

I assent.

(L.S.)

UGO MIFSUD BONNICI
President

30th December, 1997

ACT No. XXXII of 1997

AN ACT to provide for certain judicial procedures.

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. This Act may be cited as the Judicial Procedures (Special Provisions) Act, 1997. Short title.

2. (1) Notwithstanding the provisions of section 24 of the Reletting of Urban Property (Regulation) Ordinance, as amended by the Laws (Boards) (Amendment) Act, 1993, and of section 10 of the Agricultural Leases (Reletting) Act, as amended by the said Laws (Boards) (Amendment) Act, 1993, appeals from the Rent Regulation Board and the Agricultural Leases Control Board, appointed for hearing before the Court of Appeal, as ordinarily constituted, between the 1st October, 1993 and the coming into force of this Act, shall, notwithstanding that they were not appointed for hearing before the said court as constituted in terms of subsection (6) of section 41 of the Code of Organization and Civil Procedure, be deemed to have been validly appointed and shall continue to be heard and determined by the said court as ordinarily constituted, and any case so appointed before the said court, as ordinarily constituted, and determined before the coming into force of this Act, shall be deemed to have been validly determined notwithstanding that the Court of Appeal was not constituted in terms of subsection (6) of section 41 of the said Code. Validation of certain procedures. Cap. 69. Act XIX of 1993. Cap. 199. Cap. 12.

Cap. 12.

(2) Notwithstanding the provisions of subsection (6) of section 41 of the Code of Organization and Civil Procedure, appeals from the Court of Magistrates (Gozo) in its superior jurisdiction which from the 1st of January, 1996 until the coming into force of this Act were appointed for hearing before the Court of Appeal as constituted in terms of subsection (6) of the said section 41, shall, notwithstanding that they were not appointed for hearing before the same court differently constituted, be deemed to have been validly appointed and shall continue to be heard and determined by the said court as constituted in terms of subsection (6) of the said section 41, and any appeal so appointed before the said court and determined before the coming into force of this Act shall be deemed to have been validly determined notwithstanding that the Court of Appeal was not constituted in terms of subsection (1) of section 41 of the said Code.

Act XXIV of 1995.

Cap. 12.

(3) All appeals from decisions of the Court of Magistrates for the Islands of Gozo and Comino which, immediately before the coming into force of paragraph (d) of section 24 of the Code of Organization and Civil Procedure (Amendment) Act, 1995, were pending before the same court constituted as an appellate Court in terms of subsection (3) of section 50 of the Code of Organization and Civil Procedure before the said subsection was repealed by the said paragraph (d) of the said section 24 shall, notwithstanding the provisions of subsection (5) of section 41 of the same Code, be reappointed for hearing and eventual judgment before the Court of Appeal constituted as provided in subsection (6) of the said section 41 and the provisions of subsection (7) of the same section 41 shall apply to all such appeals irrespective of whether the appeal is from the Court of Magistrates for the Islands of Gozo and Comino in its superior or inferior jurisdiction.

Amendment
of the
Criminal Code,
Cap. 9.

3. The Criminal Code shall be amended as follows:

(a) in section 418 thereof:

(i) the present provision shall be renumbered as subsection (1); and

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

“(2) For the hearing of appeals from decisions of the Court of Magistrates (Gozo) as court of criminal judicature the Court of Criminal Appeal shall hold its sittings in Gozo.”;

(b) in section 646 thereof:

(i) in subsection (2) thereof –

(1) for the words “shall be admissible as evidence if –” there shall be substituted the words “shall be admissible as evidence:

Provided that the witness is also produced in Court to be examined *viva voce* as provided in subsection (1) unless the witness is dead, absent from Malta or cannot be found and saving the provisions of subsection (8).”; and

(2) paragraphs (a) and (b) thereof shall be deleted;

(ii) subsections (8), (9) and (10) thereof shall be numbered (9), (10) and (11) respectively;

(iii) for subsection (7) thereof there shall be substituted following subsections:

“(7) Notwithstanding the provisions of this Code or of any other law, a certificate purporting to be issued by a registered medical practitioner or registered dental surgeon concerning his examination of any person, whether alive or dead, or concerning any bodily harm suffered by, or any physical or mental infirmity afflicting, any person, shall be admissible as evidence and shall, until the contrary is proved, be evidence of its contents, provided the certificate bears the clearly legible stamp of the medical practitioner or registered dental surgeon issuing it showing his name, professional qualifications, expertise and address and provided that such certificate is confirmed by the affidavit of the medical practitioner or the dental surgeon, as the case may be: provided further that it shall be lawful for either of the parties to produce the said medical practitioner or the said dental surgeon, as the case may be, for the purpose of examining him in court and *viva voce*, as well as for the court *ex officio* to require such examination.

(8) The deposition of any registered medical practitioner or registered dental surgeon annexed to a *procès-verbal*, or of any such medical practitioner or dental surgeon examined in the course of the inquiry, in relation to his examination of any person, whether alive or dead, or in relation to any bodily harm suffered by, or

any physical or mental infirmity afflicting, any person, shall be admissible as evidence without the need of producing the said medical practitioner or dental surgeon in court as provided in the proviso to subsection (2): provided that, unless the witness is dead, absent from Malta or cannot be found, it shall be lawful for either of the parties to demand, or for the court *ex officio* to require, that such witness be again examined in court and *viva voce*.”; and

(iv) in subsection (11) thereof, as renumbered, for the words “that a witness is dead or absent,” there shall be substituted the words “that a witness is dead, absent or cannot be found,” and for the words “for the court to admit his deposition on” there shall be substituted the words “for the court to consider the allegation proved by”; and

(c) immediately after subsection (5) of section 650 thereof, there shall be added the following new subsection:

“(6) The Court’s decision to appoint experts shall be reduced to writing and shall be served on the experts so appointed.”.

Passed by the House of Representatives at Sitting No. 167 of the 15th December, 1997.

MYRIAM SPITERI DEBONO
Speaker

RICHARD J. CAUCHI
Clerk to the House of Representatives