

I assent.

(L.S.)

ĈENSU TABONE
President

11th February, 1994

ACT No. III of 1994

AN ACT to amend the Civil Code, Cap. 16.

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 Civil Code (Amendment) Act, 1994, and shall be read and construed as one with the Civil Code, hereinafter referred to as “the principal law”. Short title and commencement.

(2) This Act shall come into force on such date as the Minister responsible for Justice may by notice in the Gazette establish.

2. In subsection (6) of section 125 of the principal law, for the words “sections 248 and 249, subsections (2) and (3) of section 251 and sections 252, 260 and 261” there shall be substituted the words “sections 248, 249, 252, 260, 261 and, subject to the provisions of section 269, section 251”. Amendment of section 125 of the principal law.

3. In subsection (2) of section 238 of the principal law, for the words “the Director of the Public Registry, one of the Assistant Directors or of the officers mentioned in subsection (1A) of section 306.”, there shall be substituted the words “the Director of the Public Registry.”. Amendment of section 238 of the principal law.

4. Immediately after subsection (1) of section 239 of the principal law there shall be added the following: Amendment of section 239 of the principal law.

“(2) A copy of an act, registered as provided in subsection (1) and transmitted to the Director by photo-electric facsimile machine, or any true copy thereof, shall be deemed a true and authentic copy for all purposes of law provided it is signed by the Director receiving such facsimile.”.

Amendment of
section 251
of the
principal law.

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

(a) in subsection (1) thereof, for the words "signed by the Director," there shall be substituted the words "signed by the Director of the Public Registry of Malta or the Director of the Public Registry of Gozo,"

(b) in subsection (3) thereof, for the words "The Director shall also, if required, give" there shall be substituted the words "The Directors mentioned in subsection (1) shall also, if required, give"; and

(c) subsection (4) thereof shall be deleted.

Amendment of
section 253
of the
principal law.

6. Immediately after subsection (4) of section 253 of the principal law there shall be added the following subsection:

"(5) In any such action, the declaration referred to in subsections (4) and (5) of section 158 of the Code of Organisation and Civil Procedure may also be confirmed on oath by any officer referred to in subsection (1) or in subsection (4) of the said section 306."

Amendment of
section 261
of the
principal law.

7. In section 261 of the principal law, for the words "in subsection (1A)", wherever they occur, there shall be substituted the words "in subsection (1)".

Amendment of
section 269
of the
principal law.

8. In subsection (4) of section 269 of the principal law, for the words "a certified copy, or a certified translation into English or Maltese, of any entry" there shall be substituted the words "a certified copy of any entry signed by the Director".

Substitution
of section 271
of the
principal law.

9. For section 271 of the principal law there shall be substituted the following:

"Power
to make
regula-
tions.

271. (1) The Minister responsible for Justice may make regulations:

(a) providing for the making of duplicates of original acts of civil status or other documents relative to civil status, entered in the Public Registry in virtue of this Code or of any other law, as well as duplicates of the relative registers of such acts or documents, as well as duplicates of the relative index of such acts, documents or registers where the original act, document, register or index has been lost, destroyed or damaged, whether such loss, destruction or damage has occurred by wear and tear or otherwise;

(b) prescribing the mode in which such duplicates shall be prepared and authenticated;

(c) prescribing that any acts, documents, registers or indices referred to in paragraph (a) be reproduced by microfilming, and the mode in which such reproductions are to be made, stored and made accessible to the public;

(d) prescribing the manner in which reproductions made by microfilming and copies thereof may be authenticated;

(e) providing for the computerisation, including storage of information taken from any act or document entered in the Public Registry and for the production of documents containing statements of such information and the authentication of such documents;

(f) prescribing the form of the application for the issue of certificates containing a full copy or an extract of any act, document, register or index;

(g) providing for any matter incidental or supplementary to any of the foregoing provisions.

(2) Any duplicate copy made in accordance with regulations made under subsection (1) shall for all intents and purposes, replace the relative original act, document, register or index.”.

10. For section 295 of the principal law there shall be substituted the following:

Substitution
of section 295
of the
principal law.

“Entry of
decisions,
declara-
tions and
prohibi-
tions
affecting
marriage.

295. (1) Any judgement or other decision given by a competent court whereby a registered marriage is annulled or the status resulting therefrom is affected shall, at the request of any person, be entered in the register by means of a note in the margin.

(2) The person making the request shall deliver to the Director an authentic copy of the relevant judgement or other decision.

(3) The Director shall also enter, by means of a note in the margin of an act in respect of a registered marriage, any declaration made by a married woman on the Form Q delivered by her in accordance with the provisions of subsection (3) of section 89 of the Civil Code (Amendment) (No. 2) Act, 1993, as well as any revision to the maiden surname or any prohibition of use of the husband's surname referred to in a note of personal separation between the spouses enrolled in accordance with section 62A of this Code, and a reference to the date and place of marriage shall be made in any such note of enrolment.”.

Act XXI of 1993.

11. For section 306 of the principal law there shall be substituted the following:

Substitution
of section 306
of the
principal law.

“Exercise
of
functions
assigned
to the
Director.

306. (1) Any officer who holds the degree of Doctor of Laws and either a warrant to practise as an advocate or a warrant to practise as a notary public and who performs duties in the Public Registry may exercise all or any of the functions which are under any provision of this Code or of any other law assigned to the Director of the Public Registry, and that law shall be construed accordingly.

(2) In the exercise of any such function, the said officer shall have the same powers and the same obligations as are conferred or imposed upon the Director, without prejudice to the provisions of subsection (4) of this section.

(3) The words “signed by the Director” or words to similar effect, with reference to certificates of civil status, shall be taken to include any seal, emblem or signature made or processed by photographic means, by print or in any other form at the discretion of the Director as further authenticated by the signature of the issuing officer authorised for the purpose by the Director.

(4) The officers referred to in this section shall, in the exercise of their functions under this Code or any other law, be subject to the authority, direction and control of an Assistant Director so delegated by the Director of the Public Registry and referred to in this section as the Deputy Director:

Provided that the exercise of the Deputy Director’s powers under this section shall be without prejudice to the overall authority of the Director.

(5) The Director of the Public Registry shall be the only competent person to represent in any capacity the Public Registry in any legal proceedings under this Code or any other law.”.

Consequential
Amendments.

12. The enactment mentioned in the first column of the Schedule to this Act shall have effect subject to the amendments specified in relation thereto in the second column of that Schedule.

SCHEDULE

(Section 12)

<i>Enactment</i>	<i>Extent of amendment</i>
Public Registry Act, Cap. 56.	1. For section 3 there shall be substituted the following: 3. (1) Each of the said offices shall be under the management of an officer called Director of the Public Registry, hereinafter referred to as the Director who shall also be the Treasurer of the Public Registry, and shall receive on account of the Government the fees leviable in accordance with the Tariff in the First Schedule hereto.

Officer in,
and
Assistant
Directors of,
the Public
Registry.

(2) In the Public Registry Office of Valletta (Malta) there shall also be Assistant Directors who shall be so designated by the Director from among the officers referred to in subsection (1) of Section 306 of the Civil Code.

Cap. 16.

(3) Notwithstanding the provisions of section 306 of the Civil Code, any reference made to the Director in sections 35 and 37 of this Act shall not be construed as including a reference to any other officer referred to in this section.

Oaths.

(4) Before entering upon the duties of their office, the officers referred to in this section shall take before the Court of Appeal the oath of allegiance set out in the Constitution of Malta, and the oath of office as follows:

"I promise and swear to observe faithfully all the laws of Malta relating to my office and to perform faithfully and with all honesty and exactness the duties of Director /Assistant Director/Officer of/in the Public Registry to the best of my knowledge and ability. So help me God."

2. For section 37 there shall be substituted the following:

"Duties of
Court of
Revision.

37. During the said inspections the Visitor shall examine whether the officers referred to in section 3 of this Act have complied with the provisions of this Act and of any other law and may, for every contravention, inflict upon the officer responsible, a fine (*ammenda*) not exceeding five Maltese liri:

Provided that where the contravention consists in the omission of anything which is required to be done under this Act or under any other law and it is not possible for the court to ascertain who was responsible for such omission, the contravention shall be deemed to have been committed by the Director and the punishment shall be inflicted accordingly."

Passed by the House of Representatives at Sitting No. 224 of 1st February, 1994.

LAWRENCE GONZI
Speaker

RICHARD J. CAUCHI
Clerk to the House of Representatives

