12. F'kull każ fejn il-Qorti tkun mitluba tagħti l-awtorizzazzjoni tagħha għal att korrettorju għandha, jekk thoss illi huwa l-każ biex tassigura li dan mhux qiegħed isir b'abbuż ta' koabitant wieħed fuq l-ieħor, tisma lill-koabitanti *viva voce*.

Dar ordinarja, primarja jew komuni.

13. Fejn il-koabitanti jibdlu d-dar meqjusa bħala d-dar ordinarja, primarja, komuni skont il-kuntratt ta' koabitazzjoni tagħhom mingħajr ma jemendaw l-imsemmi kuntratt kif preskritt fl-artikolu 11(a), id-dispożizzjonijiet li kienu stipulaw fil-kuntratt ta'

koabitazzjoni fir-rigward id-dar ordinarja, primarja, komuni skont l-artikolu 8(a) għandhom japplikaw bl-istess mod għad-dar ordinarja, primarja komuni għada.

14. Koabitant registrat skont dan l-Att jibbenefika mid-drittijiet elenkati fl-artikolu sussegwenti u minn drittijiet ulterjuri msemmija direttament fil-liġi bħala applikabbli għal-koabitanti registrati skont dan l-Att.

Drittijiet ta' koabitanti registrati.

15. Id-drittijiet mgħotija lill-koabitant registrat skont dan l-Att huma s-segwenti, u cioè illi l-imsemmi koabitant:

Drittijiet mgħotija lill-koabitant.

(a) għandu jitqies bħala inkwilin għal kull finijiet u effetti tal-liġi fir-rigward ta' kull kirja tad-dar ordinarja, primarja komuni li għet kostitwita permezz ta' kuntratt minn xi wiehed mill-koabitanti, irrISPettivament mid-data tal-kostituzzjoni tal-kirja kif ukoll fir-rigward ta' kull kirja kummerċjali taht il-Kodiċi Ċivili:

Kap. 16.

Izda s-sid tad-dar ordinarja, primarja komuni jzomm id-dritt li ma' tmiem il-kuntratt kostitwit minn xi wiehed mill-koabitanti, jirrifjuta li jgedded l-imsemmi kuntratt mal-koabitant l-iehor;

(b) għandu jitqies bħala inkwilin fejn jidhlu l-obbligi u, jew id-drittijiet tal-gabillotti u għaldaqstant bħala inkluz fit-tifsira 'kerrej' taht l-artikolu 2 tal-Att dwar it-Tigdid ta' Kiri ta' Raba';

Kap.199

(c) għandu jitqies bħala 'membru tal-familja' għat-tgawdija ta' kull drittijiet relatati ma' tigdid ta' kiri ta' raba' taht l-Att dwar it-Tigdid ta' Kiri ta' Raba;

Kap.199

(d) għandu jitqies li għandu l-istess drittijiet mogħtija lill-persuna mizzewga jew f'unjoni ċivili fejn jidhlu drittijiet relatati ma' xogħol u l-familja, inkluz drittijiet varji relatati mal-leave, kemm dawk id-drittijiet misjuba f'liġijiet primarji, dawk sussidjarji kif ukoll kodiċijiet u prattiċi ta' xogħol, eskluż però d-dritt tal-leave sabiex wiehed jakkumpanja s-sieheb tiegħu fuq korsijiet barra minn Malta sponsorjati mill-gvern;

(e) għandu jiġi kkunsidrat bħala l-eqreb persuna għall-koabitant l-iehor għall-finijiet u effetti kollha tal-liġi;

(f) għandu d-dritt illi jieħu kull deċiżjoni dwar il-kura medika tal-koabitant l-iehor;

(g) għandu, f'każ illi wiehed mill-koabitanti jiġi nieqes

waqt il-koabitazzjoni u ma jkunx halla testament, u s-superstiti fosthom ikun dovut manteniment minnu f'każ ta' firda skont dak ikkuntrattat fil-kuntratt ta' koabitazzjoni, jkollu dritt illi jirċievi l-ammont ekwivalenti għal tmenin fil-mija ta' hames snin manteniment kif stipulat fil-kuntratt ta' koabitazzjoni, f'ammont globali bħala legat, sakemm l-imsemmi kuntratt ta' koabitazzjoni ma jgħidx speċifikament illi din il-klawsola m'għandhiex tapplika:

Iżda dan is-subartikolu ma japplikax għas-superstiti jekk ikun ser jiret lill-mejjet b'mod illi l-valur ta' dak imħolli lilu jkun jissupera l-ammont ta' tmenin fil-mija ta' hames snin manteniment hawn fuq imsemmi:

Iżda wkoll dan l-ammont m'għandux jaqbeż il-kwart tal-valur tal-beni meta jkun hemm id-dixxendenti, u t-terz tal-valur tal-beni meta ma' jkunx hemm it-tfal:

Iżda wkoll li kull azzjoni magħmula taht dan l-artikolu għandha ssir sa mhux aktar tard minn sitt xhur mill-mewt tal-koabitant skont dan l-Att u tista' ssir biss mis-superstiti fosthom;

Kap. 16.

(h) mingħajr ħsara għad-dispożizzjonijiet tal-Kodiċi Ċivili, għandu, f'każ illi wiehed mill-koabitanti jiġi nieqes waqt il-koabitazzjoni, d-dritt ta' abitazzjoni *vita durante* fid-dar ordinarja, primarja, komuni li kellu mal-mejjet:

Iżda dan id-dritt ta' abitazzjoni jispiċċa jekk is-superstiti jikkuntratta żwieġ, unjoni ċivili jew jidhol f'koabitazzjoni ma persuna oħra;

(i) għandu d-dritt illi ikun intitolat għall-għajnuna soċjali non kontributorja meta jkun persuna li fl-opinjoni tad-direttur tas-servizzi soċjali ikun jgħix mal-kap tal-familja daqslikieku kien konjuġi fiż-żwieġ skont l-artikolu 30 tal-Att dwar is-Sigurtà Soċjali;

Kap. 318.

(j) għandu d-dritt illi pensjoni tal-invalidità tithallas lill-koabitant jekk ikun qieghed imantni lill-koabitant l-ieħor skont l-artikolu 26 tal-Att dwar is-Sigurtà Soċjali;

Kap. 318.

(k) għandu d-dritt tal-pensjoni tar-romol skont l-artikoli 31 sa 43 (it-tnejn inklużi) tal-Att dwar is-Sigurtà Soċjali;

Kap. 318.

(l) għandu d-dritt illi meta jormol jagħmel talba għall-pensjoni għal min jirtira jekk ikun persuna li qieghdha tiġi jew kellha d-dritt li tiġi mantnuta mill-mejjet skont l-artikolu 46 tal-

Att dwar is-Sigurtà Soċjali;

(m) għandu d-dritt għall-ħlas ta' pensjoni tal-età meta ż-żewġ koabitanti jikkwalifikaw skont l-artikolu 66 tal-Att dwar is-Sigurtà Soċjali; Kap. 318.

(n) għandu d-dritt li jirċievi benefiċċji soċjali bħala *foster carer* skont l-artikolu 76A tal-Att dwar is-Sigurtà Soċjali; Kap. 318.

(o) għandu d-dritt tal-għajnuna għall-mard meta l-koabitant ikun jgħix mal-kap tal-familja matul xi perjodu li matulu l-għajnuna għall-mard tkun qiegħda jew tista' titħallas;

(p) għandu d-dritt għall-benefiċċju għall-dizimpjieg u għall-benefiċċju speċjali għal dizimpjieg jekk ikun qiegħed imantni lill-koabitant l-ieħor skont l-artikolu 30 tal-Att dwar is-Sigurtà Soċjali; Kap. 318.

(q) għandu d-dritt tal-benefiċċju dwar il-maternità u benefiċċju għal *leave* dwar maternità skont l-artikoli 71 u 72 tal-Att dwar is-Sigurtà Soċjali; Kap. 318.

(r) għandu d-dritt għall-allowance supplimentari skont l-artikolu 73 tal-Att dwar is-Sigurtà Soċjali; Kap. 318.

(s) għandu d-dritt tal-*allowance* tat-tfal skont l-artikoli 76, 80, 81 u 82 tal-Att dwar is-Sigurtà Soċjali;

(t) għandu d-dritt tal-*allowance* dwar tfal fil-kura skont l-artikoli 76A, 80, 81 u 82 tal-Att dwar is-Sigurtà Soċjali; Kap. 318.

(u) għandu d-dritt għal allowance għal tfal b'dizabilità skont l-artikoli 77, 80, 81 u 82 tal-Att dwar is-Sigurtà Soċjali. Kap. 318.

16. (1) Kuntratt ta' koabitazzjoni jintemm: Tmiem tal-kuntratt ta' koabitazzjoni.

(a) meta wiehed mill-koabitanti jmut;

(b) meta l-koabitanti jiftiehm u li jtemmu l-imsemmi kuntratt permezz ta' att pubbliku registrat min-nutar;

(ċ) meta fiċ-ċirkostanza illi l-koabitanti ma jibqgħux jikkoabitaw flimkien, wiehed mill-partijiet jipprezenta rikors li permezz tiegħu jiddikjara bil-gurament id-data li minnha l-partijiet waqfu jikkoabitaw flimkien, jitlob lill-Qorti tiddikjara l-kuntratt ta' koabitazzjoni mitmum u jitlob sabiex l-istess Qorti tordna illi d-drittijiet u l-obbligi emanenti mill-istess kuntratt ta' koabitazzjoni jiġu fis-seħh:

(2) Il-Qorti għandha, fid-digriet tagħha, tordna lir-Registratur tal-Qrati sabiex fi żmien hmistax-il gurnata ta' xogħol, javża lid-Direttur tar-Registru Pubbliku bit-tmiem tal-kuntratt ta' koabitazzjoni biex dan jiġi registrat fir-Registru Pubbliku.

Tmiem tal-kuntratt.

17. (1) Mat-tmiem tal-kuntratt ta' koabitazzjoni bil-mezzi msemmija fl-artikolu preċedenti, l-partijiet ikollhom id-dritt illi jinforzaw d-drittijiet kollha tagħhom u jkunu marbutin bl-obbligi kollha li jinsabu fil-kuntratt ta' koabitazzjoni.

(2) Drittijiet u, jew obbligi rispettivi lejn xulxin fil-kuntratt ta' koabitazzjoni li jiskattaw mal-firda tal-koabitanti jew malli l-partijiet ma jibqgħux jikkoabitaw għandhom jiġu fis-sehħ immedjatament ma' tali firda jew waqfa tal-koabitazzjoni, u mhux biss mat-tmiem tal-kuntratt ta' koabitazzjoni skont l-artikolu 16:

Izda l-ebda att ipprezentat bejn persuni li huma, jew li kienu f'xi żmien koabitanti, ma għandu jiġi ikkunsidrat null jew vizzjat minhabba raġuni abbażi ta' kawża illegali jew illeċita.

Azzjoni ssir fi żmien sentejn.

18. Kull azzjoni magħmula taht l-artikoli 16 u 17 għandha ssir fi żmien sentejn minn meta l-koabitanti jtemmu l-kuntratt ta' koabitazzjoni jew minn meta l-partijiet ma jibqgħux jikkoabitaw flimkien, liema waħda tiġi l-aħħar salv dawk rigwardanti l-ulied, liema azzjonijiet m'humiex limitati biż-żmien.

Fejn il-partijiet jidhlu f'kuntratt ġdid flimkien.

19. (1) Jekk il-koabitanti jtemmu l-kuntratt ta' koabitazzjoni skont l-artikolu 16(b) filwaqt illi huma jkunu għadhom jikkoabitaw flimkien u sussegwentement ikunu jixtiequ jidhlu f'kuntratt ieħor ta' koabitazzjoni flimkien, dan il-kuntratt ma jkunx jista' jiġi ppubblikat u registrat mingħajr awtorizzazzjoni tal-Qorti kompetenti, liema Qorti għandha tassigura li ma jkun qiegħed jiġi miftiehem xejn li jmur kontra l-aħjar interess tal-ulied dipendenti, skont il-każ, jew illi jpoġġi lil xi wiehed mill-koabitanti f'sitwazzjoni ta' vulnerabbiltà meta kkumparat mal-kuntratt ta' koabitazzjoni li l-koabitanti kienu temmew.

(2) F'kull każ fejn il-Qorti tiġi mitluba tagħti l-awtorizzazzjoni tagħha għall-pubblikazzjoni u registrazzjoni ta' kuntratt ta' koabitazzjoni skont is-subartikolu preċedenti għandha, jekk tħoss illi huwa l-każ biex tassigura li dan mhux qiegħed isir b'abbuz ta' parti l-waħda fuq il-parti l-oħra, tisma' lill-partijiet *viva voce*.

Taqsimha IV

Koabitazzjoni permezz ta' dikjarazzjoni unilaterali

20. Koabitant illi jixtieq jikseb id-drittijiet u d-dmirijiet baziċi elenkati f'artikolu 30 fil-konfront tal-koabitant li miegħu ilu jikkoabita minn tal-anqas sentejn, liema koabitant ikun qiegħed jirrifjuta li jidhol f'kuntratt li jirregola l-koabitazzjoni ta' bejniethom skont dan l-Att, jista' jagħmel dan b'dikjarazzjoni unilaterali permezz ta' ittra uffiċjali skont dan l-Att:

Dikjarazzjoni unilaterali.

B'dan illi tali dikjarazzjoni unilaterali ma ttemmx id-drittijiet li l-koabitanti diġà jgawdu frott il-koabitazzjoni *de facto* tagħhom.

21. (1) Sabiex id-dikjarazzjoni unilaterali permezz tal-ittra uffiċjali msemmija fl-artikolu preċedenti tkun waħda li tohloq drittijiet u dmirijiet legalment validi u enforzabbli skont dan l-Att, din trid tindika, b'mod ċar u inekwivoku, s-segwenti:

Formalitajiet ta' dikjarazzjoni unilaterali.

(a) id-dettalji personali tal-koabitanti, inkluż in-numru tal-karta tal-identità tagħhom;

(b) l-indirizz li fih il-koabitanti jgħixu flimkien;

(c) dikjarazzjoni li m'hemm xejn illi jipprekludi lill-koabitanti msemmija milli jidhlu f'kuntratt ta' koabitazzjoni legalment validu tenut kont dak li hemm imnizzel fl-artikoli 5;

(d) id-data li minnha l-partijiet kienu jistgħu jissejhu koabitanti skont dan l-Att u li mill-imsemmija data l-quddiem ma kien hemm fis-seħh l-ebda mill-kundizzjonijiet imsemmija fl-artikolu 5; u

(e) dikjarazzjoni b'mod ċar, taħt piena ta' nullità, tar-raġunijiet li fuqu jkun imsejjes l-att ġudizzjarju msemmi f'dan l-artikolu.

(2) Il-kontenut tal-imsemmija ittra uffiċjali għandu jiġi konfermat b'gurament mill-esponent quddiem ir-Registatur tal-Qorti jew prokuratur legali maħtur bhala Kummissjunarju bis-setgħa li jagħti gurament taħt l-Ordinanza dwar il-Kummissjunarji b'Setgħa li jagħtu Gurament, u għandha tiġi notifikata lill-parti l-oħra b'dan illi biex issir in-notifika tal-imsemmija ittra uffiċjali ma jstax isir użu mid-dispożizzjonijiet tas-subartikoli (3), (5) jew (6) tal-artikolu 187 tal-Kodiċi tal-Organizzazzjoni u Proċedura Ċivili.

Kap. 12.

(3) L-ittra uffiċjali għandu jkun fiha ukoll, taħt piena ta' nullità, intimazzjoni lill-intimat li jekk huwa ma jwegibx fi żmien

xahrejn minn mindu jiġi notifikat bl-imsemmija ittra uffiċjali billi jipprezenta nota fl-atti ta' dik l-ittra uffiċjali skont l-artikolu sussegwenti, dan ikunu awtomatikament marbut bid-drittijiet u d-dmirijiet bażiċi skont dan l-Att mal-parti l-oħra, u li dik l-ittra, fin-nuqqas ta' provi oħra, tkun tikkostitwixxi l-prova neċessarja li l-koabitazzjoni bejn il-partijiet bdiet fid-data indikata mill-esponent.

Drittijiet tal-intimat.

22. Permezz ta' nota preżentata fl-atti tal-ittra uffiċjali msemmija, l-intimat jista', fi żmien xahrejn mid-data tan-notifika:

(a) jirrespingi t-talba abbażi tal-fatt illi mhux minnu li l-partijiet huma koabitanti kif jeħtieġ dan l-Att;

(b) jopponi d-data minn mindu din il-koabitazzjoni għandha tiġi meqjusa konformi ma dan l-Att, f'liema każ id-drittijiet u d-dmirijiet bażiċi msemmija f'dan l-Att jiġu meqjusa li daħlu fis-seħħ mid-data msemmija mill-intimat, salv għad-dritt tal-esponent illi jmexxi b'rikors ġuramentat u jtella' prova illi d-data kienet fil-fatt dik imsemmija fl-ittra uffiċjali:

Iżda fejn il-koabitazzjoni ta' bejn il-koabitanti kienet tali li fid-data msemmija fid-dikjarazzjoni unilaterali ma kinitx konformi mal-artikolu 21(1)(d), id-data tal-bidu tal-koabitazzjoni għandha għall-effetti kollha tal-liġi tiġi meqjusa li kienet id-data li fiha l-imsemmija koabitazzjoni setgħet tiġi reġistrata tenut kont l-istess l-artikolu 21(1)(d), anke fejn l-intimat m'għamel l-ebda oġġezzjoni fuq dan il-punt fiż-żmien stipulat;

(ċ) jipprezenta kuntratt ta' koabitazzjoni redatt u reġistrat skont dan l-Att f'liema każ l-ittra uffiċjali tiġi meqjusa nulla u bla effett.

Ittra uffiċjali.

23. L-ittra uffiċjali msemmija fl-artikoli 20 u 21, kif ukoll in-nota tal-intimat msemmija fl-artikolu 22, għandhom, taħt piena ta' nullità, jiġu notifikati lir-Reġistratur mill-parti li tkun ipprezentat l-ittra uffiċjali u, jew in-nota skont il-każ.

Drittijiet u d-dmirijiet miksuba.

24. (1) Id-drittijiet u d-dmirijiet miksuba skont id-dispożizzjonijiet tal-artikolu 20, dejjem jekk ma kienx hemm oppożizzjoni min-naha tal-intimat, għandhom jiġu rexissi u ddikjarati nulli u bla ebda effett jekk meta ssir talba permezz ta' rikors fil-Qorti Ċivili (Sezzjoni Familja) jew fil-Qorti tal-Magistrati (Għawdex)(Ġurisdizzjoni Superjuri)(Sezzjoni tal-Familja), skont il-każ, li tiġi pprezentata mill-intimat fi żmien għoxrin ġurnata minn l-ewwel notifika li ssirlu ta' xi mandat eżekuttiv, ta' xi att ġudizzjarju ieħor jew ta' każ kriminali imsejjsa fuq dawk id-drittijiet u dmirijiet, il-Qorti tkun sodisfatta:

(a) li l-intimat ma kienx jaf b'dik l-ittra ufficjali ghaliex huwa ma kienx notifikat kif imiss; jew

(b) li l-ittra ufficjali ma kienx fiha l-htigijiet stipulati fl-artikolu 21:

Izda dan ir-rikors ghandu jigu appuntat ghas-smigh fi zmien gimghatejn.

(2) Fic-cirkostanza ta' kaz kriminali msejjes fuq dmirijiet illi parti jkollha emanenti minn dan l-Att fejn il-Qorti kompetenti tkun ghad trid tiddeciedi jekk l-istess dmirijiet miksuba taht l-artikolu 20 ghandhomx jigu rexissi u dikjarati nulli u bla effett, il-Qorti tal-Magistrati bhala Qorti ta' Gudikatura Kriminali ghandha tiddifferixxi l-kaz ghal data ohra.

(3) Bla pregradizzju ghall-artikolu 24, ebda oppozizzjoni, hlief dik li hemm specifikament provdut f'dan l-artikolu, ma ghandha twaqqaf il-hrug jew l-ezekuzzjoni ta' xi att ekekuttiv jew tigi meqjusa bhala raguni valida fil-ligi sabiex ma jigux onorati d-dmirijiet tal-intimat skont dan l-Att jew raguni ghat-twaqqif jew differiment ta' proceduri kriminali emanenti minn nuqqas ta' harsien ta' dmirijiet skont dan l-Att.

25. (1) Ittra ufficjali mahruqa skont l-artikoli ta' dan l-Att ma tkunx tista' tintuza sabiex jigu infurzati d-drittijiet u d-dmirijiet imsemmija fl-istess att sakemm ma tkunx giet registrata skont id-dispozizzjonijiet ta' dan l-artikolu li ghandhom japplikaw ghar-registrazzjoni ta' dawk l-ittri ufficjali bhala strumenti li joholqu drittijiet u dmirijiet legalment validi u inforzabbli.

Registrazzjoni tal-ittra ufficjali.

(2) L-applikant ghar-registrazzjoni tal-imsemmija ittra ufficjali ghandu jipprezenta kopja legali tal-ittra ufficjali lir-Registratur, inkluza l-prova tan-notifika u kopja ta' kull risposta li tkun giet ricevuta ghaliha, jekk ikun hemm.

(3) Meta jircievi d-dokumenti msemmija fis-subartikolu (2), ir-Registratur ghandu jezamina d-dokumenti pprezentati, jivverifika jekk l-intimat ipprezentax nota skont l-artikolu 22 fiz-zmien stipulat u jekk huwa jkun sodisfatt illi l-kundizzjonijiet ghar-registrazzjoni tal-ittra ufficjali bhala wahda li tohloq drittijiet u dmirijiet legalment validi u inforzabbli jkunu jissussistu, huwa ghandu jipprocedi biex jirregistra d-dokumenti pprezentati fir-Registru tal-Koabitazzjoni.

26. Ittra ufficjali mahruqa skont dan l-Att ma tkunx tista' tintuza sabiex jigu infurzati d-drittijiet u d-dmirijiet imsemmija f'dan l-Att kemm-il darba jigi registrat kuntratt li jirregola l-koabitazzjoni tal-imsemmija partijiet skont dan l-Att.

Ittra ufficjali.

VERŻJONI ELETTRONIKA

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Effetti legali ta' dikjarazzjoni unilaterali.

27. Dikjarazzjoni unilaterali ta' koabitazzjoni għandha effetti legali biss fil-konfront tal-partijiet.

Għeluq il-perjodu ta' dikjarazzjonijiet unilaterali registrati.

28. Dikjarazzjoni unilaterali ta' koabitazzjoni skont dan l-Att tista' tiġi registrata biss sa għeluq il-ħames snin mid-dhul fis-seħħ ta' dan l-Att.

Drittijiet u dmirijiet jibqgħu validi u enforzabbli

29. Mingħajr preġudizzju għall-artikolu preċedenti, id-drittijiet u dmirijiet ta' koabitanti f'koabitazzjoni regolata permezz ta' dikjarazzjoni unilaterali skont id-dispożizzjonijiet ta' dan l-Att, kif ukoll l-istess koabitazzjoni, jibqgħu validi u enforzabbli.

Taqsim V

Drittijiet u Dmirijiet Bażiċi

Drittijiet u dmirijiet bażiċi.

30. (1) Id-drittijiet u dmirijiet bażiċi msemmija f'dan l-Att huma s-segwenti:

(a) id-dritt għal ċertu mobbli li jinsabu fid-dar ordinarja, primarja, komuni tal-koabitanti skont l-artikolu 31;

(b) id-dritt għall-ghajnuna finanzjarja skont l-artikolu 32;

(c) id-dritt illi l-koabitant jibqa' jgħix fid-dar ordinarja, primarja, komuni għal perjodu ta' żmien raġjonevoli wara l-firda skont l-artikolu 33;

(d) id-dmir ta' hlas għall-utilitajiet skont l-artikolu 34;

(e) id-dritt tas-superstiti fost il-koabitanti għall-abitazzjoni fid-dar ordinarja, primarja, komuni tal-partijiet skont l-artikolu 35.

(2) Id-drittijiet u dmirijiet elenkati fis-subartikolu preċedenti japplikaw awtomatikament f'każ ta' koabitazzjoni permezz ta' kuntratt bejn il-partijiet kif ukoll f'każ ta' koabitazzjoni permezz ta' dikjarazzjoni unilaterali.

Dritt għal ċertu mobbli.

31. Għandu jkun hemm preżunzjoni *iuris tantum* illi l-koabitanti għandhom dritt għall-porzjon ugwali mill-mobbli li jinsabu fid-dar ordinarja, primarja komuni tagħhom li ġew akkwistati waqt il-perjodu ta' koabitazzjoni stabbilit skont il-kuntratt ta' koabitazzjoni registrat, jew skont il-proviso tal-artikolu 21(b), skont il-każ, kemm-il darba dawk il-mobbli ma kienux mghotija lil koabitant jew ieħor b'donazzjoni, rigal personali jew ġew devoluti fuqhom b'suċċessjoni mingħand terzi:

Iżda f'dan l-artikolu, 'mobbli' għandha tinkludi mobbli dekorattivi u ornamenti miżmuma fid-dar ordinarja, primarja, komuni tal-koabitanti jew dar li għal xi żmien kienet id-dar ordinarja, primarja, komuni tal-istess koabitanti u għandha teskludi flejjes, titoli, vetturi u annimali domestiċi.

32. (1) Fejn il-koabitanti għandhom wild jew ulied dipendenti li huma żgħar fl-età jew għandhom diżabilità, kemm waqt il-perjodu ta' koabitazzjoni kif ukoll f'każ ta' firda, dik il-parti li tkun qed tiegħu hsieb it-trobbija tal-wild jew tal-ulied imsemmija u li minhabba l-età tagħhom jew id-diżabilità tagħhom l-imsemmija parti tkun finanzjarjament dipendenti fuq il-parti l-oħra, għandha d-dritt titlob għajnuna finanzjarja mingħand il-parti l-oħra biex tagħmel tajjeb għal dan l-iżvantagg ekonomiku.

Dritt għal għajnuna finanzjarja.

(2) L-għajnuna finanzjarja msemmija f'dan l-artikolu tista' tkun waħda perjodika jew f'somma globali u l-Qorti, qabel tasal għad-deċiżjoni tagħha, għandha tikkunsidra ċ-ċirkostanzi segwenti:

(a) iċ-ċirkostanzi finanzjarji, il-htigijiet u l-obbligi ta' kull wieħed mill-koabitanti fid-data tat-talba;

(b) id-drittijiet u l-benefiċċji li l-koabitant ikun legalment marbut bihom ma persuna li kienet konjuġi tiegħu jew f'unjoni ċivili miegħu f'perjodu preċedenti, b'dan illi d-drittijiet tal-imsemmija konjuġi m'għandhomx jiġu mittiefsa;

(ċ) id-drittijiet u l-benefiċċji ta' kull wild dipendenti jew ta' xi wild minn relazzjoni preċedenti ta' kull wieħed mill-koabitanti b'dan illi d-drittijiet tal-imsemmija ulied m'għandhomx jiġu mittiefsa;

(d) kull kontribuzzjoni magħmula minn xi wieħed mill-koabitanti sabiex jieħu hsieb id-dar ordinarja, primarja komuni u, jew l-imsemmija wlied;

(e) l-effett fuq il-hila ta' qligħ ta' kull wieħed mill-koabitanti konsegwenza tar-responsabbilitajiet li għandhom jew kellhom matul il-perjodu li fih għexu l-partijiet bhala koppja koabitanti u l-grad li l-kapacità ta' qligħ futur tal-partijiet gie imnaqqas minhabba f'li l-koabitant ikun ċeda jew tilef l-opportunità ta' attività bil-qligħ sabiex jieħu hsieb id-dar ordinarja, primarja, komuni u, jew l-imsemmija wlied;

(f) kwalunkwe inkapacità fiżika jew mentali tal-koabitanti; u

(g) il-kondotta ta' kull wieħed mill-koabitanti jekk il-

kondotta hi b' mod illi, fl-opinjoni tal-Qorti, ikun ingust jekk ma tigix meqjusa.

(3) Qabel tasal għad-deċiżjoni tagħha, l-Qorti tista' tordna li jingħata avviż lil xi persuna jew persuni oħra li hija tispeċifika u tista' tisma' lill-imsemmija persuna jew persuni fuq dawn it-termini u fir-rigward ta' dawk l-affarijiet li hija taħseb li huma xierqa fl-interessi tal-gustizzja.

(4) L-għajjnuna finanzjarja imsemmija f'dan l-artikolu ma tistax tintalab għal perjodu preċedenti għaż-żmien li fih tkun qiegħda ssir it-talba.

(5) Mingħajr preġudizzju għas-subartikoli preċedenti, jekk koabitant li m'għandux ulied dipendenti żgħar fl-età jew b'dizabilità, kemm waqt il-perjodu ta' koabitazzjoni kif ukoll f'każ ta' firda, huwa finanzjarjament dipendenti fuq il-parti l-oħra u d-dipendenza finanzjarja tiegħu hija riżultat tar-relazzjoni jew tat-tmiem tar-relazzjoni mal-koabitant l-iehor, dik il-parti għandha d-dritt titlob għajjnuna finanzjarja mingħand il-parti l-oħra.

(6) Qabel tiddetermina jekk tilqax it-talba msemija fis-subartikolu preċedenti jew le, il-Qorti għandha tikkunsidra:

- (a) ċ-ċirkostanzi msemija fl-artikolu 32(2);
- (b) it-tul tar-relazzjoni bejn il-partijiet;
- (ċ) il-bażi li fuqha daħlu għar-relazzjoni l-partijiet;
- (d) il-grad ta' impenn tal-partijiet lejn xulxin;
- (e) l-età tal-partijiet; u

(f) il-kapaċità tal-parti li qed tagħmel it-talba li ssib xogħol bi qliegh.

(7) Il-Qorti tista', jekk thoss li għandha tilqa' t-talba, tagħmel dan limitatament għal perjodu ta' żmien jew sakemm tissussisti ċirkostanza jew ċirkostanzi partikolari.

(8) Il-Qorti m'għandhiex tilqa' t-talba jekk temmen illi jekk tingħata l-għajjnuna finanzjarja lil waħda mill-partijiet tkun qiegħda ssir ingustizzja mal-parti l-oħra.

(9) Jekk il-Qorti, fuq talba magħmula minn wiehed mill-koabitanti, wara li tqis kull bidla fiċ-ċirkostanzi tal-każ u xi evidenza għda, inkluz xi varjazzjoni b'ordni oħra tal-Qorti magħmula favur xi

persuna li magħha l-koabitant kien miżżewweg jew f'unjoni ċivili, jew evidenza li l-parti li qieghdha tirċievi l-għajnuna finanzjarja għanda introjtu adegwat tista', jekk tikkonsidra li jkun xieraq, tvarja b'ordni kull ordni oħra magħmul taħt dan l-artikolu.

(10) Id-drittijiet emanenti minn dan l-artikolu jintemmu, mingħajr bżonn li ssir talba għal dan l-għan, malli l-parti li tkun qieghdha tirċievi l-għajnuna finanzjarja tikkuntratta żwieg jew unjoni ċivili, kif ukoll jekk tkun f'koabitazzjoni, anke jekk biss waħda *de facto*, ma persuna oħra.

33. (1) F'każ ta' firda bejn il-koabitanti, kull koabitant ikollu id-dritt illi jibqa' jabita fid-dar ordinarja, primarja, komuni għal perjodu illi l-Qorti thoss illi huwa raġjonevoli skont iċ-ċirkostanzi:

Dritt għall-
abitazzjoni wara
l-firda.

Izda f'każ li l-koabitanti jgħixu fl-imsemmija dar ordinarja, primarja, komuni permezz ta' kuntratt ta' kiri, l-imsemmi dritt japplika biss sa tmiem il-kuntratt tal-kiri.

(2) Il-perjodu msemmi fis-subartikolu preċedenti għandu jkun intiz limitatament sabiex il-koabitant li ma jgawdix drittijiet reali fuq l-imsemmija dar ikollha ċans issib akkomodazzjoni alternattiva adegwata.

34. F'każ ta' firda bejn il-koabitanti meta m'hemm l-ebda digriet ta' Qorti kompetenti jew ftehim bil-miktub bejn il-koabitanti li jgħid xort'oħra, għandu jkun hemm preżunzjoni *iuris tantum* illi l-koabitanti għandhom id-dmir illi jhallsu għall-utilitajiet kollha relatati mad-dar ordinarja, primarja, komuni li fiha jirrisjedu fi kwoti ndaq bejniethom għall-perjodu li kienu jirrisjedu fiha, irrispettivament mill-fatt illi l-kontijiet tal-imsemmija utilitajiet jkunu jgħajtu lill-koabitant wiehed biss.

Dmir ta' hlas ta'
utilitajiet.

35. (1) F'każ ta' mewt ta' wiehed mill-koabitanti, is-superstiti fosthom għandu dritt għall-abitazzjoni fuq id-dar ordinarja, primarja, komuni tal-koabitanti għal perjodu ta' snin ekwivalenti għan-numru ta' snin illi jkunu ilhom jikkoabitaw flimkien:

Dritt għall-
abitazzjoni wara
l-mewt.

Izda dan in-numru ta' snin ma jistax jissupera il-ħmistax-il sena.

(2) Is-superstiti għandu l-imsemmi dritt *vita durante* jew sakemm jidhol f'rabta oħra ta' koabitazzjoni, żwieg jew unjoni ċivili.

36. Waqt il-koabitazzjoni unilaterament dikjarata, l-koabitant, jew mat-tmiem tal-istess, persuna illi kienet tikkoabita ma persuna oħra u għandha d-drittijiet u dmirijiet bażiċi emanenti minn dan l-Att,

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drittijiet u
dmirijiet bażiċi.

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tista' tikseb l-imsemmija drittijiet u tinforza l-imsemmija dmirijiet b'talba permezz ta' rikors fil-Qorti Ċivili (Sezzjoni Familja) jew fil-Qorti tal-Maġistrati (Għawdex) (Ġurisdizzjoni Superjuri) (Sezzjoni tal-Familja).

Meta l-partijiet ma jibqgħux jikkoabitaw flimkien.

37. Kull azzjoni magħmula taħt l-artikolu 36 għandha ssir sa żmien sentejn minn meta l-partijiet ma jibqgħux jikkoabitaw flimkien:

Iżda ma tista' tittiehed l-ebda azzjoni taħt dan l-Att mid-data illi jigi registrat żwieġ jew unjoni ċivili bejn il-partijiet, bl-ebda preġudizzju għal xi azzjoni pendenti li jkunu bdew qabel l-imsemmija data.

Taqsim VI

Disposizzjonijiet ġenerali

Disposizzjonijiet ġenerali.

38. Meta żewġ koabitanti jikkuntrattaw żwieġ jew unjoni ċivili bejniethom:

(a) il-kuntratt ta' koabitazzjoni, meta jkun sar u ġie rreġistrat; jew

(b) id-dispożizzjonijiet ta' dan l-Att fil-kuntest ta' dikjarazzjoni unilaterali ta' koabitazzjoni;

jigu immedjatament nulli u bla effett fil-konfront tal-istess koabitanti, li minn dak inhar li jikkuntrattaw tali żwieġ jew unjoni ċivili ma jkun fadlilhom l-ebda dritt għal azzjoni kontra xulxin abbażi tal-koabitazzjoni tagħhom.

Jeddijiet ta' terzi persuni.

39. Id-dispożizzjonijiet kollha ta' dan l-Att huma mingħajr ħsara għall-jeddijiet ta' terzi persuni fil-konfront ta' kwalunkwe koabitant.

Medjazzjoni.

40. (1) Fejn issir talba għal azzjoni skont dan l-Att lill-Qorti Ċivili kompetenti minn wiehed jew l-oħra mill-koabitanti, jew miż-żewġ koabitanti li jkunu qablu li l-koabitazzjoni tagħhom għandha tintemm, salv dik l-azzjoni ikkuntemplata fl-artikolu 17, qabel ma l-Qorti tagħti l-awtorizzazzjoni biex il-koabitanti jipproċedu bil-kawża, il-Qorti għandha ssejjaħ lill-partijiet sabiex jidhru quddiem medjatur li jkun jew mahtur minnha jew bil-kunsens taż-żewġ partijiet, u dan bil-ghan li fejn dawn ma jkunux diġà qablu bejniethom dwar il-pattijiet tal-firda, jgħin lill-partijiet biex jaslu għal kuntratt ta' firda mill-koabitazzjoni fuq bazi ta' qbil:

Iżda fejn il-Qorti tiġi pprezentata b'evidenza ta' vjolenza domestika bejn il-koabitanti, il-Qorti m'għandhiex issejjaħ lill-

partijiet dabiex jidhru quddiem medjatur;

Izda wkoll li fejn, waqt il-medjazzjoni, il-medjatur isir jaf bi kwalunkwe inċident ta' vjolenza domestika, dan għandu jwaqqaf immedjatament il-medjazzjoni u jinforma lill-Qorti dwar dan.

(2) Dan il-qbil għandu jinkludi dawn il-partijiet li ġejjin, hekk kif applikabbli, skont il-każ:

- (a) il-kura u l-kustodja tal-ulied;
- (b) l-aċċess taż-żewġ partijiet għall-ulied;
- (ċ) il-manteniment tal-koabitanti, jew ta' parti waħda minnhom, u ta' kull wild;
- (d) ir-residenza fid-dar ordinarja, primarja komuni li l-partijiet li kienu għexu fiha bħala koabitanti;
- (e) drittijiet oħra emanenti minn dan l-Att li però l-partijiet jixtiequ jaslu waħedhom għal ftehim fuqhom.

(3) F'kull proċedura ta' firda f'każ ta' koabitazzjoni quddiem il-Qorti Ċivili kompetenti magħmula fuq talba ta' wieħed jew l-oħra mill-koabitanti, jew miż-żewġ koabitanti li jkunu qablu illi l-koabitazzjoni tagħhom għandha tintemm, ukoll fejn il-koabitanti jkunu separati b'kuntratt jew b'sentenza tal-Qorti kompetenti, il-Qorti tista', meta tħoss li hemm bżonn minn jeddha, jew fuq talba tal-medjatur jew ta' xi wieħed mill-koabitanti:

- (a) taħtar avukat tat-tfal biex jirrappreżenta l-interessi ta' l-ulied minuri tal-partijiet jew min minnhom; u
- (b) tisma' lill-ulied minuri tal-partijiet, jew min minnhom, fejn tqis li jkun fl-aħjar interess tagħhom li tagħmel dan:

Izda f'kull proċedura ta' firda minn koabitazzjoni quddiem il-Qorti Ċivili kompetenti kif imsemmi f'dan l-artikolu, il-Qorti tista' tordna lill-partijiet sabiex jipprezentaw l-informazzjoni dwar hlas ta' manteniment għall-ulied.

41. Il-Ministru jista' jagħmel regolamenti sabiex jistabbilixxi l-proċedura relatata mal-medjazzjoni bejn il-partijiet skont kif provdut f'dan is-subtitolu.

Setgħa għall-egħmil ta' regolamenti.

42. Fin-nuqqas ta' regolamenti speċifiċi, ir-Regolamenti dwar il-Qorti Ċivili (Sezzjoni tal-Familja), Il-Prim'Awla tal-Qorti Ċivili u

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l-Qorti tal-Maġistrati (Għawdex)(Ġurisdizzjoni Superjuri)(Sezzjoni tal-Familja) għandhom, *mutatis mutandis*, japplikaw għal kull azzjoni magħmula skont dan l-Att salv għal dik ikkuntemplata fl-artikolu 17.

Rikonoxximent ta' kuntratti ta' koabitazzjoni barranin.

43. (1) Meta l-koabitanti jkunu kkuntrattaw u rreġistraw il-koabitazzjoni tagħhom barra minn Malta, jew meta l-koabitazzjoni tagħhom tkun diġà regolata minn ligijiet esteri u t-tnejn li huma jkunu jixtiequ illi l-koabitazzjoni tagħhom ikollha l-istess effetti legali tal-koabitazzjonijiet reġistrati f'Malta, huma għandhom jidhlu f'kuntratt ta' koabitazzjoni b'att pubbliku li għalih għandu jiġi maħruġ ċertifikat ta' koabitazzjoni kif preskritt fl-Iskeda.

(2) F'dan il-każ, sabiex il-partijiet ikunu japplikaw għalihom id-drittijiet u d-dmirijiet emanenti minn dan l-Att fil-konfront ta' koabitanti li l-koabitazzjoni tagħhom giet reġistrata skont dan l-Att, huma jkunu jridu:

(a) jipprovdu lin-nutar li jkun qed jidderigi l-kuntratt id-dokumenti li juru illi l-koabitazzjoni tal-partijiet hija fil-fatt rikonoxxuta fil-pajjiż esteru li kien jirregola l-koabitazzjoni tagħhom meta giet kostitwita, liema dokumenti n-nutar għandu jannessa mal-kuntratt;

(b) inizzlu d-data illi fiha l-imsemmija koabitazzjoni kienet giet rikonoxxuta fil-pajjiż esteru msemmi;

(ċ) inizzlu d-drittijiet u d-dmirijiet illi sa jkunu marbutin bihom b'mod ċar u inekwivoku fil-kuntratt, b'dan illi dawn ikunu mill-inqas jaqblu mar-rekwiziti minimi skont l-artikolu 8;

(d) jagħmlu dikjarazzjoni fl-istess att pubbliku illi huma jixtiequ illi d-drittijiet u d-dmirijiet emanenti mill-koabitazzjoni tagħhom, jekk u meta jkunu invokati fil-qrati Maltin, jkunu regolati skont dan l-Att u ma jkunu suġġetti għall-ebda liġi ta' pajjiż esteru ieħor.

(3) F'dan il-każ, id-data li fiha għandha tkun meqjusa illi giet ikkostitwita l-koabitazzjoni bejn il-partijiet, għall-finijiet u effetti kollha ta' dan l-Att, hija d-data mnizzla fil-kuntratt tal-koabitazzjoni tal-partijiet skont subartikolu (2)(b), u mhux id-data li l-koabitazzjoni giet irreġistrata fiha skont dan l-Att.

(4) L-artikoli kollha, hliet dawk li jikkellmu dwar il-kostituzzjoni tal-koabitazzjoni reġistrata msemmija f'dan l-Att fir-rigward ta' koabitazzjoni reġistrata bejn żewġ koabitanti għandhom japplikaw *mutatis mutandis* għar-rikonoxximent ta' koabitazzjoni skont dan l-artikolu.

44. Meta koabitanti jkollhom id-dritt għall-manteniment skont kuntratt ta' koabitazzjoni jew bħala dritt emanenti minn dan l-Att u, jew ordnat minn Qorti kompetenti, dawn għandhom immedjatement javżaw lid-dipartiment tas-servizzi soċjali:

Dmir tal-koabitanti fir-rigward tal-manteniment.

Izda jekk il-koabitanti jonqsu illi jagħmlu dan, kull beneficiċju illi jieħdu u li ma jkunx dovut ikun irid jiġi rifiż lid-dipartiment:

Izda wkoll jekk jiġi ppruvat illi koabitant xjentement naqas illi josserva id-dispożizzjonijiet ta' dan l-artikolu jeħel, meta jinstab haġi, il-piena li hemm ikkuntemplata għal frodi fil-benefiċċji soċjali.

45. Kull fejn, fil-Liġijiet ta' Malta, huwa kkunsidrat li hemm jew jista' jkun hemm kunflitt ta' interess minhabba affinità bejn żewġ persuni, fi kwalunkwe ċirkostanza, dan għandu jitqies illi japplika wkoll għall-koabitanti registrati, dikjarati jew *de facto*.

Kunflitt ta' interess.

46. (1) L-artikoli 1028A u 1028B tal-Kodiċi Ċivili japplikaw fejn koabitant iħoss li permezz tar-relazzjoni ta' koabitazzjoni tiegħu, l-koabitant l-ieħor arrikkixxa ruħu għad-dannu tal-ewwel koabitant.

Arrikkiment għad-dannu ta' koabitant. Kap. 16.

(2) L-azzjoni għall-ħlas tal-ħsarat ikkaġunati b'dan il-mod taq' bi preskrizzjoni bl-egħluq ta' sentejn minn meta l-effett tal-arrikkiment għad-dannu tal-koabitant intemm.

47. Il-Ministru jista' jagħmel regolamenti sabiex jimplimenta u sabiex jagħti effett aħjar għad-dispożizzjonijiet ta' dan l-Att u mingħajr ħsara għall-ġeneralità ta' dak li ntqal qabel, jista' jippreskrivi kull haġa li għandha ssir jew li tista' tiġi preskritta u jipprovdi għal kull haġa konsegwenzjali, incidental għal jew konnessa mad-dispożizzjonijiet ta' dan l-Att.

Setgħa għall-egħmil ta' regolamenti.

Taqsim VII

Emendi konsegwenzjali

48. L-artikolu 196A Kodiċi Kriminali għandu jiġi sostitwit kif ġej:

Sostituzzjoni tal-artikolu 196A tal-Kodiċi Kriminali, Kap. 9.

"Bigamija li tinvolvi unjoni ċivili u koabitazzjoni.

196A. (1) Ir-reat previst fl-artikolu 196 jiġi mwettaq ukoll u l-pieni provduti f'dak l-artikolu għandhom japplikaw ukoll għal:

Kap. 530.

(a) kull sieheb f'unjoni ċivili li tkun giet kuntrattata jew li tkun giet rikonoxxuta taħt l-Att dwar l-Unjonijiet Ċivili;

(b) kull koabitant registrat jew dikjarat unilateralment skont l-Att tal-2016 dwar il-Koabitazzjoni;

illi filwaqt illi l-unjoni ċivili jew il-koabitazzjoni reġistrata jew dikjarata unilateralment jkunu fis-seħħ u jkollhom effetti legali skont il-liġi, jikkuntratta żwieġ, unjoni ċivili jew koabitazzjoni oħra.

(2) Ir-reat previst fl-artikolu 196 jiġi mwettaq ukoll u l-pieni provduti f'dak l-artikolu għandhom japplikaw ukoll għal kull persuna li waqt żwieġ validament ikkuntrattat tidhol f'unjoni ċivili jew koabitazzjoni permezz ta' kuntratt jew dikjarazzjoni unilaterali magħmula minnha, jew li meta notifikata b'dikjarazzjoni unilaterali ta' koabitazzjoni ma toponix fuq bażi li hi diġà miżżewġa."

Emenda tal-artikolu 633 tal-Kodiċi Kriminali, Kap. 9.

49. Fis-subartikolu (2) tal-artikolu 633 tal-Kodiċi Kriminali minnufih wara l-kliem "kontra l-mara jew kontra r-raġel" għandhom jiżdiedu l-kliem "kontra s-sieheb tiegħu jew tagħha f'unjoni ċivili jew kontra l-koabitant tiegħu jew tagħha".

Emenda tal-artikolu 635 tal-Kodiċi Kriminali, Kap. 9.

50. L-artikolu 635 tal-Kodiċi Kriminali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, il-kliem "ir-raġel ma jistax jingieb xhud favur jew kontra martu, u l-mara favur jew kontra żewġha" għandhom jiġu sostitwiti bil-kliem "il-miżżewġin, shab f'unjoni ċivili u koabitanti ma jistgħux jingiebu xhieda favur jew kontra xulxin";

(b) fis-subartikolu (1)(b) tiegħu, minnufih wara l-kliem "meta r-raġel jew il-mara" għandhom jiżdiedu l-kliem "jew s-sieheb f'unjoni ċivili, jew l-koabitant";

(ċ) fis-subartikolu (1)(ċ) tiegħu, il-kliem "ta' mart jew żewġ" għandhom jiġu sostitwiti bil-kliem "tal-konjuġi jew tas-sieheb f'unjoni ċivili, jew tal-koabitant"; u

(d) fis-subartikolu (2) tiegħu, il-kliem "ir-raġel jew il-mara" għandhom jiġu sostitwiti bil-kliem "il-konjuġi jew s-sieheb f'unjoni ċivili, jew l-koabitant" kull fejn jinsabu.

Emenda tal-artikolu 566 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, Kap. 12.

51. L-artikolu 566 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili għandu jiġi emendat kif ġej:

(a) in-nota marginali tiegħu għandu jiġi sostitwit b'dan li ġej:

"Il-konjuġi, shab f'unjoni ċivili u koabitanti jistgħu jixhdu fil-kawża tal-konjuġi, sieheb jew koabitanti

tiegħu.";

(b) fis-subartikolu (1) tiegħu, il-kliem "ir-raġel jew il-mara" għandhom jiġu sostitwiti bil-kliem "il-konjuġi jew shab f'unjoni ċivili, jew koabitanti";

(ċ) is-subartikoli (1)(a) u (b) tiegħu għandhom jiġu sostitwiti b'dan li ġej:

"(a) il-konjuġi, sieheb f'unjoni ċivili jew koabitant ma jistax ikun imġiegħel jikxef ebda haġa li l-konjuġi, sieheb f'unjoni ċivili jew koabitant jkun fedamiegħu matul iż-żwieġ, unjoni ċivili jew koabitazzjoni, u viċi versa;

(b) il-konjuġi jew sieheb f'unjoni ċivili jew koabitant ma jistgħux ikunu mġiegħla jwieġbu għal ebda mistoqsija meta t-tweġiba tista' tissugġetta lill-konjuġi tiegħu jew lis-sieheb tiegħu f'unjoni ċivili jew koabitant tiegħu għall-proċess kriminali."; u

(d) fis-subartikolu (2) tiegħu, il-kliem "tar-raġel jew tal-mara" għandhom jiġu sostitwiti bil-kliem "tal-konjuġi, shab f'unjoni ċivili jew koabitanti".

52. L-artikolu 114 tal-Kodiċi Ċivili għandu jiġi emendat kif ġej:

Emenda tal-artikolu 114 tal-Kodiċi Ċivili, Kap. 16

(a) is-subartikolu (2) tiegħu għandu jiġi sostitwit kif ġej:

"(2) Digriet ta' adozzjoni jista' jingħata fuq ir-rikors ta' żewġ konjuġi jew ta' shab f'unjoni ċivili li jgħixu flimkien jew ta' koabitanti *de facto* jew li l-koabitazzjoni tagħhom tkun regolata permezz ta' kuntratt u registrata skont l-att dwar il-koabitazzjoni, u jawtorizzahom flimkien biex jadottaw persuna u ma jistax jingħata fuq rikors ta' konjuġi, sieheb jew koabitant wiehed biss:

Iżda meta l-persuna li tkun ser tigi adottata tkun il-wild naturali ta' wiehed mill-konjuġi, sieheb f'unjoni ċivili jew koabitant *de facto* jew registrat, f'dak il-każ, bla ħsara tad-dispożizzjonijiet tal-artikolu 115(3)(ċ), id-digriet ta' adozzjoni jista' jingħata minkejja li r-rikors isir biss mill-ġenitur naturali tal-persuna li tkun se tigi adottata u l-qorti ma tkunx marbuta li titlob jew tikkunsidra r-rakkomandazzjoni tal-Bord għall-

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Adozzjoni.";

(b) fis-subartikolu (3) tiegħu, il-kliem "raġel u mara miżżewġin" għandhom jiġu sostitwiti bil-kliem "konjuġi, sħab f'unjoni ċivili u koabitanti *de facto* jew reġistrati".

Emenda tal-artikolu 115 tal-Kodiċi Ċivili, Kap. 16.

53. Fis-subartikolu (2)(a)(ii) tal-artikolu 115 tal-Kodiċi Ċivili minnufih wara l-kelma "konjuġi" kull fejn tidher għandhom jiżdiedu l-kliem "jew sħab f'unjoni ċivili jew koabitanti *de facto* jew reġistrati".

Emenda tal-artikolu 50 tal-Att dwar il-Professjoni Nutarili u l-Arkivji Nutarili, Kap. 55.

54. L-artikolu 50 tal-Att dwar il-Professjoni Nutarili u l-Arkivji Nutarili għandu jiġi emendat kif ġej:

(a) minnufih wara l-paragrafu (d) għandu jidhol il-paragrafu ġdid li ġej:

"(e) ta' kuntratti ta' koabitazzjoni;" u

(b) is-subparagrafi (e) sa (o) għandhom jiġu enumerati mill-ġdid bħala s-subparagrafi (f) sa (p) rispettivament.

Emenda tal-artikolu 6 tal-Att dwar Żgumbrament mill-Artijiet, Kap. 228.

55. Fl-artikolu 6 tal-Att dwar Żgumbrament mill-Artijiet il-kliem "lir-raġel tiegħu jew lil martu" għandhom jiġu sostitwiti bil-kliem "lill-konjuġi tiegħu jew lis-sieheb f'unjoni ċivili jew lil koabitant li miegħu jirrisjedi".

Emenda tal-artikolu 6 tal-Att dwar iż-Żwieġ, Kap. 255.

56. Fl-artikolu 6 tal-Att dwar iż-Żwieġ minnufih wara l-kliem "żwieġ ieħor" għandhom jiżdiedu l-kliem "jew koabitazzjoni reġistrata jew dikjarata unilateralment skont l-Att tal-Koabitazzjoni".

**SKEDA
(Artikolu 6)**

REGISTRU PUBBLIKU PUBLIC REGISTRY

Jiena, hawn taht iffirmat, niċċertifika li din ta' hawn taht hija vera kopja ta' Ċertifikat ta' Koabitazzjoni irregistrat fl-Uffiċċju ta' Registru Pubbliku ta' Belt Valletta, Malta.

I, the undersigned, do hereby certify that the following is a true copy of a Certificate of Cohabitation registered in the Public Registry Office of Valletta, Malta.

ĊERTIFIKAT TA' KOABITAZZJONI — CERTIFICATE OF COHABITATION		DATA TA' L-ATT: DATE OF THE ACT:
KOABITANT (1) / COHABITANT (1)	TAGGRIF DWAR IL-KOABITANTI - PARTICULARS OF THE COHABITANTS	KOABITANT (2) / COHABITANT (2)
	Isem u Kognom <i>Name and Surname</i>	
	Data u Post tal-Twelid Dokument ta' Identifikazzjoni <i>Date and Place of Birth</i> <i>Identification Document</i>	
	Data tal-bidu tal-Koabitazzjoni <i>Start Date of Cohabitation</i>	
	Post ta' Abitazzjoni <i>Place of Residence</i>	
	Isem u Kognom il-Gravidi, u fejn applikabbli Kognom l-Abbozz l-Omnijiet <i>Name and Surname of Parents, and where applicable</i> <i>Maiden Surname of Mother</i>	
Firma ta' Registratur tal-Koabitazzjoni <i>Signature of Cohabitation Registrar</i>	Data tad-Diġri ta' l-Att. <i>Date of receipt of Act.</i>	Numru wera l-iehor ta' Registru Nru. <i>Progressive Number of Registration</i>
	Firma tad-Direttur jew ta' uffiċjal iehor in rappreżentanza tiegħu/tagħha. <i>Signature of Director or other officer to act in his/her stead.</i>	

Fee Paid:

Għanijiet u Raġunijiet

L-għanijiet ta' dan l-Abbozz huma sabiex tiġi regolata l-koabitazzjoni.

**A Bill
entitled**

AN ACT to regulate cohabitations and to provide for other matters dealing with them or ancillary to them.

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:-

ARRANGEMENT OF THE ACT

	Articles
Part I Preliminary	1-2
Part II <i>De facto</i> cohabitation	3
Part III Cohabitation by means of a contract between the parties	4-19
Part IV Cohabitation by means of a unilateral declaration	20-29
Part V Basic rights and duties	30-38
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Part VII Consequential Amendments	48-56
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**Part I
Preliminary**

Short title and commencement.

1. (1) The short title of this Act is the Cohabitation Act, 2016.

(2) This Act shall come into force on the date which the Minister responsible for justice establishes by notice in the Government Gazette, and different dates may be established for different reasons and provisions within this Act.

Interpretation.

2. (1) In this Act, unless the context otherwise requires:

"basic rights and duties" means those rights and duties listed

under article 30;

"cohabitant" means a person who is continually and habitually living with another person in an ordinary, primary common home, with whom he has an intimate relationship, and together consider themselves a couple, and is not already legally bound to another person:

Provided that for the purposes of *de facto* cohabitation, persons who, although being in a marriage or civil union are separated *de jure* shall also be considered as a cohabitant;

"Cohabitations Register" in relation to cohabitations that are registered in the island of Malta means that section within the Office of the Public Registrar in the same island of Malta responsible for affairs relating to cohabitations, and in relation to contracts of cohabitation done in the island of Gozo means that section within the Office of Public Registrar in the same island of Gozo entrusted to do that as previously stated;

"Court" means the Civil Court (Family Section) or any other Court which from time to time shall be given the duty to take cognition of family matters;

"*de facto* cohabitation" means a cohabitation between two persons which cohabitation is not registered nor is it unilaterally declared under this Act and also includes persons who, although being in a marriage or civil union, are separated *de jure*;

"dependent child" in relation to a cohabitant or a cohabiting couple, means any child of the cohabitants or any one of the cohabitants, or any child upon whom they are acting as *loco parentis* in accordance with the Civil Code and still have the right to receive maintenance from them in accordance to the same Code; Cap. 16.

"Minister" means, unless otherwise indicated, the Minister responsible for justice;

"notary" means a public official vested with all the powers conferred to him by the Notarial Profession and the Notarial Archives Act; Cap. 55.

"ordinary, primary, common home" means that home within which the cohabitants live together, belonging to either one of the cohabitants or to both of them in whichever portion, or possessed by title of lease or any other title, either together or by one of the cohabitants;

"registered" means enrolled in the Public Registry;

"registrar" means that public official identified by the Minister to fulfil the functions of the Registrar for Cohabitations for the Register of Cohabitations, and includes, for all purposes of this Act, any person authorised by the Registrar for this.

(2) All the provisions of this Act shall apply only for those cohabitations which are set up in accordance with the provisions of this Act and for no other form of cohabitation for which a declaration or contract has been registered and is not in accordance with the provisions of this Act.

Part II

De facto Cohabitation

De facto
cohabitation.

3. A *de facto* cohabitation does not give rise to mutual legal rights and obligations between cohabitants, and for all intents and purposes of the law, does not confer legal recognition to the relationship between the couple, except after two years and limited to the following:

(a) a cohabitant shall be considered as a tenant for all intents and purposes of the law with regard to all rents of the ordinary, primary common home that were constituted by a contract by any one of the cohabitants, irrespective of the date of constitution of the rent, and also with regard to any commercial rent under the Civil Code, until the said contract is terminated:

Provided that the owner of the ordinary, primary common home retains the right to refuse to renew the aforementioned contract constituted by any one of the cohabitants once that contract expires;

(b) a cohabitant shall be considered as the closest person to the other cohabitant for all intents and purposes of the law;

(c) a cohabitant shall have the right to take decisions relating to the medical care of the other cohabitant.

Part III

Cohabitation by means of a contract between the parties

Cohabitation by
means of a
contract
between the
parties.

4. Persons who have the intent of cohabitating and, or, persons who are already cohabiting may choose to regulate their cohabitation by entering into a contract in conformity with the

provisions of this Act, which contract shall be registered by the notary as provided hereunder in this Act.

5. (1) A contract of cohabitation concluded between:

Nullity of
contract of
cohabitation.

(a) persons, one of whom is under the age of assuming contractual obligations, unless that person is so authorised at law;

(b) ascendants and descendants in the direct line;

(c) siblings, from the same parents, or from one and the same single parent;

(d) persons being related by affinity in the direct line;

(e) the person adopting and the adoptee;

(f) persons, one of whom is unable to give his consent for the contract due to interdiction, incapacitation or the lack of the use of reason;

(g) persons who are married or are in a civil union relationship, either between themselves or with third parties;

(h) persons who are in a contract of cohabitation with third parties according to the provisions of this Act;

(i) persons who are in a cohabitation with third parties, one of whom has declared the relationship as such by a unilateral declaration in accordance with this Act;

(j) cohabitants whose intimate relationship between themselves or with third parties is regulated by a foreign law that provides for rights and obligations between themselves, irrespective of its title as long as such relationship is regulated in a way that has or may have legal effects in Malta,

shall be null and void.

(2) For the purposes of sub-article (1), the relationship of an adopted person shall be considered to exist both in reference to that person's biological family as well as his adoptive family.

(3) The Court of Voluntary Jurisdiction under which one of the parties intending to enter into a contract cohabitation falls may, if good cause is shown, refrain from applying the provisions of articles 5(1)(d) and (e).

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Formalities of a contract of cohabitation.

6. (1) The contract regulating the cohabitation between two parties shall be made by a public deed for which a certificate of cohabitation shall be issued as prescribed by the Schedule of this Act, after the registration of the contract.

(2) In order for a contract regulating cohabitation between two parties to have the legal effects contemplated by this Act, it shall be done as prescribed by the provisions of this Act and shall be deemed to be valid only if all the provisions of this Act are observed and, or fulfilled.

(3) The parties must declare before the notary that there is nothing precluding them from entering into a legally valid contract of cohabitation, taking into account that which is prescribed under article 5, and the notary is obliged to do the annotations of this declaration in the said contract.

(4) The declaration mentioned in the preceding sub-article shall make good in the instances where the notary does not have the means to verify that there is nothing precluding the parties from being cohabitants, taking into account that which is prescribed in article 5.

(5) The parties shall also declare before the notary if they had already entered into any other contract of cohabitation together in the past, which contract was rescinded in accordance with this Act.

(6) After verifying by the appropriate searches whether the parties had entered into a contractual cohabitation between themselves, which contract had been terminated in accordance with the provisions of this Act, the notary shall;

(a) if there were no previous contracts, state this in the said contract; or

(b) if there was a previous contract, forward a copy thereof, together with the draft of the new contract to the competent Court for the authorisation of the same, in accordance with article 16, and shall forward the new contract for publication and registration only after obtaining the said authorisation.

(7) For the purposes of this article, the notary shall ensure that the official Public Registry search be updated officially up to not more than twenty-one days prior to the date of publication of the contract of cohabitation, unless he chooses to update it through an online search, in which case he shall update the search up to not more than seven days prior to the date of publication of the said contract.

7. (1) The registration of a contract regulating cohabitation between two parties is essential for the validity of the said contract with regard to the rights and duties of third parties.

Registration of the contract of cohabitation.

(2) The registration of a contract governing cohabitation between two parties cannot operate to validate a contract of cohabitation which independently of that registration is null.

8. In the contract governing cohabitation, the parties, amongst other things, shall agree on and indicate the following:

Matters in the contract of cohabitation.

(a) (i) the house that shall be deemed to be the ordinary, primary, common home of the cohabitants;

(ii) the legal title of each cohabitant on the said home;

(iii) the transfer of the rights in rem on the said house which shall take place between the cohabitants in the event of separation, if appropriate;

(iv) the personal rights of each of the cohabitants, or whichever one of them, on the tenement, in the event of separation, of appropriate;

(b) the division of assets and liabilities, both held in common or belonging to one or the other cohabitant when the cohabitants wish to make a transfer of assets or liabilities by one part to the other, in the event of separation;

(c) maintenance, periodic or as a lump-sum if one of the cohabitants is or becomes dependent on the other cohabitant, together with the term and the modality of payment, both for during the period of cohabitation and in the event of separation, provided that the cohabitants are free to indicate that such maintenance is not due under all circumstances or in certain circumstances;

(d) (i) the annual percentage mark up on the said maintenance, when and if it is due, or an indication as to how the mark up should be done for the amount to remain relevant without the need to make periodic changes in the contract, provided that if no mention is made as to the method of increment, such increase shall be taken to be in line with the Cost of Living Index;

(ii) where the mark-up is on a fixed periodic basis, this shall begin to be measured from the first anniversary of the

registration of the contract, regardless of whether or not it falls due during that period;

(iii) where it is indicated that the increase shall be proportional to the salary of the cohabitant from whom maintenance is due, there shall be a clear indication in the contract of the amount that the said cohabitant has in salary at the time of the contract. If there is no other indication, the salary in question shall be deemed to be the net revenue;

(e) the right of the children of one of the cohabitants to live in the house considered as the ordinary, primary, common home of the cohabitants, if appropriate and unless otherwise ordered by the competent Court in previous proceedings;

(f) where there are children, which cohabitant will have the care and custody of any dependent children in the event of separation, unless otherwise ordered by the competent Court in previous proceedings;

(g) (i) a minimum amount of maintenance which a cohabitant shall provide to the other cohabitant for dependent children, together with the modality of payment, unless otherwise ordered by the competent Court at the request of either party, after having taken into consideration all the circumstances of the parties under the Civil Code:

Cap. 16.

Provided that there shall be a clear indication that this article shall enter into force without the need for any legal proceedings immediately when the cohabitants are separated or no longer cohabiting together, whichever occurs first, as appropriate;

(ii) the parties are not free to indicate that there shall be no maintenance owed to children, and any clause to this effect is considered null and void.

(h) article 30 shall apply automatically between the cohabitants if no reference is made to the provisions of basic rights and duties as listed in the same article in the event of separation between the parties;

Maintenance claims.

9. (1) If a maintenance claim for dependent children is contested by one of the cohabitants in accordance with article 8(e), the competent Court shall not take the amount indicated by the cohabitants as maintenance in the contract governing the cohabitation between the parties as fixed, provided that this amount is intended to be a minimum amount and not necessarily an appropriate one.

(2) The Court shall not fix maintenance in an amount that is less than the amount which the contracting parties indicated as the minimum amount that shall be granted as maintenance for dependent children:

Provided that where the Court finds that the cohabitant which is obliged to pay the said maintenance has lost his employment without fault, the Court may consider fixing maintenance in an amount which is lower than the amount indicated by the cohabitants as the minimum amount that shall be given as maintenance for any dependent children in the contract, as well as indicating that the full amount of maintenance shall be immediately due as soon as the cohabitant which is obliged to pay the said maintenance finds employment.

10. (1) The notary before whom the parties are to sign the contract of cohabitation is obliged to explain in detail to the parties the consequences of the said contract and the clauses selected by the parties to be bound thereby.

Declaration to be made by the parties.

(2) In the contract of cohabitation, the parties shall state that the notary has duly explained in detail the consequences of that contract and of the clauses selected by the parties to be bound thereby and they have understood their obligations and rights arising therefrom.

11. The cohabitants wishing to amend the contract of cohabitation registered according to this Act, may do so only:

Amendments to the contract of cohabitation.

(a) by means of a deed of correction registered by a notary without the requirement of any authorisation of the competent Court, if such act is intended to update any information about property, including the address of the ordinary, primary common home, or to add clauses relating to children born after the registration of the original act; or

(b) in any other instance, by means of a deed of correction registered by a notary after the parties have jointly obtained the authorisation of the competent Court, which Court shall ensure that there is nothing in the amendments that runs contrary to the best interest of the dependent children or that puts one cohabitant in a vulnerable situation.

12. In every instance where the Court is requested to give its authorisation for a deed of correction it shall, if it feels that it is appropriate to ensure that this deed is not done with abuse of a cohabitant on the other, hear the parties *viva voce*.

Authorisation from the Court.

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Ordinary,
primary or
common home.

13. Where the cohabitants change the house considered to be the ordinary, primary common home according to their contract of cohabitation without amending the said contract as prescribed in article 11(a), the provisions which they had stipulated in the contract of cohabitation with regard to the ordinary, primary common home according to article 8(a) shall apply to the new ordinary, primary common home in the same manner.

Rights of
registered
cohabitants.

14. A cohabitant registered under this Act shall benefit from the rights listed in the subsequent article and from further rights referred to directly in the law as applicable to registered cohabitants under this Act.

15. The rights conferred to the cohabitant registered under this Act are the following, namely that the cohabitant:

Cap. 16.

(a) shall be considered as a tenant for all intents and purposes of the law with regard to any lease of the ordinary, primary common home constituted by contract by any one of the cohabitants, irrespective of the date of the constitution of the lease, as well as with regard to any commercial lease under the Civil Code:

Provided that the owner of the ordinary, primary common home retains the right to refuse to renew the aforementioned contract constituted by any one of the cohabitants once that contract expires.

Cap. 199.

(b) shall be considered as a tenant in respect of farmers' rights and, or obligations and therefore as included in the definition of 'lessee' under article 2 of the Agricultural Leases (Reletting) Act;

Cap. 199.

(c) shall be regarded as 'family member' for the enjoyment of all rights related to renewal of lease of land under the Agricultural Leases (Reletting) Act;

(d) shall be regarded as having the same rights granted to a person who is married or in a civil union in terms of rights related to labour and family, including various rights related to leave, as well as those rights found in primary and subsidiary laws as well as under codes and working practices, excluding however the right of leave to accompany one's spouse to courses sponsored by the government abroad;

(e) shall be considered as the closest person to the cohabitant for all intents and purposes of the law;

(f) shall have the right to take decisions relating to the medical care of the other cohabitant;

(g) shall have, in the event that one of the cohabitants dies intestate during the cohabitation, and the survivor is entitled for maintenance in the course of separation as agreed in the contract of cohabitation, the right to receive the amount equivalent to eighty percent of five years' maintenance as stipulated in the contract of cohabitation in a lump sum as a legacy, unless the contract of cohabitation does not expressly provide that this clause shall not apply:

Provided that this sub-article shall not apply to the survivor which will inherit the deceased in a way that the value of such inheritance exceeds the amount of eighty per cent of five years' maintenance as prescribed above:

Provided further that this amount shall not exceed one quarter of the value of the estate when there are descendants, or one third of the value of the estate when there are no children:

Provided further that any action under this article shall be brought forward by not later than six months from the death of the cohabitant as registered according to this Act, and such action may only be brought by the surviving cohabitant;

(h) without prejudice to the provisions of the Civil Code, shall have, in the event of death of one of the cohabitants during the cohabitation, the right of habitation *vita durante* in the ordinary, primary, common home held jointly with the deceased: Cap. 16.

Provided that this right of habitation shall cease if the survivor contracts a marriage, civil union or enters into cohabitation with another person.

(i) shall have the right to be entitled to non-contributory social assistance when the cohabitant is a person who in the opinion of the director of social services is living with the head of the family as a spouse in marriage under article 30 of the Social Security Act; Cap. 318.

(j) shall have the right to have an invalidity pension paid to the cohabitant if the said cohabitant is maintaining the other cohabitant under article 26 of the Social Security Act; Cap. 318.

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(k) shall have the right to a widow's pension under articles 31 to 43 (both inclusive) of the Social Security Act;

Cap. 318.

(l) shall have the right, upon the death of the other cohabitant, to apply for a retirement pension if he is a person who is or was entitled to be maintained by the deceased under article 46 of the Social Security Act;

Cap. 318.

(m) shall have the right to payment of an age pension when both cohabitants qualify under article 66 of the Social Security Act;

Cap. 318.

(n) shall have the right to receive social benefits as a foster carer in accordance with article 76A of the Social Security Act;

Cap. 318.

(o) shall have the right to sickness assistance when the cohabitant is living with the head of the family during a period when such sickness assistance is being, or could be paid;

(p) shall have the right to unemployment benefit and to special unemployment benefit if the cohabitant is maintaining the other cohabitant in accordance with article 30 of the Social Security Act;

Cap. 318.

(q) shall have the right to maternity benefit and maternity leave benefit in accordance with articles 71 and 72 of the Social Security Act;

Cap. 318.

(r) shall have the right to the supplementary allowance under article 73 of the Social Security Act;

Cap. 318.

(s) shall have the right to children's allowance under articles 76, 80, 81 and 82 of the Social Security Act;

(t) shall have the right to allowance in respect of children in care under articles 76A, 80, 81 and 82 of the Social Security Act;

Cap. 318.

(u) shall have the right to an allowance for disabled children under articles 77, 80, 81 and 82 of the Social Security Act.

Cap. 318.

Termination of contract of cohabitation.

16. A contract of cohabitation is terminated:

(a) when one the cohabitants dies;

(b) when the cohabitants agree to terminate the said contract by means of a public deed registered by the notary;

(c) when the cohabitants cease to cohabit together, one of the parties lodges an application declaring, under oath, the date from which the parties ceased to cohabit together, requesting that the Court declare the contract of cohabitation to be terminated, and requests the Court to order that the rights and obligations arising from the same contract of cohabitation enter into force:

(2) The Court shall, in its decree, order the Registrar of the Courts to notify the Director of the Public Registry of the termination of the contract of cohabitation in order for such termination to be registered in the Public Registry within fifteen working days.

17. (1) Upon termination of the contract of cohabitation by the means referred to in article 16, the parties shall have the right to enforce all their rights and be bound by all the obligations contained in the contract of cohabitation.

Termination of contract.

(2) Any respective rights and, or obligations in the contract of cohabitation which are triggered by the separation of the cohabitants or as soon as the parties are no longer cohabiting shall come into effect immediately upon such separation or end of cohabitation, and not only upon the termination of the contract of cohabitation in accordance with article 16:

Provided that no action presented between persons who are, or were at any time cohabitants shall be considered null or vitiated due to illegal or unlawful considerations.

18. Every action made under articles 16 and 17 shall be made within two years from when the parties terminate the contract of cohabitation or from when the parties are no longer cohabiting together, whichever occurs last, except for those actions relating to children, which actions are not limited by time.

Action to be made within two years.

19. (1) If the cohabitants terminate the contract of cohabitation in accordance with article 16(b) while they are still cohabiting, and subsequently they wish to enter into another contract of cohabitation together, this contract may not be published and registered without the authorisation of the competent Court, which Court shall ensure that nothing in this contract goes against the best interest of the dependent children, if appropriate, or places any one of the parties in a vulnerable situation when compared to the contract which has been terminated by the cohabitants.

Where the parties enter into a new contract together.

(2) In every instance where the Court is requested to give its authorisation to the publication and registration of a contract of cohabitation in accordance with the preceding sub-article it shall, if it

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feels that it is appropriate to ensure that this contract is not being done with abuse of a party over the other party, hear the parties *viva voce*.

Part IV

Cohabitation by means of a unilateral declaration

Unilateral
declaration.

20. A cohabitant who wishes to acquire the basic rights and duties listed in article 30 in relation to the cohabitant with whom he has been cohabiting for a period of at least two years, which cohabitant is refusing to enter into a contract governing the cohabitation between them under this Act, may do so by a unilateral declaration by judicial letter in accordance with this Act:

Provided that such unilateral declaration shall not terminate the rights which the cohabitants already enjoy as a result of their *de facto* cohabitation.

Formalities of a
unilateral
declaration.

21. (1) For the unilateral declaration by means of the judicial letter mentioned in the previous article to create rights and obligations which are legally valid and enforceable under this Act, it must indicate, clearly and unequivocally, the following:

(a) the personal details of the cohabitants, including their identity card number;

(b) the address where the cohabitants are residing together;

(c) a declaration to the effect that there is nothing precluding the said cohabitants from entering into a legally valid contract of cohabitation taking into account that which is set forward in article 5;

(d) the date from which the parties may have been referred to as cohabitants under this Act, and that from that date onwards none of the conditions set forward in article 5 were in place; and

(e) a clear declaration, on pain of nullity, on the grounds upon which the judicial act is made.

(2) The content of the said judicial letter shall be confirmed on oath by the applicant before the Registrar of the Court or a legal procurator appointed as Commissioner for oaths under the Commissioners for Oaths Ordinance, and shall be notified to the other party, provided that the provisions of sub-articles (3), (5) or (6) of article 187 of the Code of Organization and Civil Procedure may not be used to effect the service of the said judicial letter.

Cap. 12.

(3) The judicial letter must also contain, on pain of nullity, a formal notice to the respondent that if he does not reply within two months from when he is served with the said judicial letter by presenting a note in the acts of that judicial letter in accordance with the subsequent article, he shall automatically be bound to the basic rights and duties under this Act with the other party, and in absence of proof to the contrary, the judicial letter shall constitute the necessary proof that the cohabitation between the parties commenced on the date indicated by the applicant.

22. By means of a note presented in the acts of the said judicial letter, the respondent may, within two months from the date of notification:

Rights of the respondent.

(a) reject the claim on the ground that the parties are not truly cohabiting as required by this Act;

(b) oppose the date from which such cohabitation should be presumed to be in conformity with this Act, in which case the basic rights and duties referred to in this Act shall be deemed to have come into effect from the date mentioned by the respondent, save for the right of the applicant to provide evidence by sworn application that the date was indeed the one referred to in the judicial letter:

Provided that where the cohabitation between the parties did not comply with article 21(1)(d) on the date referred to in the unilateral declaration, the date of commencement of cohabitation shall, for all purposes of the law, be considered to be the date from which the cohabitation could have been registered under the same article 21(1)(d), even where the respondent made no objection to that point during the stipulated time;

(c) present a contract of cohabitation drawn up and registered under this Act, in which case the judicial letter will be considered null and void.

23. The judicial letter referred to in articles 20 and 21, as well as the respondent's note referred to in article 22 shall, on pain of nullity, be notified to the Registrar by the party which presented the judicial letter and, or the note, as appropriate.

Judicial letter.

24. (1) The rights and duties acquired under the provisions of article 20, provided that there was no opposition on the part of the respondent, shall be rescinded and declared null and without effect if a request by an application is lodged before the Civil Court (Family Section) or the Court of Magistrates (Gozo) (Family Section)

Rights and duties acquired.

(Superior Jurisdiction), as appropriate, by the respondent within twenty days from the first notification served unto him of any executive warrant, any other judicial act or any criminal case based on those rights and duties, and the Court is satisfied:

(a) that the respondent did not have knowledge of the judicial letter because he was not duly notified; or

(b) that the judicial letter did not contain the requirements set out in article 21:

Provided that this application shall be appointed for hearing within two weeks.

(2) In the event of a criminal case based on the duties of a party arising from this Act with which the competent Court has yet to decide whether the same duties obtained under article 20 should be rescinded and declared null and void, the Court of Magistrates as a Court of Criminal Judicature shall defer the case for another date.

(3) Without prejudice to article 24, no objection, except that which is specifically prescribed in this article, shall prevent the issue or execution of any executive act or be regarded as a valid reason at law not to honour the duties of the respondent under this Act or reason for the establishment or deferral of criminal proceedings arising from a dereliction of duties pursuant to this Act.

Registration of
the judicial
letter.

25. (1) A judicial letter issued in accordance with the provisions of this Act may not be used to enforce the rights and duties referred to in the same act unless it has been registered in accordance with the provisions of this article, which should apply for the registration of those judicial letters as instruments which create rights and obligations that are legally valid and enforceable.

(2) The applicant for the registration of the judicial letter shall submit an authentic copy of the judicial letter to the Registrar, including proof of service and a copy of every reply received thereto, if any.

(3) Once the documents referred to in sub-article (2) are received, the Registrar shall examine the documents submitted, check whether the respondent has lodged a note in accordance with article 22 within the established time limit and if he is satisfied that the conditions for the registration of the judicial letter as conferring rights and duties which are legally valid and enforceable subsist, he shall proceed to register the documents presented in the Register of Cohabitation.

26. A judicial letter issued in accordance with the articles of this Act may not be used to enforce the rights and duties referred to in this Act once a contract governing the cohabitation of the said parties according to this Act is registered.

Judicial letter.

27. A unilateral declaration of cohabitation has legal effects only with regard to the parties.

Legal effects of a unilateral declaration.

28. A unilateral declaration of cohabitation under this Act can only be registered until five years from the entry into force of this Act.

Termination of period of registered unilateral declarations.

29. Without prejudice to the preceding article, the rights and duties of cohabitants in a cohabitation regulated by a unilateral declaration in accordance with the provisions of this Act, as well as the same cohabitation, remain valid and enforceable.

Part V Basic Rights and Duties

30. (1) The basic rights and duties referred to in this Act are as follows:

Basic rights and duties.

(a) the right to certain movables found in the ordinary, primary common home of the parties under article 31;

(b) the right to financial aid under article 32;

(c) the right of the cohabitant to continue to reside in the ordinary, primary common home for a reasonable period of time after the separation under article 33;

(d) the duty to pay for utilities under article 34;

(e) the right of the surviving cohabitant to reside in the ordinary, primary common residence of the parties under article 35.

(2) The rights and duties listed in the preceding sub-article shall apply automatically in the case of cohabitation by means of a contract between the parties, as well as in the case of cohabitation by means of a unilateral declaration.

31. There shall be a *iuris tantum* presumption that cohabitants are entitled to an equal portion of the movables found in the ordinary, primary common home which were acquired during the period of cohabitation established under the registered contract of cohabitation or under the proviso of article 21(b), as appropriate, unless those movables were not given to either one of the cohabitants by a

Right to certain movables.

donation, personal gift or were devolved upon them by succession from third parties:

Provided that in this article, ‘movables’ shall include the ornamental and decorative movables kept at the ordinary, primary common home of the cohabitants or such house which was considered the ordinary, primary common home of the cohabitants for some time, and shall exclude moneys, securities, vehicles and domestic animals.

Right to
financial aid.

32. (1) Where the cohabitants have a dependent child or children who are young or disabled, both during the period of cohabitation and in the event of separation, the party who is taking care of the upbringing of the said child or children and because of their age or disability, is financially dependent on the other party, shall have the right to ask for financial assistance from the other party to make good for the economic disadvantage.

(2) The financial aid referred to in this article may be periodic or lump sum and the Court, before reaching its decision, shall consider the following circumstances:

(a) the financial circumstances, requirements and obligations of each cohabitant at the date of the request;

(b) the rights and benefits that the cohabitant is legally bound with to a person with whom he had previously contracted marriage or civil union in a previous period, so however that the rights of that person shall remain unaffected;

(c) the rights and benefits of each dependent child or of any child from a previous relationship of each cohabitant so however that the rights of the said children shall remain unaffected;

(d) every contribution made by any one of the cohabitants to look after the ordinary, primary common home and, or the said children;

(e) the effect on the earning capacity of each cohabitant as a consequence of the responsibilities that they have or had during the period within which the parties have lived as a cohabiting couple, and the degree to which the capacity of future earnings of the parties was reduced because the cohabitant has relinquished or lost the opportunity of gainful activity in order to take care of the ordinary, primary common home and, or the children;

(f) any physical or mental incapacity of the cohabitants;
and

(g) the conduct of each cohabitant if the conduct is such that in the opinion of the Court, it would be unfair if it is not taken into account.

(3) Before reaching its decision, the Court may order to give notice to any other person or persons whom it specifies and may hear the person or persons on such terms and in relation to those matters which it deems appropriate in the interests of justice.

(4) The said financial aid in this article cannot be requested for a period preceding the time when the request is being made.

(5) Without prejudice to the preceding sub-articles of, if a cohabitant who has no dependent young or disabled children, both during the period of cohabitation as well in the case of separation, and is financially dependent on the other party and his financial dependency is a result of the relationship or the end of such relationship with the other cohabitant, that party has the right to request financial aid from the other party.

(6) Before determining whether to grant or reject the request mentioned in the previous sub-article, the Court shall consider:

(a) the circumstances referred to in article 32(2);

(b) the duration of the relationship between the parties;

(c) the basis on which the parties have entered that relationship;

(d) the degree of commitment of the parties to each other;

(e) the age of the parties; and

(f) the capacity of the requesting party to find gainful employment.

(7) The Court may, if it feels it should grant the request, do so for a limited period of time or decide to grant such request until the existence of particular circumstance or circumstances subsist.

(8) The Court shall not grant the demand if it believes that the granting of financial aid to one of the parties would constitute an injustice to the other party.

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(9) If the Court, upon a request made by one of the cohabitants, having regard to any change in the circumstances of the case and to any new evidence, including some variation by another order of the Court made in favour of any person with whom the cohabitant was married or in a civil union with, or evidence that the party receiving the financial aid has adequate income may, if it considers it appropriate, by order vary any other order made under this article.

(10) The rights arising from this article are terminated, without the need to request such termination, as soon as the party receiving the financial aid contracts a marriage or civil union, as well as if such party is cohabiting, even if only in *de facto* form, with another person.

Right of habitation after separation.

33. (1) In case of separation between the cohabitants, each cohabitant has the right to continue to reside in the ordinary, primary common home for a period which the Court considers reasonable under the circumstances:

Provided that in the case where the cohabitants live in the said ordinary, primary common home by means of a contract of letting and hiring, the said right shall apply only until the termination of the contract of letting and hiring.

(2) The period referred to in the previous sub-article shall be interpreted limitedly to allow the cohabitant who does not enjoy real rights on the said ordinary, primary common home to find suitable alternative accommodation.

Duty to pay utilities.

34. In case of separation between the cohabitants, when there is no decree of a competent Court or written agreement between the cohabitants stating otherwise, there should be a rebuttable presumption that cohabitants have the duty to pay for all utilities related to the ordinary, primary common home in which they reside in equal shares among themselves for the period they resided in it, irrespective of whether the accounts of the utilities are addressed to one cohabitant only.

Right of habitation after death.

35. (1) In the case of death of one the cohabitants, the survivor shall be entitled to the right of habitation over the ordinary, primary common home of the cohabitants for a period of years equivalent to the number of years that they had been cohabiting:

Provided that this number of years cannot exceed fifteen years.

(2) The survivor is entitled to the said right *vita durante* or until he enters into another contract of cohabitation, marriage or civil

union.

36. During a unilaterally declared cohabitation, the cohabitant, or at the end of such cohabitation, a person who was cohabiting with another person and has the basic rights and duties emanating from this Act, may obtain the said rights and enforce the said duties upon request by means of an application in the Civil Court (Family Section) or the Court of Magistrates (Gozo) (Family Section) (Superior Jurisdiction).

Actions for basic rights and duties.

37. Every action made under article 36 shall be made within two years from when the parties are no longer cohabiting together:

When the parties are no longer cohabiting together.

Provided that no action can be taken under this Act from the date of registration of a marriage or civil union between the parties, without prejudice to any outstanding action they had commenced before that date.

Part VI

General provisions

38. When two cohabitants contract a marriage or civil union between them:

General provisions.

(a) the contract of cohabitation, concluded and registered; or

(b) the provisions of the law in the context of a unilateral declaration of cohabitation;

shall immediately be null and void with regard to the parties, who, from the date when the marriage or civil union is contracted, shall have no right of action on the basis of their cohabitation against each other.

39. None of the provisions of this Act shall prejudice the rights of third parties in relation to any cohabitant.

Rights of third parties.

40. (1) Where a request is made for action under this Act to the competent Civil Court by one or the other cohabitants, or by both of the cohabitants who have agreed to end their cohabitation, save the action contemplated in article 17, before granting authorisation to the cohabitant or cohabitants to proceed with the cause, the Court shall summon the parties to appear before a mediator, either appointed by the Court itself or with the consent of both parties, so that where they have not already agreed on the terms of separation, such mediator helps the parties reach a contract of separation from the cohabitation on an agreed basis:

Mediation.

Provided that where the Court is presented with evidence of domestic violence between the cohabitants, the Court shall not summon the parties to appear before a mediator;

Provided also that where, during the mediation, the mediator becomes aware of any incident of domestic violence, he shall immediately cease the mediation and inform the Court on the matter.

(2) This agreement shall include the following terms, as applicable and if appropriate:

- (a) the care and custody of the children;
- (b) the access of the two parties to the children;
- (c) the maintenance of the cohabitants, or of one of them, and of each child;
- (d) the ordinary, primary common home where the parties have resided as cohabitants;
- (e) other rights emanating from this Act but which the parties wish to come to an independent agreement on.

(3) In all procedures of separation in the case of cohabitation before the competent Civil Court made upon request of one of the cohabitants or both, having agreed that their cohabitation shall be terminated, even where the cohabitants are separated by contract or by a judgment given by the competent Court, the Court may, when it deems it necessary on its own initiative, or at the request of the mediator or one of the cohabitants:

- (a) appoint a children's advocate to represent the interests of the minor children of the parties, or of any of them; and
- (b) hear the minor children of the parties, or any of them, where it considers it to be in their best interest to do so:

Provided that in all procedures of separation from cohabitation before the competent civil court as referred to in this article, the court may order the parties to submit information about the payment of children's maintenance.

Power to make regulations.

41. The Minister may make regulations to establish the procedure relating to mediation between the parties as provided for in this subtitle.

42. In the absence of specific regulations the Civil Court (Family Section), the First Hall of the Civil Court and the Court of Magistrates (Gozo) (Family Section) (Superior Jurisdiction) Regulations shall, *mutatis mutandis*, apply to any action brought under this Act with the exclusion of the action contemplated in article 17.

Applicability.
S.L. 12.20.

43. (1) When the cohabitants have contracted and registered their cohabitation outside of Malta, or when their cohabitation is already governed by foreign legislation and both of them wish for their cohabitation to have the same legal effects as cohabitations registered in Malta, they shall enter into a contract of cohabitation by means of a public deed for which a certificate of cohabitation as prescribed in the Schedule of this Act shall be issued.

Recognition of
foreign
contracts of
cohabitation.

(2) In this case, in order for the rights and duties arising from this Act to apply to the parties with regard to their cohabitation, which has been registered under this Act, they shall:

(a) provide to the notary drawing up the contract documents showing that the cohabitation of the parties is indeed recognised in the said foreign jurisdiction which governed their cohabitation, which documents the notary shall annex to the contract;

(b) lay down the date on which the said cohabitation was recognised in the foreign country in question;

(c) lay down the rights and duties which the cohabitants shall be bound by in an unequivocal manner in the contract, provided that these shall at least match the minimum requirements under article 8;

(d) make a declaration in the same public deed stating that they wish to have the rights and duties emanating from their cohabitation, if and when claimed before the Maltese Courts, regulated under this Act and not be subject to any other foreign law.

(3) In this case, the date upon which the cohabitation should be considered to have been constituted between the parties in this case shall be deemed to be, for all intents and purposes of this Act, the date stated in the contract of cohabitation of the parties in accordance with sub-article (2)(b), and not the date on which the cohabitation has been registered under this Act.

(4) All articles, with the exception of those relating to the constitution of registered cohabitation referred to in this Act with

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regard to registered cohabitation between two cohabitants shall apply mutatis mutandis for recognition of cohabitation according to this article.

Duty of cohabitants regarding maintenance.

44. When cohabitants are entitled to maintenance under a contract of cohabitation or under this Act and, or, ordered by a competent Court, they shall immediately notify the department of social services:

Provided that if the cohabitants fail to do so, all benefits given and which were not due shall be refunded to the department;

Provided further that if it is proven that a cohabitant knowingly failed to observe the provisions of this article, he shall upon conviction be liable to the punishment envisaged for fraud in social benefits.

Conflict of interest.

45. Wherever in the Laws of Malta it is considered that there is or may be a conflict of interest due to affinity between two persons, in any circumstance, this shall be construed as applying also to registered, unilaterally declared or *de facto* cohabitants.

Unjustified enrichment. Cap. 16.

46. (1) Articles 1028A and 1028B of the Civil Code shall apply where a cohabitant feels that by means of the relationship of cohabitation, the other cohabitant has unjustly enriched himself, to the damage of the former cohabitant.

(2) The action for the payment of damages caused in this manner are barred by the lapse of two years from when the effect of the unjustified enrichment ceases.

Power to make regulations.

47. The Minister may make regulations to implement and give better effect to the provisions of this Act, and without prejudice to the generality of the foregoing, may prescribe anything which shall be done or may be prescribed and provide for any consequential thing, incidental to or connected to the provisions of this Act.

Part VII

Consequential amendments

Substitution of article 196A of the Criminal Code, Cap. 9.

48. Article 196A of the Criminal Code shall be substituted as follows:

"Bigamy involving a civil union and cohabitation. 196A. (1) The offence provided for in article 196 shall also be committed and the punishments provided in the said article shall also apply to:

(a) any partner to a civil union contracted or recognised under the Civil Unions Act;

Cap. 530.

(b) any cohabitant, declared or recognised under the Cohabitation Act; who, during the subsistence of a valid civil union or cohabitation, contracts another marriage, civil union or cohabitation.

(2) The offence provided for in article 196 shall also be committed and the punishments provided in the said article shall also apply to any person who, during a marriage validly contracted, enters into civil union or cohabitation by contract or a unilateral declaration made by that person, or when notified of a unilateral declaration of cohabitation does not oppose it on grounds that he is already married."

49. In sub-article (2) of article 633 of the Criminal Code immediately after the words "against the husband or wife" there shall be added the words "against his civil union partner or against his cohabitant".

Amendment of article 633 of the Criminal Code, Cap. 9.

50. Article 635 of the Criminal Code shall be amended as follows:

Amendment of article 635 of the Criminal Code, Cap. 9.

(a) in sub-article (1), the words "the wife or husband" shall be substituted by the words "spouse, civil union partner or cohabitant";

(b) in sub-article (1)(b), immediately after the words "the spouse" there shall be added the words "the civil union partner or the cohabitant";

(c) in sub-article (1)(c), the words "his wife or her husband" shall be substituted by the words "his spouse, civil union partner or cohabitant";

(d) in sub-article (2), the words "husband or wife" shall be substituted by the words "spouse, civil union partner or cohabitant".

51. Article 566 of the Code of Organization and Civil Procedure shall be amended as follows:

Amendment of article 566 the Code of Organization and Civil Procedure, Cap. 12.

(a) the marginal note thereof shall be substituted as follows:

"Admissibility of spouses, civil union partners and cohabitants of party to a suit as witness." ;

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(b) in sub-article (1), the words "husband or wife" shall be substituted by the words "spouse, civil union partner or cohabitant";

(c) sub-articles (1)(a) (b) shall be substituted by the following:

"(a) that the spouse, civil union partner or cohabitant may not be compelled to disclose any communication made to him by his spouse, civil union partner or cohabitant during the marriage, civil union, or cohabitation, and vice versa;

"(b) that the spouse, civil union partner or cohabitant may not be compelled to answer any question tending to incriminate his spouse, civil union partner or cohabitant."; and

(d) in sub-article (2), the words "husband or wife" shall be substituted by the words "spouse, civil union partner or cohabitant".

Amendment of
article 114 of
the Civil Code,
Cap. 16.

52. Article 114 of the Civil Code shall be amended as follows:

(a) sub-article (2) shall be substituted as follows:

"(2) An adoption decree may be made on the application of two spouses, civil union partners or cohabitants in a *de facto* or registered cohabitation, who are living together, authorizing them jointly to adopt a person and may not be made on the application of only one of such spouse, civil union partner or cohabitant in a *de facto* or registered cohabitation:

Provided that where the person to be adopted is the natural offspring of either of the spouses, civil union partners or cohabitants in a *de facto* or registered cohabitation then, subject to the provisions of article 115(3)(c), the adoption decree may be made notwithstanding that the application is made only by the natural parent of the person to be adopted and the court shall not be bound to request or review the recommendation of the Adoption Board.";

(b) in sub-article (3), immediately after the words "two spouses living together" there shall be added the words "civil union partners or cohabitants in a *de facto* or registered cohabitation".

53. In sub-article (2)(a)(ii) of article 115 of the Civil Code immediately after the word "spouse", wherever it occurs, there shall be added the words "civil union partner or cohabitant".

Amendment of article 115 of the Civil Code, Cap. 16.

54. Article 50 of the Notarial Profession and Notarial Archives Act shall be amended as follows:

Amendment of article 50 of the Notarial Profession and Notarial Archives Act, Cap. 55.

(a) immediately after paragraph (d) there shall be added the following new paragraph:

"(e) stating any contract of cohabitation"; and

(b) paragraphs (e) to (o) to shall be renumbered as paragraphs (f) to (p) respectively.

55. In article 6 of the Land (Compulsory Eviction) Act the words "husband or wife" shall be substituted by the words "spouse, civil union partner or cohabitant".

Amendment of article 6 of the Land (Compulsory Eviction) Act, Cap. 228.

56. In article 6 of the Marriage Act immediately after the words "by a previous marriage" there shall be added the words "or by a registered cohabitation or a unilaterally declared cohabitation under the Cohabitation Act".

Amendment to article 6 of the Marriage Act, Cap. 255.

**SCHEDULE
(Article 6)**

REĠISTRU PUBBLIKU PUBLIC REGISTRY

Jiena, hawn taht ifirmat, niċċertifika li din ta' hawn taht hija vera kopja ta' Ċertifikat ta' Koabitazzjoni i-registrat fi-Uffiċċju tar-Registru Pubbliku ta-Belt Valletta, Malta.
I, the undersigned, do hereby certify that the following is a true copy of a Certificate of Cohabitation registered in the Public Registry Office of Valletta, Malta.

ĊERTIFIKAT TA' KOABITAZZJONI — CERTIFICATE OF COHABITATION		DATA TA' L-ATT: DATE OF THE ACT:
KOABITANT (1) / COHABITANT (1)	TAGRRIF DWAR IL-KOABITANTI - PARTICULARS OF THE COHABITANTS	KOABITANT (2) / COHABITANT (2)
	Isem u Kognom Name and Surname	
	Data u Post ta-Twelid Date and Place of Birth	
	Dokument ta' Identifikazzjoni Date and Place of Birth Identification Document	
	Data ta-bidu tal-Koabitazzjoni Start Date of Cohabitation	
	Post ta' Abitazzjoni Place of Residence	
	Isem u Kognom il-Gravni, u fejn applikabbli Kognom il-Materni Name and Surname of Parents, and where applicable Maiden Surname of Mother's	
Firma tar-Registretur tal-Koabitazzjoni Signature of Cohabitation Registrar		Data tad-Diġi ta' l-Att. Date of receipt of Act.
Firma tad-Direttur jew ta' uffiċjal lehor in rappresentanza tiegħi/tagħha. Signature of Director or other officer to act in his/her stead.		Numru wars li-lehor tar-Registru Nru. Progressive Number of Registration

Objects and Reasons

The objects of this Bill are to regulate cohabitations.

