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I assent.

(L.S.)

**MARIE LOUISE
COLEIRO PRECA
President**

4th August, 2015

ACT No. XXVI of 2015

AN ACT to further amend the Code of Organization and Civil Procedure, Cap. 12, and for matters consequential or incidental thereto.

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.

Cap. 12.

Addition of new
article 468 to
the Code.

1. The short title of this Act is the Code of Organization and Civil Procedure (Amendment No. 2) Act, 2015, and this Act shall be read and construed as one with the Code of Organization and Civil Procedure, hereinafter referred to as "the Code".

2. Immediately after article 467 of the Code there shall be added the following new article:

"Summary
proceedings for
eviction from
certain land.
Cap. 228.

468. (1) Without prejudice to the powers held by virtue of the Land (Compulsory Eviction) Act, the Commissioner of Land may, when he intends to act for the compulsory eviction of any person from any land which is:

(a) occupied by such person without any title; or

(b) held on encroachment terms;
or

Cap. 169.

(c) where, in respect of land that may from time to time be specified in terms of article 2 of the Commissioner of Land Ordinance, the time-period specified in a contract conferring title has lapsed; or

(d) where, in respect of land that, although occupied with a valid title not being a real title, such person is in breach of the agreed conditions,

request the immediate compulsory eviction of such person and the removal therefrom of any movable effect.

(2) The request mentioned in sub-article (1) shall be made by means of a declaration to be sworn before the Registrar and shall be notified to the respondent by way of a judicial letter filed in the First Hall of the Civil Court or in the Court of Magistrates (Gozo) in its superior jurisdiction, as the case may be, and shall have the same effect of a *res judicata* of the competent court, unless the respondent, within twenty days from service of the said declaration, does not oppose the request by filing an application in which he asks the Court to declare that the request is unfounded:

Provided that the judicial letter shall, on pain of nullity, inform the respondent of his right to file an application in which he asks the Court to declare the request as unfounded.

(3) The application filed in terms of sub-article (2) shall be served on the Commissioner of Land, who shall have the right to file a reply within twenty days. The Court shall proceed to set a date for hearing for the said application after the expiration of that period.

(4) In urgent cases, the Court may, after an application filed by any one of the parties, reduce any peremptory period as provided in this article by means of a decree which is to be served on the parties.

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(5) The Court shall, following the appointment of the application for hearing, decide upon this application summarily after having heard all evidence which it deems fit, in the shortest time possible but not later than four months from the day when the parties would have been notified.

(6) The Court shall uphold the application if it is satisfied, after having heard the explanations given, without prejudice to the final decision given in accordance with sub-article (8), that the applicant has a valid defence to plead against the request for eviction.

(7) No appeal shall lie from the decision of the Court upholding the application and declaring the request of the Commissioner as unfounded in terms of this article.

(8) When a request made in terms of this article is declared by the Court as being unfounded for the purposes of this article, the Commissioner of Land may proceed with the action he deems proper before the competent Court against the possessor or holder of the land:

Provided that, notwithstanding the provisions of any other law, such action shall be brought in the First Hall of the Civil Court or in the Court of Magistrates (Gozo) in its superior jurisdiction, which Court shall be exclusively competent to hear and decide on the request for compulsory eviction, made after the procedures in terms of this article, and any other connected request that can be brought in connection with the said eviction, have been exhausted.

For the purposes of this article, "land" has the same meaning as given to it in the Disposal of Government Land Act."

Cap. 268

Addition of new
article 468A to
the Code.

3. Immediately after article 468 of the Code there shall be added the following new article:

"Procedure
subsequent to a
request made
under article
468.

468A. (1) In an action brought by the Commissioner of Land, the Court may order the holder or possessor of land to provide, within the time stipulated by the Court, a guarantee for an amount to be fixed by the Court, which security shall make good for damages or loss of rent which the Commissioner may suffer during the term of the proceedings.

(2) In the event that a guarantee is imposed, this shall remain in force up to one month after the action brought by the Commissioner for Land is decided in a definite manner.

(3) In the event that a party fails to provide security as fixed by the Court, the Court shall, upon the demand by the Commissioner by means of an application, revoke the order made in accordance with article 468 and thereby the request of the Commissioner made within the terms of such article shall come into force and the effects contemplated in sub-article (2) of the said article 468 shall apply."

4. Article 2 of the Commissioner of Land Ordinance shall be amended as follows:

Consequential
amendments to
the
Commissioner
of Land
Ordinance.
Cap. 169.

(a) in the first proviso thereto, for the words "and the provisions of article 181, Subtitle VI and VII of Title VIII of Part I of Book Second, article 590(2), article 627, article 637 and article 873 of the Code of Organization and Civil Procedure" there shall be substituted the words "and the provisions of article 181, Subtitle VI and VII of Title VIII of Part I of Book Second, article 590(2), article 627, article 637, article 837(2) and article 873 of the Code of Organization and Civil Procedure"; and

(b) in the third proviso thereto, for the words "and the provisions of article 181, of Sub-titles VI and VII of Title VIII of Part I of Book Second, of article 590(2), of article 627, of article 637, and of article 873 of the Code of Organization and Civil Procedure" there shall be substituted the words "and the provisions of article 181, of Subtitle VI and VII of Title VIII of Part I of Book Second, article 590(2), article 627, article 637,

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article 837(2) and article 873 of the Code of Organization and Civil Procedure".

Passed by the House of Representatives at Sitting No. 292 of the 17th July, 2015.

ANGLU FARRUGIA
Speaker

RAYMOND SCICLUNA
Clerk of the House of Representatives

