

Abbozz ta' Liġi msejjah

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

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

1. It-titolu fil-qosor ta' dan l-Att huwa Att tal-2012 li jemenda l-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, u dan l-Att għandu jinftehem u jinqara haġa waħda mal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, hawnhekk iżjed 'il quddiem imsejjah "il-Kodiċi".

Titolu fil-qosor.

Kap. 12.

2. Fis-subartikolu (5) tal-artikolu 41 tal-Kodiċi, minflok il-kliem "ġurisdizzjoni superjuri." għandhom jidhlu l-kliem "ġurisdizzjoni superjuri:" u minnufih wara għandu jizjed il-proviso li ġej:

Emenda tal-artikolu 41 tal-Kodiċi.

"Iżda r-referenza għall-"Prim' Awla tal-Qorti Ċivili" f'dan is-subartikolu għandha titqies bħala li tinkludi referenza għall-Qorti Ċivili (Sezzjoni tal-Familja) u li kienet tinkludi tali referenza sa mid-data tat-twaqqif tas-sezzjonijiet tal-qrati ċivili."

3. Fis-subartikolu (1) tal-artikolu 144 tal-Kodiċi, minflok il-kliem "għandu jiġi miċhud." għandhom jidhlu l-kliem "għandu jiġi miċhud:" u minnufih wara għandhom jizjed il-provisos li ġejjin:

Emenda tal-artikolu 144 tal-Kodiċi.

"Iżda f'kawzi fejn ikun hemm aktar minn tliet atturi jew aktar minn tliet konvenuti, ir-rikors tal-appell u kwalunkwe avviz ieħor, inkluż l-avviz ta' smiġh tal-appell, jista' jiġi notifikat lil kwalunkwe żewġ atturi jew kwalunkwe żewġ

konvenuti skond il-każ, u lil avukat u prokuratur legali li jkun aġixxa f'isem l-atturi u l-konvenuti l-ohrajn quddiem il-qorti fl-ewwel istanza:

Iżda wkoll li fejn ma jkunx hemm avukat jew prokuratur legali kif imsemmi fl-ewwel proviso jew fejn l-istess avukat jew prokuratur legali ikun informa l-appellant li huwa ma jkunx għadu jaġixxi fl-istess rwol, il-parti li tkun qegħda titlob in-notifika tar-rikors tal-appell tista' titlob lill-qorti li quddiemha jkun ġie intavolat l-appell sabiex tawtorizzaha li tinnotifika lill-partijiet kollha permezz tal-publikazzjoni fil-Gazzetta u f'gazzetta ta' kuljum waħda jew aktar skont kif tidderiegi l-Qorti, minghajr proċeduri jew htigijiet ulterjuri."

Emenda tal-
artikolu 229 tal-
Kodiċi.

4. L-artikolu 229 tal-Kodiċi għandu jiġi emendat kif ġej:

(a) fil-paragrafu (f) tas-subartikolu (1) tiegħu, minflok il-kliem "skont l-artikolu 637;" għandu jidhul il-kliem "skont l-artikolu 637 hlief jekk d-digriet ikun dwar jekk tintlaqax jew le talba biex jinġieb dokument li jkun dokument privilegġat skont id-disposizzjonijiet tal-artikolu 637(4);"; u

(b) fil-paragrafu (e) tas-subartikolu (2) tiegħu, minflok il-kliem "waqfien tal-proċedimenti." għandhom jidhlu l-kliem "waqfien tal-proċedimenti;" u minnufih wara għandu jżdid l-paragrafu ġdid li ġej:

"(f) digriet li jordna li jinġieb dokument li jkun dokument privilegġat skont id-disposizzjonijiet tal-artikolu 637(4)."

Emenda tal-
artikolu 466 tal-
Kodiċi.

5. L-artikolu 466 tal-Kodiċi għandu jiġi emendat kif ġej:

(a) minflok il-kliem "Meta kap ta' dipartiment tal-Gvern jew iċ-*Chairman* tal-Korporazzjoni Enemalta jew rappreżentant tiegħu jrid jaġixxi għall-ħlas ta' kreditu li jkollu jieħu d-dipartiment li tiegħu huwa jkun il-kap, jew li jkollha tiegħu xi amministrazzjoni ta' dak id-dipartiment" fis-subartikolu (1) tiegħu għandhom jidhlu l-kliem "Meta kap ta' dipartiment tal-Gvern jew il-persuna vestita bir-rappreżentanza legali ta' korp magħqud stabbilit bil-liġi jew b'rappreżentanza legali ta' xi kumpannija jew korp ieħor li huma hekk awtorizzati, bi jew taħt kull liġi, sabiex jiġbru kull ammont dovut lil dipartiment tal-gvern jew lil korp magħqud stabbilit bil-liġi, jkunu jixtiequ jifthu kawża sabiex jingabar lura dejn dovut lil dipartiment tal-gvern jew lil xi ufficċju amministrattiv tiegħu jew lil korp magħqud stabbilit bil-liġi,"; u

(b) il-kliem "li dak id-debitu jkun dovut." fl-istess subartikolu (1) għandhom jiġu sostitwiti bil-kliem "li dak id-debitu jkun dovut:" u minnufih wara għandu jizjed dan il-proviso li ġej:

"Izda d-disposizzjonijiet ta' dan l-artikolu għandhom ukoll japplikaw fir-rigward ta' ammonti dovuti għall-provdiment ta' ilma u elettriku u għall-kiri ta' *meters* relatati izda ma għandhomx japplikaw meta qabel ma tingħata n-notifika meħtieġa taħt is-subartikolu (2), il-persuna li mingħandha l-ammont qed jiġi mitlub tkun avżat lir-rikorrent sew permezz ta' att ġudizzjarju jew permezz ta' ittra registrata li qiegħdha tikkontesta l-*metering*, il-kalkolu jew l-ammont dovut fir-rigward ta' dak il-provdiment jew il-kiri ta' dak il-*meter*."

6. Minnufih wara l-artikolu 810A tal-Kodiċi għandu jizjed l-artikolu ġdid li ġej:

Żieda ta' artikolu ġdid mal-Kodiċi.

"Kontinwazzjoni tal-kawża fin-nuqqas ta' rikors jew ta' kuratur.

810B. Meta, fi żmien tliet xhur mill-mewt *pendente lite* ta' xi parti f'kawża, ma jkun sar ebda rikors minn xi persuna sabiex tkompli l-kawża minflok il-mejjet, jew fejn matul dan iż-żmien ebda rikors ma jkun ġie intavolat minn xi parti fil-kawża sabiex jintalab li l-kawża tkompli ssir f'isem l-eredi prezunt jew prezunti tal-mejjet, il-kawża għandha tkompli f'isem il-mejjet u kwalunkwe sentenza li tingħata f'tali kawża tkun eżegwibbli kontra l-eredi tal-mejjet:

Izda minkejja li jkun għadda l-perjodu ta' tliet xhur stipulat f'dan l-artikolu, kwalunkwe persuna interessata li għaliha jirreferi l-artikolu 807 kif ukoll il-parti l-oħra fil-kawża tista', sa dak iż-żmien li l-kawża tiġi differita għas-sentenza jew wara s-sentenza fil-każ li l-persuna jew il-parti msemmija tippreżenta rikors tal-appell, tutilizza d-dispożizzjonijiet tal-imsemmija artikoli 806 u 807 rispettivament:

Izda wkoll ebda sentenza mogħtija fir-rigward ta' parti mejta m'għandha titqies bħala nulla jew difettuża minhabba l-fatt biss li l-perjodu ta' tliet xhur imsemmi f'dan l-artikolu ma jkunx lahaq għadda sal-mument meta l-kawża tmur għas-sentenza."

Ghanijiet u Raġunijiet

L-ghanijiet ta' u r-raġunijiet għal dan l-Abbozz huma sabiex isiru emendi lill-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili bl-iskop li jiġi esplicitament ipprovdut id-dritt għal appell mid-deċiżjonijiet tal-Qorti Ċivili (Sezzjoni tal-Familja) u sabiex jitnehhew l-ostakli għas-smiġħ ta' kawżi li jitfaċċaw meta parti f'kawża tmut jew fejn ikun hemm ħafna atturi u konvenuti f'kawża u sabiex jiġi provdut dritt ta' appell meta jiġi ordnat li f'kawża jingieb dokument li jkun wieħed privileġġat skont l-artikolu 637(4) tal-Kodiċi

**A Bill
entitled**

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

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

1. The short title of this Act is the Code of Organization and Civil Procedure (Amendment) Act, 2012, and this Act shall be read and construed as one with the Code of Organization and Civil Procedure, hereinafter referred to as "the Code".

Short title.

Cap. 12.

2. In subarticle (5) of article 41 of the Code, for the words "superior jurisdiction." there shall be substituted the words "superior jurisdiction:" and immediately thereafter there shall be added the following proviso:

Amendment of article 41 of the Code.

"Provided that the reference to the "Civil Court, First Hall" in this subarticle shall be deemed to include a reference to the Civil Court (Family Section) and to have included such a reference as from the date of establishment of the sections of the civil courts.",

3. In subarticle (1) of article 144 of the Code for the words "should be dismissed." there shall be substituted the words "should be dismissed:" and immediately thereafter there shall be added the following provisos:

Amendment of article 144 of the Code.

"Provided that in causes where there are more than three plaintiffs or more than three defendants the application of appeal and any other notice, including the notice of trial relating to the appeal, may be served upon any two of the plaintiffs or

upon any two of the defendants, as the case may be, and upon an advocate and a legal procurator who before the court at first instance had acted on behalf of the other plaintiffs or defendants:

Provided further that where there is no advocate or legal procurator as referred to in the first proviso or where any such advocate or legal procurator has informed the appellant of the cessation of the character in which the advocate or legal procurator has acted, the party requesting to effect service of the application of appeal may request the court before which the appeal is filed to authorise service to all parties by publication in the Gazette and in one or more daily newspapers as the court may direct, without any further procedures or requirements."

Amendment of article 229 of the Code.

4. Article 229 of the Code shall be amended as follows:

(a) in paragraph (f) of sub-article (1) thereof, for the words "article 637;" there shall be substituted the words "article 637 except if the decree allows or disallows the production of a document which is an exempt document in terms of article 637(4);"; and

(b) in paragraph (e) of sub-article (2) thereof, for the words "stay of proceedings." there shall be substituted the words "stay of proceedings;" and immediately thereafter there shall be added the following new paragraph:

"(f) a decree that orders the production of a document which is an exempt document in terms of article 637(4)."

Amendment of article 466 of the Code.

5. Article 466 of the Code shall be amended as follows:

(a) for the words "Where a head of any government department or the Chairman of Enemalta Corporation or his representative desires to sue for the recovery of a debt due to a department under his direction, or to any administration thereof," in sub-article (1) thereof there shall be substituted the words "Where the head of a government department or the person vested with the legal representation of a body corporate established by law or with the legal representation of any company or other body which has been authorised by or under any law to collect any amounts due to a government department or to a body corporate established by law, desires to sue for the recovery of a debt due to a government department or to any administration thereof or to a body corporate established by law,"; and

(b) for the words "confirm that it is due." in the same sub-article (1) there shall be substituted the words "confirm that it is due:" and immediately thereafter there shall be added the following new proviso:

"Provided that the provisions of this article shall also apply in respect of amounts due for the supply of water and electricity and for the rental of the relative meters but they shall not apply where prior to the service required under subarticle (2) the person from whom the amount is claimed shall have notified the claimant either by means of a judicial act or by registered post that he is disputing the metering, calculation or the charge in respect of such supply or rental."

6. Immediately after article 810A of the Code, there shall be added the following new article:

Addition of new article to the Code.

"Continuation of suit in the absence of an application or of a curator.

810B. Where, within three months from the death *pendente lite* of any party to a suit, no application is made by any person to continue the suit in substitution of the deceased party or where during the said time no application has been filed by a party to the suit demanding that the suit be continued in the name of the presumptive heir or heirs of the deceased party, the suit shall continue in the name of the deceased party and any judgement delivered in such suit shall be enforceable against the heirs of the said deceased party:

Provided that notwithstanding the lapse of the three month period stipulated in this article, any interested person as referred to in article 806 and the other party as referred to in article 807 may, until such time when the suit is adjourned for judgement or after judgement in the case that the said person or party files an application of appeal, avail himself of the provisions of the said articles 806 or 807 respectively:

Provided further that no judgement delivered in respect of a deceased party shall be deemed to be null or defective only by reason of the fact that the period of three months referred to in this article had not lapsed at the time when the suit was adjourned for judgement."

Objects and Reasons

The objects and reasons of this Bill are the making of amendments to the Code of Organization and Civil Procedure for the purpose of explicitly providing for the right of appeal from decisions of the Civil Court (Family Section) and for removing obstacles to the hearing of causes which arise when a party to a cause dies or where there are many plaintiffs or defendants to a cause and to provide for a right of appeal when the production of a document which is an exempt document in terms of article 637(4) of the Code is ordered in a court of first instance.
