

Suppliment tal-Gazzetta tal-Gvern ta' Malta, Nru. 19,540, 26 ta' Frar, 2016

Taqsim A

MALTA

ATT Nru XIII tal-2016

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

ATT biex jemenda l-Kodiċi Ċivili, Kap. 16, u biex jipprovi għal hwejjeġ anċillari jew konsegwenzjali għal dan.

ACT No. XIII of 2016

AN ACT enacted by the Parliament of Malta.

AN ACT to amend the Civil Code, Cap. 16, and to provide for matters ancillary or consequential thereto.

Nagħti l-kunsens tiegħi.

(L.S.)

**MARIE LOUISE
COLEIRO PRECA
President**

26 ta' Frar, 2016

ATT Nru XIII tal-2016

ATT biex jemenda l-Kodiċi Ċivili, Kap. 16, u biex jipprovdi għal hwejjeġ ancillari jew konsegwenzjali għal dan.

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

1. It-titolu fil-qosor ta' dan l-Att huwa l-Att tal-2016 li jemenda l-Kodiċi Ċivili u dan l-Att għandu jinqara u jinftiehem haġa wahda mal-Kodiċi Ċivili, hawn iżjed 'il quddiem imsejjah il-Kodiċi.

Titolu fil-qosor.

Kap. 16.

2. Minnufih wara l-artikolu 1864 tal-Kodiċi, għandu jiżdied l-artikolu ġdid li ġej:

Żjeda ta' artikolu ġdid mal-Kodiċi.

"Mandat mogħti minn persuna b'anticipazzjoni tal-inkapaċità tagħha.

1864A. (1) Il-mandat mogħti minn persuna maġġorenni, b'anticipazzjoni tal-inkapaċità tagħha lill-mandatarju sabiex dan tal-aħħar jieħu hsieb lill-mandant jew sabiex jamministralu l-proprjetà, għandu jkun redatt taħt piena ta' nullità minn nutar pubbliku, quddiem żewġ xhieda skont id-dispożizzjonijiet tal-artikolu 655(1) ta' dan il-Kodiċi, wara li jkun kiseb dikjarazzjoni medika illi ċ-ċirkostanzi jirrikjeddu dan, fl-aħjar interessi ta' dik il-persuna. Dan il-mandat għandu jiġi reġistrat bl-istess mod bħal wiehed mill-atti msemmija fl-artikolu 50 tal-Att dwar il-Professjoni Nutarili u Arkivji Nutarili.

Kap. 55.

(2) F'każ ta' persuna maġġorenni, l-eżekuzzjoni tal-mandat għandha tkun taht kondizzjoni li ssehh l-inkapaċità u wara li tinkiseb l-approvazzjoni neċessarja mill-qorti ta' ġurisdizzjoni volontarja wara rikors mill-mandatarju msemmi fl-att. Il-qorti ta' ġurisdizzjoni volontarja tkun tista' timponi dawk il-kondizzjonijiet li jidhrilha li huma neċessarji.

(3) (a) Għall-fini tat-terminazzjoni tal-mandat, tali terminazzjoni għandha tiġi redatta minn nutar pubbliku bl-istess mod kif kien kostitwit il-mandat liema terminazzjoni jkollha magħha ċertifikat mediku ġuramentat li juri li l-inkapaċità ntemmet u tali terminazzjoni għandha tiġi approvata mill-qorti ta' ġurisdizzjoni volontarja. Tali terminazzjoni għandha tiġi registrata bl-istess mod bħal wieħed mill-atti msemmija fl-artikolu 50 tal-Att dwar il-Professjoni Nutarili u Arkivji Nutarili.

Kap. 55.

(b) Dik it-terminazzjoni għandha tkun ikkomunikata jew notifikata, skont il-każ, lill-mandatarju li għandu jieqaf milli jirrappreżenta lill-mandant b'effett immedjat. Ir-registratur tal-qorti ta' ġurisdizzjoni volontarja għandu jibgħat kopja ta' dik it-terminazzjoni kif approvata mill-qorti ta' ġurisdizzjoni volontarja lin-Nutar Ewlieni tal-Gvern li għandu jdaħħal id-dettalji ta' dik it-terminazzjoni f'registru li huwa għandu jzomm għal dak il-għan u li għandu jkun aċċessibbli għall-pubbliku waqt il-ħinijiet tal-uffiċċju.

(ċ) Jekk il-mandatarju jibqa' jirrappreżenta lill-mandant wara li t-terminazzjoni tkun ikkomunikata jew notifikata lilu, il-mandatarju jkun personalment responsabbli għad-danni u għandu jiġi kkunsidrat li jkun qed jikser id-dispożizzjonijiet ta' dan l-artikolu.

(4) Id-dispożizzjonijiet tas-sub-titolu II tat-Titolu XVIII tat-Tieni Parti tat-Tieni Ktieb tal-Kodiċi għandhom, *mutatis mutandis*, japplikaw għall-mandatarju mahtur skont dan l-artikolu."

Mghoddi mill-Kamra tad-Deputati fis-Seduta Nru 359 tat-22 ta' Frar, 2016.

ĊENSU GALEA
Deputy Speaker

RAYMOND SCICLUNA
Skrivan tal-Kamra tad-Deputati

I assent.

(L.S.)

**MARIE LOUISE
COLEIRO PRECA
President**

26th February, 2016

ACT No. XIII of 2016

AN ACT to amend the Civil Code, Cap. 16, and to provide for matters ancillary or consequential thereto.

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.

1. The short title of this Act is the Civil Code (Amendment) Act, 2016, and this Act shall be read and construed as one with the Civil Code, hereinafter referred to as "the Code".

Cap. 16.

Addition of a new article to the Code.

2. Immediately after article 1864 of the Code, there shall be added the following new article:

"Mandate given by a person in anticipation of his incapacity.

1864A. (1) A mandate given by a person of full age in anticipation of his incapacity to a mandatary, for the latter to take care of the mandator or to administer his property shall be drawn, under pain of nullity by a notary public in the presence of two witnesses in accordance with the requirements of article 655(1) of this Code, after having obtained a medical declaration that circumstances so require in the best interests of that person. This mandate shall be registered in the same manner as any one of the acts mentioned in article 50 of the Notarial Profession and Notarial Archives Act.

Cap. 55.

(2) In the case of a person of full age, performance of the mandate shall be conditional upon the occurrence of the incapacity and after obtaining the necessary approval from the court of voluntary jurisdiction upon application by the mandatary designated in the act. The court of voluntary jurisdiction may impose those conditions that it may deem necessary.

(3) (a) For the purpose of termination of the mandate, that termination has to be drawn by a notary public in the same manner as the mandate was constituted and the termination shall be accompanied by a sworn medical certificate which confirms that the incapacity has ceased and that termination has to be approved by the court of voluntary jurisdiction. That termination shall be registered in the same manner as any one act mentioned in article 50 of the Notarial Profession and Notarial Archives Act.

Cap. 55.

(b) Such termination shall be communicated or notified, as the case may be, to the mandatary who shall be bound to cease from representing the mandator with immediate effect. The registrar of the court of voluntary jurisdiction shall send a copy of the termination approved by the court of voluntary jurisdiction to the Chief Notary to Government who shall enter the particulars of such termination in a register held by him for the purpose and which shall be accessible to the public during office hours.

(c) If the mandatary continues to represent the mandator after the termination has been communicated or notified to him, the mandatary shall be held personally responsible for damages and shall be considered as acting in contravention of this article.

(4) The provisions of sub-title II of Title XVIII of Part II of Book Second of the Code shall, *mutatis mutandis*, apply to a mandatary appointed in terms of this article."

A 518

Passed by the House of Representatives at Sitting No. 359 of the
22nd February, 2016.

ĊENSU GALEA
Deputy Speaker

RAYMOND SCICLUNA
Clerk of the House of Representatives

