L.N. 139 of 2004

CODE OF ORGANIZATION AND CIVIL PROCEDURE (CAP. 12)

Civil Procedure (Regulation of Registries, Archives and Functions of Director General (Courts) and Other Court Executive Officers) Regulations, 2004

IN virtue of the powers conferred by articles 27, 28, 57, 58, 65, 66, 67, 69, 109 and 1009B of the Code of Organisation and Civil Procedure, the Deputy Prime Minister and Minister for Justice and Home Affairs, in concurrence with the Prime Minister and Minister of Finance, has made the following regulations:-

Citation and commencement.

1. (1) The title of these regulations is the Civil Procedure (Regulation of Registries, Archives and Functions of Director General (Courts) and Other Court Executive Officers) Regulations, 2004.

(2) These regulations shall come into force on the 30th day of March, 2004.

Interpretation.

2. (1) For the purposes of these regulations:

Cap. 12.

"Code" means the Code of Organization and Civil Procedure; and

"corporate matters" includes the matters connected with:

(a) human resources, including, but not exclusively related to, the recruitment, placement and dismissal of personnel, matters related to discipline, leave, employment and industrial relations, and the keeping of employment records;

(b) finances, including but not exclusively related to, the keeping of proper financial records, inventory control, acquisitions and disposals and financial procedures; and

(c) general administrative matters, including, but not exclusively related to, the maintenance and improvement of buildings and spaces within the Courts of Justice

Division, security matters, the maintenance of machinery, information and communication technology, services required by courts and tribunals, and the compiling of statistics;

"tribunal" includes such tribunal, board or commission established by law or such public officer whose office is established by law which, in terms of the respective legislation establishing such tribunals, boards, committees and public offices, uses the services of a registry managed by the Director General (Courts) or by the Director, Gozo Courts and Tribunals, as the case may be.

Courts of Justice Division and Functions of Director General (Courts).

3. (1) There shall continue to be in Malta a division of government styled "Courts of Justice Division" which shall be headed by the Director General (Courts).

(2) The Director General (Courts) shall perform his functions either personally or through any court executive officer listed in paragraphs (a) and (c) to (n) (both inclusive) of sub-regulation (2) of regulation 8 of these regulations.

(3) The Director General (Courts) shall be responsible for the management and administration of the Courts of Justice Division, including the registries, archives and other services. He shall head the Courts of Justice Division and all court executive officers performing duties in the Courts of Justice Division shall, in the execution of their duties, take instruction from, and be answerable to, the Director General (Courts).

(4) Saving the provisions of sub-regulation (2) of this regulation, the Director General (Courts) shall be assisted in the performance of his functions under sub-regulation (3) of this regulation by:

(a) the Director, Civil Courts and Tribunals who shall carry out the duties of Registrar of Civil Courts and Tribunals;

(b) the Director, Legal Services who shall be entrusted with providing legal services to the Courts of Justice Division;

(c) the Director, Finance and Administration who shall be responsible for administrative and corporate services of the Courts of Justice Division.

(5) Without prejudice to sub-regulation (3) of this regulation, the Director General (Courts) shall be responsible for the management of all the space falling under the responsibility of the Courts of Justice Division, including, but without prejudice to the generality of the aforesaid, -

(a) halls used by courts, tribunals, judges, magistrates and other persons;

(b) office space;

(c) meeting rooms; and

(d) other spaces within all the buildings managed by the Courts of Justice Division.

(6) Whenever a court or tribunal requires for the execution of its lawful functions the use of any space as aforesaid, it shall, through the deputy registrar assigned to it or performing duties therewith, request the use of such space to the Director General (Courts) or to such officer whom the Director General (Courts) may delegate for the purpose.

(7) Sittings which are not presided by judges and magistrates shall be held, if there is no space available during the morning, after sittings presided by judges and magistrates come to an end.

(8) When video conferencing facilities are required, the Director General (Courts) or his delegate shall ensure that first preference is given to that court which needs to use a hall having such facilities and any other court or tribunal which usually uses that particular hall or which had already been assigned that hall shall, subject to availability of space, be provided with an alternative hall.

(9) All halls in the Courts of Justice Division buildings shall be numbered.

Gozo Courts and Functions of the Director General (Courts).

4. (1) There shall continue to be in Gozo a department of government styled "Gozo Courts" which shall be headed by the Director General (Courts).

(2) The Director General (Courts) and Tribunals shall perform his functions either personally or through any executive officer of the court listed in paragraphs (b) to (n) (both inclusive) of sub-regulation (2) of regulation 8 of these regulations.

(3) The Director General (Courts) shall be responsible for the management and administration of the Gozo Courts, including the registries, archives and other services. He shall head the Gozo Courts and all court executive officers performing duties in the Gozo Courts shall, in the execution of their duties, take instruction from, and be answerable to, the Director General (Courts).

(4) Without prejudice to sub-regulation (3) of this regulation, the Director General (Courts) shall be responsible for the management of all the space falling under the responsibility of the Gozo Courts, including, but without prejudice to the generality of the aforesaid, -

(a) halls used by courts, tribunals, judges, magistrates and other persons;

(b) office space;

(c) meeting rooms; and

(d) other spaces within all the buildings managed by the Gozo Courts.

(5) Whenever a court or tribunal requires for the execution of its lawful functions the use of any space as aforesaid, it shall, through the deputy registrar assigned to it or performing duties therewith, request the use of such space to the Director General (Courts) or to such officer whom the Director General (Courts) may delegate for the purpose.

(6) Sittings which are not presided by judges and magistrates shall be held, if there is no space available during the morning, after sittings presided by judges and magistrates come to an end.

(7) When video conferencing facilities are required, the Director General (Courts) or his delegate shall ensure that first preference is given to that court which needs to use a hall having such facilities and any other court or tribunals which usually uses that particular hall or which had already been assigned that hall shall, subject to availability of space, be provided with an alternative hall.

(8) All halls in the Gozo Courts building shall be numbered.

Registry in Malta.

5. (1) The courts and tribunals listed in paragraphs (a) to (m) of sub-regulation (3) of this regulation shall have one registry which shall be styled "Registry of the Civil Courts and Tribunals, Malta".

(2) The registry mentioned in sub-regulation (1) of this regulation shall be located in Valletta.

(3) The Registry of the Civil Courts and Tribunals, Malta shall be competent to receive all judicial acts, written pleadings and other documents which in accordance with any law are to be filed in the registry of the following courts and tribunals:

(a) the Constitutional Court;

(b) the Court of Appeal, both in its superior and inferior jurisdiction;

(c) all the Sections of the Civil Court;

(d) the Court of Magistrates (Malta);

(e) the Rent Regulation Board;

(f) the Rural Leases Control Board;

(g) the Land Arbitration Board;

(h) the Partition of Inheritances Tribunal;

(i) the Industrial Tribunal;

(j) the Appeals Board established under the Controlled Companies (Procedure for Liquidation) Act; Cap. 383.

(k) Revising Officers appointed under the General Elections Act; Cap. 354.

(l) the Small Claims Tribunal; and

(m) any other court or tribunal, the judicial acts, written pleadings and other documents whereof shall, in terms of any law, be filed in the Registry of the Civil Courts and Tribunals, Malta.

(4) The Registry of the Civil Courts and Tribunals, Malta may be divided into Sections as the Director General (Courts) may determine and such Registry shall be competent to receive judicial acts, written pleadings and other documents as may be established by law.

Registry in Gozo.

6. (1) The courts and tribunals listed in paragraphs (a) to (i) of sub-regulation (3) of this regulation shall have one registry which shall be styled "Registry of the Civil Courts and Tribunals, Gozo".

(2) The registry mentioned in sub-regulation (1) of this regulation shall be located in Victoria, Gozo.

(3) The Registry of the Civil Courts and Tribunals, Gozo shall be competent to receive all judicial acts, written pleadings and other documents which in accordance with any law are to be filed in the registry of the following courts and tribunals:

(a) the Court of Appeal, in its inferior jurisdiction;

(b) the Court of Magistrates (Gozo) in its superior and inferior jurisdiction;

(c) the Rent Regulation Board;

(d) the Rural Leases Control Board;

(e) Revising Officers appointed under the General Elections Act;

(f) the Small Claims Tribunal; and

(g) any other court or tribunal, the judicial acts, written pleadings and other documents whereof shall, in terms of any law, be filed in the Registry of the Civil Courts and Tribunals, Gozo.

(4) The Registry of the Civil Courts and Tribunals, Gozo may be divided into Sections as the Director, Gozo Courts and Tribunals may determine and such Registry shall be competent to receive judicial acts, written pleadings and other documents as may be established by law.

Functions of Registrars.

7. (1) The Registry of the Civil Courts and Tribunals, Malta shall be under the control of the Registrar, Civil Courts and Tribunals.

(2) The Registry of the Civil Courts and Tribunals, Gozo shall be under the control of the Registrar, Gozo Courts and Tribunals.

(3) The Registrar, Civil Courts and Tribunals and the Registrar, Gozo Courts and Tribunals shall have the direction of, and shall be respectively responsible for, the registries entrusted to them. They shall execute their legal duties in terms of law and shall not, in the execution of their legal duties under the Code or under any other law, act under the direction of any person or authority except for the directions that may be given to them by the courts or tribunals in terms of law.

(4) The Registrar, Civil Courts and Tribunals and the Registrar, Gozo Courts and Tribunals shall be responsible for the archives entrusted to them.

(5) In performing his administrative functions, the Registrar, Civil Courts and Tribunals shall report and be responsible to the Director General (Courts).

Execution of Duties of Registrar.

8. (1) Unless otherwise established by law, the Registrar, Civil Courts and Tribunals and the Registrar Gozo Courts and Tribunals shall execute their duties either personally or through court executive officers.

(2) The court executive officers are:

(a) the Registrar, Civil Courts and Tribunals;

(b) the Registrar, Gozo Courts and Tribunals;

(c) the Assistant Registrars;

(d) the Deputy Registrars;

(e) Judicial Assistants;

(f) Registry Clerks;

(g) Receivers of Acts;

(h) Court Assistants;

(i) Marshals, including Chief and Senior Marshals;

(j) Ushers, including Senior Ushers;

(k) Court Messengers;

(l) Senior Court Recorders, including Court Recorders in Charge;

(m) Judicial Process Servers; and

(n) such other persons whom the Director General (Courts) or the Director, Gozo Courts and Tribunals, as the case may be, may designate for the purpose.

(3) For the purposes of the Commissioners of Oaths Ordinance, the court executive officers mentioned in paragraphs (a) to (e) (both inclusive) and (i) of sub-regulation (2) of this regulation shall be Commissioners of Oaths.

(4) The court executive officers mentioned in paragraphs (a) to (d) (both inclusive) and paragraphs (i) and (j) of sub-regulation (2) of this regulation shall exercise the powers vested by article 68 of the Code.

(5) The provisions of article 59 of the Code shall apply to the court executive officers mentioned in paragraphs (a) to (d) (both inclusive) of sub-regulation (2) of this regulation. Cap. 252.

Days and working hours of the Court Registries.

9. (1) Without prejudice to the provisions of sub-regulation (2) of this regulation, the registries of the courts and tribunals mentioned in regulations 5 and 6 of these regulations shall be open for the filing of judicial acts during the following days and during the following working hours:

Between 1st October and l5th June of every year:
From 9.00 a.m. to 3.00 p.m.

Between 16th June and 30th September of every year:
From 8.00 a.m. to 12 noon.

(2) Subject to the proviso of article 109(2) of the Code of Organization and Civil Procedure, the registry of courts and tribunals mentioned in regulations 5 and 6 of these regulations shall be closed for the filing of judicial acts on Saturdays, on public

holidays as provided in the National Holidays and other Public Ho1idays Act, and on Wednesday and Thursday of Holy Week.

Sittings of courts and tribunals.

10. (1) Courts and tribunals sittings may normally be held from Monday to Friday of every week between 8.00 a.m. and 5.00 p.m. or at such later hour as a court or tribunal may direct except on a Saturday, Sunday or public or national holiday as provided in the National Holidays and other Public Ho1idays Act.

(2) The following days shall be considered as vacations in the Superior Courts and in the Court of Magistrates (Gozo), in its superior jurisdiction, and the courts shall not normally sit on days which are considered as vacations:

(a) from Wednesday in Holy Week to the Wednesday after Easter inclusively;

(b) from the sixteenth of July to the fifteenth of September of each year, inclusively;

(c) from the seventeenth of December to the sixth of January:

Provided that no vacations shall be applicable in the Family Section and the Voluntary Jurisdiction Section of the Civil Court.

(3) The vacations in the inferior courts shall be during the month of August of each year and during the periods mentioned in paragraphs (a) and (c) of sub-regulation (2) of this regulation.

(4) Notwithstanding the provisions of sub-regulations (1), (2) and (3), courts and tribunals may sit on any day and at any time for reasons of urgency as decided by the court or tribunal on the request or with the approval of both parties or for any other reason whatsoever as determined by the court or tribunal provided that the said reason is registered in the records of the case.

Archives.

11. (1) There shall be one archive for all acts presented in the Registry of the Civil Courts and Tribunals, Malta.

(2) There shall be one archive for all acts presented in the Registry of the Civil Courts and Tribunals, Gozo.

(3) The archive established in terms of sub-regulation (1) shall be placed in Malta whilst the archive established in terms of sub-regulation (2) shall be placed in Gozo so however that each

Registrar mentioned in the preceding sub-regulations of this regulation shall endeavour to have as near as possible to the registry mentioned as aforesaid a section with the more recent archives.

(4) Each archive may be divided into Sections as the Registrar, Civil Courts and Tribunals and the Director, Gozo Courts and Tribunals, as the case may be, may determine.

(5) Each Registrar mentioned in sub-regulation (4) of this regulation may transfer responsibility of the archives to any person who is officially responsible for maintaining State archives in terms of the National Archives Act. Cap. 339.

(6) Unless otherwise provided by law, the archives shall be organised as each Registrar mentioned in sub-regulation (4) of this regulation may direct, including, but not limited to, providing for the opening hours thereof.

(7) The act deposited in the archives shall be accessible to the public, provided that access to the archives of the Civil Court (Family Section) and the Civil Court (Voluntary Jurisdiction Section) shall, except for any judgment, decree, decision or other document, be restricted to the parties and their advocates or legal procurators, and to any other person who may be so authorised by the judge or magistrate, as the case may be.

(8) The following fees shall be levied for copies of acts kept in the archives:

(a) for every non-authenticated photocopy, for every page ..... Lm 0.10c

(b) for every authenticated photocopy, for every page ..... Lm 0.25c

12. The following notices are hereby revoked: Revokes L.N. 59 of 1996 and L.N. 35, 36 and 37 of 2001.

(a) Days and Working Hours for the Opening and Closing of the Registries of the Courts Regulations, 1996, published by Legal Notice 59 of 1966; and

(b) three Orders referred to as the Code of Organization and Civil Procedure Order, 2001, published by Legal Notices 35, 36 and 37 of 2001.