

Memorandum by the Minister of Justice and  
Parliamentary Affairs on certain amendments  
proposed to be made to the Civil Code.

The amendments to the Civil Code which are submitted to the Cabinet fall under three categories.

The first category concerns amendments which are rendered necessary by the attainment of independence; the second category concerns amendments which are also consequential to the attainment of independence but are particularly necessary in view of the desirability to make it possible for the civil status of citizens of Malta who are born, marry or die in a foreign country, to be registered at the Public Registry of Malta; the third category concerns amendments which are intended to give the Assistant Directors of the Public Registry the same powers, rights and duties in relation to the registration of acts of civil status as are by the Civil Code vested in or imposed upon the Director.

The first and third categories of amendments need not any particular comment.

But the amendments in the second category are particularly important. By these amendments, a diplomatic or consular representative of Malta in any foreign country is empowered to draw up and receive for registration the acts of civil status of citizens of Malta born or dead in that country. He is also empowered to receive for registration any act which according to the law of the country where a marriage has taken place is evidence of that marriage, if one of the spouses is a citizen of Malta.

The diplomatic or consular representative shall keep registers of acts of births, marriages and deaths for three yearly periods and shall provide an index for each register. At the end of each such period he is to forward a duplicate copy of each register, with its index, to the Director of the Public Registry who shall preserve the duplicate copies in the same way in which he keeps registers

drawn up in Malta. Moreover, registrations contained in the duplicate registers shall have the same legal effect as registrations contained in registers drawn up in Malta and the provisions of the Civil Code shall apply accordingly.

The Director of the Public Registry is also empowered to accept for registration any act of birth, marriage or death of a citizen of Malta drawn up by a competent authority in a foreign acountry if he is satisfied on the authenticity of the act produced to him. This is intended to render possible the registration in the Public Registry of Malta of the birth, marriage or death of a citizen of Malta in a foreign country in which there is not a diplomatic or consular representative of Malta.

Finally, the time-limit within which the Director of the Public Registry is to register every act received is extended from fifteen to thirty working days.

Hon. Ministers are requested to approve the amendments to the Civil Code contained in the attached Bill.

16th December, 1967.

A BILL  
entitled

AN ACT further to amend the Civil Code,  
Cap. 23.

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.

1. This Act may be cited as the Civil  
Code (Amendment) Act, 1967, and shall be read and  
construed as one with the Civil Code, hereinafter  
referred to as "the principal law".

Substitution  
of section 272  
of the principal  
law.

2. For section 272 of the principal  
law there shall be substituted the following:-

"272. The provisions of the last  
preceding section shall not apply in the case  
of the death of any person belonging to, and  
actually serving in, any of the armed forces  
of a foreign country, unless such person was  
a citizen of Malta or was married to any person  
who is a citizen of Malta."

Substitution of  
section 281 of  
the principal law.

3. For section 281 of the principal law  
there shall be substituted the following:-

"281. (1) Any act of birth, marriage  
or death of a citizen of Malta drawn up or  
registered in a foreign country by a competent  
authority in that country, other than an act



drawn up or registered under subsection (1) or subsection (2) of section 304B, may, at the request of any person interested and upon the Director of the Public Registry being satisfied on the authenticity of such act, be registered in these Islands in the same manner as if it were an act drawn up by any of the persons mentioned in this Title.

(2) The person making the request shall, for the purposes of registration, deliver to the Director the act in respect of which such request is made."

Amendment of section 284 of the principal law.

4. In section 284 of the principal law for the words "fifteen working days" there shall be substituted the words "thirty working days".

Substitution of section 297 of the principal law.

5. For section 297 of the principal law there shall be substituted the following:-

"297. The Court shall, in the course of such inspection, ascertain whether the provisions of this Title have been complied with by the Director or one of the Assistant Directors, as the case may be, and it shall be lawful for the Court, in respect of any contravention, to inflict upon the Director or an Assistant Director, as the case may require, a fine (ammenda) not exceeding five pounds sterling:

Provided that where, the contravention consists in the omission of anything which is required to be done under this Title 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."

Insertion of new section 304B in the principal law.

6. Immediately after section 304A of the principal law there shall be inserted the following new section:-

"Functions of a diplomatic or consular representative in relation to acts of civil status.

304B. (1) A diplomatic or consular representative, when so requested by any person interested, shall, in respect of a child who is born or of a person who dies in a foreign country and is a citizen of Malta -

- (a) draw up the act of birth of such child or the act of death of such person and record such act in an apposite register;
- (b) receive for registration the act of birth of such child or the act of death of such person issued by the competent authority of the place where the birth or death has taken place and record such act in the apposite register referred to in the last preceding paragraph.

(2) Where a citizen of Malta marries in a foreign country, a diplomatic or consular representative shall receive for registration, at the request of either of the parties contracting such marriage or any parents of either of them any act which according to the law of the country where the marriage has taken place is evidence of the marriage and shall record such act in an apposite register.

(3) The provisions of this Title shall, as far as practicable, apply to and for the purpose of the acts drawn up and the registers kept under the provisions of the foregoing subsections by diplomatic and consular representatives, who shall have in respect of such acts and registers the same powers, rights and obligations as are in this Title conferred or imposed upon the Director of Public Registry.

(4) The registers referred to in subsections (1) and (2) of this section shall be kept for three yearly periods and shall contain an alphabetical index of the registrations entered therein. A certified duplicate copy of such registers with the diplomatic or consular representative's signature immediately after the last entry transcribed therein shall be transmitted to the Director of Public Registry, for preservation in the Public Registry of Malta, not later than the thirty first-day of March of the year immediately following the last year of the period to which the registers refer, and the provisions of sections 288, 289, 290, 291, 292, 293 and 293A shall apply



in regard to the registrations contained in such duplicate registers as if they were registrations in the register books mentioned in section 275.

(5) The Director of the Public Registry, within thirty days of any correction, cancellation or annotation which he makes in a duplicate register pursuant to the judgement of a Court or to the order of one of the Visitors of **Notarial Acts**, shall inform of such correction, cancellation or annotation the diplomatic or consular representative in the country where the original register is kept, who shall forthwith cause the same correction, cancellation or annotation, as the case may be, to be made in such register and shall initial it.

(6) Any person who before a diplomatic or consular representative commits the offence referred to in section 299 may in Malta be prosecuted, tried and punished for such offence in the same manner and to the same extent as if the offence had been committed in Malta.

(7) Any person who suppositiously represents to a diplomatic or consular representative an infant to have been born of a woman who had not been delivered of a child so as to cause such representative to draw up an act of birth under subsection (1) of this section shall be prosecuted, tried and punished in Malta in the same manner and to the same extent as if he had committed in Malta the corresponding offence mentioned in section 224 of the Criminal Code.

(8) The provisions of subsections (6) and (7) of this section shall not apply if the person who has committed the offence has been tried for the same facts constituting it in another country.

(9) Any reference in this section to a diplomatic or consular representative shall be deemed to be a reference to the diplomatic or consular representative of the Government of Malta in the foreign country where a birth, marriage or death has taken place."

Repeal of section 320 of the principal law.

7. Section 320 of the principal law is hereby repealed.

Amendment of section 321 of the principal law.

8. For the words "Nothing in the last two preceding sections contained" in subsection (1) of section 321 of the principal law there shall be substituted the words "Nothing contained in section 319".

Repeal of section 334 of the principal law.

9. Section 334 of the principal law is hereby repealed.

Repeal of section 342 of the principal law.

10. Section 342 of the principal law is hereby repealed.

Insertion of new section 343A in the principal law.

11. Immediately after section 343 of the principal law there shall be inserted the following new section:-



"Functions  
of Assistant  
Directors of  
the Public  
Registry.

343A. (1) Any of the Assistant Directors of the Public Registry may exercise all or any of the functions which are in this Title assigned to the Director of the Public Registry and the provisions under this Title shall be construed accordingly.

(2) In the exercise of any such functions ~~an~~ Assistant Director shall have the same powers and the same obligations as are by the provisions under this Title conferred to or imposed upon the Director:

Provided that the Director of the Public Registry shall be the only competent person to represent the Public Registry in any judicial proceedings."

L-ARKIVI NAZZJONALI TA' MALTA

Transitory  
provision.

12. Notwithstanding the provision of subsection (4) of section 304B, the registers referred to in that subsection shall for the first time be kept for the period between the date of the coming into force of this Act and the thirtyfirst December, 1969, and the duplicate copy shall be transmitted to the Director of the Public Registry not later than the thirtyfirst March, 1970.

#### Objects and Reasons

The object of this Bill is to amend the provisions of the Civil Code regarding the Acts of civil status mainly so as to provide that any of the functions of the Director of the Public Registry may be performed

in the office of the Public Registry by any of the Assistant Directors and that the same functions may be performed in a foreign country, in relation to the birth, marriage or death of a citizen of Malta, by the diplomatic or consular representative of the Government of Malta in that country. The Bill also includes a new provision which makes it possible to register in the Public Registry in Malta any act of civil status drawn up or registered by a competent authority in a foreign country in respect of the birth, marriage or death of a citizen of Malta in that country and extends the time-limit within which the Director of the Public Registry is to register every act received from fifteen to thirty working days.