I assent.

(L.S.) **GEORGE VELLA**
President

18th June, 2021

ACT No. XXXII of 2021

AN ACT to further amend the Code of Organization and Civil Procedure, Cap. 12, as part of the justice reform in the sphere of civil procedure.

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 Justice Reform (Civil Procedure) Act, 2021 and this Act shall be read and construed as one with the Code of Organization and Civil Procedure hereinafter referred to as "the Code". Cap. 12.

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

Amendment of article 144 of the Code.

2. Article 144 of the Code shall be amended by the following:

(a) in sub-articles (1) and (2) thereof the words "twenty days" shall be substituted by the words "thirty (30) days"; and

(b) immediately after sub-article (2) thereof there shall be added the following new sub-article:

"Address when there are multiple parties.

(3) When two (2) or more parties file an application of the appeal or the reply together, they shall, on filing the written pleading, state a single address for the execution of service of the notice about the security for costs related to the appeal and for the service of the notice that the case was left for sentencing.".

Substitution of article 145 of the Code.

3. Article 145 of the Code shall be substituted by the following new article:

"Production of documents.

145. No new documents may be produced together with the application, reply, or rejoinder without authorization from the court.".

Amendment of article 147 of the Code.

4. Article 147 of the Code shall be amended by the following:

(a) in sub-article (1) thereof the words "opening of the hearing" shall be substituted by the words "close of written pleadings in line with article 146";

(b) sub-article (2) thereof shall be renumbered as sub-article (3) thereof and immediately after sub-article (1) thereof there shall be added the following new sub-article:

"(2) The court may also by way of a decree demand the parties to answer any questions it might have or else demand the parties to clarify any issues that are deemed necessary for the court before handing down its judgment."; and

(c) immediately after sub-article (3) thereof, as renumbered, there shall be added the following new sub-article:

"(4) Nothing in the provisions of this article shall preclude the court from requesting an oral hearing as provided in article 207(5).".

Amendment of article 150 of the Code.

5. In sub-article (1) of article 150 of the Code, the words "Where any document has not been produced as provided in article 145, its production shall only be allowed –" shall be substituted by the words "The Court of Appeal shall only allow the production of new documents -".

Amendment of article 152 of the Code.

6. Article 152 of the Code shall be amended by the following:

(a) sub-article (1) thereof shall be substituted by the following new sub-article:

"(1) Following the closure of written pleadings, the registrar shall verify the payment of the security for costs related to the principal and incidental appeal, and shall, unless there is a court order stating otherwise, publish these causes in the list of causes set down for judgment.";

(b) sub-articles (2) and (3) thereof shall be renumbered as sub-articles (4) and (5) respectively and immediately after sub-article (1) thereof there shall be added the following new sub-articles:

"(2) The registrar shall ensure that parties are served with a notice of the day when the cause was left for judgment:

Provided that any one of the parties may, by a note filed in the registry, exempt the registrar from the duty of service of such notice.

(3) Service of this notice shall be effected in line with the procedure provided in sub-articles (1) and (4) of article 187 and if such is not possible, service shall be effected by the officer charged with service, by attaching the notice at the last address provided by the parties in the acts of the appeal."; and

(c) in sub-article (5) thereof, as renumbered, immediately after the words "for just cause," there shall be added the words "to proceed to judgment or".

Substitution of article 153 of the Code.

7. Article 153 of the Code shall be substituted by the following new article:

"Default in filing of written pleadings.

153. (1) The default of the filing of a reply to an appeal or cross-appeal shall not debar the party who was entitled to file such act by bringing an application before the court for the purpose of being awarded the right to submit written submissions and to produce evidence thereof provided he gives, in the opinion of the court, a good reason for such default within the time required by law.

(2) Such application may not be brought if more than ten (10) days have elapsed from the service of the notice of the day of when the cause was scheduled for judgment.

(3) Where a hearing of an appeal is to be held, the failure to file written pleadings shall not debar the party who was entitled to file such written pleadings to appear at the hearing of the cause and bring his evidence if he gives, in the opinion of the court, good reason for failure to file such.".

Substitution of article 207 of the Code.

8. Article 207 of the Code shall be substituted by the following new article:

"Procedure for trials in appellate court.

207. (1) Save for the provisions of sub-articles (5) and (7), all proceedings before an appellate court shall be conducted in writing.

(2) Written pleadings shall be deemed closed as provided in the provisions of article 146.

(3) When a reply for an appeal raises issues about the nullity or validity of the appeal or mentions facts or points of law which were not raised by the appellant in the appeal application, the appellant may within thirty (30) days from being notified of the reply, by way of application, request the court to authorise him to file a rejoinder to address only those points which were raised for the first time in the reply to the appeal application. The court shall, if it considers it reasonable and expedient in the circumstances, grant leave to the appellant to file his rejoinder within a period, which shall not exceed thirty (30) days from when the appellant's lawyer is given written notice of the decree.

(4) Upon the closing of written pleadings and payment of security for costs related to the appeal, the court shall proceed to judgment on a date and time it sets for this scope.

(5) Notwithstanding the provisions of sub-article (4), the court may set a sitting for hearing of the cause, if it deems fit to hear evidence or oral submissions from the parties.

(6) Security for costs related to appeals shall be produced and deposited as provided in article 249, and in case of default, the court may declare the appeal as abandoned.

(7) Notwithstanding the provisions of sub-articles (1) to (6) all causes before the Constitutional Court and all causes before the Court of Appeal where no oral hearing took place at first instance, shall be appointed for an oral hearing.

(8) The oral hearing shall be conducted as follows:

(a) when the appeal is entered by the plaintiff only, or by both parties, the order of hearing of the cause shall be the same as provided in article 204(1);

(b) when the appeal is entered by the defendant only, he shall commence by briefly stating the grounds of complaint and praying that the judgment appealed from be reversed or varied, and the order of hearing of the cause shall then be as provided in article 204(1).".

Substitution of article 209 of the Code.

9. Article 209 of the Code shall be substituted by the following new article:

"Appeal to be declared abandoned in default of appearance of the parties.

209. If, the court sets an appeal for oral hearing, and after that the cause is called on three (3) times, neither one of the parties nor their advocates appear, or if only the respondent or his advocate appears, the court may declare the appeal abandoned:

Provided that on an application by the appellant, that shall be filed within eight (8) days from such day that the appeal is declared abandoned, the court shall order that the cause be again put on the list for hearing and determination, provided the appellant shall have deposited, within the said time, the amount of costs occasioned by his non-appearance.".

Amendment of article 226 of the Code.

10. In sub-article (1) of article 226 of the Code, the words "twenty days" shall be substituted by the words "thirty (30) days".

Amendment of article 249 of the Code.

11. Sub-article (1) of article 249 of the Code shall be substituted by the following new sub-article:

"(1) Unless otherwise provided in any other law, in the case of a principal or incidental appeal from judgments or decrees given in a cause initiated by sworn application, security for costs of the appeal shall be produced and deposited in court within three (3) months from when the appellant receives the

notice for payment. If the appellant is not served with the said notice, the registrar shall, within ten (10) days, inform in writing the advocate of such party that the notice has not been served, and the advocate shall sign a copy of the receipt of such communication:

Provided that no action shall lie against the advocate for failure to inform any such party.".

Amendment of article 964 of the Code.

12. In sub-article (1) of article 964 of the Code, the words "six months" shall be substituted by the words "three (3) months".

Transitory provision.

13. Cases adjourned *sine die* and appeals filed before the coming into force of this Act shall continue to be regulated by the law which was in force before the coming into force of this Act.

Passed by the House of Representatives at Sitting No. 473 of the 14th June, 2021.

ANĠLU FARRUGIA
Speaker

RAYMOND SCICLUNA
Clerk of the House of Representatives

VERŻJONI ELETTRONIKA

VERŻJONI ELETTRONIKA

Ippubblikat mid-Dipartiment tal-Informazzjoni (doi.gov.mt) — Valletta — ***Published by the Department of Information (doi.gov.mt) — Valletta***
Mitbugħ fl-Istamperija tal-Gvern fuq karta FSC — ***Printed at the Government Printing Press on FSC certified paper***

Prezz/*Price*
€0.72