

MEMORANDUM BY HIS MINISTER OF JUSTICE

A Bill is attached which amends the Code of Organization and Civil Procedure and which may well be expected to be welcomed by bench, bar and public alike.

It provides first of all for modernizing the system of the drawing up of pleadings by permitting the employment of means other than mere handwriting. Copies will also be permitted to be drawn up by means other than those hitherto prescribed and the same will apply to notes of evidence and also referees' reports. These innovations are calculated to save both time and work.

Certain other amendments concern the drawing up of certificates of service of judicial acts. These certificates will now be drawn up by the officer effecting service and provision is also being made for enabling such certificates to be on forms printed, impressed or otherwise prepared. Other amendments relate to the execution of warrants or garnishee orders issued by a Court in Malta for execution in Gozo or Comino or issued by the Court of Magistrates of Judicial Police for the Islands of Gozo and Comino for execution in Malta. Such warrants or orders will no longer be executed by a Marshal of the issuing Court, who until now had in each case to travel to Malta or to Gozo, as the case might be. These innovations are also intended to simplify matters from a practical point of view.

The hours of service of judicial acts and of execution of orders and warrants are also being standardized. The Bill provides for a fixed period

between/....

between seven in the morning and six in the evening, instead of the old essentially variable sunrise to sunset period.

As the law now stands, the fact that Marshals are the officers charged with the service of judicial acts is clearly inferred from section 187 of the principal law. This section is being replaced and, as the inference will no longer result from the clause that is being substituted for it, the aforesaid duties of Marshals are now being made to result directly from other provisions dealing specifically with such officers. Section 65 of the principal law is being amended for this purpose by clause 2 of the Bill.

Hon. Ministers are invited to approve of this Bill for introduction in Parliament.

## A B I L L

entitled

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

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the House of Representatives of Malta, in this present Parliament assembled, and by the authority of the same, as follows:-

Short title and commencement.

1. (1) This Act may be cited as the Code of Organization and Civil Procedure (Amendment) Act, 1965, and shall be read and construed as one with the Code of Organization and Civil Procedure, hereinafter referred to as "the principal law".

(2) This Act shall come into force on such date as the Minister of Justice may appoint by notice in the Government Gazette.

Amendment of section 65 of the principal law.

2. In section 65 of the principal law for the words "are the officers charged with the execution" there shall be substituted the words "are the officers charged with the service of judicial acts and the execution".

Amendment of section 68 of the principal law.

3. In section 68 of the principal law, immediately after the word "Usher" there shall be added the words "in the service of any act or", immediately after the word "regularity" there shall be added the words "of the service or" and immediately after the words "should have been" there shall be added the words "served or".

Amendment of section 128 of the principal law.

4. Section 128 of the principal law shall be amended as follows:-

- (a) by the deletion, in subsection (1) thereof, of the figure "(1)"; and
- (b) by the repeal of subsection (2) thereof.

Repeal of sections 129, 130 and 131 of the principal law.

5. Sections 129, 130 and 131 shall be repealed.

Substitution of section 176 of the principal law.

6. For section 176 of the principal law there shall be substituted the following:

"Code of 176. (1) Pleadings shall be printed, type-drawing up written or written in ink: pleadings.

Provided/....

Provided that in every case they shall be drawn up in clear and easily legible characters and without blank spaces, abbreviations, corrections, alterations, additions or erasures.

(2) Any quantity, sum or measure shall, at least where it first occurs in the pleading, be expressed in words".

Amendment of section 186 of the principal law.

7. In subsection (3) of section 186 of the principal law for the word "Marshal" there shall be substituted the words "officer charged with the service of a pleading".

Substitution of section 187 of the principal law.

8. For section 187 of the principal law there shall be substituted the following:

"Certificate of service.

187. (1) The officer charged with the service of an act shall, on the same day when he serves or unsuccessfully seeks to serve the act, or, at the latest, on the following day, draw up a certificate stating whether the service was effected or not. In the affirmative, the certificate shall state the name and surname of the person on whom service was effected and, if the act was not served directly on the person on whom service was to be effected, the name and the surname of the person to whom the copy was delivered and the place where the act was served; in the negative, the certificate shall state the reason why service was not effected.

(2) Any certificate referred to in subsection (1) of this section shall be drawn up in the manner prescribed by the Registrar, who may also direct that a form or forms printed, impressed or otherwise prepared be used for the purpose.

(3)/....

(3) The Registrar may also require that any such certificate be confirmed on oath by the officer entrusted with the service and any such oath shall be administered by the Registrar."

9. The following new sections 187A and 187B are added immediately after section 187 of the principal law:

"Service of acts and execution of warrants and orders in Gozo and Comino.

187A. (1) If an act filed in, or a warrant or garnishee order issued by any Court in the Island of Malta is to be served or, as the case may be, executed in the Islands of Gozo or Comino, a copy thereof shall be transmitted by the Registrar of the said Court to the Registrar of the Court of Magistrates of Judicial Police for the Islands of Gozo and Comino.

(2) The Officer effecting effecting service or execution shall deliver to the Registrar of the Court of Magistrates of Judicial Police for the Islands of Gozo and Comino the certificate of service or execution, duly confirmed on oath before the Registrar himself who shall transmit it to the Registrar of the Court in which the act was filed or by which the warrant or order was issued.

Service of acts and execution of warrants and orders in Malta.

187B. (1) If an act filed in or a warrant or garnishee order issued by the Court of Magistrates of Judicial Police for the Islands of Gozo and Comino is to be served or, as the case may be, executed in the Island of Malta, a copy thereof shall be transmitted by the Registrar of the said Court to the Registrar of the Superior Courts if it was filed in or issued by the said Court in its superior jurisdiction or to the Registrar of the Court of Magistrates of Judicial Police

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for the Island of Malta if it was filed in or issued by the said Court in its inferior jurisdiction.

(2) The officer effecting service or execution shall deliver to the Registrar of the Superior Courts, or, as the case may be, to the Registrar of the Court of Magistrates of Judicial Police for the Island of Malta the certificate of service or execution, duly confirmed on oath before the Registrar himself who shall transmit it to the Registrar of the Court of Magistrates of Judicial Police for the Islands of Gozo and Comino."

Substitution of section 188 of the principal law.

10. For section 188 of the principal law there shall be substituted the following:

"Mode of preparing copies.

188. (1) Copies shall be printed, typewritten, made by other mechanical means or by any photographic process or written in ink:

Provided that in every case they shall be drawn up in clear and easily legible characters.

(2) They shall also be certified by the Registrar to be true copies of the originals".

Amendment of section 190 of the principal law.

11. In section 190 of the principal law, for the words "sunrise and sunset" there shall be substituted the words "seven o'clock in the morning and six o'clock in the evening".

Amendment of section 281 of the principal law.

12. In subsection (1) of section 281 of the principal law, for the words "sunrise or after sunset" there shall be substituted the words "seven o'clock in the morning or after six o'clock in the evening".

Amendment of section 282 of the principal law.

13. In subsection (2) of section 282 of the principal law, for the words "with a certificate of execution" there shall be substituted the words "with a certificate stating whether the warrant or order was executed: in the affirmative, the certificate shall also state the details of the execution, and in the negative, the reason why the execution was not effected".

Amendment of section 593 of the principal law.

14. In subsection (4) of section 593 of the principal law, for the words "clearly and legibly written" there shall be substituted the words "clearly and legibly typewritten or written in ink".

Amendment of section 665 of the principal law.

15. In subsection (6) of section 665 of the principal law, for the words "clearly and legibly written" there shall be substituted the words "clearly and legibly typewritten or written in ink".

Amendment of section 837 of the principal law.

16. Immediately after subsection (2) of section 837 of the principal law there shall be added the following subsection:-

"(3) Where a warrant or a garnishee order issued by a Court in Malta is to be executed in the Island of Gozo or Comino or a warrant or garnishee order issued by the Court of Magistrates of Judicial Police for the Islands of Gozo and Comino is to be executed in the Island of Malta, the notice referred to in subsection (1) of this section shall be given by the Marshal of the Court which issued the warrant or order within twenty-four hours from the day of receipt in that Court of the notice of execution."

Amendment of enactment in Schedule.

17. The enactment specified in the First Column of the Schedule hereto shall have effect subject to the amendment specified in the Second Column of that Schedule.

#### SCHEDULE

##### Section 17

First Column Enactment amended	Second Column Extent of enactment
Criminal Code Cap.12.	In section 375, for the words "the hours of sunset and sunrise" substitute the words "six o'clock in the evening and seven o'clock in the morning".

Objects and Reasons/....

Objects and Reasons

This Bill amends the Code of Organization and Civil Procedure, modernizing first of all the system of the drawing up of pleadings by permitting the employment of means other than mere handwriting. Copies will also be permitted to be drawn up by means other than those hitherto prescribed and the same will apply to note of evidence and also referees' reports. These innovations are calculated to save both time and work.

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