

I assent.

(L.S.)

UGO MIFSUD BONNICI  
President

12th September, 1995

**ACT No. XXIV of 1995**

*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.** (1) This Act may be cited as the Code of Organization and Civil Procedure (Amendment) Act, 1995, and shall be read and construed as one with the Code of Organization and Civil Procedure, hereinafter referred to as "the principal law".

Short title and commencement.  
Cap. 12.

(2) This Act shall come into force on such date as the Minister responsible for justice may by notice in the Gazette appoint, and different dates may be so appointed for different provisions and different purposes of this Act.

(3) A notice under subsection (2) of this section may make such transitional provisions as appear to the Minister to be necessary or expedient in connection with the provisions thereby brought into force.

**2.** Section 3 of the principal law shall be substituted by the following new section:

Substitution of section 3 of the principal law.

"Superior courts. 3. The superior courts are:

- (a) the Civil Court;
- (b) the Court of Appeal; and
- (c) the Constitutional Court.".

Amendment of section 10 of the principal law.

**3.** The words “President of the Republic.” in subsection (2) of section 10 of the principal law shall be substituted by the words “President of Malta.”.

Amendment of section 15 of the principal law.

**4.** The words “sitting in the Court of Magistrates of Judicial Police as a court of criminal inquiry.” in section 15 of the principal law shall be substituted by the words “holding an inquiry under Title II of Part I of Book Second of the Criminal Code.”.

Substitution of section 16 of the principal law.

**5.** Section 16 of the principal law shall be substituted by the following new section:

“Judges and magistrates may not hold other offices of profit.  
Exceptions.

**16.** It shall not be lawful for any judge or magistrate to hold any other office of profit whatsoever, even though of a temporary nature, with the exception of any judicial office on any international Court or any international adjudicating body, the office of examiner at the University of Malta and in the case of magistrates the office of visitors of notarial acts.”.

Amendment of section 18 of the principal law.

**6.** The words “learned in the law” in section 18 of the principal law shall be substituted by the words “who has the qualifications laid down in subsection (2) of section 100 of the Constitution.”.

Amendment of section 19 of the principal law.

**7.** The words “the Court of Judicial Police”, wherever they occur, and the words “learned in the law” in section 19 of the principal law shall be respectively substituted by the words “the Courts of Magistrates” and by the words “who has the qualifications laid down in subsection (2) of section 100 of the Constitution.”.

Amendment of section 20 of the principal law.

**8.** The words “learned in the law” in subsection (3) of section 20 of the principal law shall be substituted by the words “who has the qualifications laid down in subsection (2) of section 100 of the Constitution.”.

Amendment of section 21 of the principal law.

**9.** The following new subsection (3) shall be added immediately after subsection (2) of section 21 of the principal law.

“(3) Any evidence submitted by affidavit shall be drawn up in the language normally used by the person taking such affidavit. The affidavit, when not in Maltese is to be filed together with a translation in Maltese, which translation is furthermore to be confirmed on oath by the translator.”.

Substitution of section 23 of the principal law.

**10.** Section 23 of the principal law shall be substituted by the following new section:

“Judgments to be delivered in public.

**23.** The judgment shall in all cases be delivered in public. The court delivering the judgment shall read out the operative part which is to be included in the concluding part of the judgment. The operative part of the judgment shall include a reference to the claims or pleas which have been decided upon and every declaration intended to be conclusive or binding. Immediately upon delivery the judge or magistrate shall deposit a signed transcript of the judgment in the records of the case.”.

**11.** Subsection (3) of section 27 of the principal law shall be substituted by the following new subsection:

Amendment of  
section 27 of the  
principal law.

“(3) The registrar shall be appointed by the Prime Minister, and the other court officials mentioned in subsection (2) of section 57 shall be designated to perform the duties of their office by the Minister responsible for justice.”.

**12.** Section 29 of the principal law shall be substituted by the following new section:

Substitution of  
section 29 of the  
principal law.

“Rule-  
Making  
Board.

29. (1) There shall be a Board composed of the Chief Justice, as chairman, who shall also have a casting vote, two judges and a magistrate appointed by the President of Malta, the Attorney General and the President of the Chamber of Advocates whose function shall be to make rules, to be called Rules of Court, for the purposes specified in subsection (2) of this section.

(2) Rules of Court may be made generally in respect of all matters concerning the conduct of the courts with the object of ensuring a proper and efficient administration of justice and, in particular, but without prejudice to the generality of the aforesaid —

(a) for securing and maintaining order and decorum within the building of the courts;

(b) for fixing the days, hours, duration and number of the sittings of the courts, determining the manner of distribution of the causes among judges and the magistrates appointed to sit in a particular court or chamber thereof, and for making other provision in respect of any matter aforesaid as the Board may deem appropriate;

(c) for regulating leave of absence, for any reason, by judges or magistrates, including a requirement of authorisation or sanctioning of such leave by the competent authorities;

(d) for establishing any forms not provided for in this Code;

(e) for carrying into effect the provisions of the Judicial Proceedings (Use of English Language) Act, as Cap. 189. regards the language to be used in the proceedings;

(f) for making provision with respect to judicial acts and matters of or incidental to practice and procedure not provided for in this Code or in any other law:

Provided that nothing contained in such rules shall be inconsistent with or repugnant to the provisions of this Code or any other law.

(3) The Board may act notwithstanding any vacancy in its membership but shall not act unless at least the Chief Justice and another member are present.

(4) Rules made under this section shall be subject to the approval of the President of Malta, and shall come into force on or after the day of their publication in the Gazette, as may be specified therein.

(5) The Minister responsible for justice may by regulations confer on the Board additional powers and functions for the amelioration of the administration of justice.

(6) The judges and the magistrates shall meet, as separate bodies, to discuss and seek practical solutions to the problems that arise with respect to the administration of justice; to make recommendations thereon to the Minister responsible for justice, and to co-ordinate the conduct of proceedings and the trial of causes and to ensure that the conduct of proceedings and the trial of causes in any one court conforms with that in other courts. The meetings shall be held as often as may be necessary and shall be called by the Chief Justice, who shall also preside over the respective meetings and regulate the proceedings. Minutes of such meetings and of the Board shall be regularly kept and the Chief Justice shall on the closing of each forensic year send to the Minister responsible for justice a detailed report on decisions reached, recommendations made and solutions sought.

(7) Subject to the foregoing provisions of this section and to any rules or regulations made thereunder, the Judges and the Magistrates shall have power to regulate the conduct of proceedings and of the trial of the causes before the respective courts over which they preside, and to give directives for the maintenance of order at the sittings of the court, according to law.”.

Substitution of  
section 32 of the  
principal law.

**13.** Section 32 of the principal law shall be substituted by the following new section:

“Civil  
Court,  
First Hall.  
Constitu-  
tion and  
jurisdiction.

**32.** (1) One of the judges shall sit in the Civil Court, First Hall.

(2) The Civil Court, First Hall shall take cognizance of all causes of a civil and commercial nature, and of all causes which are expressly assigned by law to the said Civil Court, First Hall, or which have hitherto been assigned to or cognizable by the Civil Court, First Hall, or by the Commercial Court, and in regard to which it has not been otherwise provided for in this Code or in any other law.

(3) Nevertheless, such court shall not take cognizance of causes within the jurisdiction of the inferior courts of the Island of Malta other than those in which the Government of Malta is plaintiff or defendant, in which case,

the said Civil Court, First Hall, shall, within the limits of the jurisdiction of the said inferior courts, have a concurrent jurisdiction with those courts, saving any other provision of the law.”.

**14.** The word “Judgments” in section 34 of the principal law shall be substituted by the words “Save where otherwise provided by this Code or any other law, judgments”.

Amendment of section 34 of the principal law.

**15.** Sections 36, 37 and 38 of the principal law shall be repealed.

Repeal of sections 36, 37 and 38 of the principal law.

**16.** Subsection (1) of section 39A of the principal law shall be substituted by the following new subsection:

Amendment of section 39A of the principal law.

“(1) Notwithstanding the provisions of subsection (1) of section 32 and section 33, the Civil Court, First Hall, and the Civil Court, Second Hall, may each be composed of more than one chamber, as the President of Malta may by order determine.”.

**17.** Section 40 of the principal law shall be repealed.

Repeal of section 40 of the principal law.

**18.** Section 41 of the principal law shall be amended as follows:

Amendment of section 41 of the principal law.

(a) the words “the Commercial Court” and the words “saving the provisions of sections 51 and 52” in subsection (5) thereof shall be deleted;

(b) for the words “Court of Magistrates of Judicial Police for the Island of Malta” in subsection (6) thereof there shall be substituted the words “Court of Magistrates (Malta) and Court of Magistrates (Gozo) in its inferior jurisdiction”; and

(c) immediately after subsection (6) thereof there shall be added the following subsection:

“(7) Where the Court of Appeal is to hear appeals from the Court of Magistrates (Gozo) in its inferior jurisdiction, it shall hold its sitting in the building of the Courts in Gozo, and for the purpose of such appeals the registry of the Court of Magistrates (Gozo) shall also be the Registry of the Court of Appeal.”.

**19.** Section 43 of the principal law shall be deleted.

Repeal of section 43 of the principal law.

**20.** Section 46 of the principal law shall be substituted by the following new section:

Substitution of section 46 of the principal law.

Amendment of  
section 47 of the  
principal law.

"Saving.

46. The provisions of section 34 and of subsection (6) of section 41 shall be without prejudice to the provisions of subsection (4) of section 46, and subsection (2) of section 95 of the Constitution of Malta and subsection (4) of section 4 of the European Convention Act.”.

Cap. 319.

Amendment of  
section 48 of the  
principal law.

21. The words “two hundred and fifty Maltese liri” in subsections (1) and (3) of section 47 of the principal law shall in both cases be substituted by the words “one thousand liri”.

Amendment of  
section 49 of the  
principal law.

22. In section 48 of the principal law for the words “two hundred and fifty Maltese liri” there shall be substituted the words “one thousand liri”

Amendment of  
section 50 of the  
principal law.

23. The words “subsection (2)” in section 49 of the principal law shall be substituted by the words “subsection (6)”.

24. Section 50 of the principal law shall be amended as follows:

(a) the words “as a court of first instance, and” in subsection (1) thereof shall be deleted;

(b) the words “as a court of first instance,” in subsection (2) thereof shall be deleted;

(c) paragraph (b) of subsection (2) thereof shall be substituted by the following new paragraph:

“(b) a superior jurisdiction, by virtue of which, subject to the provisions of section 46 of the Constitution of Malta and Cap. 319. section 4 of the European Convention Act, it shall take cognizance of all causes of the nature of those which, according to section 32, are triable by the Civil Court, First Hall.”; and

(d) subsections (3), (4) and (5) thereof shall be deleted.

Repeal of sections  
51 and 52 of the  
principal law.

25. Sections 51 and 52 of the principal law shall be repealed.

Amendment of  
section 55 of the  
principal law.

26. The words “persons learned in the law.” in section 55 of the principal law shall be substituted by the words “who have the qualifications laid down in subsection (2) of section 100 of the Constitution.”.

Substitution of  
section 56 of the  
principal law.

27. Section 56 of the principal law shall be substituted by the following:

“56. The provision of section 49 shall be without prejudice to the provision of subsection (4) of section 46 and subsection (2) of section 95 of the Constitution of Malta, and subsection (4) of section 4 of the European Convention Act.”.

**28.** For section 57 of the principal law there shall be substituted the following:

"Duties of Registrar in Superior and Inferior Courts.

57. (1) The registrar shall have the functions, powers and duties vested in him by the provisions of this Code and shall have under his direct responsibility the registry and the officers attached to it. The officers referred to in subsection (2) of this section and the executive officers of the court shall be under the administrative control of the registrar.

(2) (a) The registrar shall be assisted in the performance of his duties under the Code by the following:

- (i) the principal assistant registrar;
- (ii) assistant registrars;
- (iii) deputy registrars;
- (iv) hall clerks.

(b) The Minister responsible for justice may by regulations add to or delete from or substitute the list of officers in paragraph (a) hereof and may also in such regulations specify the duties that may be carried out by the officers in the list as contained in or amended by such regulations.

(3) Subject to the provisions of this Code and of any rules made under section 29, the registrar shall take orders from the judicial authorities in relation to any judicial proceedings and in relation to any judicial act, that is to say:

(a) in the superior courts in matters concerning a particular court shall take orders from the judge or from the judges, if they are two or more, of that court; in other cases, he shall take orders from the Chief Justice;

(b) in the inferior courts shall take orders from the magistrates of the particular court, or, if the magistrates appointed to sit in a particular court are two or more and the matter does not refer to the business of any one of them in particular, from the senior magistrate.”.

**29.** Section 58 of the principal law shall be substituted by the following section:—

"Duties to be executed in part personally and in part by other officers of the registry.

58. (1) The duties of the registrar in the Superior and Inferior Courts shall be carried out in part by the registrar personally, and in part as provided by any rules made under section 29 of this Code, or, failing such rules, by special orders of the Minister responsible for justice, or, failing both, under the directions of the registrar himself, by any court officer mentioned in subsection (2) of section 57 who may perform any of the duties of the registrar.

Substitution of section 57 of the principal law.

Substitution of section 58 of the principal law.

(2) The duties of the registrar in each court, during its sittings, shall, unless otherwise provided by the said rules or by any order of the Minister responsible for justice, be performed by the principal assistant registrar, any assistant registrar or any deputy registrar.

Cap. 79.

(3) The registrar and the officers mentioned in subparagraphs (i) to (iii) of paragraph (a) of subsection (2) of section 57 shall have power to administer oaths and shall, for the purposes of the Commissioners for Oaths Ordinance, be *ex officio* Commissioners for Oaths.”.

Substitution of  
section 60 of the  
principal law.

“Oath to be  
taken by  
registrar.

**30.** Section 60 of the principal law shall be substituted by the following new section:—

60. (1) The registrar, on entering upon the execution of his office, shall take, before the Court of Appeal, the oath of allegiance referred to in section 10, and the oath of office in the following form:

*I..... do swear that I will faithfully and with all honesty and exactness perform the duties of Registrar of Courts, to the best of my knowledge, skill and ability. So help me God.*

(2) In regard to any other officer mentioned in paragraphs (i) to (iii) of paragraph (a) of subsection (2) of section 57, the same form of oath shall apply but a mention of their office or designation shall be included therein.”.

Amendment of  
section 64 of the  
principal law.

**31.** Section 64 of the principal law shall be amended as follows:—

(a) the present provision shall be renumbered as subsection (1) thereof;

(b) in subsection (1) thereof as renumbered, for the words “after the expiration of one month.” there shall be substituted the words “after the expiration of one month. Such action shall be instituted by application which shall be heard summarily by the court.”; and

(c) immediately after subsection (1) thereof as renumbered there shall be added the following subsections:—

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

(3) The written pleadings in respect of the application shall be deemed closed by the reply or failing such reply with the expiration of the time allowed for such reply. The parties shall be notified with the date for the hearing of the application.”.

**32.** Subsection (1) of section 66 of the principal law shall be substituted by the following new subsection:—

Amendment of  
section 66 of the  
principal law.

“(1) In the case of absence or other lawful impediment of the registrar, the senior available amongst the officials mentioned in paragraphs (i) to (ii) of paragraph (a) of subsection (2) of section 57 shall act instead of the registrar, unless another person be appointed by the Prime Minister.”.

**33.** Section 67 of the principal law shall be amended as follows:

Amendment of  
section 67 of the  
principal law.

(a) subsections (1) and (2) thereof shall be respectively re-numbered as subsections (2) and (3) thereof; and

(b) the following new subsection shall be added as subsection (1) thereof:

“(1) The executive officers of the courts shall be the following:

(a) Marshals

(i) chief marshals;

(ii) senior marshals;

(iii) marshals

(b) ushers;

(c) court messengers:

Provided that in the case of the Court of Magistrates (Gozo), the Minister responsible for justice may by a notice published in the Gazette designate any other officer to perform the duties of an executive officer of the said court.”.

**34.** Section 68 of the principal law shall be substituted by the following new section:

Substitution of  
section 68 of the  
principal law.

“Other  
duties of  
marshals.

68. (1) The marshals are also charged with the maintenance of good order and decorum in the building of the courts.

(2) Without prejudice to the provisions of section 72, every marshal shall, within the precincts of the building of the courts and of any office, building or other premises occupied by, or under the charge of, the Registrar of Courts, be empowered to exercise all such functions, powers and duties as are by law vested in Police officers.

(3) Subject to the provisions of section 990 and 992, where the Marshal detains or arrests any person for any offence committed within the precincts mentioned in the previous subsection, he shall forthwith bring the offender before a magistrate and charge him with breach of good order and decorum in the buildings of the court and if the court, on summarily hearing the case, finds the offender guilty of breach of good order and decorum in the building of the court, shall condemn the offender to any of the punishments mentioned in section 990.”.

Amendment of  
section 69 of the  
principal law.

**35.** Subsection (1) of section 69 of the principal law shall be substituted by the following:

“(1) Except for the duties referred to in subsection (2) of section 68, the marshals shall discharge their duties personally or through any of the executive officers of the court mentioned in subsection (1) of section 67 in accordance with the rules made under section 29, or, failing such rules, in accordance with the orders even verbal, of the judges or magistrates as provided in section 57.”.

Amendment of  
section 70 of the  
principal law.

**36.** Section 70 of the principal law shall be amended as follows:

(a) section 70 shall be renumbered as subsection (1) thereof; and

(b) the following new subsection shall be added after subsection (1) thereof:

“(2) Saving the provisions of section 992, if any person knowingly avoids, obstructs or refuses service of any act or court order or execution of any warrant or order by any executive officer of the courts, he shall be guilty of contempt of court and shall be liable, on conviction, to the punishments mentioned in section 990.”.

Amendment of  
section 78 of the  
principal law.

**37.** Subsection (1) of section 78 of the principal law shall be substituted by the following new section:

“(1) Unless another officer is appointed by the Minister responsible for justice, the registrar is *ex officio* the Archivist of the Superior and Inferior Courts.”.

Amendment of  
section 79 of the  
principal law.

**38.** Section 79 of the principal law shall be amended as follows:

(a) subsections (2), (3) and (4) thereof shall be deleted; and

(b) subsection (1) thereof shall be renumbered as section 79.

Amendment of  
section 80 of the  
principal law.

**39.** The words “set out” in section 80 of the principal law shall be substituted by the words “referred to”.

- 40.** The words "after the 31st day of December" in paragraph (d) of section 81 of the principal law shall be substituted by the words "after the commencement". Amendment of section 81 of the principal law.
- 41.** For the words "It shall not be lawful" in section 82 of the principal law, there shall be substituted the words "Save as may be provided in regulations made under section 1004, it shall not be lawful". Amendment of section 82 of the principal law.
- 42.** The words "to the registrars of the courts of justice" in subsection (3) of section 84 of the principal law shall be substituted by the words "to the registrar of the courts of justice". Amendment of section 84 of the principal law.
- 43.** The words "set out" in section 86 of the principal law shall be substituted by the words "referred to". Amendment of section 86 of the principal law.
- 44.** The words "after the 31st day of December" in paragraph (d) of section 87 of the principal law shall be substituted by the words "after the commencement". Amendment of section 87 of the principal law.
- 45.** Subsection (1) of section 89 of the principal law shall be substituted by the following: Amendment of section 89 of the principal law.
- "(1) There shall be three panels, one of which is to consist of not less than twelve advocates, a second of which is to consist of not less than six legal procurators and a third of which is to consist of not less than six accountants, besides other experts chosen by the Minister responsible for justice to perform the duties of curators, advocates or legal procurators *ex officio*, and of accountants or other experts in the superior courts and in the Court of Magistrates (Malta), as occasion may require under this Code.".
- 46.** Section 91 of the principal law shall be substituted by the following new section: Substitution of section 91 of the principal law.
- "Publication of list of official curators, etc."      91. A list of the members of the panels appointed as aforesaid shall be posted up in the Registry of the Superior Courts, and in the Registry of the Court of Magistrates (Gozo) and shall be published in the Gazette.".
- 47.** The words "with the benefit of legal aid," in section 95 of the principal law shall be substituted by the words "with the benefit of legal aid, or to be a party to proceedings or continue such proceedings with such benefit,". Amendment of section 95 of the principal law.
- 48.** Section 96 of the principal law shall be substituted by the following new section: Substitution of section 96 of the principal law.
- "Misconduct or negligence of curators, etc."      96. In case of misconduct, negligence or any reasonable objection to any curator selected from the rota to perform the duties of curator or advocate for legal aid, the court shall have the power to remove him from the case and to appoint another curator from the rota in his stead:

Provided that the court shall through the registrar communicate to the Minister responsible for justice, the relevant decree.”.

Addition of  
new Title XI  
to the  
principal  
law.

**49.** The following new title shall be added after section 97 of the principal law:

## “TITLE XI OF JUDICIAL ASSISTANTS

**Appointment of judicial assistants.** 97A. (1) The President of Malta shall appoint judicial assistants to perform such functions as are by this Code or by any other law assigned to them.

(2) Judicial assistants shall be appointed from amongst persons who hold the warrant of advocate.

(3) The functions of judicial assistants shall include the following:—

(a) to assist in the judicial process and at the request of the court to participate in the proceedings pending before a superior court, including any research or other work required therefor, and for the purpose of carrying out such duties and exercise such powers as they may be required or authorised to perform by such court;

(b) to administer oaths;

(c) to take the testimony of any person that is produced as witness in any proceedings;

(d) to take any affidavit on any matter, including a matter connected with any proceedings taken or intended to be taken before any superior court or any court or tribunal of civil jurisdiction established by law;

(e) to receive documents produced with any testimony, affidavit or declaration, including in particular a testimony, affidavit or declaration as is referred to in this Code.

(4) In the performance of their functions judicial assistants shall be assigned to a court and shall act under the direction and control of the court before which the case is pending and shall, in addition to any power lawfully assigned to them by such court, have the power to order the attendance of any person for the purpose of giving evidence or to make an affidavit or a declaration, or to produce documents, at such place and time as they may specify in the order.

Oath of office, remuneration and removal of judicial assistants.

**97B.** (1) A judicial assistant shall not enter upon the functions of his office before he has taken, before the Court of Appeal, the oath of office in the following terms:

*"I ..... do swear that I will faithfully and with all honesty and to the best of my ability perform the duties of judicial assistant as prescribed by law.".*

(2) The provisions of Sub-Title II of the Title II of Book Third shall apply to judicial assistants, except that the decision on any such matter shall be taken by the Court before which the case is pending.

Decisions by judicial assistants.

**97C.** Without prejudice to the provisions of subsection (2) of section 97B, where in proceedings before a judicial assistant a question arises relating to or connected with the same proceedings, that question shall in the first place be decided by the judicial assistant who shall without delay and in any case not later than three days from the date of the said decision, inform the court of the decision, and the decision of the judicial assistant shall be binding unless the court shall by decree, decide otherwise.”.

**50.** Section 106 of the principal law shall be amended as follows.

(a) subsection (2) thereof shall be deleted, and;

(b) subsection (1) thereof shall be renumbered as section 106.

Amendment of section 106 of the principal law.

**51.** The proviso to section 107 of the principal law shall be deleted.

Amendment of section 107 of the principal law.

**52.** Section 109 of the principal law shall be substituted by the following new section:

Substitution of section 109 of the principal law.

“When sittings are to be held, etc.

Cap. 252.

**109.** (1) Court sittings may be held from Monday to Friday of every week during the time established under subsection (2) of this section for the opening of the registries of the court and during such other time as the court may fix:

Provided that, except by special order of the court, in case of urgency or for other reasons deemed sufficient by the court, no sitting shall be held on Saturdays, on public holidays as provided in the National Holidays and other Public Holidays Act, or on Wednesday or Thursday of Holy Week.

(2) The registry of the Superior Courts and the registries of the Inferior Courts shall be open for the filing of judicial acts during such days and at such times as may by regulations be prescribed by the Minister responsible for justice:

Provided that any of the aforesaid registries may by special order of the court or by order given in writing by the registrar, be opened for the filing of judicial acts on any day or at any time.

(3) The registrar shall abide by and fully execute any order of the Court to open the court buildings on any day and at any time as the Court may specify in the order.

(4) A judicial act may be served or carried into execution from Monday to Saturday of every week and during the times mentioned in subsection (1) of section 280:

Provided that by special order of the court or by order given in writing by the registrar in cases of urgency, it shall be lawful to serve or carry into execution any judicial act on any other day or at any other time:

Provided further that, where, under any regulations made under subsection (8) of section 187, service is to be effected by officers of the post office, such service may, notwithstanding any other provision, be effected on such days and times during which such officers are called for duty in accordance with the rules of the post office.

(5) The registrar shall not refuse to give an order under subsection (2) or (4) of this section unless he has referred the matter to the competent court for its decision.”.

Amendment of  
section 116  
of the  
principal law.

**53.** The words “to any advocate, litigant or other person” in section 116 of the principal law shall be substituted by the words “to any advocate, legal procurator, litigant or other person”.

Amendment of  
section 121  
of the  
principal law.

**54.** Section 121 of the principal law shall be amended as follows:

(a) the words “the first of July to the thirtieth of September” in subsection (2) thereof shall be substituted by the words “the sixteenth of July to the fifteenth of September”; and

(b) subsection (4) thereof shall be substituted by the following new subsection:

“(4) Subject to the provisions of subsection (3) of this section, the vacations in the inferior courts shall be during the month of August of each year.”.

Amendment of  
section 125  
of the  
principal law.

**55.** The words “libel, petition,” in subsection (1) of section 125 of the principal law shall be deleted.

Substitution of  
heading of  
Title I of Part I  
of Book Second  
of the  
principal law.

**56.** The heading of Title I of Part I of Book Second of the principal law shall be substituted by the following title:—

“Of the Mode of Procedure by Application for Appeal”.

**57.** Sections 126 to 141 of the principal law shall be repealed.

Repeal of  
sections 126  
to 141 of the  
principal law.

**58.** The word "petition" in section 142 of the principal law, wherever it occurs, shall be substituted by the word "application".

Amendment of  
section 142 of  
the principal law.

**59.** Section 143 of the principal law shall be substituted by the following new section:

Amendment of  
section 143 of  
the principal law.

"Contents  
of applica-  
tion of  
appeal."

143. (1) The application for the reversal of a judgment shall contain a reference to the claim and to the judgment appealed from together with detailed reasons on which the appeal is entered and a request that the said claim be allowed or dismissed.

(2) The application for the variation of a judgment shall contain a reference to the claim and to the judgment appealed from and shall distinctly state the heads of the judgment complained of together with detailed reasons for which the appeal is entered and, in conclusion, shall state, specifically, the manner in which it is desired that the judgment be varied under each head.

(3) The application for the reversal, annulment or variation of a decree shall contain a reference to the contents of the decree appealed from together with the detailed reasons for such reversal, annulment or variation.

(4) In the case mentioned in this section a request for reversal shall be deemed to include a request for annulment and variation of a judgment or decree, and a request for annulment shall be deemed to include a request for a reversal and variation of a judgment or decree.

(5) The default of compliance with any of the requirements of subsections (1), (2) and (3) of this section shall not make void the application; but the court shall, in any such case, make an order directing the appellant to file, within two days, a note containing such particulars as are required by law and which have not been duly stated in the application.

(6) The cost of the order and of the filing of the note shall be borne by the appellant.

(7) The provisions of subsections (5) and (6) of this section shall, in the case referred to in section 240, apply to the answer."

Substitution of  
section 144 of the  
principal law.

**60.** For section 144 of the principal law there shall be substituted the following:

"Service of  
application  
of Appeal.  
Time for  
answer.

144. (1) An appeal may be entered by any party against all the other parties or against any one of them. The appellant shall indicate in the application of appeal the parties against whom the appeal is directed. The application of appeal shall be served on all the parties but only the parties against whom the appeal is directed shall, within the time of twenty days, file their respective answer containing the reasons why the appeal should be dismissed.

Time for  
answer in  
case of  
cross  
appeal.

(2) In the case of a cross appeal in terms of section 240, the party against whom the cross appeal is directed shall within the said time of twenty days file a reply rebutting the allegations included in the cross appeal.".

Amendment to  
section 145 of the  
principal law.

**61.** The word "petition" in section 145 of the principal law shall be substituted by the word "application".

Amendment of  
section 146 of the  
principal law.

**62.** Section 146 of the principal law shall be amended as follows:

(a) the word "petition" in subsection (1) shall be substituted by the word "application", and

(b) immediately after subsection (2) thereof there shall be added the following new subsection:

"(3) The default of any party in filing an answer or reply within the prescribed time limits shall not preclude such party from appearing before, or making submissions to, the court during the hearing of the appeal.".

Repeal of  
sections 148 and  
149 of the  
principal law.

**63.** Sections 148 and 149 of the principal law shall be repealed.

Amendment of  
section 150 of the  
principal law.

**64.** The words "sections 129, 135, 138 and 145" in subsection (1) of section 150 of the principal law shall be substituted by the words "section 145".

Amendment of  
section 151 of the  
principal law.

**65.** The words "in sections 141 and 146" in section 151 of the principal law shall be substituted by the words "in section 146".

Amendment of  
section 152 of the  
principal law.

**66.** In subsection (2) of section 152 of the principal law, the words "plaintiff, appellant or person issuing a libel" shall be substituted by the word "appellant" and the words "within six working days," shall be substituted by the words "within ten days,".

Amendment of  
section 156 of the  
principal law.

**67.** For subsections (3), (4), (5) and (6) of section 156 of the principal law there shall be substituted the following new subsections:

"(3) In the superior courts, the plaintiff or one of the plaintiffs shall, moreover, file together with the writ of summons a declaration with numbered paragraphs containing all the facts relevant to the cause and describing each fact in separately numbered paragraphs, in support of his claim, stating also which facts are within his knowledge. Such a declaration shall either be confirmed on oath before the registrar or be accompanied by an affidavit of the plaintiff or one of the plaintiffs confirming all the facts in support of the claim and stating which facts are within his knowledge.

(4) The plaintiff shall together with the declaration also give the names of the witnesses he intends to produce in evidence stating in respect of each of them the facts and proof he intends to establish by their evidence.

(5) Where several actions are brought together as provided in subsections (3), (4) and (5) of section 161, at least one of the plaintiffs shall file a declaration which shall either be confirmed on oath before the registrar, or shall be accompanied by his affidavit, and the provisions of subsection (3) of this section shall apply.

(6) A copy of such declaration and of such affidavit, if any, as is mentioned in subsections (3) and (5) of this section shall be served on the defendant together with the writ of summons.

(7) The registrar shall not receive any writ of summons which is not accompanied by such declaration and such affidavit if any as is mentioned in subsections (3) and (5) of this section and the court shall not allow any witness to be produced unless his name shall have been given together with the writ of summons. If the necessity of producing a witness arises at any time after the filing of the writ of summons. If the necessity of producing a witness arises at any time after the filing of the writ of summons, or if the opposite party gives his consent in the manner prescribed in paragraph (c) of subsection (1) of section 150, or if the court deems it in the interest of justice to hear a particular witness, the court may allow such a witness to be heard.

(8) When the proof intended to be established by each witness is not stated or adequately stated in the declaration, the court shall on the first day appointed for the pretrial hearing order the plaintiff to indicate adequately the proof he intends to establish by each witness within a time to be fixed by the court.".

**68. Section 156A of the principal law shall be repealed.**

Repeal of section  
156A of the  
principal law.

**69. Section 157 of the principal law shall be substituted by the following section:**

Substitution of  
section 157 of the  
principal law.

"Service of  
writ of  
summons.

157. It shall be the responsibility of the plaintiff to cause, through the registrar, a copy of the writ of summons and of the declaration and of any affidavit of the plaintiff to be served on the defendant.".

Amendment of  
section 158  
of the  
principal law.

**70.** Section 158 of the principal law shall be amended as follows:

(a) subsection (4) thereof shall be substituted by the following new subsection:

“(4) The defendant or one of the defendants, if there are more than one, shall moreover, file together with the statement of defence, a declaration with numbered paragraphs containing all the facts concerning the claim, denying, admitting or explaining the circumstances of fact set out in plaintiff's declaration, stating which facts are within his own knowledge. Such declaration shall be confirmed on oath before the registrar or be accompanied by an affidavit of the defendant or one of the defendants on all the facts concerning the claim denying, admitting or explaining the circumstances of fact set out in plaintiff's declaration and the defendant shall also confirm that the facts stated therein are within his own knowledge. The defendant shall also give the names of the witnesses he intends to produce in evidence stating in respect of each of them the facts and the proof he intends to establish by their evidence. Together with the statement of defence, there shall be filed all such documents as may be necessary in support of the pleas.”;

(b) subsection (5) thereof shall be substituted by the following new subsection:

“(5) The registrar shall not receive any statement of defence which is not accompanied by such declaration and any such affidavit, as mentioned in subsection (4) of this section and the court shall not allow any witness to be produced whose name shall not have been given in such declaration. If the necessity of producing a witness arises at any time after the filing of the declaration, or if the opposite party gives its consent in the manner prescribed in paragraph (c) of subsection (1) of section 150, or if the court deems it in the interest of justice to hear a particular witness, the court may allow such a witness to be heard.”;

(c) subsections (6), (7), (8), (9), (10), (11) and (12) thereof shall be respectively renumbered as subsections (7), (8), (9), (10), (11), (12) and (13);

(d) the following new subsection (6) shall be added immediately after subsection (5) thereof:—

“(6) When the proof intended to be established by each witness is not stated or adequately stated in the declaration, the court shall on the first day appointed for the pretrial hearing order the defendant to indicate adequately the proof he intends to establish by each witness within a time to be fixed by the court.”;

(e) immediately at the end of subsection (10) thereof as renumbered there shall be added the words: "The court shall, however, before giving judgement allow the defendant a short time which may not be extended within which to make submissions in writing to defend himself against the claims of the plaintiff. Such submissions shall be served on the plaintiff who shall be given a short time within which to reply."; and

(f) in subsection (13) thereof as renumbered, for the words "before the close of the preliminary written proceedings" there shall be substituted the words "before the time allowed for the filing of the statement of defence in accordance with this section".

**71.** Section 160 of the principal law shall be substituted by the following:

Substitution of section 160 of the principal law.

"Affidavits of witnesses.

160. Any party intending to produce a witness in any proceedings before any court may, together with the writ of summons or the statement of defence, as the case may require, file in the registry of such court an affidavit taken by such witness before a judicial assistant or any other person authorised by law to administer oaths, and a copy of such affidavit shall be served on the other party.".

**72.** Section 161 of the principal law shall be substituted by the following:

Substitution of section 161 of the principal law.

"Mode of procedure in the Civil Court, First Hall, and in the Court of Magistrates (Gozo) in its superior jurisdiction.

161. (1) In the Civil Court, First Hall, and in the Court of Magistrates (Gozo) in its superior jurisdiction, proceedings are ordinarily taken by writ of summons.

(2) Proceedings may also be taken by application in the cases prescribed by or under a law.

(3) Two or more plaintiffs may bring their actions by one writ of summons or by one application as the case may be, if the actions are connected in respect of the subject matter thereof or if the decision of one of the actions might affect the decision of the other action or actions and the evidence in support of one action is, generally, the same to be produced in the other action or actions. The cause and subject matter of the actions shall be clearly and specifically stated in respect of each plaintiff.

(4) Nevertheless, any of the actions so brought together shall be tried separately at the request of a plaintiff with regard to his action; and the court may also order that any action be tried separately when it is not expedient that the actions of all the plaintiffs be tried together. Any such order may be made at any stage of the proceedings before final judgement.

(5) Where the several actions are brought together as provided in subsection (3) of this section they shall be taken cumulatively for determining the competence of the court. Such court shall remain competent in respect of any action separated in accordance with subsection (4) of this section.”.

Repeal of section 162 of the principal law.

**73.** Section 162 of the principal law shall be repealed.

Repeal of section 163 of the principal law.

**74.** Section 163 of the principal law shall be repealed.

Substitution of section 164 of the principal law.

**75.** Section 164 of the principal law shall be substituted by the following:

“Nullity of proceedings.

**164.** (1) Saving the provisions of section 175 of this Code, nullity shall ensue if proceedings which should have been instituted by writ of summons or by application of appeal are instituted by any other judicial act.

(2) No nullity shall ensue if a cause which should have been instituted by application is instituted by writ of summons:

Provided that the court may order plaintiff to substitute the writ of summons by an application:

Provided further that any additional costs incurred shall be borne by the plaintiff:

Provided further that the provisions of this subsection shall not apply where in accordance with any law other than this Code proceedings are to be instituted by application.”.

Amendment of section 167 of the principal law.

**76.** Section 167 of the principal law shall be amended as follows:

(a) subsection (1) thereof shall be substituted by the following new subsection:

“(1) In actions within the jurisdiction of the superior courts or the Courts of Magistrates (Gozo) in its superior jurisdiction, where the demand is solely —

(a) for the recovery of a debt, certain, liquidated and due, not consisting in the performance of an act; or

(b) for the eviction of any person from any rural tenement, with or without a claim for ground rent, rent or any other consideration due or by way of damages for any compensation, up to the date of the surrender of the tenement,

it shall be lawful for the plaintiff to pray in the writ of summons that the court gives judgment allowing his demand, without proceeding to trial:

Provided that the plaintiff shall, in his declaration made in terms of subsection (3) of section 156 state that in his belief there is no defence to the action:

Provided further that the plaintiff may also file a sworn affidavit of any other person, containing facts relative to the claim, and confirming that such facts are within the knowledge of such a person.”;

(b) subsection (2) thereof shall be deleted;

(c) subsection (3) thereof shall be renumbered as subsection (2); and

(d) subsection (4) thereof shall be substituted by the following new subsection:

“(3) The provisions of subsections (1), (2) and (3) of section 156 and the provisions of section 159 shall apply to such writs of summons.”.

**77.** The words “A copy of the affidavit” in section 168 of the principal law shall be substituted by the words “A copy of the declaration and any affidavit”.

Amendment of section 168 of the principal law.

**78.** Section 169 of the principal law shall be substituted by the following new section:

Substitution of section 169 of the principal law.

“Time for service of writ of summons.

169. In the cases referred to in section 167, the writ of summons shall be served on the defendant without delay; and he shall be ordered to appear not earlier than fifteen days and not later than thirty days from the date of service:

Provided that in the case of non-observance of the provisions of this section the court shall not stop proceedings by special summary proceedings but shall give such orders as it may consider appropriate so that the rights of the parties be not prejudiced.”.

**79.** Section 169A of the principal law shall be substituted by the following new section:

Substitution of section 169A of the principal law.

“Mode of service.

169A. The writ of summons, the declaration and any affidavit and note produced therewith, and any order referred to in sections 168 and 169 shall be served by means of any executive officer of the courts.”.

Amendment of  
section 170 of the  
principal law.

**80.** Section 170 of the principal law shall be amended as follows:

(a) for the words from “good defence,” to the words “to defend the action,” in subsection (1) thereof there shall be substituted the words “*prima facie* defence, in law or in fact, to the action on the merits, or otherwise disclose such facts or issues of law as may be deemed sufficient to entitle him to defend the action or to set up a counterclaim,”; and at the end thereof there shall be added the following words: “The defendant may make his submissions to impugn the proceedings taken by plaintiff on the ground of irregularity or inapplicability by means of a note to be filed in the registry of the court or during the hearing.”; and

(b) subsection (2) thereof shall be substituted by the following subsection:

“(2) If the defendant successfully impugns the proceedings on the ground of irregularity, or inapplicability, or if he satisfies the court that he has a *prima facie* defence to the action, or discloses such facts or issues of law as may be deemed sufficient to entitle him to defend the action or to set up a counterclaim, he shall be given leave to defend the action and file a statement of defence within twenty days from the date of the order referred to in subsection (4) of this section, in which case the defendant shall comply with the provisions of section 158 so far as applicable.”.

Substitution of  
section 171 of the  
principal law.

**81.** Section 171 of the principal law shall be substituted by the following new section:

“Mode of  
procedure  
in inferior  
courts.

**171.** (1) In the Court of Magistrates (Malta) and in the Court of Magistrates (Gozo) in its inferior jurisdiction, proceedings shall be by writ of summons which shall take the form of a mere notice signed by the registrar, containing the name and the surname of the plaintiff and of the defendant, the demand of the plaintiff, and the day and hour when the defendant is to appear.

(2) The cause shall be summarily heard in terms of section 215.

(3) Without prejudice to section 23, in the said courts, the judgment need not contain all the reasons thereof, but may merely list the main points upon which the court would have based its conclusions.”.

Amendment of  
section 172 of the  
principal law.

**82.** The word “petition” wherever it occurs, in section 172 of the principal law shall be substituted by the words “application”.

Amendment of  
section 173 of the  
principal law.

**83.** Section 173 of the principal law shall be amended as follows:

(a) the section shall be renumbered as subsection (1) thereof; and

(b) after subsection (1) as renumbered there shall be added the following new subsection:

"(2) Without prejudice to the foregoing provisions of this section the court may, at any stage of the proceedings —

(a) either on its own motion or on an application by any party to the proceedings, direct that the evidence of any person intended to be produced as a witness be taken before a judicial assistant or a supplementary judge at such place and time under such conditions as may be specified in the order;

(b) on an application by any party to the proceedings, desiring to confirm a fact stated in the application, or in a note accompanying it, by the affidavit of a person named by the party, order the person so named to appear for that purpose before a judicial assistant or supplementary judge at such place and time as may be specified in the order.

(3) In the case of an order given under paragraph (b) of subsection (2) of this section, the judicial assistant or supplementary judge shall ask the person named whether he confirms or denies each fact specified in the application or note and shall make a record of the replies given together with any other statement, if any, qualifying his reply, and cause such record to be confirmed on oath by the person aforesaid. The judicial assistant or supplementary judge shall insert the affidavit in the records of the case and cause a copy thereof to be served on the parties.

(4) Where an application as in referred to in paragraph (b) of subsection (2) of this section is filed together with any written pleading referred to in section 160 of this Code, the Court may direct that the service of such written pleading shall be suspended for such period, not exceeding three months, as the court may determine.".

**84. Section 174 of the principal law shall be amended as follows:**

Amendment of  
section 174 of the  
principal law.

(a) paragraph (a) of subsection (1) thereof be substituted by the following new paragraph:

"(a) an indication of the court in which the pleading is filed, and, in the case of the Court of Magistrates (Gozo), an indication of the jurisdiction of the court;"; and

(b) the words "libel or" in paragraph (d) of subsection (1) thereof shall be deleted.

Substitution of  
section 175 of the  
principal law.

**85.** Section 175 of the principal law shall be substituted by the following:

"Power of  
court to  
order or  
permit  
amendment  
of written  
pleadings.

175. (1) The court may, at any stage of the proceedings, at the request of any of the parties, until judgment is delivered after hearing where necessary the parties, order the substitution of any act or permit any written pleading to be amended, either by adding or striking out the name of any party and substituting another name therefor or by correcting any mistake in the name or in the character of the parties, or by correcting any other mistake or by causing other submission of fact or of law to be added even by separate note, provided that no such substitution or amendment shall affect the substance either of the action or of the defence on the merits of the case.

(2) Any court of appellate jurisdiction may also order or permit, at any time until judgment is delivered, the correction of any mistake in the application by which the appeal is entered or in the answer, including any mistake in the indication of the Court which delivered the decision appealed from, in the name or character of the parties, or in the date of the judgment appealed from.

(3) Any judicial or administrative omission or mistake in a judicial act may until the Court shall have delivered judgment and disposed of the case be remedied by a court of its own motion.”.

Amendment of  
section 176 of the  
principal law.

**86.** In the proviso to subsection (1) of section 176 of the principal law for the words “written authority of the registrar,” there shall be substituted the words “written authority of the registrar given before the filing of the act.”.

Amendment of  
section 178 of the  
principal law.

**87.** Subsection (1) of section 178 of the principal law shall be substituted by the following new subsection:

“(1) The written pleadings shall be signed by the advocate and also by the legal procurator, if any.”.

Amendment of  
section 180  
of the  
principal law.

**88.** Subsection (1) of section 180 of the principal law shall be amended as follows.

(a) in paragraph (a) thereof, the words “or body corporate” shall be deleted and the words “commercial firm or partnership,” shall be substituted by the words “commercial firm, or as any of the persons mentioned in subsection (2) of section 181A in the case of a body having a distinct legal personality,”; and

(b) the words “by a notarial instrument;” in paragraph (d) thereof shall be substituted by the words “by the party pleading whose signature is duly attested in accordance with subsection (2) of section 634;”.

**89.** In subsection (2) of section 181 of the principal law, after the words "in an acting capacity in any such office" there shall be added the words "or where such office is merged with another office".

Amendment of  
section 181 of the  
principal law.

**90.** The following new section 181A shall be added after section 181 of the principal law:

Addition of new  
section 181A  
to the  
principal law.

"Written  
pleadings  
filed by or  
against a  
body  
having a  
distinct  
legal  
personality.

**181A.** (1) Where a written pleading is filed by or against a body having a distinct legal personality, it shall be sufficient to state the name of such body.

(2) Any declaration or pleading to be sworn in terms of law shall, in the case of a body having a distinct legal personality, be sworn by the person or persons vested with the legal or judicial representation thereof or by any company secretary or by any other person authorised in writing by such body to file judicial acts on its behalf or to make any such declaration, statement or pleading.

(3) When a written pleading is to be filed by or against a ship or other vessel, it shall be sufficient if there is designated the name of such ship or other vessel, as the case may be, and it shall not be necessary to mention the name of any person to represent such ship or other vessel:

Provided that the written pleadings mentioned in this subsection shall be served in accordance with the provisions of subsection (7) of section 187.".

**91.** Immediately after section 181A of the principal law there shall be added the following new section 181B:

Addition of new  
section 181B to the  
principal law.

Judicial  
represen-  
tation of  
Govern-  
ment.

**181B.** (1) The judicial representation of the Government in judicial acts and actions shall vest in the head of the Government Department in whose charge the matter in dispute falls:

Provided that, without prejudice to the provisions of this section:

(a) actions for the collection of amounts due to Government may in all cases be instituted by the Accountant General;

(b) actions involving questions relating to Government employment or to obligations to serve Government may in all cases be instituted by the Administrative Secretary;

(c) actions relating to contracts of supplies or of works with Government may in all cases be instituted by the Director of Contracts.

(2) The Attorney General shall represent Government in all judicial acts and actions which owing to the nature of the claim may not be directed against one or more heads of other Government departments.

(3) Every application, writ of summons or other judicial act filed against Government shall be served upon each head of a Government department against whom it is directed and upon the Attorney General and every time limit for the filing of any reply or statement of defence to any such act by any head of a Government department being a defendant or a respondent in judicial proceedings shall not commence to run before the act is served upon the head or heads of the Government Departments against whom it is directed and upon the Attorney General. The registrar shall not charge any fees for effecting the service on the Attorney General.”.

Amendment of  
section 184 of the  
principal law.

**92.** Section 184 of the principal law shall be amended as follows:

(a) subsection (2) thereof shall be deleted;

(b) subsection (3) thereof shall be substituted by the following new subsection:

“(2) In all cases, the registrar shall, upon a request to that effect, state in writing the reason for his refusal.”.

Substitution of  
section 185 of the  
principal law.

**93.** Section 185 of the principal law shall be substituted by the following section:

“Service on all parties. 185. Saving the provisions of subsection (1) of section 186, where an act is to be served on two or more persons even if they live together in the same address each of them shall be served with a copy of such act.”.

Amendment of  
section 186 of the  
principal law.

**94.** Section 186 of the principal law shall be amended as follows:

(a) the words “When the parties pleading are two or more, they shall,” in subsection (1) thereof be substituted by the words “Where two or more parties are pleading together, they may”; and

(b) the words “such persons shall” in subsection (2) thereof shall be substituted by the words “such persons may”.

**95.** Section 187 of the principal law shall be amended as follows:

(a) after subsection (1) of section 187 of the principal law there shall be added the following:

“Provided that where a person to whom a pleading is addressed refuses to receive it personally from an executive officer of the courts, the court may upon an application by the

interested party and after hearing the executive officer of the courts and considering all the circumstances of the incident, declare by means of a decree that service shall have been effected on the day and time of the refusal and such decree shall be considered as a proof of service for all purposes of law.”;

(b) subsections (3) and (4) thereof shall be substituted by the following:

“(3) If it appears from the certificate of the officer charged with the service of a written pleading or any judicial act that, although it does not result that the person upon whom such a pleading or act is to be served, is abroad, access to his place of residence cannot be obtained, or his place of residence is not known, the court may direct service to be effected by the posting of a copy of the written pleading or act at the place, in the town or district in which official acts are usually posted up, and by publishing a summary of such written pleading or act in the Gazette and in one or more daily newspapers as the court may direct and, where possible, when the residence is known, by posting up a copy of the pleading on the door leading to such residence. The court may also adopt such other measures as it may deem fit to bring the pleading or act to the notice of the person upon whom the same is to be served. In such cases, service shall be deemed to have been made on the third working day after the date of last publication or after the date of such posting, whichever is the later. In cases where service has been ordered with urgency, service shall be deemed to have been made at such time, after posting or publication as the court may determine, which time is to be stated in the publication or posting.

(4) In the case of a body having a distinct legal personality, service on such body shall be effected by leaving a copy of the pleading:

(a) at its registered office, principal office, or place of business or postal address with any of the persons mentioned in subsection (2) of section 181A or with an employee of such body; or

(b) with any of the persons mentioned in subsection (2) of section 181A in the manner provided for in subsection (1) of this section.”; and

(c) the following new subsections shall be added after subsection (4) thereof:

“(5) If it appears from the certificate of the officer charged with the service of a written pleading that service as provided in subsection (4) of this section has not been effected, the court may, if it appears that at least one of the persons mentioned in subsection (2) of section 181A is in Malta, direct service to be effected by the posting up of a copy of the written

pleading at the place in the town or district in which official acts are usually posted up, where the body has its registered office, principal office, or place of business, and by publishing a summary of such written pleading in the Government Gazette and in one or more daily newspapers as the court may direct and, where possible, by posting up a copy of the pleading on the door of the registered office, principal office, or place of business. The court may also adopt such other measures as it may deem fit to bring the pleading to the notice of any of the persons mentioned in subsection (2) of section 181A.

(6) Where it appears that all the persons mentioned in subsection (2) of section 181A are absent from Malta or there exist no such persons, the court shall appoint a curator in the interest of such body as provided for in paragraph (d) of section 929.

(7) In the case of an action against a ship or other vessel, service shall be effected by the delivery of a copy of the pleading to the master thereof or any other person acting in that behalf or, in the absence of such persons, on the agent of the ship or other vessel, as the case may be, or in the absence of such persons and agent, on curators appointed by the court in terms of section 929:

Provided that the court may also adopt such other measures as it may deem fit to bring the pleading to the notice of the person upon whom the same is to be served.

(8) Saving the provisions of section 193, service may also be effected by officers of the Post Office in such manner and under such rules in conformity with postal regulations as the Minister responsible for justice may order by notice in the Gazette:

Provided that, applications of appeal, and applications made under the provisions of the Constitution of Malta and Cap. 319. the European Convention Act and writs of summons, shall be served by the executive officers of the courts.”.

Substitution of  
section 190 of the  
principal law.

**96.** Section 190 of the principal law shall be substituted by the following new section:

“Service of  
acts and  
execution  
of warrants  
and orders  
in Malta.

190. (1) If an act filed in or a warrant or garnishee order issued by the Court of Magistrates (Gozo) is to be served or, as the case may be, executed in the Island of Malta, a copy thereof shall be transmitted by any officer of the said court to the registrar.

(2) The officer effecting service or execution shall deliver to the registrar the certificate of service or execution, duly confirmed on oath before the registrar who shall transmit it to any officer of the Court of Magistrates (Gozo).”.

**97.** The words "mechanical means or by any photographic process" in subsection (1) of section 191 of the principal law shall be substituted by the words "mechanical or electronic means or by any photographic process".

Amendment of  
section 191 of the  
principal law.

**98.** In subsection (1) of section 194 of the principal law, the words "of the court room, at least two days before the day appointed for the hearing, saving the cases mentioned in the proviso to section 154." shall be substituted by the words "of the court room where the causes are to be heard at least one hour before the case is to be heard, saving urgent cases referred to in subsection (2) of section 154.".

Amendment of  
section 194 of the  
principal law.

**99.** Subsection (1) of section 195 of the principal law shall be substituted by the following new subsection:

Amendment of  
section 195 of the  
principal law.

"(1) A cause, when set down for trial, shall, unless otherwise provided for in this Code, be tried uninterruptedly to a conclusion.".

**100.** Section 196 of the principal law shall be substituted by the following new section:

Substitution of  
section 196 of the  
principal law.

"Absence  
of witness  
to be a good  
ground for  
adjourn-  
ment.

**196.** (1) The absence of any witness regularly subpoenaed, shall be good ground for an adjournment of the cause, provided his evidence be shown to be material.

(2) The court may in this case appoint a supplementary judge to hear the evidence of such witness on such a day and at such a time as the court shall determine. Such day and time shall be prior to the date to which the cause is adjourned.".

**101.** Subsection (3) of section 199 of the principal law shall be substituted by the following new subsection:

Amendment of  
section 199 of the  
principal law.

"(3) In either case, if the plaintiff desires that the cause be restored to the list to be heard and determined upon the same acts, he shall, by means of an application to be filed within ten days, make a demand to that effect. Such demand shall be granted once only, and the court shall appoint a day for the trial of the cause at the expense of plaintiff, on condition that the plaintiff shall make payment, or deposit in the registry of the court before the day fixed for the trial, all the costs stipulated in the tariff, in the consequence of the non-appearance of plaintiff, or of his advocate or legal procurator, as the case may be.".

**102.** The words "the acts available" in section 201 of the principal law shall be substituted by the words "the acts available after hearing such evidence as the court may consider necessary".

Amendment of  
section 201 of the  
principal law.

**103.** Section 202 of the principal law shall be substituted by the following new section:

Substitution of  
section 202 of the  
principal law.

"Regulation  
of trial.

202. (1) The Court shall first appoint a date and time for a pretrial hearing of the cause.

(2) On the first day appointed for the pretrial hearing of the cause, the court shall identify and record the relevant points of law in question, and the points of fact which are in contention and the relative objects of proof to be made by each witness to be produced by the parties, and shall then proceed as follows:—

(a) if the court considers that the cause can be expeditiously disposed of during that sitting, it shall conclude the hearing in accordance with subsection (4) of this section during the first sitting and deliver, or adjourn the cause for, judgment;

(b) if the cause cannot be disposed of according to the provisions of paragraph (a) of this subsection, the court shall either fix a date and time for the hearing of the trial *viva voce* in accordance with subsection (4) of this section giving such orders or directives under section 173 as it may deem proper; and shall accordingly commence and continue to hear the trial of the cause on the date so fixed and continue such hearing uninterruptedly until the trial is concluded and the cause adjourned for judgment; or proceed in accordance with paragraph (c) of this subsection:

Provided that either party can, unless otherwise expressly ordered by the court, produce any evidence of witnesses by means of an affidavit, until the date fixed for the hearing;

(c) the court, before proceeding to hear the case in accordance with subsection (4) of this section shall:

(i) grant to the plaintiff or plaintiffs a period of forty days within which they are to produce and file in the registry of the court all documents relative to the claims, and all the evidence of the declared witnesses by means of affidavits; and to the defendant or defendants a period of forty days, to run from the expiration of the period granted to the plaintiffs, to produce and file in the registry of the court all documents relative to the defence, and all the evidence of the declared witnesses by means of affidavits:

Provided that the court may reduce any of the periods in cases where such is required because of the relative urgency of the cause, and may also reduce any of the said periods, or dispense with them altogether, according to circumstances, in cases where affidavits have been filed together with

the writ of summons or the statement of defence, and after taking into account any submissions made by the parties;

(ii) the court shall then adjourn the cause to a date as early as possible after the date by which the defendants are to file their evidence by affidavits as provided in subparagraph (i) of this paragraph for a second pretrial hearing. By such a date the parties shall by means of a note filed in the registry of the court, indicate the witnesses they intend to cross examine. At the second pretrial hearing the parties shall declare which points of law are still in question and which points of fact are still in contention. Taking into account the time likely to be taken for the hearing of the cause, the court shall then fix a date for the cross-examination *viva voce* of the witnesses subpoenaed for the purpose, and the uninterrupted continuation of the hearing of the cause until it is determined or adjourned for judgment, in accordance with subsection (4) of this section. No witness may be cross examined unless the intention to cross examine such witness has been declared as provided in this subparagraph;

(iii) if any of the parties finds difficulty in producing the evidence of any witness by affidavit as aforesaid, such party shall inform the court accordingly, by means of a note to be filed in the records of the cause, within the time fixed for the production of the evidence by such party, and the court shall exercise the powers conferred on it by paragraph (b) of subsection (2) of section 173 to ensure that such evidence is heard and produced within the time fixed in this subsection.

(3) Notwithstanding the foregoing provisions of this section:—

(a) in the causes referred to in subsection (7) of section 158, the court may grant more time to the attorney or curator therein mentioned as it may consider necessary for him to fully inform himself and produce the required evidence;

(b) in causes where any of the parties wishes to produce evidence which is to be obtained by letters of request or where documents have to be obtained from abroad, the court shall hear all the evidence otherwise available, and grant to the parties such time as is necessary to obtain the evidence or documents aforesaid;

(c) the court may also, in grave and justifiable circumstances which are to be recorded in the acts of the proceedings, extend or renew to the parties the time within which they are to produce their evidence by affidavit;

(d) the court either on its own motion, or on application by any party to the proceedings on good cause being shown, may at any time order that a particular witness or witnesses be heard *viva voce* before it; and may also recall any witness or witnesses to be so heard.

(4) After the termination of the pretrial hearing or hearings the order to be followed in the trial of a cause shall be as hereunder:

(a) the court shall, where it has not proceeded in accordance with paragraph (c) of subsection (2) of this section, give such directives as it may deem necessary as to the production of evidence;

(b) the witnesses of the plaintiff whose evidence has been produced by affidavit shall be cross examined, and in the case where the court has not proceeded in accordance with paragraph (c) of subsection (2) of this section the plaintiff shall produce his evidence;

(c) the witnesses of the defendant whose evidence has been produced by affidavit shall be cross examined, and in the case where the court has not proceeded in accordance with paragraph (c) of subsection (2) of this section, the defendant shall produce his evidence;

(d) the plaintiff submits his case and the defendant makes his reply;

(e) the court in appropriate circumstances may allow a further reply by plaintiff and rejoinder by defendant.”.

Substitution of  
section 203 of the  
principal law.

**104.** Section 203 of the principal law shall be substituted by the following:

“Power of  
court to  
vary order  
of produc-  
tion of  
evidence.

203. It shall in all cases be lawful for the court, for just cause to be recorded in the acts of the proceedings, to regulate otherwise the production of evidence by varying the order set forth in the preceding section.”.

Amendment of  
section 205 of the  
principal law.

**105.** The words “as if that party had failed to appear” in subsection (2) of section 205 of the principal law shall be substituted by the words “after hearing such evidence as the court may consider necessary”.

**106.** The words “section 202” wherever they appear in section 207 of the principal law shall be substituted by the words “subsection (3) of section 202”.

Amendment of  
section 207 of the  
principal law.

**107.** Section 209 of the principal law shall be amended as follows:

(a) subsection (1) thereof shall be substituted by the following new subsection:

“(1) In the Court of Appeal, if, when the cause is called, it is found that security for the costs of the suit is not produced as provided in section 249, the court shall forthwith proceed to declare the appeal abandoned:

Provided that the court may grant the appellant a short time to produce security for costs if the appeal is one which is to be heard with urgency, or if the registrar has not:

- (a) fixed the amount for such security; and
- (b) notified the appellant accordingly indicating in such notice the consequences of his default, at least ten days prior to the hearing.”;
- (b) subsection (2) thereof shall be deleted; and
- (c) subsection (3) thereof shall be renumbered as subsection (2) thereof.

**108.** The words “such recital of the claim and the answer as the Court may deem proper to render the judgment intelligible.” in section 218 of the principal law shall be substituted by the words “a reference to the proceedings, the claims of the plaintiff and the pleas of defendant.”.

Amendment of  
section 218 of the  
principal law.

**109.** The following subsection shall be added to section 223 of the principal law:

Amendment of  
section 223 of the  
principal law.

“(5) In the case where an *ex parte* expert witness is produced by any of the parties in a cause, the court shall in the definitive judgment establish a fair amount which can be claimed as costs for the said witness. In determining the said amount, the court shall take into account the seriousness of the claims, in the case of an expert witness not resident in Malta, whether local expertise was available and all the other circumstances of the case. The court shall also establish how the said costs are to be apportioned between the parties to the cause.”.

**110.** Section 226 of the principal law shall be substituted by the following new section:

Substitution of  
section 226 of the  
principal law.

“Time for  
filing ap-  
plication  
of appeal.

226. (1) An appeal is entered by means of an application to be filed in the registry of the Court of Appeal within twenty days from the date of the judgment.

(2) Where an appeal is not entered from the whole judgment, there shall be stated in the application of appeal, the heads of the judgment against which an appeal is entered.”.

Substitution of section 227 of the principal law.

**111.** Section 227 of the principal law shall be substituted with the following:

“227. Judgments delivered by the Court of Appeal are not appealable.”.

Amendment of section 228 of the principal law.

**112.** In subsection (2) of section 228 of the principal law for the words “fifty Maltese liri” there shall be substituted the words “two hundred liri” and after the words “determined in the judgment” there shall be added the words “or the determination of a claim for the eviction of any person from immovable property”.

Substitution of section 229 of the principal law.

**113.** Section 229 of the principal law shall be substituted by the following new section:

“Appeal from decrees.

229. (1) An appeal from the decrees mentioned hereunder shall only lie after the definitive judgment and together with an appeal from such judgment, and such decrees may not be challenged before the definitive judgment is delivered:

- (a) a decree allowing a request for urgency;
- (b) any order or directive under the provisions of section 173;
- (c) a decree allowing or disallowing a request for the adjournment of a cause under subsection (3) of section 195;
- (d) a decree allowing or disallowing an objection to the competency of a witness under section 567;
- (e) a decree allowing or disallowing a request to put questions to a witness under section 587;
- (f) a decree allowing or disallowing a request for the production of documents under section 637;
- (g) the appointment of a referee under section 646;
- (h) a decree allowing or disallowing a request for the connection of actions under subsection (1) of section 793;
- (i) a decree allowing or disallowing a request for suspending the delivery of a decree;

(j) a decree allowing or disallowing the expunging of a document from the records of the case;

(k) subject to the provisions of this section, a decree allowing or disallowing a request for the revocation or amendment of a decree;

(l) a decree disallowing a request for special leave to appeal under subsection (5) of this section;

(m) a decree disallowing a request for stay of proceedings.

(2) A decision of the court in the cases listed hereunder shall be given by a decree to be read out in open court on a day duly notified to the parties, and an appeal from such decree may be entered before the definitive judgment subject to the procedure laid down in subsections (4) and (5) of this section:

(a) a decree refusing the appointment of additional referees under section 674;

(b) a decree transferring an action for trial to another court under section 792;

(c) a decree refusing the joinder of a third party under section 961;

(d) a decree disallowing a request for urgency;

(e) a decree ordering the stay of proceedings.

(3) Save as otherwise specifically provided for in this Code an appeal from any other decree not included in subsections (1) and (2) of this section may be entered before the definitive judgment only by special leave of the court hearing the case, to be requested by an application to be filed within six days from the date on which the decree is read out in open court. The court, after hearing the parties, may grant such leave of appeal if it deems it expedient and fair that the matter be brought before the Court of Appeal before the definitive judgment.

(4) In the case of any decree under subsections (2) and (3) of this section, provided that an application for an appeal has not been filed, the aggrieved party may file an application within six days from the date on which the decree is read out in open court, requesting the court which delivered the decree to reconsider its decision. The application is to contain full and detailed reasons in support of the request and is to be served on the other party who shall have the right to file an answer thereto within six days from the date of service.

(5) The court shall decide, as expeditiously as possible by decree to be read out in open court, the application for special leave to appeal in terms of subsection (3) of this section or the application to reconsider its decision in terms of subsection (4) of this section, expounding fully therein the reasons for the decision.

(6) The period for appeal from a decree before a definitive judgment shall be six days from the date on which the decree is read out in open court:

Provided that in the cases contemplated in subsections (3) and (4) of this section such term for appeal shall run from the day on which the decrees in terms of subsection (5) of this section are read out in open court.

(7) Subject to the provisions of this section, the provisions of this Code relating to appeals from judgments shall apply to appeals from decrees under this section.

(8) The security referred to in section 249 shall not be required in the cases referred to in subsection (6) of this section.

(9) In the case of any frivolous or vexatious appeal, the Court of Appeal shall award double costs against the appellant in favour of the respondent, and may condemn appellant to pay respondent a sum not exceeding one thousand liri by way of penalty, saving any right for damages that may be competent to respondent.”.

Substitution of  
section 231 of the  
principal law.

**114. Section 231 of the principal law shall be substituted by the following new section:**

“Appeal  
in case of  
separate  
judgments  
on several  
issues in  
the same  
action.

231. (1) Where several issues in an action have been determined by separate judgments, appeal from any such judgments may only be entered after the final judgment and within the prescribed time, to be reckoned from the date of such final judgment; and in such an appeal express mention of the judgment or judgments appealed from shall be made:

Provided that an appeal from such separate judgments may be entered before the final judgment only by leave of court to be read out in open court; such request for leave to appeal shall be made either orally immediately after the delivery of such judgment or by application within six days from such judgment.

(2) In an action involving more than one plaintiff or more than one defendant a judgment disposing of the action in respect of any particular plaintiff or defendant may only be appealed from within the prescribed time to be reckoned from the date of such judgment.”.

**115.** Section 233 of the principal law shall be substituted by the following new section:

"Power of appellate court to assess damages, interest or fruits.

233. (1) Where an appellate court reverses a judgment and allows the claim for damages or interest or for the recovery of fruits, it shall make such assessment without sending back the record to the court of first instance, unless the court for exceptional reasons considers it to be in the interest of justice to send back the cause to the court of first instance.

(2) Likewise the appellate court shall, in the case of reversal of a judgment of nonsuit of plaintiff or of a judgment given under the provisions of subsection (1) or subsection (2) of section 170, either remit the records to the court of first instance or determine the merits, according to circumstances.”.

**116.** The word “decree” in section 234 of the principal law shall be substituted by the word “judgment”.

Amendment of section 234 of the principal law.

**117.** The words “the time of ten days” in the first proviso to section 235 of the principal law shall be substituted by the words “the time of fifteen days”.

Amendment of section 235 of the principal law.

**118.** Section 239 of the principal law shall be amended as follows:

Amendment of section 239 of the principal law.

(a) the words “they are registered” in subsection (1) thereof shall be substituted by the words “they are enrolled”; and

(b) subsection (2) thereof shall be substituted by the following new subsection:

“(2) Any interested party may obtain enrolment by delivering to the said registry a note of enrolment together with an authentic copy of the judgment as well as a certificate from the registrar that the judgment has become *res judicata*. The provisions of the Public Registry Act shall apply to the drawing up and filing of the said note.”.

Cap. 56.

**119.** Section 240 of the principal law shall be substituted by the following new section:

Substitution of section 240 of the principal law.

"Cross Appeal.

240. (1) Any party may avail himself of an appeal entered from a judgment, including a partial judgment and from a head or heads of any judgment, or from an interlocutory decree and may enter a cross appeal not only in respect of the judgment, partial judgment, head or heads of a judgment, or interlocutory decree appealed from, but also in respect of any judgment or heads thereof or interlocutory decrees given in the same cause even if not appealed from by the appellant. Such cross appeal may be made even against or by any party not being one against whom a cross appeal is directed in terms of subsection (1) of section 144:

Provided that a party may not so avail himself of the appeal in respect of the particular judgment, if he has already appealed from such judgment or any head thereof.

(2) The party who intends to avail himself of such appeal shall make a declaration to that effect in the answer stating therein his demands and the grounds for his cross appeal.”.

Substitution of  
section 242 of the  
principal law.

**120.** Section 242 of the principal law shall be substituted by the following new section:

“Notice as  
to validity  
of laws.

Cap. 319

242. When a court, by a judgment which has become *res judicata*, declares any provision of any law to run counter to any provision of the Constitution of Malta or to any human right or fundamental freedom set out in the First Schedule to the European Convention Act, or to be *ultra vires*, the registrar shall send a copy of the said judgment to the Speaker of the House of Representatives, who shall during the first sitting of the House following the receipt of such judgment inform the House of such receipt and lay a copy of the judgment on the table of the House.”.

Amendment of  
section 243 of the  
principal law.

**121.** The words “for entering an appeal, or” in subsection (1) of section 243 of the principal law shall be deleted.

Substitution of  
section 244 of the  
principal law.

**122.** Section 244 of the principal law shall be substituted by the following new section:

“Lodging  
of record.

244. (1) On appeal proceedings being taken, the record of the proceedings of the first court shall be lodged before the appellate court.

(2) The fee prescribed for the lodging of the record shall be paid concurrently with the fee for the filing of the application.”.

Substitution of  
section 245 of the  
principal law.

**123.** Section 245 of the principal law shall be substituted by the following new section:

“Mode of  
lodging  
record.

245. In regard to appeals from judgments or decrees of the Civil Court, First Hall, and from determinations by the Rent Regulation Board, the lodging of the record shall be effected as soon as possible by the production thereof before the Court of Appeal by the registrar.”.

Repeal of  
section 246 of  
the principal law.

**124.** Section 246 of the principal law shall be repealed.

**125.** Section 247 of the principal law shall be substituted by the following new section:

Substitution of  
section 247 of the  
principal law.

"Lodging  
of record  
in appeals  
from  
inferior  
court to  
Court of  
Appeal.

247. (1) In regard to appeals from judgments of the Court of Magistrates (Gozo) and from judgments of the Court of Magistrates (Malta), the lodging of the record shall be effected by the transmission thereof by any officer of the court concerned to the registrar in the Court of Appeal.

(2) For the purposes of subsection (1) of this section —

(a) the registrar shall, on the same day on which an appeal is entered, notify in writing the entering of such appeal to the officer of the court concerned;

(b) when notification is made to any officer of the Court of Magistrates (Gozo), the registrar shall, in addition to the notification in writing, make notification by telefax or other electronic device or orally by telephone.

(3) In respect of appeals entered against a judgment of the Court of Magistrates (Gozo), the transmission of the record shall be deemed to have been effected by the delivery of the record addressed to the registrar, to the Post Office, in Victoria, Gozo.”.

**126.** Section 248 of the principal law shall be repealed.

Repeal of  
section 248 of  
the principal law.

**127.** Section 249 of the principal law shall be substituted by the following new section:

Substitution of  
section 249 of the  
principal law.

"Security  
for costs.

Cap. 215.

249. (1) Saving the provisions of the proviso to subsection (1) of section 209 and unless otherwise provided in any other law, in the case of an appeal from judgments or decrees given in a cause initiated by writ of summons, security for costs is to be produced and deposited in court at least one day before the date of the hearing of such appeal.

(2) Such security shall be in an amount determined by the registrar and is to be made either by a deposit of ready money or by a guarantee of a bank licensed in terms of the Banking Act in accordance with Schedule C to this Code.

(3) The deposit shall not be subject to the claims of the creditors of the party making such deposit, so long as it remains to meet the costs of the suit.

(4) The Government of Malta, public corporations, the Central Bank of Malta and banks licensed under the Banking Act are exempt from giving the said security.

(5) The Minister responsible for justice may by regulations exempt any other category of persons or bodies from providing the said security.

(6) The provisions of sections 893 to 905 where inconsistent with this section shall not apply to the security given under this section.”.

Amendment of  
section 250 of the  
principal law.

**128.** The words “or in the case of an appeal entered by a Government department or by any administration under the Government,” in section 250 of the principal law shall be deleted.

Amendment of  
section 251 of the  
principal law.

**129.** The words “sections 226 and 242” in section 251 of the principal law and in the marginal note thereto shall be substituted by the words “section 226”.

Amendment of  
section 255 of the  
principal law.

**130.** The words “of any person or” in paragraph (b) of section 255 of the principal law shall be deleted.

Substitution of  
section 258 of the  
principal law.

**131.** Section 258 of the principal law shall be substituted by the following new section:

“Procedure  
for enforce-  
ment of  
executive  
titles after  
lapse of  
five years.

**258.** Where a period of five years has expired since the day on which according to law any of the executive titles mentioned in section 253 could have been enforced, the enforcement may only be proceeded with upon a demand to be made by an application filed before the competent court. The applicant shall also confirm on oath the nature of the debt or claim sought to be enforced, and that the debt or part thereof is still due.”.

Amendment of  
section 259 of the  
principal law.

**132.** Section 259 of the principal law shall be amended as follows:

(a) the words “by writ of summons” in subsection (1) thereof shall be substituted by the words “by application”; and

(b) the following new subsection shall be added after subsection (3) thereof:

“(4) The heirs, successors or assignees of the creditor may, by application served on the debtor, his successors or assignees, request the court to enforce any executive title in the name of the creditor even though the period referred to in the previous section shall not have elapsed. Such request shall be allowed by the court if it is satisfied that:

- (a) the applicants are the sole heirs, successors or assignees of the creditor;
- (b) the executive title is still valid for what is being claimed; and
- (c) the persons against whom enforcement is sought are the debtor, or his heirs, successors or assignees.”.

**133.** The words “in section 254 and” in section 267 of the principal law shall be deleted.

Amendment of section 267 of the principal law.

**134.** The word “254,” in section 268 of the principal law shall be deleted.

Amendment of section 268 of the principal law.

**135.** Section 270 of the principal law shall be substituted by the following new section:

Substitution of section 270 of the principal law.

“Condition for registration in Public Registry of notes of reference deriving from a judgment.

270. The Director of the Public Registry shall not receive any note of reference resulting from a judgment relating to any hypothecary registration unless an authentic copy of the judgment together with a certificate from the registrar that no appeal against such judgment has been entered and that the time for entering an appeal has elapsed or that the judgment is not subject to appeal, as the case may be, are delivered to the said registry with the aforementioned note:

Provided that the foregoing shall not apply where the Director of the Public Registry is party to the suit, in which case he shall take the necessary steps as aforesaid as soon as the judgment has become a *res judicata*. ”.

Amendment of section 274 of the principal law.

**136.** The words “over the signature of the registrar personally” in the proviso of subsection (1) of section 274 of the principal law shall be substituted by the words “over the signature of the registrar personally after having first obtained verbal authorisation from the judge or magistrate to do so, the judge or magistrate is also to append his own signature under that of the registrar at the earliest opportunity as proof that the said authority had been given or, if it is not possible for the registrar to obtain beforehand such authorisation, the registrar shall issue the said warrant or order over his signature subject to the ratification of such action by a judge or magistrate as soon as possible”.

Amendment of section 275 of the principal law.

**137.** Subsection (1) of section 275 of the principal law shall be substituted by the following:

“(1) Such demand shall be made by an application.”.

Amendment of section 280 of the principal law.

**138.** Subsection (1) of section 280 of the principal law and the marginal note thereto shall be substituted by the following:

“Time for execution of warrants and orders. 280. (1) Saving the exceptions laid down in this Code, no warrant or garnishee order shall be executed at any time before six o’clock in the morning or after eight o’clock in the evening, under pain of nullity of the execution.”.

Amendment of section 283 of the principal law.

**139.** The words “fine (*ammenda*) not exceeding one lira to be awarded by the Court of Revision of Notarial Acts” in subsection (1) of section 283 of the principal law shall be substituted by the words “penalty not exceeding twenty liri, or such greater sum not being more than one hundred liri as the Minister responsible for justice may from time to time by order in the Gazette establish, to be awarded by the Court and enforceable as a civil debt”.

Addition of new section 283A in the principal law.

**140.** There shall be added the following new section after section 283 of the principal law:

“How executive acts may be impugned. Appeal from decree.

**283A.** (1) Without prejudice to any other right under this or any other law, the person against whom an executive act has been issued, may, make an application to the court issuing the executive act praying that the executive act be revoked, either totally or partially for any reason valid at law.

(2) The court shall appoint the application referred to in subsection (1) of this section for hearing, and shall hear the same within six days from the filing of the said application.

(3) A copy of the application shall be served on the person at whose request the executive act was issued who shall not later than the day fixed for the hearing of the application state the reasons, if any, why such request should not be acceded to. In default of such opposition the court shall accede to the request.

(4) After hearing the parties, the court shall by a separate decree given in open court, either reject the application or accede to the request in the application under such conditions as it may deem fit to impose.

(5) An appeal from a decree delivered under subsection (4) of this section may be entered by application within six days from the date on which the decree is read out in open court.

(6) The security referred to in section 249 shall not be required in the cases referred to in the previous subsection.”.

**141.** Section 292 of the principal law shall be substituted by the following new section:

Substitution of  
section 292 of the  
principal law.

“Appoint-  
ment of  
consigna-  
tary by  
marshal.

292. (1) If the debtor fails to present a consignatory acknowledged to be suitable and not excepted under section 293, a consignatory shall be appointed by the marshal at the provisional expense of the creditor.

(2) If no consignatory is found, the marshall shall report the matter to the court and the court may, after hearing the creditor if necessary, order the marshal to take possession of the property seized and to deposit it under the authority of the court by means of a lodgement schedule at the provisional expense of the creditor and the registrar shall also ensure that such property where possible, is kept insured against damage and theft at the provisional expense of the creditor. The initial period of insurance shall be for a period of one year.

(3) The court may at any time on a request by application of the creditor, debtor, or any other interested party give such orders as it may deem necessary concerning the consignatory, including his substitution, and may give such other directives it deems necessary for the better safekeeping of the goods seized.”.

Substitution of  
section 298 of the  
principal law.

**142.** Section 298 of the principal law shall be substituted by the following new section:

"Consignatary not  
to make  
use of  
property  
seized.

298. (1) The consignatary shall not make use of the property seized, nor shall he allow the debtor to use or remain in possession of the property seized nor shall he give out such property on hire or loan, under pain of forfeiting any expense incurred in connection with the custody of such property and of being condemned to the payment of damages and interest:

Provided that the debtor may be allowed to use or remain in possession of such items of the property seized as the court may authorise if it considers that such items are normally required by an average household for decent living to maintain the human dignity of the debtor and his family.

(2) Where the property seized is of a perishable nature, the court may of its own motion or at the request of any person, order the consignatary to sell the perishable goods under such conditions as the court may determine and the proceeds thereof shall be deposited by the consignatary by means of a lodgement schedule in the registry of the competent court and such proceeds shall to all intents and purposes of law represent the seized goods.”.

Amendment of  
section 300 of the  
principal law.

**143.** The words “*bonus paterfamilias*, and may be compelled” up till the words “the warrant is revoked.” in section 300 of the principal law shall be substituted by the words “*bonus paterfamilias*; if the consignatary fails to present such property when called upon to do so, the court may order him to appear before it to explain his failure to do so and the court, after examining the circumstances of the case, may issue such orders including the consignatary’s personal arrest, to compel him to present such property. The consignatary’s failure to present such property when ordered by the court shall of itself constitute contempt of court.”.

Amendment of  
section 304 of the  
principal law.

**144.** Paragraphs (a), (b) and (g) of section 304 of the principal law shall be respectively substituted by the following new paragraphs:

“(a) such clothes for daily wear, bedding and such utensils and furniture as are considered reasonably necessary for the decent living of the debtor and his family;

(b) books relating to the profession of the debtor or of his children;

(g) any property of any member of the Police Force or of the Armed Forces of Malta being arms, ammunition, equipment, instruments or clothing used by him in the discharge of his duties:”.

**145.** Section 305 of the principal law shall be amended as follows:Amendment of  
section 305 of the  
principal law.

(a) subsection (1A) thereof shall be deleted;

(b) the proviso to subsection (2) thereof shall be substituted by the following:

“Provided that if the demand is for the sale of a going concern, the court may accede to such a demand stating in detail in the decree that it considers it in the best interest of the debtor and the creditor to accede to such a demand.”;

(c) subsection (2A) thereof shall be deleted;

(d) the following new subsections shall be added after subsection (3) thereof:

“(4) In the event of a decree as provided in the proviso to subsection (2) of this section the procedure to be followed shall be that laid down in this Sub-title for the judicial sale by auction of immovable property.

(5) For the purpose of this Sub-title the term “going concern” shall mean a firm which is still doing business and shall also mean such part of the estate of the debtor which is used or operative in a unified and complimentary manner, so that the sale of part or parts thereof without the other part or parts will render the assets sold, of lesser use or value to a purchaser and shall include all corporeal assets such as consumables, machinery, equipment and stock, but excluding all incorporeal assets other than intellectual property rights, and such other rights as may be determined by the court.”.

**146.** Section 307 of the principal law shall be amended as follows:Amendment of  
section 307 of the  
principal law.

(a) the proviso to subsection (1) thereof shall be deleted;

(b) subsections (1A) and (1B) shall be deleted; and

(c) the following new subsection shall be added immediately after subsection (3) thereof:

“(4) An appraisal made in conformity with the provisions of subsection (1) of section 310 and existing in the records of a sale by auction may be accepted by the court to be the appraisement for the purpose of this section.”.

Amendment of  
section 308 of the  
principal law.

**147.** The words "by writ of summons," in subsection (3) of section 308 of the principal law shall be substituted by the words "by application,".

Amendment of  
section 310 of the  
principal law.

**148.** The words "stating the burdens," in subsection (1) of section 310 of the principal law shall be substituted by the words "stating the burdens, leases and other rights whether real or personal,".

Amendment of  
section 311 of the  
principal law.

**149.** Section 311 of the principal law shall be amended as follows:

(a) subsections (2) and (3) thereof shall be substituted by the following new subsections:

"(2) Where a sale by auction of immovable property or of rights annexed to immovable property situated in the Island of Gozo or of Comino, is ordered by any of the superior courts, it shall be lawful for such court to order the referee to swear his report at the Courts of Magistrates (Gozo) in the presence of any of the officers mentioned in paragraphs (a) to (c) of subsection (2) of section 57, and to deliver the said report, so sworn, to the said officer, to be by him transmitted to the superior court which made the aforesaid order.

(3) Where a sale by auction of immovable property or of rights annexed to immovable property situate in the Island of Malta, is ordered by the Court of Magistrates (Gozo), it shall be lawful for such court to order the referee to swear his report in the presence of the registrar and to deliver the said report, so sworn, to the said registrar, to be by him transmitted to the Court of Magistrates (Gozo)."; and

(b) the words "to the court." in subsection (4) thereof shall be substituted by the words "to the court. Such appeal shall be made by application.".

Amendment of  
section 312 of the  
principal law.

**150.** Subsection (1) of section 312 of the principal law shall be substituted by the following new subsection:

"(1) After the lapse of two days from the service of the decree ordering the sale by auction, or from the filing of the report of the referee, the court shall appoint one or more days for the sale by auction, and order the issue of advertisements.".

**151.** The words “the thing to be sold,” in subsection (1) of section 313 of the principal law shall be substituted by the words “the thing to be sold with the relevant details thereof.”.

Amendment of  
section 313 of the  
principal law.

**152.** Section 314 of the principal law shall be substituted by the following:

Substitution of  
section 314 of the  
principal law.

“Service  
and publi-  
cation of  
advertis-  
ement of  
sale by  
auction.

314. (1) The advertisement shall be served by the marshal on the debtor, the execution creditor, and all other creditors who may have obtained a warrant of seizure of the article sold, or of a garnishee order duly served on the registrar.

(2) The court shall order such advertisement to be published in one or more daily newspapers.

(3) The publication of the advertisement shall unless the court otherwise directs, take place, as regards the sale of immovable property or of ships or other vessels, or aircraft, at least fifteen days before the day appointed for the sale by auction, and as regards other movable property at least four days before the date appointed for the sale.”.

**153.** Section 316 of the principal law shall be amended as follows:

Amendment of  
section 316 of the  
principal law.

(a) paragraph (a) of subsection (1) thereof shall be substituted by the following new paragraph:

“(a) in the building of the courts of justice; or”; and

(b) the following subsection (3) shall be added after subsection (2) thereof:

“(3) In the case of a judicial sale by auction of listed securities in the Stock Exchange, the auction shall be held by a licensed stockbroker according to the provisions of section 9 of the Stock Exchange Act.”.

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**154.** The words “Property may be sold” in section 318 of the principal law shall be substituted by the words “Subject to the provisions of section 305, property may be sold”, and the proviso thereof shall be deleted.

Amendment of  
section 318 of the  
principal law.

**155.** Section 319 of the principal law shall be substituted by the following new section:

Substitution of  
section 319 of the  
principal law.

“Opening  
of sale by  
auction.

319. (1) The auction shall be conducted by the registrar or the auctioneer or broker appointed by the court to conduct the auction.

(2) Bids are made orally. Each bid shall be announced at least three times, unless a higher bid is previously made. The highest bidder, within the time stated in the advertisement, shall be the purchaser.

(3) The auctioneer or broker shall be entitled to a fee to be taxed by the registrar according to law.”.

Amendment of  
section 320 of the  
principal law.

**156.** Subsections (2) and (3) of section 320 of the principal law shall be deleted.

Repeal of  
section 321 of the  
principal law.

**157.** Section 321 of the principal law shall be repealed.

Amendment of  
section 322 of the  
principal law.

**158.** Subsection (3) of section 322 of the principal law shall be substituted by the following new subsection:

“(3) No bids shall be accepted subject to the condition of the issue of edicts.”.

Amendment of  
section 324 of the  
principal law.

**159.** The proviso to section 324 of the principal law shall be substituted by the following:

“Provided that the provisions of paragraph (a) of this section shall not apply to the sale of movable property not being ships or other vessels, aircraft, gold or silver articles, shares or insurance policies.”.

Substitution of  
section 325 of the  
principal law.

**160.** Section 325 of the principal law shall be substituted by the following new section:

“Appointment of  
another day for  
continuation of  
sale.  
Adjudication to be  
made on  
such other  
day.  
Saving.

**325.** (1) In the cases referred to in the last preceding section, the registrar shall by means of a note inform the court that the adjudication has not been made, indicating the reason therefor, and the court shall appoint another day for the continuation of the auction, and shall order the publication of a fresh advertisement stating therein that the property to be sold by auction will be adjudicated for any offer. The adjudication shall be made on the day named in such advertisement, unless the court, upon the demand of the creditor or any interested party other than the debtor, shall, for just cause, grant another adjournment, at the expense of the person making the demand, in which case a fresh advertisement shall be published. Such adjudication shall be made subject to the provision of section 327.

(2) When the auction does not take place for any reason other than those mentioned in section 324, the procedure mentioned in subsection (1) of this section shall *mutatis mutandis* apply.

(3) The provisions of subsections (2) and (3) of section 314 shall apply in the cases mentioned in subsections (1) and (2) of this section.”.

**161.** Section 326 of the principal law shall be amended as follows:

(a) the words “less than four working days” in subsection (3) thereof shall be substituted by the words “less than six days”; and

(b) subsection (4) of section 326 of the principal law shall be substituted by the following new subsection:

“(4) Any interested person may by application request the court to revoke *contrario imperio* its decree authorising the suspension of the auction or of the adjudication, and the court shall summarily hear the parties before delivering its decree. Any such decree may not be challenged in any court.”.

**162.** Section 327 of the principal law shall be amended as follows:

(a) the words “within the meaning of section 322,” in subsection (1) thereof shall be deleted;

(b) the following new proviso shall be added to subsection (1) thereof

“Provided that the higher bid mentioned in this subsection shall in the case of an adjudication of an immovable be higher than three per cent of the price of adjudication and in the case of a going concern not be less than ten per cent of the price of adjudication.”;

(c) the words “and the new bidder.” in subsection (2) thereof shall be substituted by the words “and the new bidder. The court shall also order the registrar to publish a fresh advertisement in the Gazette and in a daily newspaper which shall specify that the final adjudication is not taking place as a higher bid has been made within fifteen days from the adjudication in terms of subsection (1) of this section, and shall indicate the day appointed for the final adjudication.”; and

(d) subsection (3) thereof shall be deleted.

**163.** The words “four days” in section 328 of the principal law shall be substituted by the words “seven days”.

Amendment of section 328 of the principal law.

**164.** The following new subsection shall be added after subsection (2) of section 331 of the principal law:—

Amendment of section 331 of the principal law.

“(3) In the case of ships or other vessels or aircraft, the court may make such orders, as it may deem fit, to ensure that the property adjudicated be delivered to the purchaser forthwith, upon the purchaser giving such security as the court may determine to

safeguard the claims of the parties. Such orders may also be made in other cases in which the court considers that delay in the delivery of the property can cause serious prejudice to the purchaser. An order made under this subsection shall not be challenged in any way and shall be implemented forthwith.”.

Amendment of  
section 335 of the  
principal law.

**165.** The words “future proceeds thereof” in subsection (3) of section 335 of the principal law shall be substituted by the words “future proceeds thereof, and any warrant of impediment of departure of the ship or other vessel put up for sale”.

Amendment of  
section 338 of the  
principal law.

**166.** Section 338 of the principal law shall be amended as follows:

(a) the words “or garnishee order” in subsection (1) of section 338 shall be substituted by the words “or garnishee order or impediment of departure”;

(b) subsections (2) and (3) thereof shall be substituted by the following:

“(2) The persons so served shall be allowed the time of three days to file an answer stating in detail the reasons for their opposition and the amounts in contestation; and where such opposition is based on a claim against the proceeds of sale and an alleged cause of preference, they are to state the amount of such claim and the basis for the preference. Such persons shall with the answer file all relevant evidence to substantiate their opposition.

(3) In the event of an answer opposing the demand for approval made in accordance with subsection (2) of this section, the court shall allow the applicant three days to file a reply together with any evidence to rebut the opposition, and after summarily hearing the parties, shall make such orders as it considers fit in the circumstances.”; and

(c) the following new subsections shall be added after subsection (3) thereof:

“(4) The court may approve the set off subject to the condition that adequate security be provided by the applicant to secure the claims of all persons who until such date have made opposition in accordance with subsection (2) of this section:

Provided that the court may, at any time, dispense the applicant from providing the aforesaid security or release or reduce such security as may have been provided if it deems that the claim or opposition made is in whole or in part frivolous or vexatious:

Provided further that in the event that the applicant has already provided security in accordance with subsection (3) of section 331, the court may order such security to be maintained or reduced as it may deem appropriate.

(5) The court may at any time order the opposing party or parties to provide adequate security in such amount and within such time as may be determined by the court in order to secure any claims the applicant may have against such opposing party for any damages caused through such opposition. In case such security is not provided, the court shall make such orders as it deems fit including an order that any security already provided by applicant be released in whole or in part.

(6) Where security have been provided in accordance with this section or in accordance with subsection (3) of section 331, then any interested party may commence proceedings in accordance with the procedure laid down in section 416 for the final determination of any issues relative to such security.

(7) Any orders made by the court in accordance with this section, other than any determination under subsection (6) of this section, shall be final and may not be challenged in any way and shall be implemented forthwith.”.

**167. Section 340 of the principal law shall be amended as follows:**

(a) the following provisos shall be added to subsection (1) thereof:

Amendment of  
section 340 of the  
principal law.

“Provided that any person who has made a bid *animo compensandi* under the condition specified in section 334 shall, within six days from the date on which he is served with the court order rejecting his application for the set off, pay the price in the registry of the court in which case the provisions of this section shall not apply. In the event that such party fails to pay the price within such time limit, section 329 shall apply:

Provided further that in the event that the property adjudicated is transferred and delivered to the purchaser in terms of subsection (3) of section 331 the provisions of this section shall not apply and the provisions of subsection (6) of section 338 shall apply to the security ordered to be provided by the court.”; and

(b) subsection (2) thereof shall be substituted by the following subsection:

“(2) If the set-off be approved unconditionally, the purchaser shall be entitled to the formal transfer and delivery of the movable property adjudicated or, in the event that the

property had already been delivered under subsection (3) of section 331, the purchaser shall be entitled to the release of any security made by him.”.

Substitution of  
section 346 of the  
principal law.

**168.** Section 346 of the principal law shall be substituted by the following:

“Right of  
other  
creditors  
to continue  
auction.

346. (1) Any other creditor may by a note to be served on the execution creditor and the debtor join in the auction proceedings as an additional execution creditor and such additional execution creditor shall have the same rights and obligations as the original execution creditor.

(2) Any execution creditor can continue the auction proceedings independently of the withdrawal by, or the death of any other execution creditor.”.

Amendment of  
section 348 of the  
principal law.

**169.** Section 348 of the principal law shall be amended as follows:—

(a) for the marginal note thereto there shall be substituted the following:

“Procedure in auctions of merchandise or other property.”; and

(b) subsection (1) thereof shall be substituted by the following new subsection:

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“(1) A sale by auction of merchandise or other movable property, not being securities listed on the Exchange under the Stock Exchange Act, under the authority of the Civil Court, First Hall, or of the Court of Magistrates (Gozo) in its superior jurisdiction, or of the Court of Appeal, shall be carried out by a licensed auctioneer in the presence of the marshal.”.

Amendment of  
section 349 of the  
principal law.

**170.** The words “marshal, auctioneer, or crier to bid,” in section 349 of the principal law shall be substituted by the words “marshall or licensed auctioneer or broker to bid.”.

Amendment of  
section 352 of the  
principal law.

**171.** Section 352 of the principal law shall be amended as follows:—

(a) for subsection (2) thereof, there shall be substituted the following new subsection:

“(2) In regard to such person, any lease or other disposal of the enjoyment of such property or rights and any diminution or restrictions of the enjoyment of such property or rights made by the debtor within the said year without the authority of the court by which the judgment or decree was delivered shall also be null.”; and

(b) the words “even by personal arrest” in subsection (3) thereof shall be deleted.

**172.** The words “two hundred and fifty liri” in subsection (2) of section 354 of the principal law shall be substituted by the words “one thousand liri”.

Amendment of  
section 354 of the  
principal law.

**173.** Section 355 of the principal law shall be substituted by the following:

Substitution of  
section 355 of the  
principal law.

*"Jus Redi-mendi."*

**355.** (1) The debtor shall have the right to repurchase his immovable property sold by auction provided such right is exercised within four months from the date of registration of the act of adjudication in the Public Registry.

(2) For the purposes of subsection (1) of this section immovable property shall also include a going concern.

(3) The right of repurchase shall be exercised by the filing of a schedule of redemption, and a concurrent deposit as is provided, *mutatis mutandis*, in Sub-title VI of Title VI of Part II of Book Second of the Civil Code.”.

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**174.** Section 356 of the principal law shall be substituted by the following new section:

Substitution of  
section 356 of the  
principal law.

*"Right of creditor to re-sell immovable property to be exercised within two years."*  
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**356.** (1) The time period contemplated in section 2086 of the Civil Code, in respect of property adjudicated in a judicial sale, shall be of two years to commence to run from the date of enrolment of the act of adjudication in the Public Registry.

(2) The said period of two years shall be reduced to four months from the date of service by a judicial act of a copy of the act of adjudication, or of a copy of the note of enrolment of the act of adjudication in the Public Registry, and this in respect only of any hypothecary or privileged creditor on whom such service is made.

(3) Where the judicial sale is of a going concern that includes immovable property, the said period of two years shall be reduced to four months to commence to run from the date of enrolment of the act of adjudication in the Public Registry.

(4) Any action by the hypothecary or privileged creditor against the third party in possession of an immovable acquired by virtue of a judicial sale shall be barred if the protest mentioned in subsection (1) of section 2072 of the Civil Code, (calling upon the debtor to discharge the debt and the third party in possession either to discharge the debt or to surrender the property), is not filed within the period of two years or four months mentioned in the preceding subsections of this section, or if the creditor fails to demand judicially the

sale of the immovable within six months from the filing of the protest mentioned in subsection (1) of section 2072 of the Civil Code. Such action shall also be barred if the third party in possession surrenders the property and the creditor fails to start proceedings for the judicial sale within six months from the service of a copy of the note of such surrender.

(5) Notwithstanding the provisions of subsection (2) of section 2072 of the Civil Code, the demand for the judicial sale of the immovable can be made at any time after the expiration of sixty days from the date of filing of the protest.

(6) The creditors whose action has been barred in terms of the provisions of this section shall not have any right against the third party in possession who had acquired the immovable as a result of the new judicial sale under the said provisions; provided that such creditors shall retain their ranking prior to sale.

(7) If before an adjudication or after an adjudication, the bidder or purchaser, as the case may be, finds that the immovable property is subject to any burdens, leases or other rights whether real or personal, which have not been included in the valuation in terms of section 310, the bidder or purchaser, as the case may be, shall have the right in the former case to demand either to withdraw his bid or to have his bid reduced, and in the latter case the purchaser shall have the right to demand the rescission of the sale.

(8) Such demand for the rescission of the sale is to be made not later than six months from the date of the adjudication by means of an application to be served on the execution creditor and the debtor.

(9) The court shall allow the demand of the bidder or of the purchaser, as the case may be, if it is satisfied that the omission in the said valuation or in the said list was relevant so as to affect the bid made by the purchaser.”.

Amendment of  
section 377 of the  
principal law.

**175.** For subsection (2) of section 377 of the principal law there shall be substituted the following:

“(2) A copy of the order shall also be served on the debtor in the same way as is provided under section 187, or if he is absent from Malta, on his lawful representative.”.

Amendment of  
section 378 of the  
principal law.

**176.** Subsection (4) of section 378 of the principal law shall be substituted by the following new subsection:

“(4) The declaration may be made by means of a judicial act served on the execution creditor, or by means of a registered letter addressed to the registrar and copied to the execution creditor. The registrar is to attach the letter to the records of the judicial sale by auction.”.

**177.** The words “Such demand may be made together with the demand mentioned in the proviso to subsection (2) of section 378.” shall be added after the words “attached by the order.” in subsection (1) of section 379 of the principal law.

Amendment of  
section 379 of the  
principal law.

**178.** Section 381 of the principal law shall be amended as follows:

(a) subsection (1) thereof shall be substituted by the following new subsection:

“(1) It shall not be lawful to issue a garnishee order upon —

(a) any salary, or wages (including bonus, allowances, overtime and other emoluments);

(b) any benefit, pension, allowance or assistance mentioned in the Social Security Act or other allowance of any person pensioned by the Government;

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(c) any charitable grant made by the Government;

(d) any bequest expressly made for the purpose of maintenance, if the debtor has no other means of subsistence and the debt itself is not due in respect of maintenance;

(e) any sum due for maintenance whether awarded *officio judicis*, or by public deed if the debt itself is not due in respect of maintenance;

(f) upon any sum due by any civil or military department of the public service for the price of works or supplies.”;

(b) the proviso to subsection (3) thereof shall be deleted; and

(c) the following new subsection shall be added after subsection (3) thereof:

“(4) The provisions of sections 149, 150 and 151 of the Malta Armed Forces Act shall apply in respect of the pay of an officer or man of the regular force of Malta.”

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**179.** Section 382 of the principal law shall be substituted by the following new section:

Substitution of  
section 382 of the  
principal law.

“Salary or  
wages not  
subject to  
attachment.

382. (1) In the case of any salary, wage benefit, pension or allowance mentioned in paragraphs (a) and (b) of subsection (1) of section 381 when the same exceed three hundred liri per month or such amount as may from time to time be established by order made by the Minister responsible for justice, the court may, on the application by any creditor, allow the issue of a garnishee order on that part in excess of the amount aforesaid:

Provided that if the debtor, upon an application shows to the satisfaction of the court that he needs such excess or part thereof for his maintenance or for the maintenance of his family, the court shall revoke the garnishee order with respect to the excess or such part thereof, whereupon the said order shall be deemed to be and to have been without effect to the extent to which it had been revoked:

Provided further that this section shall not apply to the pay of an officer or man of the regular force of Malta.

(2) The court may, at any time, vary the order given under subsection (1) of this section, on a demand by application of the creditor or the debtor, if there be any change in the material circumstances of the debtor.”.

Substitution of  
section 383 of the  
principal law.

**180.** Section 383 of the principal law shall be substituted by the following new section:

“Garnishee  
order to  
cease to be  
operative  
on expir-  
ation of one  
year.

383. (1) A garnishee order ceases to be operative on the expiration of one year from the issue thereof, unless the court, upon an application by the person suing out the order, shall extend such time.

(2) Such application shall be filed at least seven days before the time expires and shall be served on the garnishee together with the relative decree of extension.

(3) The garnishee shall not incur any liability if after the expiration of the said time, whether original or extended, and before any such extension has been served on him, he shall act as if the order had ceased to be in force.”.

Amendment of  
section 384 of the  
principal law.

**181.** The words “within a period of not less than two or more than four days;” in section 384 of the principal law shall be substituted by the words “within a period of not less than four and not more than eight days;”

Amendment of  
section 385 of the  
principal law.

**182.** Immediately after subsection (2) of section 385 of the principal law there shall be added the following subsections:

“(3) The warrant shall not be issued unless by an express order of the court given on a demand made by writ of summons by the creditor.

(4) The court shall issue the warrant only if it is satisfied that the creditor has no other means of execution.”.

Amendment of  
section 398 of the  
principal law.

**183.** Section 398 of the principal law shall be amended as follows:

(a) the words “in the answer to the libel where proceedings are instituted by libel, or” in subsection (1) thereof shall be deleted;

- (b) subsection (3) thereof shall be deleted; and
- (c) subsection (4) thereof shall be renumbered as subsection (3) thereof.

**184.** Section 399 of the principal law shall be repealed.

Repeal of section 399 of the principal law.

**185.** Immediately at the end of section 415 of the principal law there shall be added the following proviso:

Amendment of section 415 of the principal law.

"Provided that the provisions of this section shall not apply in relation to any person who within three months immediately preceding the institution of the jactitation suit shall have, either personally or through a mandatory, filed a judicial act vaunting his claim.".

**186.** Section 418 of the principal law shall be amended by substituting the word "libel" whenever it occurs by the word "application", and by substituting the word "libel" in the marginal note by the word "application".

Amendment of section 418 of the principal law.

**187.** Section 419 of the principal law shall be amended as follows:

Amendment of section 419 of the principal law.

- (a) subsection (1) thereof shall be substituted by the following new subsection:

"(1) The application shall be served on the debtor and on the person making the deposit, but no answer to such application shall be allowed."; and

- (b) the word "libel" in the marginal note shall be substituted by the word "application".

**188.** The words "of the respective libel of each claimant." in subsection (1) of section 420 of the principal law shall be substituted by the words "of the respective application of each claimant.".

Amendment of section 420 of the principal law.

**189.** Section 428 of the principal law shall be amended as follows:

Amendment of section 428 of the principal law.

- (a) for the words "a libel" and the words "such libel" in subsection (1) thereof, there shall be substituted the words "an application" and the words "such application" respectively; and

- (b) for the words "the libel" in subsection (2) thereof there shall be substituted the words "the application".

**190.** Section 429 of the principal law shall be substituted by the following new section:

Substitution of section 429 of the principal law.

"Answer and respective statement."

**429.** It shall be lawful for each of the parties on whom any such application shall have been served to file an answer containing the pleas which he desires to raise in opposition to the other competing claims and a statement of his own claim.".

Substitution of  
section 431 of the  
principal law.

**191.** Section 431 of the principal law shall be substituted by the following new section:

"Closing of  
pleadings.

**431.** (1) In the cases referred to in section 428, the pleadings shall be deemed to be closed —

(a) on the filing of the answers and respective applications of the contending parties; or

(b) on the expiration of the time prescribed in subsection (2) of this section, if the parties or any of the parties served with the application shall fail to file the answer and respective application within such time.

(2) The party served with an application shall file an answer or a respective application within fifteen days from the date of service.”.

Amendment of  
section 432 of the  
principal law.

**192.** The words “respective libel”, wherever they occur, in section 432 of the principal law and in the marginal note shall be substituted by the words “respective application”.

Amendment of  
section 433 of the  
principal law.

**193.** The word “libel” in section 433 of the principal law and in the marginal note shall be substituted by the word “application”.

Amendment of  
section 437 of the  
principal law.

**194.** The words “in its superior civil jurisdiction” in section 437 of the principal law shall be substituted by the words “in its superior jurisdiction”.

Amendment of  
section 443 of the  
principal law.

**195.** Subsection (1) of section 443 of the principal law shall be substituted by the following new subsection:

“(1) The Attorney General vested with the possession of the hereditary estate shall, by means of a notice in the Gazette and in a daily newspaper, call upon all parties who may have a claim on such estate, to bring forward their claim before the competent court within a period of one year.”.

Amendment  
of section 460  
of the  
principal law.

**196.** Section 460 of the principal law shall be amended as follows:

(a) for the words from “clearly stated; and the registrar shall refuse” up to the end of subsection (1) thereof there shall be substituted the words “clearly stated.”;

(b) the word “or” shall be added at the end of paragraph (c) of subsection (2) thereof;

(c) the following paragraph (d) shall be added after paragraph (c) of subsection (2) thereof:

“(d) to actions to be heard with urgency;”; and

(d) the following subsection (3) shall be added after subsection (2) thereof:

"(3) Causes against the Government in respect of which there is in force a warrant of prohibitory injunction shall be heard by the Court with urgency in preference to other causes."

**197.** The words "in its superior civil jurisdiction" in section 461 of the principal law shall be substituted by the words "in its superior jurisdiction".

Amendment  
of section 461  
of the  
principal law.

**198.** The words "in its superior civil jurisdiction" in section 462 of the principal law shall be substituted by the words "in its superior jurisdiction".

Amendment  
of section 462  
of the  
principal law.

**199.** For section 466 of the principal law there shall be substituted the following:

Substitution  
of section 466 of the  
principal law.

"Proceedings for debts due to Government."

466. (1) Where a Head of any Government Department desires to sue for the recovery of a debt due to a department under his direction, or to any administration thereof, for any service, supplies, rent or for any licence or other fee or tax due, he may make a declaration on oath before the Registrar, a Judge or a Magistrate wherein he is to state the nature of the debt and the name of the debtor and confirm that it is due.

(2) The declaration referred to in subsection (1) of this section shall be served upon the debtor by means of a judicial act and it shall have the same effect as a final judgment of the competent Court unless the debtor shall, within a period of twenty days from service upon him of the said declaration oppose the claim by filing an application demanding that the Court declare the claim unfounded.

(3) The application filed in terms of subsection (2) of this section shall be served upon the Head of Department, who shall be entitled to file a reply within a period of twenty days. The court shall appoint the application for hearing on a date after the lapse of that period.

(4) In cases of an urgent nature the Court may, upon an application of the creditor or the debtor, shorten any time limits provided for in this section by means of a decree to be served upon the other party."

**200.** For sections 467 and 468 of the principal law there shall be substituted the following:

Substitution  
of sections 467 and 468 of the  
principal law.

"Opposition to proceedings under section 466."

467. (1) Any executive title obtained according to the provisions of the last preceding section in the absence of any opposition on the part of the debtor shall be rescinded if upon

a request by writ of summons to be filed by the debtor within twenty days from the first service upon him of any executive warrant based on the said title or of any other judicial act wherein reference is made to the said title, the Court is satisfied that the debtor was unaware of the service of the declaration referred to in subsection (1) of the last preceding section during the period during which he could oppose the same and that the claim contained in the said declaration is unfounded on the merits.

(2) No opposition other than that specifically provided for in this section and in the last preceding section shall stay the issue or execution of any executive act obtained thereunder or the paying out of the proceeds of any warrant or sale by auction carried out in pursuance thereof.”.

**201.** The following new Sub-title shall be added after section 469 of the principal law:

Addition of  
new Sub-title  
to the  
principal law.

### “Sub-Title VII JUDICIAL REVIEW OF ADMINISTRATIVE ACTION

Judicial review of administrative action.

**469A.** (1) Saving as is otherwise provided by law, the courts of justice of civil jurisdiction may enquire into the validity of any administrative act or declare such act null, invalid or without effect only in the following cases:

- (a) where the administrative act is in violation of the Constitution;
- (b) when the administrative act is *ultra vires* on any of the following grounds;
  - (i) when such act emanates from a public authority that is not authorised to perform it; or
  - (ii) when a public authority has failed to observe the principles of natural justice or mandatory procedural requirements in performing the administrative act or in its prior deliberations thereon; or
  - (iii) when the administrative act constitutes an abuse of the public authority's power in that it is done for improper purposes or on the basis of irrelevant considerations; or
  - (iv) when the administrative act is otherwise contrary to law.

(2) In this section —

“administrative act” includes the issuing by a public authority of any order, licence, permit, warrant, decision, or a refusal to any demand of a claimant, but does not include any measure intended for internal organization or administration within the said authority:

Provided that, saving those cases where the law prescribes a period within which a public authority is required to make a decision, the absence of a decision of a public authority following a claimant’s written demand served upon it, shall, after two months from such service, constitute a refusal for the purposes of this definition;

“public authority” means the Government of Malta, including its Ministries and departments, local authorities and any body corporate established by law.

(3) An action to impugn an administrative act under subsection (1) of this section shall be filed within a period of six months from the date when the interested person becomes aware or could have become aware of such an administrative act, whichever is the earlier.

(4) The provisions of this section shall not apply where the mode of contestation or of obtaining redress, with respect to any particular administrative act before a court or tribunal is provided for in any other law.

(5) In any action brought under this section, it shall be lawful for the plaintiff to include in the demands a request for the payment of damages based on the alleged responsibility of the public authority in tort or quasi tort, arising out of the administrative act. The said damages shall not be awarded by the Court where notwithstanding the annulment of the administrative act the public authority has not acted in bad faith or unreasonably or where the thing requested by the plaintiff could have lawfully and reasonably been refused under any other power.

(6) For the purposes of this section, and of any other provision of this and any other law, service with the Government is a special relationship regulated by the legal provisions specifically applicable to it and the terms and conditions from time to time established by the Government, and no law or provision thereof relating to conditions of employment or to contracts of service or of employment applies, or ever heretofore applied, to service with the Government except to the extent that such law provides otherwise.”.

Repeal of  
section 481 of the  
principal law.

**202.** Section 481 of the principal law shall be repealed.

Amendment of  
section 501 of the  
principal law.

**203.** The words “second edict.” in subsection (3) of section 501 of the principal law shall be substituted by the words “second edict; provided that any curator appointed by the court according to the provisions of subsection (1) of section 504 may by application request the court to extend the said time. The court may, after considering the circumstances of the case, grant such other time as it may deem fit.”.

Amendment of  
section 511 of the  
principal law.

**204.** In section 511 of the principal law for the words “such time of two months shall be extended by another month.” there shall be substituted the words “or during the extension of the period granted in terms of subsection (3) of section 501, such time of two months or such extension of the period shall be extended by another month.”.

Amendment of  
section 527 of the  
principal law.

**205.** Section 527 of the principal law shall be amended as follows:

(a) subsection (5) thereof shall be renumbered as subsection (6); and

(b) for subsection (4) thereof there shall be substituted the following:

“(4) The registrar shall before the end of the month of January of every year cause to be published in the Government Gazette a list showing in alphabetical order the names and surnames of the persons appearing in the book kept in accordance with subsection (3) of this section, together where available with the name of the father, the place of birth and the number of the Identity Card of such persons, and the date of the decree of interdiction or incapacitation.

(5) From the list referred to in subsection (4) of this section there shall be excluded cases –

(a) where more than eighty years have elapsed since the date of the decree;

(b) where the person would have reached the age of one hundred years;

(c) where the decree has been revoked in terms of section 526; and

(d) where the person interdicted or incapacitated has died.”.

**206.** Section 533 of the principal law shall be substituted by the following new section:

Substitution of section 533 of the principal law.

“Appointment of time for opening and publication of will.

533. (1) Where a will is to be opened, the court shall by a decree, upon the application of any party interested, appoint the day, time and place for the opening and publication of the will, and order that all interested parties be summoned: those known, by summons, and those unknown, by means of banns to be posted up at the entrance of the building in which the court sits and published in the Government Gazette and in a local daily newspaper.

(2) The opening and publication of the will shall not take place before the expiration of four days from the date of service of the said summons, or of four days from the date of the posting up of the banns and their publication whichever is the later.

(3) Where any secret will has been received by the registrar in accordance with the provisions of this Title but has not been withdrawn by the testator, or opened and published, and one hundred years have elapsed since the date of the presentation of the will, the registrar shall prepare and publish a list in the Gazette of the said wills.

(4) After the publication of the list mentioned in subsection (3) of this section in the Gazette, the court shall establish a day and time in which the wills mentioned in the list shall be opened in public. The court shall then order that the said wills be transmitted to the archivist of Notarial Acts who shall register these wills in a book to be kept by him and who shall enrol them in the Public Registry.”.

**207.** The words “of the judge, the registrar and two witnesses,” in subsection (2) of section 534 of the principal law shall be substituted by the words “of the judge and the registrar.”.

Amendment of section 534 of the principal law.

**208.** Section 536 of the principal law shall be substituted by the following new section:

Substitution of section 536 of the principal law.

“Declaration of the opening of succession.

536. In the absence of opposition, the declaration of the opening of a succession may be made by the Civil Court, Second Hall, upon an application, in favour of any person in whose name a claim thereto is made.”.

**209.** For subsections (1) and (2) of section 537 of the principal law there shall be substituted the following new subsections:

Amendment of section 537 of the principal law.

"(1) Upon the filing of the application, the court shall issue banns which shall be published in the Gazette and in at least one daily newspaper and be posted up at the entrance of the building in which the court sits, calling upon all parties interested to enter their opposition by a note, within a time of not less than eight days nor exceeding one month, to be fixed by the judge.

(2) Such time shall commence to run from the day on which the banns are posted up, or last published in either the Gazette or the periodical newspaper, whichever is the latest.".

Substitution of  
section 538  
of the  
principal law.

**210.** Section 538 of the principal law shall be substituted by the following new section:

"Decree  
of court.

538. At the expiration of the said time, the court, in the absence of opposition, shall examine the claim of the applicant; and if the claim appears to be justified, the court shall allow the demand and shall declare the succession opened in his favour and may, at the request of the applicant, also establish in its decree, the identity of any other person called to the inheritance and his relative share therein.".

Amendment of  
section 546 of the  
principal law.

**211.** The words "the court sits." in subsection (1) of section 546 of the principal law shall be substituted by the words "the court sits. The registrar shall also publish a notice in the Gazette and in a daily newspaper inviting all those parties interested to be present at the publication of the inventory.".

Amendment of  
section 547 of the  
principal law.

**212.** Subsection (1) of section 547 of the principal law shall be substituted by the following new subsection:

"(1) The publication of the inventory shall take place on the date and at the place and time established by the court.".

Amendment of  
section 550 of the  
principal law.

**213.** Section 550 of the principal law shall be amended as follows:

(a) for the words "Adoption and emancipation" in subsection (1) thereof there shall be substituted the word "Emancipation";

(b) for the words "adoption or emancipation" in subsection (2) thereof, there shall be substituted the word "emancipation"; and

(c) for the marginal note thereto there shall be substituted the following:

"Emancipation".

Amendment to  
section 556 of the  
principal law.

**214.** The words "by writ of summons" in subsection (1) of section 556 of the principal law shall be substituted by the words "by application".

**215.** The words “Registrar of the Superior Courts” and the words “such courts” wherever they occur in section 557 of the principal law shall be respectively substituted by the word “registrar” and the words “the courts”.

Amendment of section 557 of the principal law.

**216.** The following proviso shall be added to subsection (3) of section 560 of the principal law:

Amendment of section 560 of the principal law.

“Provided that in proceedings before the courts of civil jurisdiction, the parties to the cause shall be bound to assist the registrar in compiling a copy of the court records or other documents which have been damaged or lost and, within such time as the court may establish, they shall provide the registrar with such information and documentation in their possession which will assist the registrar in compiling the court records or other documents damaged or lost in as full a manner as possible.”.

**217.** The following new sections shall be added after section 563 of the principal law:

Addition of new sections 563A and 563B to the principal law.

“Admissibility of *ex parte* expert opinion and certain expressions of non-expert opinion.

**563A.** (1) Where a person is called as a witness, his opinion on any relevant matter on which he is qualified to give expert evidence shall be admissible in evidence only if, in the opinion of the court, he is suitably qualified in the relevant matter.

(2) Where a person is called as a witness, a statement of opinion by him on any relevant matter on which he is not qualified to give expert evidence, if made as a way of conveying relevant facts personally perceived by him, is admissible as evidence of what he perceived.

(3) The opinion given by any person according to the provisions of this section shall be without prejudice to the provisions of section 681 and to the court’s power to appoint a referee according to the provisions of section 646.

Evidence of foreign law.

**563B.** (1) A person who is suitably qualified on account of his knowledge or experience, is competent to give expert evidence as to the law of any other foreign state, irrespective of whether he has acted or is entitled to act as an advocate, or in any judicial or legal capacity in that state.

(2) The provisions of subsection (3) of section 563A shall *mutatis mutandis* apply to the provisions of this section.”.

**218.** The words “tending to criminate” in the English text of paragraph (b) of the proviso to subsection (1) of section 566 of the principal law shall be substituted by the words “tending to incriminate”.

Amendment of section 566 of the principal law.

Substitution of  
section 572 of the  
principal law.

**219.** Section 572 of the principal law shall be substituted by the following new section:

"Time for  
attendance  
of witness.

572. A witness is bound to appear in court on the date and time prescribed in the subpoena provided that he is served with the said subpoena four days before such date, which period is to run from the date of service of the subpoena:

Provided further that it shall be lawful for the court, in urgent cases, to order any witness to appear from day to day, or from hour to hour, or even only within such interval of time as may be necessary for him to appear in court.".

Addition of  
new section 573A  
to the  
principal law.

**220.** The following new section shall be added after section 573 of the principal law:

"Another  
person to  
give  
evidence  
instead  
of the  
person  
sub-  
poenaed.

573A. Any officer or employee of a government department or any officer or other employee of any body having a distinct legal personality may be authorised by the person subpoenaed to give evidence in his stead on any matter about which he is more knowledgeable and relating to the said department or body and on which the said person subpoenaed was required to give evidence:

Provided that the person subpoenaed shall give such evidence personally if it is so stated in the subpoena.".

Amendment of  
section 588 of  
the principal law.

**221.** Section 588 of the principal law shall be amended as follows:

(a) subsection (2) thereof shall be renumbered as subsection (3) thereof; and

(b) the following new subsection shall be added as subsection (2) thereof:

"(2) Unless by order of the court, no accountant, medical practitioner or marriage counsellor may be questioned on such circumstances as may have been stated by the client to the said person in professional confidence or as may have come to his knowledge in his professional capacity.".

Amendment of  
section 590 of the  
principal law.

**222.** Subsection (2) of section 590 of the principal law shall be substituted by the following new subsection:

"(2) No witness may be compelled to disclose any information derived from or relating to any document belonging to or in possession of any civil, military, naval or air force department of the public service and which is an exempt document under section 637.".

**223.** Section 596 of the principal law shall be amended as follows:

Amendment of  
section 596 of the  
principal law.

(a) subsection (1) thereof shall be substituted by the following new subsection:

“(1) If the court does not understand the language in which the evidence is given, it shall appoint a qualified interpreter at the provisional expense of the party producing the witness.”;

(b) the words “The official interpreter” in subsection (2) thereof shall be substituted by the words “The interpreter”; and

(c) the word “official” in the marginal note to subsection (2) thereof shall be deleted.

**224.** The words “shall be by writ of summons or by an application, provided that, in the latter case,” in subsection (2) of section 606 of the principal law shall be substituted by the words “shall be by an application and”.

Amendment of  
section 606 of the  
principal law.

**225.** The words “take down” in the English text of section 607 of the principal law shall be substituted by the word “record”.

Amendment of  
section 607 of the  
principal law.

**226.** The words “before any of the superior courts of first instance,” in subsection (1) of section 610 of the principal law shall be substituted by the words “before the Civil Court, First Hall.”.

Amendment of  
section 610 of the  
principal law.

**227.** The words “or, if the court consists of more than one magistrate, by one of the magistrates,” in subsection (1) of section 611 of the principal law shall be deleted.

Amendment of  
section 611 of the  
principal law.

**228.** The words “and to stay the proceedings” in section 613 of the principal law shall be substituted by the words “and the court may stay the proceedings after having complied with the provisions of section 158 and adjourn the cause to a time within which such evidence is to be obtained.”.

Amendment of  
section 613 of the  
principal law.

**229.** Subsection (1) of section 614 of the principal law shall be amended as follows:

Amendment of  
section 614 of the  
principal law.

(a) the words “by writ of summons” shall be substituted by the words “by application”;

(b) the words “the party demanding the examination shall, in making the demand in open court, produce” shall be substituted by the words “the party demanding the examination shall produce”; and

(c) the words “the name of the person” shall be substituted by the words “the name and address of the person”.

Amendment of section 616 of the principal law.

**230.** The words “the name of such person” in section 616 of the principal law shall be substituted by the words “the name and address of such person”.

Substitution of section 617 of the principal law.

**231.** Section 617 of the principal law shall be substituted by the following new section:

“Interrogatories to be accessible to opposite party.

**617.** A copy of the interrogatories reduced into writing shall be served on the opposite party or on his advocate.”.

Amendment of section 619 of the principal law.

**232.** The words “the Prime Minister” in section 619 of the principal law shall be substituted by the words “the Minister responsible for justice”.

Amendment of section 622 of the principal law.

**233.** The words “the Prime Minister” in subsection (2) of section 622 of the principal law shall be substituted by the words “the Minister responsible for justice”.

Addition of new section 622A.

“Evidence by affidavit of witness residing abroad.

**622A** (1) Notwithstanding the provisions of sections 613 to 622, where the evidence of a witness residing outside Malta is required, and such person has made an affidavit about facts within his knowledge before an authority or other person who is by the law of the country where the witness resides empowered to administer oaths, or before a consular officer of Malta serving in the country where the witness resides, such affidavit duly authenticated may be produced in evidence before a court in Malta: and the provisions of sections 623, 624 and 625 shall apply to such affidavits.

(2) The affidavit so obtained shall be served on the opposite party or parties, and any party to the proceedings desiring to cross-examine such a witness shall apply to the court for the examination of such witness by letters of request not later than twenty days from the service of the affidavit; and the provisions of this Code relative to letters of request shall apply with such modifications and adaptations as may be necessary.

(3) If no application is made as aforesaid no cross-examination of the witness shall be allowed unless the court for a good reason otherwise directs; and the affidavit shall be taken into consideration notwithstanding the absence of cross-examination.

(4) Notwithstanding the foregoing provisions of this section, if the parties agree, and the court deems it proper so to act, the court may make such other provisions concerning the conduct of the cross-examination as may be appropriate according to circumstances.”.

**235.** The words “it shall be lawful for the court,” in section 623 of the principal law shall be substituted by the words “it shall be lawful for the court of its own motion or”.

Amendment of  
section 623 of  
the principal law.

**236.** Subsection (2) of section 624 of the principal law shall be substituted by the following new subsection:

Amendment of  
section 624 of  
the principal law.

“(2) If the cause in which the examination was ordered has terminated and has subsequently been re-instituted in terms of law, the examination may also be produced both before the court of first instance and before the appellate court.”.

**237.** Section 627 of the principal law shall be amended as follows:

Amendment of  
section 627 of  
the principal law.

(a) paragraph (d) thereof shall be substituted by the following new paragraph:

“(d) the acts of the Government of Malta printed under the authority of the Government and duly published;”; and

(b) paragraph (f) shall be substituted by the following new paragraph:

“(f) the certificates issued from the Public Registry Office and the Land Registry;”.

**238.** The words “advocate or a notary” and the words “advocate or notary” in subsection (2) of section 634 of the principal law shall be respectively substituted by the words “advocate, a notary or a legal procurator” and the words “advocate or notary or legal procurator”.

Amendment of  
section 634 of  
the principal law.

**239.** Section 637 of the principal law shall be amended as follows:

Amendment of  
section 637 of  
the principal law.

(a) subsection (3) thereof shall be substituted by the following new subsection:

“(3) It shall not be lawful to demand the production of any exempt document which forms part of any correspondence of any civil, military, naval or air force department or of any report belonging to any such department.”;

(b) subsection (4) thereof shall be renumbered as subsection (5) thereof;

(c) the following new subsection shall be added after subsection (3) thereof:—

“(4) For the purposes of subsection (3) of this section, a document is an exempt document if—

(a) disclosure of the document would be contrary to the public interest for the reason that the disclosure—

(i) would, or could reasonably be expected to, cause damage to —

(a) the security of Malta;

(b) the defence of Malta; or

(c) the international relations of Malta; or

(ii) would divulge any information or matter communicated in confidence by or on behalf of a foreign government, an authority of a foreign government or an international organization to the Government of Malta;

(b) it is a Cabinet document, that is to say —

(i) a document that has been submitted to the Cabinet for its consideration or is proposed by a Minister to be so submitted, being a document that was brought into existence for the purpose of submission for consideration by the Cabinet;

(ii) an official record of the Cabinet;

(iii) a document that is a copy of, or of a part of, or contains an extract from a document referred to in sub-paragraphs (i) and (ii) of this paragraph; or

(iv) a document the disclosure of which would involve the disclosure of any deliberation or decision of the Cabinet, other than a document by which a decision of the Cabinet was published;

(c) it is a document which would disclose matters in the nature of, or relating to, opinion, advice or recommendation obtained, prepared or recorded, or consultation or deliberation that has taken place, in the course of, or for the purpose of the deliberative processes involved in the functions of a Ministry, Government department, authority, corporation or parastatal entity;

(d) it is a document that would, or could reasonably be expected to —

(i) prejudice the conduct of any investigation of a breach, or possible breach, of the law, or prejudice the enforcement or proper administration of the law in a particular instance;

(ii) disclose, or enable a person to ascertain the existence or identity of a confidential source of information; or

- (iii) endanger the life or physical safety of any person;
  - (e) it is a document that would or could reasonably be expected to —
    - (i) prejudice the fair trial of a person or the impartial adjudication of a particular case;
    - (ii) disclose lawful methods or procedures for preventing, detecting, investigating, or dealing with matters arising out of, breaches or evasions of the law, the disclosure of which would, or would reasonably be likely to, prejudice the effectiveness of those methods or procedures; or
    - (iii) prejudice the maintenance or enforcement of lawful methods for the protection of public safety;
  - (f) there is in force any law applicable to information of a kind contained in the document and prohibiting persons referred to in the law from disclosing information of that kind.”; and
- (d) the following new subsection shall be added after subsection (5) thereof:
- “(6) Where the Prime Minister is satisfied that the disclosure of the existence or contents of any document referred to in subsection (4) of this section would be contrary to the public interest for any reason therein stated, he may sign a certificate to that effect specifying that reason, and such a certificate, so long as it remains in force, establishes conclusively that the document is an exempt document and where such a certificate is produced it shall constitute final and conclusive proof that the document is one as is referred to in subsection (4) of this section and is an exempt document in terms of subsection (3) of this section, and no court shall have jurisdiction to enquire thereon.”.
- 240.** The words “by writ of summons” in section 640 of the principal law shall be substituted by the words “by application”. Amendment of section 640 of the principal law.
- 241.** The words “by means of referees” in section 644 of the principal law shall be substituted by the words “by means of a referee or referees”. Amendment of section 644 of the principal law.
- 242.** Section 645 of the principal law shall be substituted by the following new section: Substitution of section 645 of the principal law.
645. (1) The court shall not appoint a referee solely for the purpose of examining witnesses on oath and taking down their depositions in writing and establishing the relevant facts.

(2) In the decree appointing the referee, the court shall—

(a) state the object of the reference;

(b) fix the day and time when the referee is to conduct an inspection *in faciem loci* where necessary;

(c) give directions for the guidance of the referee in the execution of his task.

(3) The court may at any time, at the request of the registrar or on its own motion, order the referee to return the records of the cause that are in his possession, to the registrar there to remain for such time as shall be specified in that order. In case of non-compliance with the court's order, the referee shall without prejudice to any other proceedings which may be instituted against him be guilty of contempt of court.

(4) The court may order the referee to attend for the hearing of the trial and to put to the witnesses any questions he may deem necessary or relevant to enable him to complete his report.

(5) Where affidavits have been filed in the registry of the court, the referee shall be served with a copy of such affidavits before the hearing.”.

Substitution  
of  
section 646  
of the  
principal  
law.

**243.** Section 646 of the principal law shall be substituted by the following new section:

“Appoint-  
ment of  
referee.

646. (1) Where the parties agree on the submission of a name of a referee, the court shall appoint the referee agreed upon by the parties.

(2) Where the parties fail to agree, the court shall appoint a referee of its own choice.”.

Amendment of  
section 647 of  
the principal law.

**244.** Subsection (2) of section 647 of the principal law shall be substituted by the following new subsection:

“(2) The registrar shall keep a record of any order of reference made by the court stating the date of the order and the date on which the referee shall have filed his report.”.

Substitution of  
section 648 of  
the principal law.

**245.** Section 648 of the principal law shall be substituted by the following new section:

“Good  
cause for  
challenge  
of referee.

648. A referee may be challenged by any of the parties on good cause being shown to the court.”.

**246.** Sections 649, 650, 651 and 652 of the principal law shall be repealed.

Repeal of sections 649, 650, 651 and 652 of the principal law.

**247.** Section 653 of the principal law shall be amended as follows:

(a) the words "Referees may be challenged" and the words "until they have filed their report" shall be respectively substituted by the words "A referee may be challenged" and the words "until he has filed his report"; and

(b) the words "never appeared before the referees, nor performed any act before them," shall be substituted by the words "never appeared before the referee, nor performed any act before him,".

**248.** The words "to be proposed by the party objecting" in subsection (3) of section 655 of the principal law shall be deleted.

Amendment of section 655 of the principal law.

**249.** Section 656 of the principal law shall be substituted by the following new section:

"Service  
of order of  
reference  
on referee."

**656.** The decree making the order of reference shall be served by order of the court on the referee.".

Substitution of section 656 of the principal law.

**250.** The words "apply for an extension." in section 662 of the principal law shall be substituted by the words "apply for an extension provided that the court may for good and sufficient grounds, to be recorded, grant a further extension or extensions.".

Amendment of section 662 of the principal law.

**251.** Section 665 of the principal law shall be amended as follows:

Amendment of section 665 of the principal law.

(a) subsection (2) thereof shall be deleted; and

(b) subsections (3), (4), (5) and (6) thereof shall be respectively renumbered as subsections (2), (3), (4) and (5) thereof;

(c) subsection (4) thereof, as renumbered, shall be substituted by the following new subsection:

"(4) The report shall be signed by the referee or referees as the case may be unless otherwise provided by the court.".

**252.** Subsections (1) and (2) of section 666 shall be substituted by the following two subsections:

Amendment of section 666 of the principal law.

"(1) Before the day appointed for the publication of the report, or on the same day, but before the cause is called, the referee shall present his report unsealed to the registrar for the taxation of his fees in accordance with the Tariffs in Schedule A annexed to this Code.

(2) Except where otherwise provided, the referee shall not be required to publish his report until the fee taxed by the registrar has been paid to him or deposited with the registrar; and the registrar shall not disclose to any person any part of the report, until the fee has been paid or deposited as aforesaid, under penalty of paying to the referee the fees due to him.”.

Amendment of  
section 667 of  
the principal law.

**253.** The words “by writ of summons.” in subsection (3) of section 667 of the principal law shall be substituted by the words “by application and shall be heard by the court summarily.”.

Amendment of  
section 668 of  
the principal law.

**254.** The words “the referees” in subsections (1) and (2) of section 668 of the principal law shall be substituted by the words “the referee”.

Substitution of  
section 669 of  
the principal law.

**255.** Section 669 of the principal law shall be substituted by the following new section:

“Court may  
order  
deposit of  
fee due to  
referee.

669. The court may, in the decree appointing the referee or at any time before the referee presents his report to the registrar, order the party by whom the fee is to be provisionally paid, to deposit with the registrar, within such time as the court shall direct, a sum which, in the opinion of the court, approximately corresponds to the fee which will be due to the referee.”.

Substitution of  
section 670 of  
the principal law.

**256.** Section 670 of the principal law shall be substituted by the following new section:

“When  
court may  
decide  
cause  
without  
the refer-  
ence.

670. The court may decide the cause without the reference or independently of the evidence produced before the referee —

(a) where the reference was not carried out within the original or extended time, for some cause attributable to the party in whose interest the order of reference was made; or

(b) where the fee taxed in favour of the referee as provided in section 666 has not been paid or deposited; or

(c) where the deposit mentioned in the last preceding section has not been made.”.

Amendment of  
section 671 of  
the principal law.

**257.** Section 671 of the principal law shall be amended as follows:

(a) the words “shall be entitled to, and if the referees are more than one they shall divide between them, such part” in subsection (1) thereof shall be substituted by the words “shall be entitled to such part”;

(b) the words "to claim, and if the referees are more than one they shall be entitled to claim and shall divide between them, the other part" in the proviso to subsection (1) thereof shall be substituted by the words "to claim the other part"; and

(c) subsection (2) thereof shall be substituted by the following new subsection:

"(2) Where both parties appear with the benefit of legal aid, the referee, if he belongs to the class of persons mentioned in section 658, shall publish his report, although he may not have been paid the fee; and in the case of other referees, the fee will be paid by Government.".

**258.** The words "the referees" and the words "their attendance" in subsection (1) of section 672 of the principal law shall be substituted by the words "the referee" and the words "his attendance" respectively.

Amendment of  
section 672 of  
the principal law.

**259.** The words "The court shall, where it deems it necessary," in section 673 of the principal law shall be substituted by the words "The court shall".

Amendment of  
section 673 of  
the principal law.

**260.** Section 674 of the principal law shall be substituted by the following new section:

Substitution of  
section 674 of  
the principal law.

"Additional  
referees.

**674.** (1) It shall be lawful for the court, on the demand of any of the parties, to proceed to the appointment of additional referees who shall make their report on reaching a majority decision on the subject of the reference.

(2) Where the findings have been arrived at by a majority of votes, the report shall include a mention of the fact that there has been a dissenting member, what constituted the dissent as well as the grounds thereof.

(3) Subject to the provisions of this section, the provisions of this Sub-title shall *mutatis mutandis* apply to additional referees.".

**261.** Section 676 of the principal law shall be repealed.

Repeal of  
section 676 of the  
principal law.

**262.** Section 677 of the principal law shall be substituted by the following new section:

Substitution of  
section 677 of the  
principal law.

"Time for  
making  
demand for  
additional  
referees.

**677.** (1) The demand for the appointment of additional referees shall be made by means of a note to be filed within ten days.

(2) Such time shall commence to run from the date of the publication of the report. If the referees have been dispensed from attending before the court according to the provisions of subsection (1) of section 672, such time shall commence to run from the date of the receipt by the party or his legal procurator of a notice signed by the registrar, stating that the report has been published.”.

Amendment of  
section 685 of  
the principal law.

**263.** The words “to the referee” in section 685 of the principal law shall be substituted by the words “to the parties and to the referee”.

Repeal of  
section 687 of  
the principal law.

**264.** Section 687 of the principal law shall be repealed.

Amendment of  
section 696 of  
the principal law.

**265.** Section 696 of the principal law shall be amended as follows:

(a) the words “in the written pleading, if proceedings are taken by libel or in the writ of summons, if proceedings are taken by writ of summons” in subsection (1) thereof shall be substituted by the words “in the written pleading commencing proceedings.”; and

(b) the words “in the prescribed form” in subsection (3) thereof shall be deleted.

Amendment of  
section 697 of  
the principal law.

**266.** Section 697 of the principal law shall be amended as follows:

(a) the words “to the oath of the plaintiff, if proceedings are instituted by libel.” in subsection (1) thereof shall be substituted by the words “to the oath of the plaintiff.”;

(b) subsection (2) thereof shall be deleted; and

(c) subsection (1) thereof shall be renumbered as section 697.

Amendment of  
section 698 of  
the principal law.

**267.** Section 698 of the principal law shall be amended as follows:

(a) the words “If the party to whose oath reference is required” and the words “shall present the questions” in subsection (1) thereof shall be substituted by the words “If the party, to whose oath reference is required,” and the words “shall present questions and statements which shall be formulated in an affirmative manner as to require an affirmative answer”; and

(b) the words “shall be deemed to be confessed” in subsection (2) thereof shall be substituted by the words “shall be deemed to be admitted and accepted”.

Amendment of  
section 699 of  
the principal law.

**268.** Section 699 of the principal law shall be amended as follows:

(a) subsection (1) thereof shall be substituted by the following new section:

"(1) In all courts of civil jurisdiction, the questions shall be made in writing."; and

(b) subsection (3) thereof shall be deleted.

**269.** The words "The questions, when in writing," in subsection (1) of section 700 of the principal law shall be substituted by the words "The questions".

Amendment of  
section 700 of  
the principal law.

**270.** Section 701 of the principal law shall be repealed.

Repeal of  
section 701 of  
the principal law.

**271.** Section 702 of the principal law shall be amended as follows:

(a) subsection (1) thereof shall be substituted by the following new subsection:

"(1) In the Court of Magistrates (Malta) and in the Court of Magistrates (Gozo) in its inferior jurisdiction, the demand by the plaintiff for the reference to the oath of the defendant shall be made in the notice referred to in section 171.";

(b) subsection (2) thereof shall be deleted;

(c) subsections (3) and (4) shall respectively be renumbered as subsections (2) and (3) thereof;

(d) the words "fifty Maltese liri" in paragraphs (a) and (b) of subsection (3) thereof as renumbered shall in each case be substituted by the words "two hundred and fifty Maltese liri"; and

(e) the words "the Court shall adjourn the trial," in paragraph (b) of subsection (3) thereof, as renumbered, shall be substituted by the words "the Court shall adjourn the trial to a date not later than fifteen days from the date of the sitting".

**272.** The words "in all courts, including the inferior courts in the case where the questions are made orally." in subsection (1) of section 704 shall be substituted by the words "in all courts.".

Amendment of  
section 704 of  
the principal law.

**273.** The words "as the case may be." in subsection (1) of section 706 of the principal law shall be substituted by the words "as the case may be; and such order shall be served on the person or persons to whose oath reference is required. The party seeking the reference shall pay for such service, saving any right of reimbursement thereof in terms of the eventual decision of the court.".

Amendment of  
section 706 of  
the principal law.

**274.** The words "as provided in that section." in subsection (1) of section 707 of the principal law shall be substituted by the words "as provided in that section; and such order shall be served on the person or persons to whose oath reference is required. The party seeking the reference shall pay for such service, saving any right of reimbursement thereof in terms of the eventual decision of the court.".

Amendment of  
section 707 of  
the principal law.

Amendment of  
section 708 of  
the principal law.

**275.** The words “or by one of the Magistrates if the Court consists of more than one Magistrate” in section 708 of the principal law shall be deleted.

Repeal of  
section 710 of  
the principal law.

**276.** Section 710 of the principal law shall be repealed.

Amendment of  
section 712 of  
the principal law.

**277.** The words “to be admissible.” in subsection (1) of section 712 of the principal law shall be substituted by the words “to be admissible; and if the court accedes to the party’s request as aforesaid, the order of the court shall be served on the person or persons to whose oath reference is required. The party seeking the reference shall pay for such service, saving any right of reimbursement thereof in terms of the eventual decision of the court.”.

Amendment of  
section 727 of  
the principal law.

**278.** The words “by the registrar of the respective court.” in section 727 of the principal law shall be substituted by the words “by the registrar.”.

Substitution of  
section 728 of  
the principal law.

**279.** Section 728 of the principal law shall be substituted by the following:

“Pleas to be  
raised in  
note of  
pleas or  
answer.

**728.** (1) Subject to the provisions of section 731 in actions instituted by writ of summons or by application, all pleas whether dilatory or touching the merits shall be raised in the note of pleas or in the answer, as the case may be. Those pleas touching the merits shall be raised without prejudice to the dilatory pleas.

(2) No other pleas can be set up at a later stage; provided that the Court may on an application by the defendant or respondent allow the setting up of additional pleas, if it is satisfied that there were valid reasons for not including them in the note of pleas or in the answer.”.

Substitution of  
section 731 of  
the principal law.

**280.** Section 731 of the principal law shall be substituted by the following:

“Pleas  
which may  
be raised at  
any stage  
of the  
proceed-  
ings.

**731.** The provisions of section 728 shall not apply to such pleas as by an express provision of this Code may be raised at any stage of the proceedings, or to pleas the reason for which arises during the trial.”.

Amendment of  
section 734 of  
the principal law.

**281.** Section 734 of the principal law shall be amended as follows:

(a) the present provision shall be renumbered as subsection (1) thereof;

(b) the words “on the cause,” in subparagraph (i) of paragraph (d) of subsection (1) as renumbered shall be substituted by the words “on the cause or on any other matter connected therewith or dependant thereon.”;

(c) the following new paragraph shall be added after paragraph (e) of subsection (1) as renumbered:

“(f) if the advocate or legal procurator pleading before a judge is the son or daughter, spouse or ascendant of the said judge;

(g) if the judge or his spouse has a case pending against any of the parties to the suit or happens to be his creditor or debtor in such manner as may reasonably give rise to suspicion of a direct or indirect interest that may influence the outcome of the case.”; and

(d) the following new subsection shall be added after subsection (1) thereof as renumbered:

“(2) A judge may be challenged or abstain from sitting in a cause when he has previously taken cognizance of and expressed himself on the same merits of that cause when sitting as a judge in the Civil Court, Second Hall.”.

**282.** The words “Magistrates of Judicial Police.” in section 740 of the principal law shall be substituted by the words “Magistrates of the Inferior Courts.”.

Amendment of  
section 740 of  
the principal law.

**283.** Section 742 of the principal law shall be substituted by the following new section:

Substitution of  
section 742 of  
the principal law.

“Persons  
subject to  
jurisdiction  
of the Civil  
Courts of  
Malta.

**742.** (1) Save as otherwise expressly provided by law, the Civil Courts of Malta shall have jurisdiction to try and determine all actions, without any distinction or privilege, concerning the persons hereinafter mentioned:

(a) citizens of Malta, provided they have not fixed their domicile elsewhere;

(b) any person as long as he is either domiciled or resident or present in Malta;

(c) any person, in matters relating to property situate or existing in Malta;

(d) any person who has contracted any obligation in Malta, but only in regard to actions touching such obligation and provided such person is present in Malta;

(e) any person who, having contracted an obligation in some other country, has nevertheless agreed to carry out such obligation in Malta, or who has contracted any obligation which must necessarily be carried into effect in Malta, provided in either case such person is present in Malta;

(f) any person, in regard to any obligation contracted in favour of a citizen or resident of Malta or of a body having a distinct legal personality or association of persons incorporated or operating in Malta, if the judgment can be enforced in Malta;

(g) any person who expressly or tacitly, voluntarily submits or has agreed to submit to the jurisdiction of the court.

(2) The jurisdiction of the courts of civil jurisdiction is not excluded by the fact that a foreign court is seized with the same cause or with a cause connected with it. Where a foreign court has a concurrent jurisdiction, the courts may in their discretion, declare defendant to be nonsuited or stay proceedings on the ground that if an action were to continue in Malta it would be vexatious, oppressive or unjust to the defendant.

(3) The jurisdiction of the courts of civil jurisdiction is not excluded by the fact that there exists among the parties any arbitration agreement, whether the arbitration proceedings have commenced or not, in which case the court, saving the provisions of any law governing arbitration, shall stay proceedings without prejudice to the provisions of subsection (4) of this section and to the right of the court to give any order of direction.

(4) On the demand by any person being a party to an arbitration agreement, the courts may issue any precautionary act, in which case, if such party has not yet brought forward his claim before an arbitrator, the time limits prescribed in this Code for bringing the action in respect of the claim shall be twenty days from the date of issue of the precautionary act.

(5) A precautionary act issued in terms of the preceding subsection shall be rescinded:

(a) if the party against whom it is issued makes such deposit or gives such security sufficient to secure the rights or claims stated in the act; or

(b) if the applicant fails to bring forward his claim, whether before the arbitrator or before the court, within the said time limit of twenty days; or

(c) on the expiration of the duration, original or extended, of the particular act in terms of this Code; or

(d) for just cause on the application of the debtor as the court may deem proper in the circumstances.”.

**284.** The following new section shall be added after section 742 of the principal law:

Addition of new section 742A to the principal law.

“Immunity of the President of Malta.

**742A.** No civil proceedings whatsoever shall be taken against the President of Malta in respect of acts done in the exercise of the functions of his office.”.

**285.** Section 743 of the principal law shall be amended as follows:

Amendment of section 743 of the principal law.

(a) the words “of the Civil Courts of Malta.” in subsection (1) thereof shall be substituted by the words “of the courts of civil jurisdiction.”; and

(b) the words “of Civil Courts of Malta” in the marginal note shall be substituted by the words “of the courts of civil jurisdiction.”.

**286.** Section 745 of the principal law shall be amended as follows:

Amendment of section 745 of the principal law.

(a) the words “or artificial person,” in the English text shall be substituted by the words “or other body having a distinct legal personality.”;

(b) in paragraph (b) thereof for the words “(c) and (g)” there shall be substituted by the words “(c) and (f)”;

(c) paragraph (d) thereof shall be substituted by the following new paragraph:

“(d) the wife is presumed to be resident in the place in which her husband resides, unless she is legally separated from her husband or has taken up a separate residence;”; and

(d) the words “or artificial person” in paragraph (f) thereof shall be substituted by the words “or other body having a distinct legal personality”.

**287.** Section 752 of the principal law shall be substituted as follows:

Substitution of section 752 of the principal law.

“Determination of value in actions for maintenance.

**752.** In actions for maintenance the value of the claim shall be the equivalent to the amount of maintenance claimed to be due in five years.”.

Substitution of section 774 of the principal law.

**288.** Section 774 of the principal law shall be substituted by the following new section:

"Where want of jurisdiction is to be declared by court of its own motion.

**774.** In the absence of any plea to the jurisdiction, the court shall, of its own motion, declare that it has no jurisdiction —

(a) where the action is not one within the jurisdiction of the courts of civil jurisdiction of Malta and the defendant has either made default in filing the statement of defence or is an absent defendant represented in the proceeding by curators appointed in terms of section 929; or

(b) where by reason of the subject matter of the claim or of the value of the thing in issue, the action is not within the jurisdiction of the court; or

(c) where in actions touching the recovery of deposits, the monies or other things are deposited under the authority of another court:

Provided that in the cases referred to in paragraph (b) pleas to the jurisdiction may not be pleaded nor raised *ex officio* in an appellate court.”.

Amendment of section 775 of the principal law.

**289.** The words “Subject to the provisions of section 778, where” in section 775 of the principal law shall be substituted by the word “Where”.

Repeal of sections 778 and 779 of the principal law.

**290.** Sections 778 and 779 of the principal law shall be repealed.

Amendment of section 786 of the principal law.

**291.** The words “procurator or administrator of the revenue of the Diocesan Bishop of Malta or of the Bishop of Gozo,” in subsection (1) of section 786 of the principal law shall be substituted by the words “Econo or other official performing an equivalent function at the Archbishop’s Curia in Malta and at the Bishop’s Curia in Gozo.”.

Addition of new section 786A to the principal law.

"When plea of incapacity is not allowed.

**292.** The following new section shall be added after section 786 of the principal law:

**786A.** It shall not be lawful to raise the plea of incapacity of a party against any of the persons mentioned in subsection (2) of section 181A in the case of a body having a distinct legal personality, and in the case of any person mentioned in subsection (7) of section 187 in the case of a ship or other vessel.”.

Amendment of section 789 of the principal law.

**293.** Subsection (1) of section 789 of the principal law shall be substituted by the following:

"789. (1) The plea of nullity of judicial acts is admissible—

- (a) if the nullity is expressly declared by law;
- (b) if the act emanates from an incompetent court;
- (c) if the act contains a violation of the form prescribed by law, even though not on pain of nullity, provided such violation has caused to the party pleading the nullity a prejudice which cannot be remedied otherwise than by annulling the act;
- (d) if the act is defective in any of the essential particulars expressly prescribed by law:

Provided that such plea of nullity as is contemplated in paragraphs (a), (c) and (d) of this subsection shall not be admissible if such defect or violation is capable of remedy under any other provision of law.”.

**294.** Section 790 of the principal law shall be substituted by the following new section:

"Where  
plea of  
nullity of  
judgment  
may not  
be enter-  
tained.

**790.** Where before an appellate court the plea of nullity of a judgment appealed from is raised, such plea shall not be entertained if the judgment is found to be substantially just, unless such plea is founded on the want of jurisdiction or default of citation, or the incapacity of the parties, or on the judgment of the court of first instance being *extra petita* or *ultra petita* or on any defect which prejudices the right to a fair hearing.”.

Substitution of  
section 790  
of the  
principal law.

**295.** Section 807 of the principal law shall be substituted by the following new section:

"Continu-  
ation of  
suit by  
presump-  
tive  
heir or  
curators.

**807.** (1) Where no application is made by any person to continue the suit in substitution for the deceased party, it shall be lawful for the other party, by means of an application, to demand that the suit be continued in the name of the presumptive heir or heirs of the deceased party, if known.

Substitution of  
section 807  
of the  
principal law.

(2) Such application shall by order of the Court, be served on the presumptive heir or heirs who shall have the time of one month within which to declare whether he or they are prepared to continue the suit.

(3) If no such declaration is made, then the Court shall of its own motion proceed to appoint a curator *ad litem* to represent the interests of the deceased in the suit in accordance with section 809.

(4) Where no person entitled to represent the deceased is known, such application may contain only the demand for the appointment of curators to continue the suit.

(5) The curator shall take all the necessary measures to identify and locate the presumptive heir or heirs of the deceased and when the presumptive heir or heirs are identified and located the curator shall request the court to notify him or them about the pendency of the case ordering him or them to declare within a specified time whether he or they are prepared to continue the suit.”.

Substitution of  
section 808  
of the  
principal law.

**296.** Section 808 of the principal law shall be substituted by the following:

“Default  
of heir,  
etc., to  
continue  
suit not  
to imply  
renuncia-  
tion of  
inherit-  
ance, etc.

808. The default of the heir or executor to continue the suit shall not imply renunciation of the inheritance or executorship; and it shall be lawful for the heir or executor, by application, upon proving his title to the court, to assume at any time the continuation of the suit, and cause the effect of the appointment of curators to cease in regard to further proceedings. The application shall be served on the curators and the other parties in the suit who may file an answer thereto within such time as the court may establish.”.

Amendment of  
section 809  
of the  
principal law.

**297.** The words “on the presumptive heir, if known.” in section 809 of the principal law shall be substituted by the words “on the presumptive heir or heirs, if known; and if unknown such banns shall be published twice, in at least two daily newspapers, at an interval of one week between such publications, at the expense of the applicant without the need of any notification.”

Addition of  
new section  
810A  
to the  
principal law.

“Change  
of parties  
due to  
other  
causes.

**298.** The following new section shall be added after section 810 of the principal law:

810A. In the case of any other change of parties to the suit other than by the death *pendente lite* of any party to the suit, the person who wishes to take up the case shall file an application requesting authorisation to assume the acts of the case in addition to or instead of the party concerned, and any judgment shall also bind such party assuming the acts.”.

Substitution of  
section 814  
of the  
principal law.

“Court to  
which  
demand  
for new  
trial is  
made.

**299.** Section 814 of the principal law shall be substituted by the following new section:

814. Subject to the provisions of Sub-title II of Title II of Book Third of this Code the demand for a new trial shall be made to the court by which the judgment complained of was given, and the same judges or magistrates may sit.”.

**300.** Section 815 of the principal law shall be substituted by the following new section:

"Form of demand for new trial."

815. In the superior and inferior courts, the demand for a new trial shall be made before a court of first instance, by means of a writ of summons, and before a court of second instance, by means of an application; the application shall be accompanied by security for costs in terms of section 249.".

Substitution of section 815 of the principal law.

**301.** Section 816 of the principal law shall be amended as follows:

(a) the words "In the libel, petition or writ of summons," in subsection (1) thereof shall be substituted by the words "In the writ of summons or application,"; and

(b) the marginal note thereto shall be substituted by the following new marginal note:

"Contents of writ of summons or application.".

**302.** Section 817 of the principal law shall be repealed.

Repeal of section 817 of the principal law.

**303.** Section 818 of the principal law shall be amended as follows:

(a) the present provision shall be renumbered as subsection (1) thereof; and

(b) immediately after subsection (1) thereof as renumbered there shall be added the following new subsection:

"(2) A new trial may in no case be demanded after the lapse of five years from which the first judgment was given.".

**304.** The words "by writ of summons," in subsection (2) of section 823 of the principal law shall be substituted by the words "by application before the Court of Appeal and by writ of summons before the Court of first instance,".

Amendment of section 823 of the principal law.

**305.** Section 827 of the principal law shall be amended as follows:

(a) subsection (1) thereof shall be substituted by the following subsection:

"(1) The provisions of the last preceding section shall not have effect:

(a) if the judgment sought to be enforced may be set aside on any of the grounds mentioned in section 811;

(b) in the case of a judgment by default, if the parties were not contumacious according to foreign law;

Amendment of section 827 of the principal law.

- Amendment of section 830 of the principal law.
- (c) if the judgment contains any disposition contrary to public policy or to the internal public law of Malta.”;
  - (b) subsection (2) thereof shall be deleted; and
  - (c) subsection (3) shall be renumbered as subsection (2) thereof.

**306.** Section 830 of the principal law shall be amended as follows:

- (a) the words “section 870 and 888” and the words “the proper registry.” in subsection (2) thereof shall be respectively substituted by the words “section 870” and by the words “the proper registry and notwithstanding that a deposit is made or security is given as aforesaid, the time limits established in this Title on the creditor to bring forward his action shall continue to apply. Such time limits shall run from the date of the issue of the precautionary act, and failure by the creditor to institute proceedings within the said time limits shall entitle the debtor to withdraw the deposit or cancel the security.”;
- (b) the words “Registrar of the Superior Courts” in subsections (4) and (5) thereof shall be substituted by the words “registrar”; and
- (c) subsection (3) thereof as added by section 82 of the Malta Maritime Authority Act, 1991 shall be deleted.

Act No. XVII of 1991.

**307.** Section 831 of the principal law shall be amended as follows:

- Amendment of section 831 of the principal law.
- (a) subsection (1) thereof shall be substituted by the following new subsection:

“(1) The demand for the issue of any of the said acts shall be made by an application prepared by the applicant according to the prescribed form.”;
  - (b) subsection (2) thereof shall be substituted by the following new subsection:

“(2) The origin and nature of the debt or claim sought to be secured shall be stated on oath in the application:

Provided that where in one application there is more than one applicant demanding the issue of any of the precautionary acts mentioned in subsection (1) of section 830 against the same respondent, the oath shall be taken by at least one of the applicants.”;

- (c) subsection (4) thereof shall be deleted; and

(d) subsection (5) thereof shall be renumbered as subsection (4) thereof and the words "over the signature of the registrar personally," shall be substituted by the words "over the signature of the registrar personally after having first obtained verbal authorisation from the judge or magistrate to do so. In this case, the judge or magistrate is to append his own signature under that of the registrar at the earliest opportunity to confirm that he had given the said verbal authority or, if it is not possible for the registrar to obtain such verbal authority, the registrar shall under his authority issue the said warrant or order over his signature, subject to the ratification of such action by a judge or magistrate at the earliest opportunity.".

**308.** The words "the debt or claim amounts," in section 832 of the principal law shall be substituted by the words "the debt or claim amounts, and if a cause has already been filed in court, such a claim may specify and include any judicial costs,".

Amendment of  
section 832  
of the  
principal law.

**309.** The words "the registrar of the respective court." in section 833 of the principal law shall be substituted by the words "the registrar.".

Amendment of  
section 833  
of the  
principal law.

**310.** The words "ten liri." in section 835 of the principal law shall be substituted by the words "one hundred liri".

Amendment of  
section 835  
of the  
principal law.  
Substitution of  
section 836  
of the  
principal law.

**311.** Section 836 of the principal law shall be substituted by the following new section:

"Counter-  
warrant.

**836.** (1) Without prejudice to any other right under this or any other law, the person against whom any precautionary act has been issued, may, make an application to the court issuing the precautionary act, or, if a cause has been instituted, may make an application to the court hearing such cause, praying that the precautionary act be revoked, either totally or partially, on any of the following grounds:

- (a) that the precautionary act ceased to be in force;
- (b) that any one of the conditions requested by law for the issue of the precautionary act does not in fact subsist;
- (c) that other adequate security is available to satisfy the claim of the person at whose request a precautionary act was issued either by the issue of some other precautionary act or if such other security can to the satisfaction of the Court adequately secure the claim; or
- (d) if it is shown that the amount claimed is not *prima facie* justified or is excessive; or

(e) if the security provided is deemed by the court to be sufficient; or

(f) if it is shown that in the circumstances it would be unreasonable to maintain in force the precautionary act in whole or in part, or that the precautionary act in whole or in part is no longer necessary or justifiable.

(2) In the case contemplated in paragraph (a) of subsection (1) of this section, the court shall ascertain that the precautionary act has ceased to be in force and decree accordingly and in the cases contemplated in paragraphs (b) to (f) of the said subsection (1) of this section, the court shall hear the application with urgency.

(3) A copy of the application shall be served on the person at whose request the precautionary act was issued who shall not later than the day fixed for the hearing of the application by a note state his reasons, if any, why such request should not be acceded to. In default of such opposition the court shall accede to the request.

(4) After hearing the parties, the court shall by a separate decree which may be given *in camera*, either reject the application or accede to the request in the application under those conditions which it may deem fit.

(5) No appeal and no challenge shall lie from a decree acceding to an application referred to in subsection (1) of this section, and such decree shall be final and irrevocable, and except in the case contemplated in paragraph (a) of subsection (1) a similar precautionary act may not be issued in security of the claim against the person against whom the precautionary act so revoked was issued, unless in the application for the issue of such similar precautionary act the applicant states that circumstances have arisen since the revocation of the previous precautionary act which justify the issue of a similar fresh precautionary act to that which has been revoked, and the provisions of this section shall thereupon apply to such precautionary act freshly issued on the basis of such application.

(6) The provisions of subsection (4) of section 831 shall apply to the decree issued under paragraph (a) of subsection (1) of this section.

(7) Notwithstanding that adequate security for the satisfaction of the claim of the person at whose request the precautionary act was issued is deposited in the registry of the court, the court which issued the counter-warrant under the provisions of this section may still, on a request made by application by any interested person, investigate the legality or otherwise of the relative precautionary act and the court

may also order the reduction of the amount of security deposited or declare the precautionary act to be contrary to law, in which latter case it shall order that the precautionary act be revoked.

(8) The court may condemn the applicant at whose request a precautionary act was issued to pay a penalty of not less than five hundred Maltese liri and not more than three thousand Maltese liri in favour of the person against whom the precautionary act was issued, in each of the following cases:

(a) if the applicant does not bring the action in respect of the claim, within the time established by law;

(b) if, on the demand of the defendant for the rescission of the precautionary act, the plaintiff fails to show that the precautionary act had to be issued or that within the fifteen days previous to the application for the precautionary act, he had in any manner called upon the defendant to pay the debt, or, if the debt be not a liquidated debt, to provide sufficient security:

Provided that the provisions of this paragraph shall not apply where it is shown that there were reasons of urgency for the issue of the warrant;

(c) if the circumstances of the debtor were such as not to give rise to any reasonable doubt as to his solvency and as to his financial ability to meet the claims of the applicant, and such state of the debtor were notorious;

(d) if applicant's claim is malicious, frivolous or vexatious.

(9) In the case under the previous subsection, the court at the request, by writ of summons, of the person against whom the precautionary act was issued may condemn the applicant at whose request the precautionary warrant was issued to pay such damages as may have been caused by the issue of the warrant, and in any such proceedings the court shall refer to, and make use of, the records of the proceedings of the precautionary act and of any other proceedings arising therefrom or consequential thereto, and such records shall be admissible evidence for the purposes of this action.”.

**312.** The words “or prohibitory injunction” in subsection (1) of section 837 of the principal law shall be deleted.

Amendment of  
section 837  
of the  
principal law.

**313.** The following new section shall be added after section 838 of the principal law:

Addition  
of new  
section 838A  
in the  
principal law.

"Security  
for  
payment  
of  
penalty,  
etc.

838A. It shall be lawful for the court, on good cause being shown, upon the demand by application of the person against whom a precautionary act has been issued, to order the party suing out the warrant to give, within a time fixed by the court, sufficient security for the payment of the penalty that may be imposed, and of damages and interest, and, in default, to rescind the precautionary act.”.

Amendment of  
section 843  
of the  
principal law.

**314.** Subsection (1) of section 843 of the principal law shall be substituted by the following new subsection:

“(1) The applicant is bound to bring the action in respect of the right stated in the warrant within six days from the delivery of the notice of the execution of the warrant to the applicant or to an advocate or legal procurator whose signature appears on the application for the issuing of the warrant or within twelve days after the issue of the warrant, whichever is the earlier date.”.

Amendment of  
section 846 of the  
principal law.

**315.** Section 846 of the principal law shall be amended as follows:

(a) the words “of the warrant, and” in subsection (2) thereof shall be substituted by the words “of the warrant or within twelve days after the issue of the warrant, whichever is the earlier date, and”; and

(b) subsections (3) and (4) thereof shall be deleted.

Amendment of  
section 847 of  
the principal law.

**316.** The following proviso shall be added to section 847 of the principal law:

“Provided that in the case of ships, other vessels, aircraft, perishable goods or other deteriorating assets, the court, on the application of claimant in pending litigation before the court, may order the sale of the asset *pendente lite* if it appears to the court upon an application of a creditor that the debtor is insolvent or otherwise unlikely to be able to continue trading and maintaining the asset. In reaching its conclusion the court shall consider all the circumstances connected therewith including the nature of the plaintiff's claim, the defence raised against such claim, if any, and such other steps which the debtor has taken to secure the claim, or otherwise to preserve the asset.”.

Amendment of  
section 849 of the  
principal law.

**317.** The words “the delivery to him of the notice” in paragraph (b) of the proviso to section 849 of the principal law shall be substituted by the words “the delivery to him or to an advocate or legal procurator whose signature appears on the application, of the notice”.

Amendment of  
section 850 of the  
principal law.

**318.** The words “six months” in subsections (1) and (2) of section 850 of the principal law shall be substituted by the words “one year”.

Substitution of  
sections 855 to  
872 of the  
principal law.

**319.** Sections 855 to 872 of the principal law shall be substituted by the following new sections:

"Object of warrant."

855. A warrant of impediment of departure of any ship or vessel may only be issued to secure a debt or a claim which could be frustrated by the departure of the ship or vessel.

Contents and service of warrant.

856. By the warrant of impediment of departure the marshal is ordered to detain a ship or other vessel and to deliver to the Comptroller of Customs and the officer responsible for ports in terms of law a copy of the warrant enjoining him not to grant a clearance to such ship or vessel, or, if already granted, to withdraw it.

Persons on whom warrant is to be served.

857. A copy of the warrant shall also be served on the person whose ship or vessel is detained or the master or other person in charge of such ship or vessel or the agent of such ship or other vessel.

Consequences of disobedience of an injunction.

858. The warrant shall contain a warning to all persons served with it, that in case of disobedience, such persons shall be guilty of contempt of court.

Powers of marshal in the execution of the warrant.

859. The marshal is authorised to adopt, subject to the directives of the court or of the registrar, all such measures as may be deemed necessary for the due execution of the warrant.

Statements to be contained in application.

860. In order to obtain the issue of the warrant the applicant shall, in addition to the sworn statements required under sections 831 and 832, state on oath that by the departure of the ship or vessel, his claim could be frustrated.

Warrant available where claim is not less than Lm3,000.

861. A warrant may be demanded and obtained in security of a debt or any other claim whatsoever amounting to not less than three thousand Maltese liri, either before or after such debt or claim has been judicially acknowledged.

Where warrant is demanded after judicial acknowledgement of claim.

862. Where the warrant is demanded after a debt or claim has been judicially acknowledged, the applicant shall, in the application, make reference to the judgment acknowledging the debt or claim and, besides the sworn statements under sections 831, 832 and 860, declare on the same oath that the judgment has not been fulfilled or that it has not been wholly fulfilled.

Where warrant is demanded *pendente lite*.

863. Where the warrant is demanded *pendente lite* besides the circumstances referred to in section 860 the applicant shall also declare on the same oath the fact of the pendency of the action, giving the necessary details for the identification of the said action.

Penalty in case of malicious demand for warrant.

864. Where it is found that the warrant was obtained upon a demand maliciously made, the penalty in terms of subsection (8) of section 836 shall not be less than three thousand Maltese liri.

## Damages.

865. In all cases in which a warrant is declared to have been unjustly obtained, the party suing out the warrant may be liable for damages and interest and this in addition to the penalty in terms of sections 836 and 864.

## Security for payment of penalty etc.

866. It shall be lawful for the court, on good cause being shown, upon the demand by application by a person whose ship or vessel is detained, the master, the person in charge, or the agent of the ship or vessel against which a warrant has been issued, to order the party suing out the warrant to give, within a time fixed by the court, sufficient security, in an amount not less than three thousand Maltese liri, for the payment of the penalty, damages and interest, and, in default, to rescind the warrant.

## Time within which to bring action for judicial acknowledgement of claim.

867. A warrant issued before the debt or claim has been judicially acknowledged shall cease to be in force if the applicant, within six working days from the issue of the warrant, fails to bring his action for the acknowledgement of the debt or claim. Moreover the applicant shall be liable for damages and interests:

Provided that where a person whose ship or vessel is detained the master, person in charge or agent of the ship or vessel against which a warrant has been issued, shall have, by means of a note filed in the registry, granted an extension of such time, the warrant shall remain in force for the time so extended.

## Warrant not to cease by deposit or security.

868. (1) Where the warrant has been issued for the purpose of securing the enforcement of a judgment, the warrant shall not cease to be in force by the deposit or security mentioned in section 830, but only on the payment, or the unconditional deposit in court free from the effects of any garnishee order, of the amounts due in terms of the judgment including interests and judicial costs.

(2) Nor shall the warrant cease to be in force, in any other case, unless, in addition to the deposit or security, there be appointed a regular attorney or mandatory to judicially represent the ship or vessel.

## Duration of warrant.

869. (1) A warrant which has not ceased to be in force for other reasons, shall remain in force for one year to be reckoned from the day on which it was issued, unless within such time the person suing out the warrant shall have, upon an application to that effect, obtained an extension.

(2) Such extension may be granted more than once, but it may not be granted for more than one year each time.

(3) The decree allowing the extension shall state the date up to which the warrant shall remain in force.

(4) The decree allowing the extension shall be served on the persons mentioned in sections 856 and 857.

(5) None of such persons shall incur any liability if, after the expiration of the said time, whether original or extended, and before the decree of any such extension has been served on him, shall act as if the warrant had ceased to be in force.

(6) The absence of a demand for an extension shall not be a bar to the issue of a fresh warrant.

Ships not subject to detention.

870. (1) No warrant shall be issued against any ship or vessel wholly chartered in the service of the Government of Malta or employed in any postal service either by the Government of Malta or by any other government.

(2) No warrant shall be issued against any ship of war.

(3) A warrant of impediment of departure of a ship or vessel shall, on an application by the Malta Maritime Authority, be rescinded if the court is satisfied that because of the nature of its cargo or of its length, draught or other circumstances concerning safety, navigation or port operation, it is advisable that the ship or vessel should leave port without delay.”.

320. Immediately after subsection (3) of section 873 of the principal law there shall be added the following new subsections:

Amendment of section 873 of the principal law.

“(4) If on an application, it is proved to the satisfaction of the court that subsequent to the issue of the warrant of prohibitory injunction the person restrained has continued with the work or demolition in breach of the court's order, the court shall, without prejudice to any other action competent to it at law, at a request of applicant, condemn the person against whom the warrant had been issued to remedy what was committed in breach of its order and to authorise in default the applicant to carry out such remedial works as the court may direct at the expense of the person restrained.

(5) A warrant of prohibitory injunction may also be demanded by a creditor to secure a debt, or any other claim whatsoever, amounting to not less than Lm4,000. The object of such a warrant is to restrain the debtor from selling, alienating, transferring or disposing *inter vivos* by onerous or gratuitous title any property: provided that such a warrant shall not apply to the constitution of any right on, or alienation or transfer of any property made pursuant to a court order.

(6) The court shall not issue any such warrant unless it is satisfied that such warrant is necessary in order to preserve any right of the person suing out the warrant, and that *prima facie* such person appears to possess such right and that unless such warrant is issued the prejudice that would be caused would not be capable of remedy:

Provided that where the warrant is intended to be issued against the Government or an authority established by the Constitution or any person holding a public office in his official capacity, such warrant will not be issued if the authority or person against whom the warrant is demanded declares in open court that the thing sought to be restrained is not intended to be done.

(7) The court may initially issue any such warrant for an interim period under such terms and conditions as it may deem appropriate.

(8) Where a warrant prohibits the sale, alienation, transfer or other disposal of immovable property the application shall contain all the particulars relating to the person against whom it is directed that are required by law in respect of the registration of a transfer of immovable property by such person in the Public Registry. Where the warrant refers to specific immovables, the application shall describe them in the manner provided for in the Public Registry Act, in respect of notes of enrolment.

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(9) The warrant referred to in subsection (8) shall upon its issue and at the expense of the applicant, be served by the Registrar within twenty-four hours on the Director of the Public Registry and the Land Registrar who shall forthwith register the same in books kept for the purpose. Such books shall be indexed and accessible to the public. It shall also be served upon any person indicated by the applicant.

(10) Upon registration of the warrant referred to in subsection (8) by the Director of the Public Registry, any future sale, alienation, transfer or disposal of immovable property to which the warrant refers shall be void and to no effect.

(11) Without prejudice to the provisions of section 836, the warrant referred to in subsection (8) shall unless previously revoked or otherwise ceases to be in force, continue to have effect for a period of six months from the date of final judgment in favour of the creditor in his action for the recovery of the debt or claim referred to in subsection (5); provided that the court may on an application filed by the person suing out the warrant within such period of six months, extend the validity of the warrant by one further period of six months. Notice of such extension shall, at the expense of the applicant, be served by the Registrar within twenty-four hours on the Director of the Public Registry and the Land Registrar.”.

**321.** Section 875A of the principal law shall be renumbered as section 876 thereof.

Renumbering of section 875A of the principal law.

**322.** The following new section shall be added after section 876 as renumbered of the principal law:—

Addition of new section 877 to the principal law.

"Warrant to restrain a person from taking a minor outside Malta.

877. (1) A warrant of prohibitory injunction may also be issued to restrain any person from taking any minor outside Malta.

(2) The warrant shall be served on the person or persons having, or who might have, the legal or actual custody of the minor enjoining them not to take, or allow anyone to take, the minor out of Malta.

(3) The warrant shall also be served on:—

(a) the officer charged with the issue of passports enjoining him not to issue, and or deliver, any passport in respect of the minor and not to include the name of the minor in the passport of the minor's legal representatives or in the passport of any other person; and

(b) the Commissioner of Police enjoining him not to allow such minor to leave Malta.

(4) If, before the service of the warrant on the officer charged with the issue of passports, a passport in respect of the minor had already been issued or the name of the minor had already been included in the passport of another person, such officer shall take the necessary steps to withdraw the passport in respect of the minor, and of any other passport which includes the name of the minor, and to delete the name of the minor from such passport.

Contents of warrant.

(5) The warrant shall contain the name and surname of the minor and any other particulars, including the date and place of birth and the names of the parents when available, so as to enable the persons served with the warrant to establish the identity of the minor.

Contempt of court in case of breach.

(6) Any person served with the warrant who, directly or indirectly, takes the minor, or allows the minor to be taken, out of Malta shall be guilty of contempt of court.

Service of decree granting extension.

(7) The provisions of subsections (1), (2), (3), (5) and (6) of section 869 shall apply to such a warrant.

(8) The decree allowing an extension of the warrant shall be served on the persons mentioned in subsections (2) and (3) of this section.”.

Substitution of  
section 894 of the  
principal law.

**323.** Section 894 of the principal law shall be substituted by the following new section:

"How  
security  
is offered  
or objected  
to.

894. (1) Unless otherwise provided by law, the security is offered by means of a note or an application, stating the name, surname, profession, trade, or other status of the surety, his place of abode, his identity card number or that of any other official document of identification; such note or application shall be served on the parties concerned who shall, within a time to be fixed by the court according to the circumstances of each particular case, declare whether they accept or refuse the surety offered.

(2) Objection against the surety may be entered by means of a note or in the answer to the application.

(3) If the security is offered in connection with proceedings taken by application or by writ of summons, the surety may be named in the application or in the writ of summons.”.

Substitution of  
section 897 of the  
principal law.

**324.** Section 897 of the principal law shall be substituted by the following new section:

"Form  
of objection.

897. Any objection to the security for costs shall be made by the opposite party in the answer or, in the case of counter-claims, in the reply. Such objection may also be made by means of a protest, provided that such protest is filed, in regard to actions before a court of first instance, within the time allowed for the answer, or in cases of a counter-claim, within the time allowed for the reply.”.

Amendment of  
section 900 of the  
principal law.

**325.** The words “a writ of summons” in section 900 of the principal law shall be substituted by the words “an application”.

Amendment of  
section 901 of the  
principal law.

**326.** The words “the writ of summons” in section 901 of the principal law shall be substituted by the words “the application”.

Amendment of  
section 904 of the  
principal law.

**327.** Section 904 of the principal law shall be amended as follows:

(a) the words “to find a sufficient security” in subsection (1) thereof shall be substituted by the words “raise such security as is required by law”; and

(b) the words “the summons” in subsection (2) thereof shall be substituted by the words “the application”.

**328.** Subsection (2) of section 906 of the principal law shall be substituted by the following:

Amendment of section 906 of the principal law.

“(2) If on the day appointed for the trial as stated in section 152, the notice mentioned in subsection (2) of section 152 was not served upon him, his advocate or his legal procurator, and the failure of service has persisted for more than one month from the date first set for the trial, the court shall adjourn the case *sine die*. ”.

**329.** The words “the exhibits” and “such exhibits” in section 909 of the principal law shall be respectively substituted by the words “the exhibits or any other evidence” and “such exhibits or any other evidence”.

Amendment of section 909 of the principal law.

**330.** Section 911 of the principal law shall be substituted by the following new section:

Substitution of section 911 of the principal law.

“Benefit of legal aid.”

**911.** (1) The demand for admission to sue or defend with the benefit of legal aid in any court mentioned in sections 3 and 4 of this Code and before any other adjudicating authority where the benefit of legal aid is by law granted, shall be made by application to the Civil Court, First Hall.

(2) Nevertheless, such demand may also be made orally to the Advocate for Legal Aid.

(3) The decree granting the benefit shall apply to all the courts and adjudicating authorities mentioned in subsection (1) of this section.

(4) The Advocate for Legal Aid shall render his professional services to persons whom he considers would be entitled to the benefit of legal aid, and prior to their obtaining such benefit, prepare and file all judicial acts, which may be of an urgent matter. The following procedure shall be followed:

(a) the Advocate for Legal Aid, shall file an application in the competent court in his own name requesting that he be authorised to file specific judicial acts, on behalf of a person or persons claiming the benefit for legal aid as he considers the matter urgent;

(b) the competent court shall, in such an event, allow such request unless there are serious reasons to the contrary;

(c) the Advocate for Legal Aid, after the judicial acts are allowed to be filed, shall then follow the normal procedure leading to the appointment or otherwise of an advocate and legal procurator *ex officio* as provided in this Title:

Provided that if the Civil Court, First Hall, shall subsequently exclude the benefit of legal aid, this shall not produce the nullity of any judicial act filed with such benefit but shall merely terminate for the future the benefit of legal aid given as aforesaid, and the court may order that the person deprived of such benefit pay all costs incurred.

(5) There shall be an Advocate for Legal Aid who shall be responsible for the Department of Legal Aid.

(6) For the purpose of this Code, the expression "Advocate for Legal Aid" means the Advocate for Legal Aid and includes any officer of the Department of Legal Aid designated by the Advocate for Legal Aid or any public officer designated by the Minister responsible for justice to perform a particular purpose or class of purposes pertaining to the Advocate for Legal Aid.".

Substitution of  
section 912 of the  
principal law.

**331.** Section 912 of the principal law shall be substituted by the following new section:

"Conditions  
for  
admission  
to the  
benefit  
of  
legal  
aid.

912. No demand as is mentioned in section 911 shall be granted unless the applicant confirms on oath, in the case of an application, before the registrar, and in the case of an oral demand, before the Advocate for Legal Aid:

(a) that he believes that he has reasonable grounds for taking or defending, continuing or being a party to proceedings; and

(b) that excluding the subject-matter of the proceedings, he does not possess property of any sort, the net value whereof amounts to a sum of not more than three thousand liri, or such other sum as the Minister responsible for justice may from time to time by order in the Gazette establish, not including everyday household items that are considered reasonably necessary for the use by applicant and his family, and that his yearly income is not more than the national minimum wage established for persons of eighteen years and over, or such other sum as the Minister responsible for justice may from time to time by order in the Gazette establish:

Provided that in calculating the said net asset value, no account shall be taken of the principal residence of applicant or of any other property, immovable or movable, which forms the subject matter of court proceedings, even though such other property is not the subject-matter of the proceedings in respect of which legal aid is being applied for:

Provided further that in calculating the income, the period of computation shall be the twelve months' period prior to the demand for the benefit of legal aid.”.

**332.** Section 914 of the principal law shall be amended as follows: Amendment of section 914 of the principal law.

(a) subsection (1) thereof shall be substituted by the following new subsection:

“(1) Where the demand is made by an application, the Civil Court, First Hall shall refer the application to the Advocate for Legal Aid who shall summarily examine the demand and report to the Civil Court, First Hall, whether the applicant has reasonable grounds for taking or defending proceedings, and where the demand is made orally to the Advocate for Legal Aid, he shall proceed directly with such examination and report:

Provided that no such examination shall be necessary where the demand for admission to the benefit of legal aid is made by the defendant in first instance or the respondent in second instance, and such defendant or respondent shall always be admitted to defend with such benefit upon taking the oath prescribed in section 912.”;

(b) subsection (3) thereof shall be substituted by the following new subsection:

“(3) Where the Advocate for Legal Aid deems it necessary to examine witnesses, he shall apply to the Civil Court, First Hall, for such witnesses to be summoned to attend before him.”; and

(c) the words “the court” in subsection (6) thereof shall be substituted by the words “the Civil Court, First Hall”.

**333.** The words “the court” in subsection (4) of section 915 shall be substituted by the words “the Civil Court, First Hall.”. Amendment of section 915 of the principal law.

**334.** The words “the court” in section 916 of the principal law shall be substituted by the words “the Civil Court, First Hall”. Amendment of section 916 of the principal law.

**335.** Section 917 of the principal law shall be substituted by the following new section: Substitution of section 917 of the principal law.

“Decree allowing or rejecting demand for legal aid.

917. If the report of the Advocate for Legal Aid is in favour of the applicant, the latter shall be admitted to the benefit applied for; but if the report is unfavourable, it shall be examined by the Civil Court, First Hall, which shall give the parties the opportunity to make their submissions, before it decides on whether to accept the adverse report, or to reject the report and admit the demand.”.

Amendment of  
section 918 of the  
principal law.

**336.** The words "The court" and "it shall not be lawful for such party to have any other advocate or legal procurator" in section 918 of the principal law shall be respectively substituted by the words "The Civil Court, First Hall" and "it shall be lawful for such party for a good cause, to request the Court, through the Advocate for Legal Aid, to substitute the advocate or legal procurator by another advocate or legal procurator from the rota" and for the words "first assigned to him" in the proviso thereto, there shall be substituted the words "assigned to him".

Substitution  
of section 923  
of the principal  
law.

**337.** Section 923 of the principal law shall be substituted by the following new section:

"Where  
person  
may be  
deprived  
of  
benefit.

**923.** (1) The Civil Court, First Hall, shall deprive of such benefit the person admitted to proceed with the benefit of legal aid if it is shown that he possesses capital or income exceeding that established for the grant of legal aid.

(2) If it is shown that he knowingly possessed such capital or income at the time the benefit of legal aid was granted or that he knowingly had an increase in his financial circumstances *pendente lite* thereby possessing such capital or income in excess of that established for the grant of legal aid and had failed to report the same to the Civil Court, First Hall, then it shall be lawful for the said Court to condemn him for contempt of court:

Provided that no contempt proceedings shall be taken by the said Court if such a person is liable to legal proceedings for perjury, and the said Court has ordered that he be forthwith arrested, and that a copy of the acts be transmitted without delay, through the registrar, to the Court of Magistrates in order that proceedings may be taken according to law.

(3) The Civil Court, First Hall, shall also deprive the applicant of such benefit if he is proceeding vexatiously.

(4) In all cases in which the applicant for the benefit of legal aid has been deprived of such benefit, he shall be liable personally for all the costs of the proceedings to which he would have been liable if the benefit of legal aid had not been granted to him.".

Amendment of  
section 924 of the  
principal law.

**338.** The words "the court" in section 924 of the principal law shall be substituted by the words "the Civil Court, First Hall".

Substitution of  
section 925 of the  
principal law.

**339.** Section 925 of the principal law shall be substituted by the following new section:

"Duties  
of  
advocate  
or  
legal  
procurator.

**925.** (1) The advocate or legal procurator assigned to the person admitted to the benefit of legal aid shall:

- (a) act in the best interest of the person admitted to the benefit of legal aid;
- (b) appear in court when the case of the person admitted to the benefit of legal aid is called;
- (c) make the necessary submissions and file the requisite notes, writs of summons, statements of defence, notices, applications, and other written pleadings as circumstances require.

(2) The advocate or legal procurator shall remain responsible for a cause assigned to him as aforesaid, until the same has been finally disposed of, even though the period of his appointment may have expired.”.

**340.** Sections 926, 927 and 928 of the principal law shall be repealed.

Repeal of sections 926, 927 and 928 of the principal law.

**341.** Paragraph (d) of section 929 of the principal law shall be substituted by the following new paragraph:

Amendment of section 929 of the principal law.

“(d) in the interest of any commercial partnership registered or established under the Commercial Partnerships Ordinance or any other law substituting the same Ordinance or any body of persons or other organization if the person or any of the persons vested with the representation thereof is or are absent from Malta or where there is or are no such person or persons, or enough persons vested with such representation.”.

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**342.** The words “a copy of such banns” in subsection (2) and the words “a copy of the banns” in subsection (3) of section 931 of the principal law shall be substituted by the words “a copy of the banns together with a copy of the pleading or a summary thereof”.

Amendment of section 931 of the principal law.

**343.** The words “four days” wherever they occur in subsection (1) of section 932 and in section 934 of the principal law shall be substituted by the words “six days”.

Amendment of sections 932 and 934 of the principal law.

**344.** Section 936 of the principal law shall be substituted by the following section:

Substitution of section 936 of the principal law.

“Duties of curators.

**936.** (1) The curators are bound to use their best diligence for the benefit of the interest which they represent. The duties of the curators shall include the following:

(a) to fully inquire as to the rights of the persons whom they represent and to identify these rights;

(b) to take all the necessary measures to safeguard the aforesaid rights;

- (c) to contact forthwith the person or persons whom they represent, if the address is known; if unknown, they are to take all possible measures to find out their address including that of publishing, with the authority of the court, a notice in a newspaper of the place where last known;
  - (d) to inform the person or persons whom they represent of any judicial act and of the contents thereof;
  - (e) to obtain all the necessary information to defend the interests of the person or persons whom they represent;
  - (f) to continue looking after the interests of the person or persons whom they represent with regard to pending matters although the period of appointment under sections 89 or 90 may have expired; and
  - (g) to keep the court regularly informed of all actions taken in the execution of their duties.
- (2) The curators shall be liable for damages and interest which may be occasioned by their negligence.”.

Substitution  
of section 938  
of the principal  
law.

**345.** Section 938 of the principal law shall be substituted by the following new section:

“Fees due  
to  
official  
curators.

938. The curators appointed from the rota shall, respectively, be entitled to the necessary expenses incurred by them and to such fees as according to the tariffs in Schedule A annexed to this Code are generally due to the advocate and the legal procurator in a cause:

Provided that the court may at the request of the curator order that a provisional sum be paid on account and in advance to the curator by the person requesting the appointment of such curator to cover expenses which the curator indicates that he would be incurring:

Provided further that where the court removes a curator in case of misconduct or negligence according to the provisions of section 96, the court shall order that no fees as aforesaid be paid to the curator or that only a specified portion thereof be paid, without prejudice to any other right competent to the person he was representing for damages suffered.”.

Substitution of  
section 945 of the  
principal law.

**346.** Section 945 of the principal law shall be substituted by the following new section:

"Duties of registrar in connection with withdrawal of money

945. (1) Where a deposit is withdrawn, wholly or in part, either on account or in full settlement of a debt due under a judgement or other public deed, or under an award made and deposited in accordance with the provisions contained in Title XVI of Book Third of this Code, the registrar shall, on the demand and at the expense of any person interested, enter a note of such withdrawal in the margin of the judgment or award, and transmit a note thereof to the notary or other officer before whom the deed from which the debt arises was received or who is the keeper thereof.

Reductions and cancellations of lawful causes of preference.

(2) Where the debt referred to in subsection (1) of this section is secured by any one of the lawful causes of preference specified under section 1996 of the Civil Code, any interested party may effect the reduction or cancellation of the relative registration in the manner provided in sections 2065 and 2066 of the aforementioned Code. The relative note shall be signed by the person requesting the reduction or cancellation of the registration or by an advocate, a notary or a legal procurator.

Additional pre-requisite for registration.

(3) It shall be a pre-requisite for such registration that an authentic copy of the note of withdrawal referred to in subsection (1) of this section be annexed to the note of reduction or cancellation.”.

**347.** The words “either by libel or” in subsection (1) of section 946 of the principal law shall be substituted by the word “by”.

Amendment of section 946 of the principal law.

**348.** Sections 952 to 959 of the principal law shall be repealed.

Repeal of sections 952 to 959 of the principal law.

**349.** The words “libel or writ of summons” in section 962 of the principal law shall be substituted by the words “writ of summons”.

Amendment of section 962 of the principal law.

**350.** The words “the libel” and the words “the petition” in subsection (2) of section 963 of the principal law shall be respectively substituted by the words “the writ of summons” and “the application of appeal”.

Amendment of section 963 of the principal law.

**351.** Subsection (2) of section 964 shall be substituted by the following new subsection:

Amendment of section 964 of the principal law.

“(2) The registrar shall draw up and publish separate lists of the causes thus pending before each of the Superior Courts, namely, the Civil Court, First Hall, the Court of Appeal and the Constitutional Court. Similar lists shall likewise be drawn up and published by the registrar with regard to causes pending before the Court of Magistrates (Gozo) in its superior jurisdiction.”.

Amendment of  
section 965 of the  
principal law.

**352.** Section 965 of the principal law shall be amended as follows:

(a) paragraphs (b), (c) and (d) thereof shall respectively be renumbered as paragraphs (c), (d) and (e);

(b) the following new paragraph shall be added after paragraph (a) thereof:

“(b) if where the cause has been suspended consequent to the fact that the plaintiff or appellant has not been served with the notice of the day appointed for the trial, none of the parties shall have taken the necessary steps for the hearing of the case to be commenced or proceeded with by the filing of the relative application accompanied by a note indicating the last known address of the plaintiff or appellant, such note to be confirmed on oath by applicant; or”; and

(c) the words “paragraphs (a) or (b) or (c) above” in paragraph (e) as renumbered shall be substituted by the words “paragraphs (a) or (b) or (c) or (d) above”.

Amendment of  
section 970 of the  
principal law.

**353.** The words “withdrawal of the action from the jurisdiction of that court; but no registry fees shall be levied for such discontinuance;” in paragraph (c) of subsection (2) of section 970 of the principal law shall be substituted by the words “stay of the action;”.

Amendment of  
section 1000 of the  
principal law.

**354.** The word “not” in section 1000 of the principal law and in the marginal note thereto shall be deleted.

Addition of new  
section 1003A to  
the principal law.

**355.** The following new section 1003A shall be added after section 1003 of the principal law:—

“Registrar  
shall  
institute  
etc.  
contempt  
proceed-  
ings.

1003A. In any proceedings for contempt of court, the Registrar shall institute, as directed by the court, the necessary proceedings and, for all intents and purposes of law, he shall be considered as the plaintiff.”.

Addition of new  
section 1009A  
to the principal  
law.

**356.** Immediately after section 1009 of the principal law there shall be added the following new section 1009A:

“Proce-  
dure by  
electronic  
means.

1009A. The Minister responsible for justice may make regulations providing for or allowing —

(i) the making of judicial acts by means of electronic equipment;

(ii) the transmission and service by the use of electronic means,

in connection with judicial acts, court proceedings, records and services, and without prejudice to the generality of the forgoing such regulations may provide for —

- (a) the form of judicial acts prepared by electronic means;
- (b) the transmission, filing and service of acts by electronic equipment and for the way in which such service is to be evidenced;
- (c) the storing of court records by electronic means and the mode whereby such records are to be authenticated and how copies thereof are to be made and authenticated;
- (d) the fees that may be charged in connection with the use of such electronic means in relation to the making, transmission, filing or service of judicial acts, and for the making of copies of court records; and
- (e) such other matter consequential or incidental thereto including such transitional provisions as may appear to the Minister to be necessary or expedient in connection therewith.”.

**357. In the principal law wherever they occur:**

General  
amendments  
to the principal  
law.

- (a) the words “Commercial Court” shall be substituted by the words “Civil Court, First Hall ”;
- (b) the words “Court of Magistrates of Judicial Police for the Island of Malta” shall be substituted by the words “Court of Magistrates (Malta)”;
- (c) the words “Court of Magistrates of Judicial Police for the Islands of Gozo and Comino” shall be substituted by the words “Court of Magistrates (Gozo)”;
- (d) the words “Court of Magistrates of Judicial Police” shall be substituted by the words “Court of Magistrates”; and
- (e) the words “registrar of the Superior Courts” shall be substituted by the words “Registrar of Courts”.

**358. In the application, namely on the first page, of form No. 12/No. 13 in Schedule B to the principal law, for the words from “to bring with him the documents.” to “Legal Procurator” there shall be substituted the following:**

Amendment of  
Schedule B to the  
principal law.

“to bring with him the documents referred to hereunder.

Name and address of the person summoned to attend as a witness:

Documents to be brought by him:

Date, time and place where he is to attend:

Advocate

Legal Procurator”.

**359. The following new “Schedule C” shall be inserted after “Schedule B” of the principal law:—**

Introduction of  
new Schedule C to  
the principal law.

**"SCHEDULE C**  
**(Section 249)**

(1) ..... Bank Ltd  
 stands surety *in solidum* with appellant (2) .....  
 ..... for the costs of the appeal entered in the case  
 (3) ..... up to the amount of  
 (4) ..... Maltese liri  
 (Lm ) and this for the purpose and in terms of section 249 of the Code of  
 Organization and Civil Procedure, Cap. 12.

This suretyship shall remain in force up to six months from the date on which the said appeal is decided, withdrawn or deemed deserted and consequently it will lapse if no written demand arising from this suretyship is made within the said period of six months.

Before effecting any payment under this suretyship, the Bank may require the production of the Registrar's declaration stating the date on which the appeal has been decided, withdrawn or deserted as well as of the necessary documentation in support of the claim for payment.

Today the day of 19  
 (5) .....  
 for Bank Ltd

- (1) Name of Bank
- (2) Details of application
- (3) Details of appealed case
- (4) Amount of surety
- (5) Signatory of Bank".

Amendment of  
laws in Schedule.

**360.** The enactments specified in the First Column of the Schedule to this Act shall have effect subject to the amendments specified in the Second Column thereof.

Repeal of  
Judicial Assistants  
and Evidence by  
Affidavit Act,  
Cap. 309.

**361.** (1) The Judicial Assistants and Evidence by Affidavit Act is hereby repealed.

(2) The Judicial Assistants appointed under the Act repealed by subsection (1) of this section shall be deemed to be appointed under the principal law as amended by this Act, and any affidavit or other act made by virtue or under the provisions of that Act, and any other thing made in virtue of that Act, shall remain valid in the same manner as if it were done in virtue or under the provisions of the principal law as amended by this Act.

**362.** (1) Subject to the provisions of the following subsections of this section, the provisions of the principal law as amended by this Act and of the laws referred to in the Schedule to this Act as amended by this Act, shall apply to any procedures before any court or tribunal to which such Code or laws apply, and which on that date are still pending and have not become *res judicata*.

Transitory provisions.

(2) Nothing in subsection (1) of this section shall invalidate any procedure whether written or oral which may have been made before the coming into force of this Act and which was valid according to the law as in force on the date when made.

(3) The provisions of sections 156, 157 and 158 of the principal law as amended by this Act, relative to the trial of causes, the establishment of issues of fact and of law, and the production of evidence, shall be applied by the courts also in relation to causes already pending before the courts on the date of the coming into force of this Act with such modifications as the court may in the circumstances deem necessary, and where a cause is on that date pending before the judicial assistant or the judicial referee for any reason, the court shall for the purposes of this subsection make such orders as it may deem necessary to ensure that if the case is continued before the referee or judicial assistant, the same procedures in the said sections 156, 157 and 158 shall *mutatis mutandis* be applied by the judicial assistant or the judicial referee as the case may be:

Provided that no appeal shall lie from any order given by a court under this subsection except together with an appeal on the merits of the case.

(4) Any warrant issued prior to the coming into force of this Act shall continue to be valid notwithstanding anything contained in this Act, but shall only be renewed on its expiry if such warrant could be issued or extended in accordance with the principal law as amended by this Act:

Provided that any warrant of impediment of departure of any person shall not remain in force later than one calendar month after the coming into force of this Act.

(5) Any court which was seized of a case before the coming into force of this Act shall remain competent to deal with such case even though such court may, in accordance with the Code as amended by this Act not be competent *ratione valoris*.

(6) Causes which on the coming into force of this Act are pending before the Commercial Court or before the Court of Magistrates (Gozo) in its superior commercial jurisdiction, shall on the coming into force of this Act, be continued before the Civil Court, First Hall, and the Court of Magistrates (Gozo) in its superior jurisdiction respectively.

(7) The amendments made by this Act to the Criminal Code shall also apply to any proceedings pending before any court of criminal jurisdiction on the date of the coming into force of this Act and notwithstanding any judgment thereon which has not become *res judicata*.

(8) In any enactment, any reference to the "Commercial Court" and to the "Registrar of the Superior Courts" shall be deemed respectively to be a reference to the "Civil Court, First Hall" and to the "Registrar of Courts".

Cap. 340.

(9) The Minister responsible for justice may by regulations amend any enactment in such manner that any reference therein to the Courts, the Registrar and any officer of the courts appearing therein in conformity with their designation in the principal law or any other enactment as in force immediately before the coming into force of this Act, will be substituted by a reference to the same as their designation is amended by this Act or by the Inferior Courts (Designation) Act.

(10) Where on the coming into force of this Act a court has pending before it any case which has been so pending for a period of ten years, it shall give priority to the hearing of that case so that the same is decided and determined not later than one year from the coming into force of this Act.

(11) (a) The provisions of sections 466, 467 and 468 of the principal law as in force prior to the coming into force of this Act shall continue to apply in respect of any warrant of seizure obtained thereunder subject to the provisions of this section.

(b) Any warrant of seizure obtained by the Head of a Government Department under the provisions of section 466 of the principal law as in force prior to the coming into force of this Act shall be rescinded by the Court if, upon application filed by the debtor within a period of thirty days from the coming into force of this Act or from the day when the debtor is first served with the said warrant or with a judicial act based thereon and containing reference thereto, whichever is the later, the Court is satisfied that the claim of the Head of the Government Department is unfounded on the merits.

(12) Notwithstanding any provision of the principal law as amended by this Act, when the Court shall have appointed an advocate as a referee in order to hear evidence and report about a case without the assistance of a technical expert and, upon the coming into force of this Act the said report shall not have yet been filed, the Court shall:

(i) revoke the appointment of the referee and proceed to hear the case itself according to the provisions of paragraph (b) of subsection (2) of section 202, introduced by virtue of section 103 of this Act; or

(ii) allow the referee to retain his appointment, in which case the hearing of evidence before the referee shall be regulated by the provisions of paragraph (c) of subsection (2) of section 202 of the principal law as introduced by section 103 of this Act subject to those variations as the Court may deem fit in the circumstances, but provided that the Court shall ensure that the time limits established in the said paragraph are, as far as possible, adhered to.

SCHEDULE

(Section 360)

First Column  
Enactment

Second Column  
Extent of Amendment

Ecclesiastical Courts  
(Constitution and  
Jurisdiction) Law  
(Cap. 1).

Subsection (2) of section 4 thereof shall be deleted.

Criminal Code  
(Cap. 9).

1. Section 369 thereof shall be substituted by the following:

"Duties  
of  
Registrar.  
Cap. 12.

"Functions  
of registrar  
in the  
Criminal  
Court.  
Cap. 12.

369. In the Court of Magistrates, the functions of registrar may be performed by any officer mentioned in paragraph (a) of subsection (2) of section 57 of the Code of Organization and Civil Procedure as may be assigned for the purpose by the Registrar.”.

2. Section 496 thereof shall be substituted by the following:

496. (1) The functions of the registrar in the Criminal Court may be performed by any officer mentioned in paragraph (a) of subsection (2) of section 57 of the Code of Organization and Civil Procedure.

(2) The functions of a marshal may in the Criminal Court be performed by any of the executive officers of the Courts mentioned in subsection (1) of section 67 of the Code of Organization and Civil Procedure.”.

3. Section 514 thereof shall be substituted by the following:

Functions  
of registrar  
in the  
Court of  
Criminal  
Appeal.

514. (1) The functions of the registrar in the Court of Criminal Appeal may be performed by any officer mentioned in paragraph (a) of subsection (2) of section 57 of the Code of Organization and Civil Procedure.

(2) The functions of a marshal may in the Court of Criminal Appeal be performed by any of the executive officers of the Courts mentioned in subsection (1) of section 67 of the Code of Organization and Civil Procedure.”.

First Column Enactment	Second Column Extent of Amendment
Conditions of Employment (Regulation) Act (Cap. 135).	<p>Section 21 thereof shall be substituted by the following new section:</p> <p style="margin-left: 40px;">21. (1) Wages payable by an employer to an employee may not be assigned.</p> <p style="margin-left: 40px;">(2) Wages payable by an employer to an employee may not be attached save according to the provisions of sections 381, 382 and 849 of the Code of Organization and Civil Procedure.</p> <p style="margin-left: 40px;">(3) The provisions of subsections (1) and (2) of this section shall not apply where the assignment or attachment is intended to ensure the payment of maintenance due to the wife, or to a minor child or to an incapacitated child or to an ascendant of the employee.”.</p>
Agricultural Leases (Reletting) Act (Cap. 199).	<p>1. The words “any other provision of the said Code” shall be inserted after the words “Civil Procedure” in section 16 thereof.</p> <p>2. The words “of Title X of Book Third” in section 16 thereof shall be deleted.</p>
Immigration Act (Cap. 217).	The words “of a warrant of impediment of departure or of any other warrant” in section 17 and in subsection (3) of section 22 thereof shall be respectively substituted by the words “of any warrant”.
Malta Armed Forces Act (Cap. 220).	<p>1. Subsection (4) of section 173 thereof shall be substituted by the following subsection:</p> <p style="margin-left: 40px;">“(4) Reference in this section to the registrar of the court include reference to any of the officers mentioned in paragraphs (a) of subsection (2) of section Cap. 12. 57 of the Code of Organization and Civil Procedure.”.</p> <p>2. The words “civil, criminal or commercial” in subsection (3) of section 174 thereof shall be substituted by the words “civil or criminal”.</p>
Housing Authority Act (Cap. 261).	Section 21 thereof shall be deleted.
Industrial Relations Act (Cap. 266).	<p>1. The words “section 743” in subsection (1) of section 29 of the English text thereof shall be substituted by the words “section 734”.</p>
Members of Parliament Pensions Act (Cap. 280).	The words “subsection (2)” in subsection (1) of section 8 thereof shall be substituted by the words “subsection (3)”.

First Column Enactment	Second Column Extent of Amendment
Commercial Code (Cap. 13).	4. In paragraph (d) of subsection (1) of section 520 thereof, for the words “109, 113 and 114;” there shall be substituted the words “subsection (1) of section 109, sections 113 and 114;”.
Maintenance Orders (Facilities for Enforcement) Ordinance (Cap. 48).	5. In subsection (1) of section 604 thereof, the words “the Registrar of the Inferior Courts,” shall be deleted.
Notarial Profession and Notarial Archives Act (Cap. 55).	Subsection (3) of section 47 thereof shall be deleted.
Traffic Regulation Ordinance (Cap. 65).	The words “Registrar of the Superior Courts” in section 3 thereof shall be substituted by the words “Registrar of Courts”.
Reletting of Urban Property (Regulation) Ordinance (Cap. 69).	The words “Judges of the Superior Court in subsection (2) of section 110 shall be deleted.
Witnesses (Fees) Ordinance (Cap. 108).	Subsection (3) of section 14 thereof shall be substituted by the following new subsection:
	(3) From the decision of the Authority an appeal shall lie to the Court of Appeal. Such appeal shall be entered by an application within four days from the date on which the decision was given. The application shall be served to the Authority which shall file an answer thereto within four days. The pleadings on any such appeal shall be deemed to be closed with the answer of the Authority, or at the expiration of the time for such answer.”.
	Section 36 thereof shall be substituted by the following new section:
	“Legal aid. Cap. 12. 36. The provisions of Title X of Book Third of the Code of Organization and Civil Procedure and any other provisions of the said Code relating to the benefit of legal aid shall apply to parties to proceedings before the Board.”.
	1. The words “but does not include an <i>ex parte</i> witness in terms of sections 563A and 563B of the Code of Organization and Civil Procedure” shall be added immediately at the end of the definition of the expression “witness” in section 2 thereof.
	2. The following new section shall be added after section 10 thereof:
	“Minister may amend, substitute or make additions to the Schedules. 11. The Minister responsible for justice may by regulations amend, substitute or make additions to the Schedules to this Ordinance.”.

**First Column  
Enactment**

**Electro-Magnetic  
Recording of  
Proceedings Act  
(Cap. 284).**

**Second Column  
Extent of Amendment**

1. The definition of the term "tapes" in section 2 thereof shall be substituted by the following new definition:

"“tapes” means the tapes or other objects on which proceedings have been recorded by any electro-magnetic means and includes also a master tape;".

2. The following new section shall be added after section 6 thereof:

"Copies of  
tapes. 7. (1) The Registrar may give copies of the originals of the tapes on payment of such fee prescribed as the Minister responsible for justice may by regulations prescribe.".

**Permanent Commission  
Against Corruption  
Act (Cap. 326).**

The words "subsection (3)" in subsection (3) of section 9 thereof shall be substituted by the words "subsections (3) to (6)".

**Passed by the House of Representatives at Sitting No. 448 of the 26th July, 1995.**

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