

Suppliment tal-Gazzetta tal-Gvern ta' Malta, Nru. 19,394, 17 ta' Marzu, 2015

Taqsim C

Nru. 91

17. 03. 2015

MALTA

KAMRA TAD-DEPUTATI

HOUSE OF REPRESENTATIVES

ABBOZZ ta' Liġi mressaq mill-Onorevoli Owen Bonnici, M.P., Ministru għall-Ġustizzja, Kultura u Gvern Lokali, u moqri għall-Ewwel darba fis-Seduta tas-16 ta' Marzu, 2015.

ABILL introduced by the Honourable Owen Bonnici, M.P., Minister for Justice, Culture and Local Government, and read the First time at the Sitting of the 16th March, 2015.

ATT li jemenda diversi liġijiet dwar is-suċċessjoni.

AN ACT to amend various laws relating to succession.

RAYMOND SCICLUNA
Skrivan tal-Kamra tad-Deputati

RAYMOND SCICLUNA
Clerk of the House of Representatives

ABBOZZ TA' LIĠI msejjah

ATT li jemenda diversi liġijiet dwar is-suċċessjoni.

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

1. (1) It-titolu fil-qosor ta' dan l-Att hu l-Att tal-2015 li jemenda Diversi Liġijiet dwar is-Suċċessjoni.

Titolu fil-qosor,
skop u bidu fis-
sehh.

(2) Dan l-Att jimplimenta id-dispożizzjonijiet tar-Regolament (UE) Nru. 650/2012 tal-Parlament Ewropew u tal-Kunsill tal-4 ta' Lulju, 2012 dwar il-ġurisdizzjoni, il-liġi applikabbli, ir-rikonoxximent u l-infurzar ta' deċiżjonijiet u l-aċċettazzjoni u l-infurzar ta' strumenti awtentiċi fil-qasam tas-suċċessjonijiet u dwar il-holqien ta' Ċertifikat Ewropew tas-Suċċessjonijiet.

(3) Id-dispożizzjonijiet ta' dan l-Att għandhom jidhlu fis-sehh f'dik id-data li l-Ministru għall-Ġustizzja jista' b'avviż fil-Gazzetta jstabbilixxi, u jistgħu jiġu hekk stabbiliti dati differenti għal dispożizzjonijiet differenti ta' dan l-Att.

TAQSIMA I Emendi għall-Kodiċi Ċivili

2. Din it-Taqsima temenda l-Kodiċi Ċivili, u għandha tinqara u tiftiehem haġa waħda mal-Kodiċi Ċivili, hawnhekk iżjed 'il quddiem f'din it-Taqsima msejjah "il-Kodiċi".

Emendi tal-
Kodiċi Ċivili.
Kap. 16.

C 278

Emenda tat-
Taqsim tal-
Kodiċi fil-
Kodiċi.

3. It-tabella intitolata "Taqsim tal-Kodiċi" li tidher minnufih qabel l-artikolu 1 tal-Kodiċi għandha tiġi emendata kif ġej:

(a) fl-intestatura tas-Sub-Titolu III tat-Titolu III tat-Taqsima II tat-Tieni Ktieb tal-Kodiċi, intitolat "Dispożizzjonijiet li jgħoddu sew għas-Suċċessjoni b'Testment kemm għas-Suċċessjoni *ab intestato*", minflok in-numru "958" għandu jidhol in-numru "958K";

(b) fis-Sub-Titolu III tat-Titolu III tat-Taqsima II tat-Tieni Ktieb tal-Kodiċi, minnufih wara l-intestatura "Fuq il-Qasma magħmula mill-Missier, jew l-Omm, jew minn Axxendenti oħra, bejn id-Dixxendenti tagħhom" għandha tiżdied l-intestatura ġdida li ġejja:

"§VIII Fuq Suċċessjonijiet Transkonfinali 958A - 958K";
u

(ċ) fl-intestatura tat-Titolu IIIA tat-Taqsima II tat-Tieni Ktieb tal-Kodiċi, intitolata "Fuq *Trusts* u l-Effetti tagħhom" minflok in-numri "958A – 958K" għandhom jidhlu n-numri "958L – 958U".

Thassir tal-
artikolu 682 tal-
Kodiċi.

4. L-artikolu 682 tal-Kodiċi għandu jiġi mħassar.

Enumerazzjoni
mill-ġdid tal-
artikoli 958A sa
958J tal-Kodiċi.

5. L-artikoli 958A sa 958J tal-Kodiċi għandhom jiġu enumerati mill-ġdid bħala l-artikolu 958L sal-artikolu 958U rispettivament.

Żieda ta'
intestatura u
artikoli ġodda
mal-Kodiċi.

6. Minnufih wara l-artikolu 958 tal-Kodiċi għandhom jiżdiedu l-intestatura ġdida u l-artikoli ġodda li ġejjin:

"§VIII FUQ SUĊĊESSJONIJIET
TRANSKONFINALI

Tifsir.

958A. Għall-finijiet ta' dan is-Sub-Titolu:
"suċċessjoni transkonfinali" tinkludi
suċċessjoni meta tiġri waħda jew iżjed minn dawn
li ġejjin:

(a) il-mejjet kellu proprjetà jew attiv
f'izjed minn pajjiż wiehed; jew

(b) il-mejjet, fil-mument tal-mewt
tiegħu, kien abitwalment residenti f'pajjiż
iehor għajr il-pajjiż li tiegħu huwa kien
ċittadin; jew

(ċ) il-mejjet għamel dispożizzjoni ta' proprjetà għal wara mewtu f'pajjiż ieħor għajr il-pajjiż li tiegħu huwa kien ċittadin; jew

(d) il-benefiċċjarji tas-suċċessjoni huma abitwalment residenti jew huma ċittadini f'izjed minn pajjiż wieħed;

"Ċertifikat Ewropew tas-Suċċessjoni" tfisser iċ-ċertifikat imsemmi fil-Kapitolu VI tar-Regolament dwar is-Suċċessjoni;

"ir-Regolament dwar is-Suċċessjoni" tfisser ir-Regolament (UE) Nru. 650/2012 tal-Parlament Ewropew u tal-Kunsill tal-4 ta' Lulju, 2012 dwar il-ġurisdizzjoni, il-liġi applikabbli, ir-rikonnoxximent u l-infurzar ta' deċiżjonijiet u l-aċċettazzjoni u l-infurzar ta' strumenti awtentici fil-qasam tas-suċċessjonijiet u dwar il-holqien ta' Ċertifikat Ewropew tas-Suċċessjonijiet, inkluż kull emenda li tista' ssir fil-futur lir-Regolament imsemmi.

Applikabilità.

958B. Id-dispożizzjonijiet tar-Regolament dwar is-Suċċessjoni għandhom japplikaw għal suċċessjonijiet transkonfinali mis-17 ta' Awwissu, 2015 'il quddiem..

Qorti kompetenti.

958Ċ(1) Il-Prim'Awla tal-Qorti Ċivili tkun il-qorti kompetenti li tittratta rikorsi għal dikjarazzjoni ta' infurzabbiltà skont l-Artikoli 45, 60 u 61 tar-Regolament dwar is-Suċċessjoni.

(2) Fid-deċiżjoni tagħha dwar rikors għal dikjarazzjoni ta' infurzabbiltà, il-qorti għandha tordna lir-Registratur tal-Qrati li jara li kopja tad-deċiżjoni tagħha tiġi notifikata lir-rikorrent skont l-Artikolu 49(1) tar-Regolament dwar is-Suċċessjoni. Il-qorti għandha tindika il-mod ta' kif dik in-notifika għandha titwettaq.

(3) Ir-rikorrent għandu jinnotifika d-deċiżjoni dwar ir-rikors għal dikjarazzjoni ta' infurzabbiltà lill-parti jew partijiet li kontribom ikun qed jintalab l-infurzar skont l-Artikolu 49(2) tar-Regolament dwar is-Suċċessjoni.

- Kap. 12. (4) Il-qorti kompetenti f'Malta biex tqis appelli kontra deċiżjonijiet fuq rikorsi bhal dawn skont l-Artikolu 50 tar-Regolament dwar is-Suċċessjoni għandha tkun il-Qorti tal-Appell kif kostitwita skont l-artikolu 41(1) tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili.
- (5) Appell kontra xi deċiżjoni tal-Prim'Awla tal-Qorti Ċivili dwar rikors għal dikjarazzjoni ta' infurzabbiltà skont l-Artikolu 50 tar-Regolament dwar is-Suċċessjoni għandu jsir permezz ta' rikors u għandu jiġi prezentat fi żmien għoxrin jum li għandhom jibdedw jiddekorru kif ġej:
- (a) fil-kaz ta' appell imressaq mir-rikorrent, mid-data meta d-deċiżjoni tkun ingiebet għall-attenzjoni tiegħu skont is-subartikolu (2); u
- (b) fil-kaz ta' appell imressaq mill-parti l-oħra mid-data meta d-deċiżjoni tkun giet notifikata lil dik il-parti skont is-subartikolu (3).
- Kap. 12. (6) Id-dispożizzjonijiet tat-Titolu IV tat-Tielet Ktieb tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili għandhom japplikaw għal deċiżjonijiet mogħtija mill-Qorti tal-Appell fuq appell minn deċiżjoni dwar dikjarazzjoni ta' infurzabbiltà.
- L-awtoritajiet kompetenti li jgħorġu Ċertifikat Ewropew tas-Suċċessjoni. 958D. Mingħajr hsara għad-dispożizzjonijiet tal-artikolu 958E(3) u (4), l-awtoritajiet kompetenti f'Malta biex jgħorġu Ċertifikat Ewropew tas-Suċċessjoni skont l-Artikolu 64 tar-Regolament dwar is-Suċċessjoni għandhom ikunu l-Qorti Ċivili (Sezzjoni Ġurisdizzjoni Volontarja) u n-nutara li jkollhom il-*warrant* sabiex jeżerċitaw il-professjoni tagħhom skont l-Att dwar il-Professjoni Nutarili u Arkivji Nutarili.
- Kap. 55. 958E. (1) Il-Qorti Ċivili (Sezzjoni Ġurisdizzjoni Volontarja) għandha l-kompetenza li toħroġ Ċertifikat Ewropew tas-Suċċessjoni fil-kazijiet kollha.
- Kompetenza.

(2) Nutar jista' jöhroġ Ċertifikat Ewropew tas-Suċċessjoni biss meta l-benefiċjarji kollha tas-suċċessjoni jkunu ftehm fuq il-kontenut taċ-ċertifikat u taw il-kunsens tagħhom bil-miktub lin-nutar sabiex jissokta bil-hruġ taċ-ċertifikat.

(3) Nutar ma jistax jöhroġ Ċertifikat Ewropew tas-Suċċessjoni:

(a) meta jkun sar rikors għall-hruġ ta' dak iċ-ċertifikat li jkollu x'jaqsam mas-suċċessjoni tal-istess persuna quddiem il-Qorti Ċivili (Sezzjoni Ġurisdizzjoni Volontarja) qabel il-hruġ ta' xi ċertifikat;

(b) meta l-ftehim tal-benefiċċjarji kollha tas-suċċessjoni skont is-subartikolu (2) ma jkunx intlaħaq; jew

(ċ) meta n-nutar ikun jaf li teżisti tilwima li jkollha x'taqsam mal-wirt jew mal-ġid jew ma' partijiet mill-ġid tal-mejjet.

(4) Fil-każijiet imsemmija fis-subartikolu (3), in-nutar jew l-avukat jista', fuq talba ta' kull persuna msemmija fl-Artikolu 63(1) tar-Regolament dwar is-Suċċessjoni, jagħmel rikors lill-Qorti Ċivili (Sezzjoni Ġurisdizzjoni Volontarja) f'isem dik il-persuna għall-hruġ ta' Ċertifikat Ewropew tas-Suċċessjoni.

(5) Għall-finijiet ta' dan l-artikolu, "benefiċjarji" tas-suċċessjoni tfisser il-werrieta u l-legatarji tas-suċċessjoni, u jekk ikun hemm, l-esekutori testamentarji.

Registrazzjoni tar-rikors.

958F. Meta tirċievi rikors għal Ċertifikat Ewropew tas-Suċċessjoni fil-forma preskritta fl-Artikolu 65 tar-Regolament dwar is-Suċċessjoni, l-awtorità emittenti għandha tirreġistra r-rikors mad-Direttur tar-Reġistru Pubbliku b'nota ta' iskrizzjoni fi żmien sebat ijiem mid-data ta' meta tirċievi r-rikors.

Persuni interessati.

985G. Jekk ikun jidher mill-kontenut tar-rikors, jew mill-eżami, jew mill-informazzjoni miksuba, li xi terza persuna tkun interessata fil-kwistjoni, l-awtorità emittenti għandha tordna li r-rikors jiġi notifikat lil dik il-persuna interessata.

Stharrig dwar ir-rikors.	<p>958H.(1) Fl-istharrig dwar ir-rikors, il-Qorti Ċivili (Sezzjoni Ġurisdizzjoni Volontarja) għandu jkollha s-setgħat kollha msemmija fit-Taqsima II tat-Tieni Ktieb tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili.</p> <p>(2) Jekk ir-rikors ikun jinvolvi xi ligi barranija, il-qorti tista' tahtar persuna waħda jew iżjed li tkun kwalifikata b'mod xieraq minhabba l-għarfien jew l-esperjenza tagħha li tipproduci opinjoni raġunata bil-miktub, sabiex tagħti xhieda esperta dwar il-ligi ta' kull stat barrani ieħor.</p>
Kap. 12.	<p>958I.(1) Kull rikors għal Ċertifikat Ewropew tas-Suċċessjoni u kull Ċertifikat Ewropew tas-Suċċessjoni maħruġ għandhom jinżammu u jiġu registrati mill-awtorità emittenti. In-nutar għandu jkun marbut ukoll li jzomm maċ-Ċertifikat il-kunsens bil-miktub li jissemma fl-artikolu 958E(2).</p> <p>(2) Jekk ir-rikors ikun gie pprezentat quddiem il-Qorti Ċivili (Sezzjoni Ġurisdizzjoni Volontarja), ir-rikors u ċ-ċertifikat għandhom jinżammu fir-Registru tal-Qorti.</p> <p>(3) Ir-registrazzjoni għandha ssir f'isem il-mejjet li s-suċċessjoni tiegħu tkun qed tiġi determinata permezz taċ-Ċertifikat Ewropew tas-Suċċessjoni.</p> <p>(4) Għandhom jinżammu wkoll indiċijiet regolari għar-rikorsi kollha u għaċ-ċertifikati kollha maħruġa.</p>
Zamma u registrazzjoni ta' kull rikors u kull Ċertifikat.	<p>958J.(1) L-awtorità emittenti għandha tohroġ kopja ċertifikata waħda jew iżjed taċ-Ċertifikat Ewropew tas-Suċċessjoni lir-rikorrent u lil kull persuna li turi interess legittimu fis-suċċessjoni tal-mejjet. Fil-kazijiet kollha, l-awtorità emittenti għandha żzomm lista tal-persuni li jkunu nħargulhom l-kopji ċertifikati. Dik il-lista għandha tkun aċċessibbli għal kull persuna li turi interess legittimu.</p> <p>(2) L-awtorità emittenti għandha, fi zmien hmistax-il jum mid-data tal-ħruġ taċ-Ċertifikat, tipprezenta nota ta' iskrizzjoni lid-Direttur tar-Registru Pubbliku li għandu jirregistra ċ-Ċertifikat Ewropew tas-Suċċessjoni skont hekk.</p>
Kopji ċċertifikati taċ-Ċertifikat Ewropew tas-Suċċessjoni.	

(3) In-nota ta' iskrizzjoni għandu jkun fiha d-data u x-xorta tal-att, l-isem tal-mejjet, it-tismija tal-awtorità emittenti u d-data tal-ħruġ taċ-Ċertifikat.

(4) Kull rettifika, modifika jew irtirar taċ-Ċertifikat li jsir mill-awtorità emittenti għandhom jiġu registrati wkoll mad-Direttur tar-Registru Pubbliku permezz ta' nota ta' iskrizzjoni fi żmien ħmistax-il jum mid-data tar-rettifika, modifika jew irtirar taċ-Ċertifikat.

Kontestazzjoni ta' deċiżjoni tal-awtorità emittenti.

958K.(1) Għall-finijiet tal-Artikolu 72 tar-Regolament dwar is-Suċċessjoni, deċiżjonijiet tal-awtorità emittenti skont l-Artikolu 67, Artikolu 71 u l-punt (a) tal-Artikolu 73(1) tar-Regolament dwar is-Suċċessjoni jistgħu jiġu kkontestati permezz ta' rikors ġuramentat bil-mod imsemmi fil-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili. Ir-rikors ġuramentat għandu jkun ipprezentat quddiem il-Prim'Awla tal-Qorti Ċivili li tkun l-awtorità ġudizzjarja kompetenti għal dan il-għan.

Kap. 12.

(2) Ir-rikorrent għandu jara li kopja tar-rikors ġuramentat tiġi notifikata lil kull persuna li jkollha interess fil-kwistjoni, li jkollha għoxrin jum li matulhom tkun tista' tipprezenta risposta.

(3) Appell kontra sentenza tal-Prim'Awla tal-Qorti Ċivili skont is-subartikolu (1) għandu jsir permezz ta' rikors lill-Qorti tal-Appell u għandu jiġi pprezentat fi żmien għoxrin jum mid-data tas-sentenza.

Kap. 12.

(4) Il-mod kif jitmexxa appell kif imsemmi fil-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili għandu japplika *mutatis mutandis*."

TAQSIMA II

Emendi għall-Att dwar il-Professjoni Nutarili u Arkivji Nutarili

6. Din it-Taqsima temenda l-Att dwar il-Professjoni Nutarili u Arkivji Nutarili, u għandha tinqara u tiftiehem haġa waħda mal-Att dwar il-Professjoni Nutarili u Arkivji Nutarili, hawnhekk iżjed 'il quddiem f'din it-Taqsima msejjaħ "l-Att prinċipali".

Emendi tal-Att dwar il-Professjoni Nutarili u Arkivji Nutarili. Kap. 55.

7. Is-subartikolu (2) tal-artikolu 2 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 2 tal-Att prinċipali.

(a) il-paragrafu (k) tiegħu għandu jiġi enumerat mill-ġdid bhala l-paragrafu (l); u

(b) minnufih wara l-paragrafu (j) tiegħu għandu jżied il-paragrafu ġdid li ġej:

"(k) li jhorgu Ċertifikat Ewropew tas-Suċċessjoni skont ir-Regolament (UE) Nru. 650/2012 tal-Parlament Ewropew u tal-Kunsill tal-4 ta' Lulju, 2012 skont id-dispożizzjonijiet tas-Sub-titolu IV tat-Titolu III tat-Taqsima II tat-Tieni Ktieb tal-Kodiċi Ċivili;"

Emenda tal-artikolu 50 tal-Att prinċipali.

8. Fil-paragrafu (o) tas-subartikolu (1) tal-artikolu 50 tal-Att prinċipali, minflok il-kelma "wirt." għandha tidhol il-kelma "wirt;", u minnufih wara għandu jżied il-paragrafu ġdid li ġej:

"(p) kull rikors għal Ċertifikat Ewropew tas-Suċċessjoni u kull Ċertifikat Ewropew tas-Suċċessjoni maħrug."

TAQSIMA III

Emendi għall-Att dwar ir-Registru Pubbliku

Emendi tal-Att dwar ir-Registru Pubbliku. Kap. 56.

9. Din it-Taqsima temenda l-Att dwar ir-Registru Pubbliku, u għandha tinqara u tiftiehem haġa waħda mal-Att dwar ir-Registru Pubbliku, hawnhekk iżjed 'il quddiem f'din it-Taqsima msejjaħ "l-Att prinċipali".

Żieda tal-artikolu ġdid 34A mal-Att prinċipali.

10. Minnufih wara l-artikolu 34 tal-Att prinċipali għandu jżied l-artikolu ġdid li ġej:

"Żewġ kotba tar-registru għaċ-Ċertifikat Ewropew tas-Suċċessjoni.

34A.(1) Fl-Uffiċċju tar-Registru Pubbliku f'Malta u f'Għawdex, għandu jkun hemm żewġ kotba tar-registru: wiehed għar-registrazzjoni ta' rikorsi għaċ-Ċertifikat Ewropew tas-Suċċessjoni, u iehor għar-registrazzjoni ta' Ċertifikat Ewropew tas-Suċċessjoni li jkun inhareg mill-awtoritajiet emittenti.

(2) Fiż-żewġ każijiet ir-registrazzjoni għandha ssir f'isem il-mejjet li s-suċċessjoni tiegħu tkun qed tiġi determinata permezz taċ-Ċertifikat Ewropew tas-Suċċessjoni.

(3) Id-Direttur tar-Registru Pubbliku għandu jara li jinżamm fl-Uffiċċju tar-Registru Pubbliku f'Malta u f'Għawdex indiċi tal-kotba tar-registru għar-registrazzjoni tar-rikorsi għaċ-Ċertifikat Ewropew tas-Suċċessjoni u għar-registrazzjoni ta' Ċertifikat Ewropew tas-Suċċessjoni; u kull persuna għandu jkollha l-jedd li tfittex f'dak l-indiċi, u li jkollha kopja ta' kull iskrizzjoni li tkun tinsab fl-imsemmija kotba tar-registru.

(4) Il-kopja ta' kull iskrizzjoni miksuba mill-kotba tar-registru msemmija f'dan l-artikolu għandha taqdi biss bħala tagħrif u m'għandha bl-ebda mod tiegħu post il-kopja ċertifikata taċ-Ċertifikat Ewropew tas-Suċċessjoni maħruġa mill-awtoritajiet kompetenti li jkunu ħarġu ċ-Ċertifikat.

(5) Għall-ghanijiet ta' dan l-artikolu ċ-Ċertifikat Ewropew tas-Suċċessjoni jirreferi għat-tifsira kif mogħtija lilu fir-Regolament tal-Parlament Ewropew u tal-Kunsill (UE) Nru. 650 tal-2012."

11. Minnufih wara l-partita 11 tal-Ewwel Skeda li tinsab mal-Att prinċipali għandha tiżdied il-partita ġdida li ġejja:

Emenda tal-Ewwel Skeda li tinsab mal-Att prinċipali.

"12. Għal kull registrazzjoni ta' rikors għal Ċertifikat Ewropew tas-Suċċessjoni jew għar-registrazzjoni ta' Ċertifikat Ewropew tas-Suċċessjoni jew għar-registrazzjoni ta' rettifika, modifika jew irtirar ta' Ċertifikat Ewropew tas-Suċċessjoni €20".

Għanijiet u Raġunijiet

L-għan ta' dan l-Abbozz ta' Liġi hu sabiex ikunu jistgħu jiġu implimentati d-dispożizzjonijiet tar-Regolament (UE) Nru. 650/2012 tal-Parlament Ewropew u tal-Kunsill tal-4 ta' Lulju, 2012 dwar il-ġurisdizzjoni, il-liġi applikabbli, ir-rikonossiment u l-infurzar ta' deċiżjonijiet u l-aċċettazzjoni u l-infurzar ta' strumenti awtentici fil-qasam tas-suċċessjonijiet u dwar il-ħolqien ta' Ċertifikat Ewropew tas-Suċċessjonijiet.

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**A BILL
entitled**

AN ACT to amend various laws relating to succession.

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

Short title,
scope and
commencement.

1. (1) The short title of this Act is the Various Laws (Succession) (Amendment) Act, 2015.

(2) This Act implements the provisions of Regulation (EU) No 650/2012 of the European Parliament and of the Council of the 4th July, 2012 on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession.

(3) The provisions of this Act shall come into force on such date as the Minister for Justice may by notice in the Gazette establish, and different dates may be so established for different provisions of this Act.

**PART I
Amendments to the Civil Code**

Amendment of
the Civil Code.
Cap. 16.

2. This Part amends the Civil Code and it shall be read and construed as one with the Civil Code, hereinafter in this Part referred to as "the Code".

Amendment of
the
Arrangement of
Code in the
Code.

3. The table entitled "Arrangement of Code" appearing immediately before article 1 of the Code shall be amended as follows:

(a) in the heading of Sub-Title III of Title III of Part II of Book Second thereof, entitled "Provisions common to Testate Successions and to Intestate Successions", the figure "958" shall

be substituted by the figure "958K";

(b) in Sub-Title III of Title III of Part II of Book Second thereof, immediately after the heading "Of Partitions made by the Father, the Mother, or other Ascendants among their Descendants" there shall be added the following new heading:

"§VIII Of Cross-Border Successions 958A - 958K"; and

(c) in the heading of Title IIIA of Part II of Book Second thereof, entitled "Of Trusts and their effects" the figures "958A - 958K" shall be substituted by the figures "958L - 958U".

4. Article 682 of the Code shall be deleted. Deletion of article 682 of the Code.
5. Articles 958A to 958J of the Code shall be renumbered as article 958L to article 958U respectively. Re-numbering of articles 958A to 958J of the Code.
6. Immediately after article 958 of the Code, there shall be added the following new heading and articles: Addition of new heading and articles to the Code.
- "§VIII OF CROSS-BORDER SUCCESSIONS
- 958A. For the purposes of this Sub-title:
- "cross-border succession" includes a succession wherein one or more of the following may occur:
- (a) the deceased held property or assets in more than one country; or
- (b) the deceased was at the time of his death habitually resident in a country other than the country of which he was a national; or
- (c) the deceased made a disposition of property upon death in a country other than the country of which he was a national; or
- (d) the beneficiaries of the succession are habitually resident or are nationals in more than one country;
- "European Certificate of Succession" means the certificate referred to in Chapter VI of the Succession Regulation;

Interpretation.

"Succession Regulation" means Regulation (EU) No. 650/2012 of the European Parliament and of the Council of 4 July 2012 on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession, including any future amendment to the said Regulation.

Applicability.

958B. The provisions of the Succession Regulation shall apply to cross-border successions from 17 August 2015 onwards.

Competent court.

958C(1) The Civil Court (First Hall) shall be the competent court to deal with applications for a declaration of enforceability pursuant to Articles 45, 60 and 61 of the Succession Regulation.

(2) In its decision on an application for a declaration of enforceability, the court shall order the Registrar of Courts to cause a copy of its decision to be served on the applicant pursuant to Article 49(1) of the Succession Regulation. The court shall indicate the manner in which such service is to take place.

(3) The applicant shall serve the decision on an application for a declaration of enforceability on the party or parties against whom enforcement is sought pursuant to Article 49(2) of the Succession Regulation.

Cap. 12.

(4) The competent court in Malta to deal with appeals against decisions on such applications in accordance with Article 50 of the Succession Regulation shall be the Court of Appeal as constituted in accordance with article 41(1) of the Code of Organization and Civil Procedure.

(5) An appeal against a decision of the Civil Court (First Hall) on an application for a declaration of enforceability in accordance with Article 50 of the Succession Regulation shall be made by means of an application and shall be lodged within twenty days which shall commence to run as follows:

(a) in the case of an appeal by the applicant, from the date when the decision is brought to his notice in accordance with sub-article (2); and

(b) in the case of an appeal by the other party, from the date when the decision is served upon such party in accordance with sub-article (3).

Cap. 12.

(6) The provisions of Title IV of Book Third of the Code of Organization and Civil Procedure shall apply to decisions given by the Court of Appeal on an appeal from a decision on a declaration for enforceability.

Competent authorities for the issue of a European Certificate of Succession.

958D. Without prejudice to the provisions of article 958E(3) and (4), the competent authorities in Malta to issue a European Certificate of Succession pursuant to Article 64 of the Succession Regulation shall be the Civil Court (Voluntary Jurisdiction Section) and notaries having a warrant to exercise their profession in accordance with the Notarial Profession and Notarial Archives Act.

Cap. 55.

Competence.

958E. (1) The Civil Court (Voluntary Jurisdiction Section) shall be competent to issue a European Certificate of Succession in all cases.

(2) A notary may only issue a European Certificate of Succession where all the beneficiaries of the succession are in agreement on the contents of the certificate and have expressed their consent in writing to the notary to proceed with the issue of the certificate.

(3) A notary shall not issue a European Certificate of Succession:

(a) where an application for the issue of such a certificate concerning the succession of the same person has been made to the Civil Court (Voluntary Jurisdiction Section) prior to the issue of a certificate;

(b) where the agreement of all the beneficiaries of the succession in accordance with sub-article (2) has not been attained; or

(c) where the notary is aware that there is a dispute concerning the inheritance or estate or parts of the estate of the deceased.

(4) In the cases referred to in sub-article (3), the notary or an advocate may, on the request of any person referred to in Article 63(1) of the Succession Regulation, make an application to the Civil Court (Voluntary Jurisdiction Section) on behalf of such person for the issue of a European Certificate of Succession.

(5) For the purposes of this article, "beneficiaries" of the succession means the known heirs and legatees of the succession, and if any, the testamentary executors.

Registration of application.

958F. Upon receipt of an application for a European Certificate of Succession in the form prescribed in Article 65 of the Succession Regulation, the issuing authority shall register the application with the Director of the Public Registry by means of a note of enrolment within seven days from date of receipt of the application.

Interested parties.

985G. If it shall appear from the contents of the application, or from the examination, or from the information obtained, that any third party is interested in the matter, the issuing authority shall order the application to be served on such interested party.

Examination of application.

958H.(1) In examining the application, the Civil Court (Voluntary Jurisdiction Section) shall have all the powers mentioned in Part II of Book Second of the Code of Organization and Civil Procedure.

Cap. 12.

(2) If the application involves a foreign law, it shall be lawful for the court to appoint one or more persons who is suitably qualified on account of his knowledge or experience to produce a reasoned opinion in writing, to give expert evidence as to the law of any other foreign state.

Preservation
and registration
of application
and Certificate.

958I.(1) Every application for a European Certificate of Succession and every European Certificate of Succession issued shall be preserved and registered by the issuing authority. The notary shall also be bound to preserve with the Certificate the consent in writing mentioned in article 958E(2).

(2) If the application has been filed before the Civil Court (Voluntary Jurisdiction Section), the application and the certificate shall be kept at the Registry of the Court.

(3) The registration shall be made in the name of the deceased person whose succession is being determined by means of the European Certificate of Succession.

(4) Regular indexes shall also be kept for all applications and issued certificates.

Certified copies
of the
European
Certificate of
Succession.

958J.(1) The issuing authority shall issue one or more certified copies of the European Certificate of Succession to the applicant and to any person showing a legitimate interest in the succession of the deceased. In all cases, the issuing authority shall keep a list of the persons to whom the certified copies have been issued. Such list shall be made accessible to any person showing a legitimate interest.

(2) The issuing authority shall, within fifteen days from date of issue of the Certificate, file a note of enrolment with the Director of the Public Registry who shall register the European Certificate of Succession accordingly.

(3) The note of enrolment shall only contain the date and nature of the act, the name of the deceased, the designation of the issuing authority and the date of issue of the Certificate.

(4) Any rectification, modification or withdrawal of the Certificate carried out by the issuing authority shall also be registered with the Director of the Public Registry by means of note of enrolment within fifteen days from the date of rectification, modification or withdrawal of the Certificate.

Challenging of
decision of
issuing
authority.

958K.(1) For the purposes of Article 72 of the Succession Regulation, decisions of the issuing authority pursuant to Article 67, Article 71 and point (a) of Article 73(1) of the Succession Regulation may be challenged by means of a sworn application in the manner contemplated in the Code of Organization and Civil Procedure. The sworn application must be brought before the Civil Court (First Hall) which shall be the competent judicial authority for this purpose.

Cap. 12.

(2) The applicant shall cause a copy of the sworn application to be served on any person having an interest therein, who shall have twenty days within which to file a reply.

(3) An appeal against a judgment of Civil Court (First Hall) pursuant to sub-article (1) shall be made by means of an application to the Court of Appeal and shall be lodged within twenty days from the date of judgment.

Cap. 12.

(4) The mode of procedure for appeal as contemplated in the Code of Organization and Civil Procedure shall, *mutatis mutandis*, apply."

PART II

Amendments to the Notarial Profession and Notarial Archives Act

Amendments to
Notarial
Profession and
Notarial
Archives Act.
Cap. 55.

6. This Part amends the Notarial Profession and Notarial Archives Act, and it shall be read and construed as one with the Notarial Profession and Notarial Archives Act, hereinafter in this Part referred to as "the principal Act".

Amendment of
article 2 of the
principal Act.

7. Sub-article (2) article 2 of the principal Act shall be amended as follows:

(a) paragraph (k) thereof shall be renumbered as paragraph (l); and

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

"(k) to issue a European Certificate of Succession in terms of Regulation (EU) No. 650/2012 of the European Parliament and of the Council of 4 July 2012 in accordance with the provisions of Sub-title IV of Title III of Part II of Book Second of the Civil Code;"

8. In paragraph (o) of sub-article (1) of article 50 of the principal Act, for the words "an inheritance" there shall be substituted the words "an inheritance;", and immediately thereafter there shall be added the following new paragraph:

Amendment of article 50 of the principal Act.

"(p) any application for a European Certificate of Succession and every issued European Certificate of Succession."

PART III

Amendments to the Public Registry Act

9. This Part amends the Public Registry Act, and it shall be read and construed as one with the Public Registry Act, hereinafter in this Part referred to as "the principal Act".

Amendments to the Public Registry Act. Cap. 56.

10. Immediately after article 34 of the principal Act, there shall be added the following new article:

Addition of new article 34A to the principal Act.

"Two register books for the European Certificate of Succession.

34A.(1) In the Public Registry Office in Malta and in Gozo, there shall be kept two register books: one for the registration of applications of the European Certificate of Succession, and another for the registration of European Certificate of Succession which have been issued by the competent issuing authorities.

(2) In both cases the registration shall be made in the name of the deceased person whose succession is being determined by means of the European Certificate of Succession.

(3) The Director of the Public Registry shall cause an index of the register books for the registration of the applications of the European Certificate of Succession and for the registration of European Certificate of Succession, to be made and kept in the Public Registry Office in Malta and in Gozo; and every person shall be entitled to search that index, and to have a copy of any entry which is found in the said register books.

(4) The copy of any entry obtained from the register books mentioned in this article serves only for information purposes and shall not in any way whatsoever substitute the certified copy of the European Certificate of Succession issued by the competent issuing authorities.

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(5) For the purposes of this article the European Certificate of Succession refers to the meaning as is assigned to it in the European Parliament and Council Regulation (EU) No. 650 of 2012."

Amendment of
the First
Schedule to the
principal Act.

11. Immediately after item 11 of the First Schedule to the principal Act, there shall be added the following new item:

"12. For every registration of an application of a European Certificate of Succession or for the registration of a European Certificate of Succession or for the registration of a rectification, modification or withdrawal of a European Certificate of Succession €20".

Objects and Reasons

The object of this Bill is to allow the implementation of the provisions of Regulation (EU) No 650/2012 of the European Parliament and of the Council of the 4th July, 2012 on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession.

