

I assent.

(L.S.)

AGATHA BARBARA
President

19th July, 1983

ACT No. XV of 1983

*AN ACT to amend the Code of Organization and Civil Procedure
(Cap. 15).*

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 Code of Organization and Civil Procedure (Amendment) Act, 1983, and shall be read and construed as one with the Code of Organization and Civil Procedure, hereinafter referred to as “the principal law”. Short title.
2. In subsection (5) of section 158 of the principal law, for the words “paragraph (c) of section 149” there shall be substituted the words “paragraph (c) of subsection (1) of section 149”. Amendment of section 158 of the principal law.
3. For subsection (d) of section 251 of the principal law there shall be substituted the following: Amendment of section 251 of the principal law.
“(d) awards of arbitrators made according to the provisions of section 967 and the sections following.”.
4. Immediately after subsection (l) of section 470 of the principal law there shall be added the following proviso: Amendment of section 470 of the principal law.
“Provided that in the application for leave to sue for personal separation or at a subsequent date but prior to the commencement of proceedings before the Court of contentious jurisdiction, a demand may be made for determining the amount of an allowance for maintenance during the pendency of the proceedings before the Court of voluntary jurisdiction and the Court of contentious jurisdiction and for the issue of a decree ordering the payment of such allowance.”.

Addition of
new sections
to the principal
law.

5. Immediately after section 479 of the principal law there shall be added the following new sections:

"Hearing
of applica-
tion for
provisional
mainten-
ance,

479A. (1) The application containing the demand referred to in the proviso to subsection (1) of section 470 shall be appointed for hearing at an early date, in any case not later than six working days from the date of its filing, and shall be served on the respondent without delay together with the notice of such appointment.

(2) The Court shall summarily hear the applicant and the respondent and shall then, by decree, decide on the demand:

Provided that the Court may decide on the demand where the applicant or the respondent or both the applicant and the respondent fail to appear on the day of the hearing.

Enforce-
ment of
decree
ordering
provisional
mainten-
ance,

(3) (a) The decree referred to in subsection (2) of this section shall be an executive title deemed to be included amongst the decrees mentioned in section 251 and shall be enforceable after twenty-four hours from its delivery by means of any executive act mentioned in section 274 in the same manner and under the same conditions in which such acts are executed.

(b) The decree referred to in subsection (2) of this section shall be enforceable by the Court of contentious jurisdiction before which the action for personal separation may be brought or is pending.

(4) The decree referred to in subsection (2) of this section shall cease to be enforceable if the action for separation for which leave is granted is not instituted within two months of the date of the decree or within such longer period as the Court may in the same or in a subsequent decree allow.

(5) The provisions of subsection (3) of section 382 in pursuance of which the Court of contentious jurisdiction may make the order therein specified shall apply, *mutatis mutandis*, as if the reference to the Court in that subsection were a reference to the Court of voluntary jurisdiction before which the demand referred to in the proviso to subsection (1) of section 470 is made.

Review of
decree,

479B. The decree and the order mentioned in section 479A may be only reviewed, altered or revoked upon an application to the Court of voluntary jurisdiction or to the Court of contentious jurisdiction before which the action for separation is pending, as the case may be."

Amendment of
section 483 of
the principal
law.

6. At the end of section 483 of the principal law there shall be added the following proviso:

"Provided that the Court shall not refer the parties to the Court of contentious jurisdiction where, in the case of a demand made in accordance with the proviso to subsection (1) of section 470, the Court shall have upheld the opposition to the said demand."

7. Section 526 of the principal law shall be amended as follows: Amendment of section 526 of the principal law.
- (a) subsection (4) thereof shall be renumbered as subsection (5); and
 - (b) immediately after subsection (3) thereof there shall be added the following new subsection:

“(4) The Registrar shall before the end of the month of January of every year cause to be published in the Gazette, a list showing in alphabetical order the names and surnames of the persons appearing in the book kept in accordance with subsection (3) of this section, together with the names of the father, the place of birth and the number of the Identity Card of such persons and the date of the decree of interdiction or incapacitation.”.

8. In section 552 of the principal law for the words “two months” there shall be substituted the words “six months”. Amendment of section 552 of the principal law.

9. In subsection (1) of section 568 of the principal law, for the words “the Court, or before referees” there shall be substituted the words “the Court, arbitrators, or before referees”. Amendment of section 568 of the principal law.

10. In subsection (2) of section 634 of the principal law, the words “or, for the purposes of the proviso to subsection (4) of section 995, any one of the Registrars mentioned in that section” and “or Registrar” shall be deleted. Amendment of section 634 of the principal law.

11. Immediately at the end of paragraph (d) of section 928 of the principal law there shall be added the words “or where no such person or persons have been vested with such legal representation”. Amendment of section 928 of the principal law.

12. For section 930 of the principal law there shall be substituted the following: Substitution of section 930 of the principal law.

“930. (1) The Court, upon making an order for the appointment of curators shall issue banns to be posted up at the entrance of the building in which the Court sits.

(2) A copy of such banns shall be served on one of the persons most closely related to the person to be represented or in respect of whose inheritance the appointment of curators is demanded, and where no relations are known, such copy shall be served on some other person known to be or have been a friend of the person concerned.

(3) Where no relation or friend as is mentioned in subsection (2) of this section is known to the person demanding the appointment of curators, the Court may order that instead of the service mentioned in subsection (2) of this section a copy of the banns be published in the Gazette and in at least two daily newspapers at the expense of the applicant.”.

13. For section 969 of the principal law there shall be substituted the following: Substitution of section 969 of the principal law.
- “969. (1) The submission shall be made in writing, either by a public deed, or by a private writing, or in accordance with the provisions of this section.

(2) (a) Where an action about any matter in dispute has already been brought before a Court of Justice, the parties may at any stage file a joint note in the Registry of that Court, signed by the parties or their advocates, requesting the Court to transmit the cause to the arbitrator or arbitrators who shall have signed their acceptance so to act in the same note.

(b) The Court shall order that the records of the case shall be transmitted to the arbitrators.

(c) The filing of the note mentioned in this section shall be deemed to be a withdrawal of the action from the jurisdiction of that Court; but no registry fees shall be levied for such discontinuance.

(d) The arbitrators shall be competent to hear and decide the matter in dispute within the limits of the original action, on the pleas filed and on any counterclaim made according to law.

(e) Notwithstanding the provisions of paragraph (a) of this subsection and of section 973, the parties may in the joint note request the Court to appoint an arbitrator or arbitrators, and such appointment shall be effective from the day when the persons so appointed signify their consent so to act.

(3) The parties may in the note mentioned in paragraph (a) of subsection (2) of this section reserve the right to appeal from the final award on a point of law determined by the arbitrator or arbitrators to the Court of Appeal, in the same manner and according to the formalities established for appeals from judgments of courts of first instance.

(4) The fees payable to the arbitrators shall be those established for referees, unless the parties and the arbitrators have otherwise agreed in writing about the fees that should be taxed.

(5) Where electromagnetic means are used for the recording of the evidence, it shall not be necessary to transcribe the evidence so taken, provided that the electromagnetic tape used is filed with the final award.

(6) The arbitrators may hold their sittings at any place and at any time or day.”.

Substitution of section 970 of the principal law.

14. For section 970 of the principal law there shall be substituted the following:

“970. (1) The Court which would be competent to take cognizance of the matter referred to arbitration shall issue writs of subpoena to witnesses to appear before the arbitrator or arbitrators, and if any such witness fails to attend the court shall, on a report in writing by the arbitrator or arbitrators proceed in the manner provided in section 574.

(2) The provisions of subsection (2) of section 568 shall apply to such writs.

(3) The arbitrators shall have power to administer oaths to witnesses examined by them.”.

15. Section 976 of the principal law shall be amended as follows: Amendment of section 976 of the principal law.

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

(b) immediately after subsection (1) thereof there shall be added the following new subsection:

“(2) Before proceeding to discharge the reference the arbitrators shall take an oath before the Court which would be competent to take cognizance of the matter referred for arbitration, to discharge the reference faithfully and impartially and to the best of their ability.”.

16. For subsection (1) of section 985 of the principal law there shall be substituted the following: Amendment of section 985 of the principal law.

“(1) Without prejudice to any right of appeal that may be reserved in accordance with the provisions of subsection (3) of section 969, in the cases therein mentioned, an award may only be rescinded or annulled on the grounds on which a contract may, according to law, be rescinded or annulled.”.

Passed by the House of Representatives at Sitting No. 120 of the 13th July, 1983.

DANIEL MICALFÉ
Speaker

C. MIFSUD
Clerk to the House of Representatives