

## Abbozz ta' Liġi msejjah

*Att biex jemenda l-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, il-Kodiċi Ċivili u diversi liġijiet li għandhom x'jaqsmu mal-kiri ta' proprjetà immobbli*

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

**1.** (1) It-titolu fil-qosor ta' dan l-Att huwa l-Att tal-2009 li jemenda Diversi Liġijiet li jirrigwardaw Materji Ċivili (Emenda Nru. 2). Titolu fil-qosor.

(2) Id-disposizzjonijiet ta' dan l-Att għandhom jidhlu fis-seħħ f'dik id-data li l-Ministru responsabbli għall-ġustizzja jista' b'avviż fil-Gazzetta jstabilixxi, u dati differenti jistgħu jiġu hekk stabbiliti għal disposizzjonijiet differenti jew għal għanijiet differenti ta' dan l-Att.

### TAQSIMA I

**2.** Din it-Taqsima temenda l-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, u għandha tinqara u tinftiehem haġa waħda mal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, hawnhekk iżjed 'il quddiem f'din it-Taqsima msejjah "il-Kodiċi". Emendi tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili. Kap.12.

**3.** Minnufih wara l-proviso tal-artikolu 285(1) għandu jizjed dan il-proviso ġdid li ġej: Emenda tal-artikolu 285 tal-Kodiċi.

Kap. 345. "Izda wkoll, fir-rigward ta' ishma jew titoli ta' kreditu irregistrati f' depożitarju ċentrali tat-titolu, kif imfisser skont l-artikolu 2 tal-Att dwar is-Swieq Finanzjarji, dak id-depożitarju ċentrali tat-titoli għandu wkoll jiġi notifikat b'mandat ta' qbid u għandu jkollu effett biss jekk ma jkun hemm l-ebda ordni ta' trasferiment jew *netting* li taffettwa l-imsemmija ishma jew titoli mdaħħla f'sistema ta' saldu tat-titoli, awtorizzata skont l-artikolu 34 tal-Att dwar il-Bank Ċentrali ta' Malta, qabel in-notifika tal-mandat lid-depożitarju."

Kap. 204.

Emenda tal-artikolu 420 tal-Kodiċi.

**4. Minnufih wara s-subartikolu (2) tal-artikolu 420 tal-Kodiċi għandu jiżdied dan is-subartikolu ġdid li ġej:**

"(3) Il-konkors bejn il-kredituri għandu jiġi ggradwat kif ġej:

- (a) l-ispejjeż ġudizzjarji li jsiru fil-bejgħ ta' immobbli u l-ispejjeż ġudizzjarji li jsiru fit-taqsim tar-rikavat;
  - (b) kull talba tal-impjegati fir-rigward tal-massimu stabbilit bil-liġi tal-paga kurrenti pagabbli mill-prinċipal lil dawk l-impjegati skont l-artikolu 20 tal-Att dwar l-Impiegi u r-Relazzjonijiet Industrijali;
  - (ċ) it-talba tad-Direttur Ġenerali (Sigurtà Soċjali) jew tal-Kummissarju tat-Taxxi Interni għal xi ammont dovut bħala kontribuzzjoni tal-Ewwel Klassi jew tat-Tieni Klassi taht l-artikolu 116(3) tal-Att dwar is-Sigurtà Soċjali;
  - (d) it-talba tal-Kummissarju tat-Taxxi Interni għal xi ammont dovut bħala tnaqqis ta' taxxa mill-*income* (PAYE) skont l-artikolu 23(11) tal-Att dwar l-Amministrazzjoni tat-Taxxa;
  - (e) it-talba tal-Kummissarju tat-Taxxa fuq il-Valur Miżjud skont l-artikolu 59(2) tal-Att dwar it-Taxxa fuq il-Valur Miżjud;
- Kap. 452.
- Kap. 318.
- Kap. 372.
- Kap. 406.

(f) xi talba fiskali oħra meta l-ligi ttiprovdi illi dawk it-talbiet ikunu ggradwati bi preferenza fuq kull talba oħra minkejja d-disposizzjoni ta' xi ligi oħra;

(g) xi privileggi jew ipoteki rreġistrati fir-Registru Pubbliku jew fir-Registru tal-Artijiet kif ikun il-każ;

(h) xi talba oħra:

Iżda jekk l-assi tal-fallut jinkludu oġġetti fuq liema t-taxxi tal-importazzjoni ma jkunux tħallsu, il-Kontrullur tad-Dwana għandu jigi innotifikat u kull talba tiegħu dwar taxxi bħal dawn għandhom jiggradwaw qabel dawk tal-kredituri l-oħra."

## TAQSIMA II

5. Din it-Taqsima temenda il-Kodiċi Ċivili u għandha tinqara u tinftiehem haġa waħda mal-Kodiċi Ċivili, hawnhekk iżjed 'il quddiem f'din it-Taqsima msejjaħ "il-Kodiċi".

Jemenda l-Kodiċi Ċivili. Kap. 16.

6. Minnufih wara l-artikolu 1359 tal-Kodiċi għandu jidhol dan il-proviso ġdid li ġej:

"Iżda fil-każ meta il-kapparra tkun tħallset fuq wegħda ta' bejgħ ta' proprjetà immobbli, il-parti li tkun qed titlob l-ħlas skont dan l-artikolu, kif ikun il-każ, għandha, mingħajr il-bżonn ta' xi azzjoni jew formalità oħra, qabel jagħlaq iż-żmien stipulat tal-wegħda ta' bejgħ, tinnotifika lill-parti l-oħra għal ħlas relattiv tal-kapparra."

Emenda tal-artikolu 1359 tal-Kodiċi.

7. Fl-artikolu 1531B tal-Kodiċi il-kliem ", u 1531L" għandhom jithassru.

Emenda tal-artikolu 1531B tal-Kodiċi.

8. L-artikolu 1531Ċ tal-Kodiċi għandu jigi emendat kif ġej:

Emenda ta l-artikolu 1531Ċ tal-Kodiċi.

(a) fis-subartikolu (1) tiegħu, minflok il-kliem "ir-rata tal-kera mill-1 ta' Jannar, 2010" għandom jidhlu il-kliem "ir-rata tal-kera mill-ewwel ħlas tal-kera dovuta wara l-1 ta' Jannar, 2010"; u

(b) fis-subartikolu (2) tiegħu minflok il-kliem "fl-1 ta' Jannar, 2013" għandhom jidhlu il-kliem "fid-data tal-ewwel ħlas tal-kera dovut wara l-1 ta' Jannar, 2013".

Emenda tal-artikolu 1531D tal-Kodiċi.

**9.** L-artikolu 1531D tal-Kodiċi għandu jiġi emendat kif ġej:

(1) fis-subartikolu (1) tiegħu:

(a) il-kliem "għandu fl-1 ta' Jannar, 2010 jiġi miżjud" għandhom jiġu sostitwiti bil-kliem "għandu mid-data tal-ewwel hlas tal-kera dovut wara l-1 ta' Jannar, 2010 jiġi miżjud"; u

(b) il-kliem "kull sena kull l-ewwel ta' Jannar" għandhom jiġu sostitwiti bil-kliem "mid-data tal-ewwel hlas tal-kera dovut wara l-1 ta' Jannar ta' kull sena".

(2) fis-subartikolu (2) tiegħu:

(a) il-kliem "Il-kera fl-1 ta' Ġunju, 2013" għandhom jiġu sostitwiti bil-kliem "Il-kera mid-data tal-ewwel hlas tal-kera dovut wara l-1 ta' Jannar, 2014"; u

(b) il-kliem "mill-1 ta' Jannar, 2014" għandhom jiġu sostitwiti bil-kliem "mill-ewwel hlas tal-kera dovut wara l-1 ta' Jannar, 2014".

Emenda tal-artikolu 1531E tal-Kodiċi.

**10.** Fl-artikolu 1531E tal-Kodiċi il-kliem "ta' kirja li tkun saret qabel l-1 ta' Jannar, 2010" għandom jiġu sostitwiti bil-kliem "ta' fond mikri qabel l-1 ta' Jannar, 2010".

Emenda tal-artikolu 1531M tal-Kodiċi.

**11.** Fl-artikolu 1531M tal-Kodiċi minnufih wara il-kliem "fir-rigward ta' kazini" għandhom jidhlu il-kliem "u skont id-disposizzjonijiet tal-artikolu 1531H fir-rigward ta' garaxxijiet u villegġatura".

### TAQSIMA III

Jemenda l-Ordinanza li Tneħhi l-Kontroll tad-Djar. Kap. 158

**12.** Din it-Taqsima temenda l-Ordinanza li Tneħhi l-Kontroll tad-Djar u għandha tinqara u tinftiehem haġa waħda mal-Ordinanza li Tneħhi l-Kontroll tad-Djar, hawnhekk iżjed 'il quddiem f'din it-Taqsima msejjha "l-Ordinanza".

Ihassar l-artikolu 11 tal-Ordinanza.

**13.** L-artikolu 11 tal-Ordinanza għandu jiġi mhassar: izda dan l-imsemmi taħsir m'għandu jaffettwa l-ebda haġa magħmula jew il-proċedimenti pendenti fir-rigward ta' xi haġa magħmula qabel l-imsemmi taħsir.

Emenda tal-artikolu 12 tal-Ordinanza.

**14.** Minnufih wara s-subparagrafu (i) tas-subartikolu (2) tal-artikolu 12 tal-Ordinanza għandu jizded dan is-subparagrafu ġdid li ġej:

"(ia) sugġett għall-kondizzjonijiet stabbiliti fis-

subartikolu 5(3)(b); u".

**15.** Fis-subartikolu (2) tal-artikolu 12A tal-Ordinanza il-kliem "skond l-artikolu 12(2)(i) u (ii)" għandhom jiġu sostitwiti bil-kliem "skont l-artikolu 12(2)(i), (ia) u (ii)".

Emenda tal-artikolu 12A tal-Ordinanza.

#### TAQSIMA IV

**16.** Din it-Taqsima temenda l-Att tal-2009 biex jemenda l-Kodiċi Ċivili u għandha tinqara u tinftiehem haġa waħda mal-imsemmi Att, hawnhekk iżjed 'il quddiem f'din it-Taqsima msejjah "l-Att li jemenda".

Jemenda l-Att X tal-2009.

**17.** L-artikolu 39 tal-Att li jemenda għandu jiġi emendat kif ġej:

Emenda tal-artikolu 39 tal-Att li jemenda.

(1) minnufih wara is-subartikolu (4) tiegħu għandu jiżdied dan is-subartikolu ġdid li ġej:

"(4A) Mill-ewwel ħlas tal-kera dovut wara l-1 ta' Jannar, 2010 iż-żieda fil-kera minħabba l-inflazzjoni ta' djar ta' abitazzjoni li huma sugġetti għal kera li tinholq bl-artikoli 5, 12 jew 12A tal-Ordinanza li Tneħhi l-Kontroll tad-Djar għandha, minkejja d-disposizzjonijiet tal-artikoli 5(3)(ċ) u 12(2)(i) tal-imsemmija Ordinanza, tkun irregolata esklussivament bl-artikolu 1531Ċ tal-Kodiċi Ċivili".

Kap. 158.

Kap. 16.

(2) Fis-subartikolu (7) tiegħu il-kliem "it-tiġdid ta' kera fl-1 ta' Ġunju, 1995 jew wara dik id-data" għandhom jiġu sostitwiti bil-kliem "it-tiġdid ta' kera wara l-1 ta' Ġunju, 1995" u il-kliem "ma għandux jitqies li jkun kiri li ġie miftiehem fl-1 ta' Jannar, 2010, jew wara dik id-data." għandhom jiġu sostitwiti bil-kliem "ma għandux jitqies li jkun kiri li ġie miftiehem fl-1 ta' Jannar, 2010, jew wara dik id-data:". Minnufih wara għandu jiżdied dan il-proviso ġdid li ġej:

Kap. 158.

" Izda biex jiġi evitat d-dubju, f'dan is-subartikolu u fl-artikolu 16 tal-Ordinanza li Tneħhi l-Kontroll tad-Djar, kif ikun il-każ, il-kliem "it-tiġdid ta' kera wara l-1 ta' Ġunju, 1995" għandhom jinftiehem bħala li jagħmlu referenza biss għal kera li jibda qabel l-1 ta' Ġunju, 1995, u imġedded wara dik id-data, u l-kliem "it-tiġdid ta' kera wara l-1 ta' Jannar, 2010 jew wara dik id-data" għandhom jinftiehem bħala li jagħmlu referenza biss għal kera li jibda qabel l-1 ta' Jannar, 2010 u mġedded wara dik id-data".

## TAQSIMA V

Jemenda l-Ordinanza li Tirregola t-Tiġdid tal-Kiri ta' Bini.  
Kap. 69.

**18.** Din it-Taqsima temenda l-Ordinanza li Tirregola t-Tiġdid tal-Kiri ta' Bini u għandha tinqara u tinftiehem haġa waħda mal-Ordinanza li Tirregola t-Tiġdid tal-Kiri ta' Bini, hawnhekk iżjed 'il quddiem f'din it-Taqsima msejja "l-Ordinanza".

**19.** Fit-tifsira tal-kelma "il-Bord" fl-artikolu 2 tal-Ordinanza il-kliem " "il-Bord" tfisser" għandhom jiġu sostitwiti bil-kliem " "il-Bord" u "il-Bord tal-Kera ifissru" ".

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## Għanijiet u Raġunijiet

L-għanijiet u r-raġunijiet ewlenin ta' dan l-Abbozz huma l-kjarifika u r-riforma ulterjuri tal-liġijiet li għandhom x'jaqsmu mal-kiri ta' proprjetà immobbli.

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**A Bill  
entitled**

*An Act to amend the Code of Organization and Civil Procedure,  
Civil Code and various laws relating to the lease of immovable  
property*

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) The short title of this Act is the Various Laws (Civil Matters) (Amendment No.2) Act, 2009. Short title.

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

**PART I**

**2.** This Part of this Act amends the Code of Organization and Civil Procedure and it shall be read and construed as one with the Code of Organization and Civil Procedure, hereinafter in this Part referred as "the Code". Amends the Code of Organization and Civil Procedure. Cap. 12.

**3.** Immediately after the proviso to article 285(1) there shall be added the following new proviso: Amends article 285 of the Code.

Cap. 345. "Provided further that, in respect of any shares or securities registered at a central securities depository, as defined in terms of article 2 of the Financial Markets Act, a warrant of seizure shall also be served on such central securities depository and shall take effect only if no transfer order or netting affecting the said shares or securities shall have been entered in a securities settlement system, authorized in terms of article 34 of the Central Bank of Malta Act, prior to the service of the warrant to the depository."

Cap. 204.

Amends article 420 of the Code.

**4.** Immediately after subarticle (2) of article 420 of the Code there shall be added the following new subarticle:

"(3) The competing creditors shall be ranked as follows:

- (a) judicial costs incurred in the sale of any immovable and judicial costs incurred in the distribution of the proceeds;
- (b) any claims by any employees in respect of the maximum as established by law of the current wage payable by the employer to such employees in terms of article 20 of the Employment and Industrial Relations Act;
- Cap. 452. (c) the claim of the Director General (Social Security) of the Commissioner of Inland Revenue of any amount due by way of any Class One or Class Two contribution under article 116(3) of the Social Security Act;
- Cap. 318. (d) the claim of the Commissioner of Inland Revenue of any amount by way of tax deducted from income (P.A.Y.E.) in terms of article 23(11) of the Income Tax Management Act;
- Cap. 372.

Cap. 406.

(e) the claim of the Commissioner of Value Added Tax in terms of article 59(2) of the Value Added Tax Act;

(f) any other fiscal claim where the law provides that such claims shall rank in preference to all other claims notwithstanding the provision of any other law;

(e) any privileges and hypothecs registered in the Public Registry or the Land Registry as the case may be;

(f) any other claim:

Provided that where the assets of the bankrupt include objects over which taxes on importation have not been paid, the Comptroller of Customs shall be notified and any claim made by him for such taxes on importation shall rank prior to the other creditors."

## PART II

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

Amends the Civil Code. Cap. 16.

**6.** Immediately after article 1359 of the Code there shall be inserted the following new proviso:

"Provided that in the case where an earnest has been paid on a promise of sale on immovable property, the party claiming the payment in accordance with this article, as the case may be, shall, without the need of any other action or any other formality, before the expiration of the stipulated period of the promise of sale, notify the other party for the payment of the relative earnest."

Amends article 1359 of the Code.

**7.** In article 1531B of the Code for the words ", 1531L of this Code shall apply" there shall be substituted the words "of this Code shall apply".

Amends article 1531B of the Code.

**8.** Article 1531C of the Code shall be amended as follows:

Amends article 1531C of the Code.

(a) in sub-article (1) thereof, for the words "the rate of

the rent from 1st January, 2010" there shall be substituted the words "the rate of the rent as from the first payment of rent due after the 1st January, 2010"; and

(b) in sub-article (2) thereof for the words "on the 1st January 2013" there shall be substituted the words "on the date of the first payment of rent due after the 1st January, 2013".

Amends article  
1531D of the  
Code.

**9.** Article 1531D of the Code shall be amended as follows:

(1) in sub-article (1) thereof:

(a) for the words "shall on the 1st January, 2010 be increased" there shall be substituted the words "shall as from the date of the first payment of rent due after the 1st January, 2010 be increased"; and

(b) for the words "on the 1st June of each year" there shall be substituted the words "as from the date of the first payment of rent due after the 1st January of each year".

(2) in sub-article (2) thereof:

(a) for the words "The rent as at 1st January, 2014" there shall be substituted the words "The rent as from the first payment of rent due after the 1st January, 2014"; and

(b) the words "1st June, 2013" shall be substituted by the words "the first payment of rent due after the 1st January, 2014".

Amends article  
1531E of the  
Code.

**10.** In article 1531E of the Code the words "of the lease which would have taken place prior to 1st January, 2010" shall be substituted by the words "of a tenement leased prior to 1st January, 2010".

Amends article  
1531M of the  
Code.

**11.** In article 1531M of the Code immediately after the words "relating to clubs" there shall be inserted the words "and subject to the provisions of article 1531H with regard to garages and summer residences".

Amends article  
1540 of the  
Code.

**12.** In the English version only of sub-article (2) of article 1540 of the Code for the words "excluding building" there shall be substituted the words "excluding, in the case of buildings,".

### PART III

**13.** This Part of this Act amends the Housing (Decontrol) Ordinance and it shall be read and construed as one with the Housing (Decontrol) Ordinance, hereinafter in this Part referred to as "the Ordinance".

Amends the Housing (Decontrol) Ordinance. Cap. 158

**14.** Article 11 of the Ordinance shall be repealed: provided that the said repeal shall not affect anything done or any proceedings pending in respect of anything done prior to the said repeal.

Deletes article 11 of the Ordinance.

**15.** Immediately after sub-paragraph (i) of sub-article (2) of article 12 of the Ordinance there shall be added the following new sub-paragraph:

Amends article 12 of the Ordinance.

"(ia) subject to the conditions laid down in sub-article 5(3)(b); and".

**16.** In sub-article (2) of article 12A of the Ordinance the words "according to article 12(2)(i) and (ii)" shall be substituted with the words "according to article 12(2) (i), (ia) and (ii)".

Amends article 12A of the Ordinance.

### PART IV

**17.** This Part of this Act amends the Civil Code (Amendment) Act, 2009 and it shall be read and construed as one with the said Act, hereinafter in this Part referred to as "the amending Act".

Amends Act X of 2009.

**18.** Article 39 of the amending Act shall be amended as follows:

Amends article 39 the amending Act.

(1) immediately after sub-article (4) thereof shall be added the following new sub-article:

"(4A) As from the first payment of rent due after the 1st January, 2010 the increase in rent on the ground of inflation of dwelling houses which are subject to a lease created by article 5, 12 or 12A of the Housing (Decontrol) Ordinance shall, notwithstanding the provisions of articles 5(3)(c) and 12(2)(i) of the said Ordinance be regulated exclusively by article 1531C of the Civil Code".

Cap. 158

Cap. 16

(2) In sub-article (7) thereof the words "the renewal of a lease after the 1st June, 1995 or after that date" shall be

substituted with the words "the renewal of a lease after the 1<sup>st</sup> June, 1995" and the words "shall not be considered as a lease agreed on the 1st January, 2010 or after that date." shall be substituted with the words "shall not be considered as a lease agreed on the 1st January, 2010 or after that date." And immediately thereafter shall be added the following new proviso:

Cap. 158.

"Provided that for the avoidance of doubt, in this sub-article and in article 16 of the Housing (Decontrol) Ordinance, as the case may be, the words "the renewal of a lease after the 1st June, 1995" shall be construed as referring only to a lease commenced before the 1st June, 1995, and renewed after the said date, and the words "the renewal of a lease on the 1st January, 2010 or after that date" shall be construed as referring only to a lease commenced before the 1st January, 2010 and renewed after that date".

## **PART V**

Amendment to  
the Reletting of  
Urban Property  
(Regulation)  
Ordinance.  
Cap. 69

**19.** This Part of this Act amends the Reletting of Urban Property (Regulation) Ordinance and shall be read and construed as one with the Reletting of Urban Property (Regulation) Ordinance, hereinafter in this Part referred to as "the Ordinance".

**20.** In the definition of the expression "the Board" in article 2 of the Ordinance the words " "the Board" means" shall be substituted by the words " "the Board" and "the Rent Board mean" " .

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## **Objects and Reasons**

The main object and reason of this Bill is the clarification and further reform of the laws relating to the lease of immovable property.

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