I assent.

(L.S.) GEORGE ABELA
President

15th June, 2010

ACT No. V of 2010

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:

Short title and commencement.

1. (1) The short title of this Act is the Various Laws (Civil Matters) (Amendment) Act, 2010.

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

PART I

Amendment of the Code of Organization and Civil Procedure. Cap. 12.

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".

Amendment of article 285 of the Code.

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

"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. 345.

Cap. 204.

PART II

Amendment of the Civil Code. Cap. 16.

4. 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".

Amendment of article 1359 of the Code.

5. Article 1359 of the Code shall be renumbered as subarticle (1) thereof, and immediately after subarticle (1) as renumbered there shall be added the following new subarticle:

"(2) If instead of earnest, in promise of sale a part of the price is paid, the said part of the price so paid shall be returned to the person who paid it as soon as the effects of the promise cease; provided that in reciprocal promises of sale and purchase of a thing, the parties may agree that the said part of the price shall be forfeited in favour of the party that promises to sell if the party that promises to buy fails to carry out the purchase without a valid reason. The said forfeiture shall take place without any requirement to make a demand by sworn application if, before the lapse of the time agreed between the parties for the sale to be carried out, the party that promised to sell calls upon the party that promised to buy by means of a judicial intimation to carry out the purchase and in the same judicial act informs the said party of the consequence of forfeiture of part of the price in the event that it fails to purchase. When the party that promises to sell keeps the part of the price as provided above it shall not be entitled to claim any further damages resulting from the promise to buy.".

6. 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". Amendment of article 1531B of the Code.

7. Article 1531C of the Code shall be amended as follows: Amendment of article 1531C of the Code.

(a) in subarticle (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 subarticle (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".

8. Article 1531D of the Code shall be amended as follows: Amendment of article 1531D of the Code.

(1) in subarticle (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 subarticle (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".

9. 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". Amendment of article 1531E of the Code.

10. 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". Amendment of article 1531M of the Code.

Amendment of article 1540 of the Code.

11. In the English text only of subarticle (2) of article 1540 of the Code for the words "excluding building" there shall be substituted the words "excluding, in the case of buildings".

Amendment of article 1555A of the Code.

12. In the English text of article 1555A of the Code, in the proviso to subarticle (2) thereof, the words "or the transfer is accepted" shall be substituted by the words "or the transfer is not accepted".

Amendment of article 1607 of the Code.

13. In the Maltese text of article 1607 of the Code, the words "l-artikolu 1394(a)" shall be substituted by the words "l-artikolu 1594(a)".

PART III

Amendment of the Housing (Decontrol) Ordinance. Cap. 158

14. 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".

Deletion of article 11 of the Ordinance.

15. 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.

Amendment of article 12 of the Ordinance.

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

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

Amendment of article 12A of the Ordinance.

17. In subarticle (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)".

PART IV

Amendment of Act X of 2009.

18. 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".

Amendment of article 39 of the amending Act.

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

(a) immediately after subarticle (4) thereof shall be

added the following new subarticle:

"(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."; and

Cap. 158

Cap. 16

(b) in subarticle (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 1st 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:

"Provided that for the avoidance of doubt, in this subarticle 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.".

Cap. 158.

PART V

20. 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".

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

21. In the definition of the expression "the Board" in article 2 of the Ordinance the words " "the Board" means" shall be substituted

Amendment of article 2 of the Ordinance.

by the words " "the Board" and "the Rent Board mean" ".

Passed by the House of Representatives at Sitting No. 235 of the 9th June, 2010.

MICHAEL FRENDO
Speaker

PAULINE ABELA
Clerk to the House of Representatives