MARRIAGE ACT

To regulate marriages and to provide for matters connected therewith or ancillary thereto.

12th August, 1975;
1st October, 1975

ACT XXXVII of 1975, as amended by Acts: XXXIV of 1981, III of 1983, I and XXIV of 1995, IX of 2000, XXXI of 2002 and IX of 2004.

Preliminary

1. The title of this Act is Marriage Act. Title.

2. (1) In this Act, unless the context otherwise requires - Interpretation. *Amended by; I.1995.2; IX.2000.8.* Cap. 16.

"act of marriage" means the act of marriage drawn up and completed in accordance with article 293 of the Civil Code;

"Agreement" means the Agreement between the Holy See and Malta on the Recognition of Civil Effects to Canonical Marriages and to the Decisions of the Ecclesiastical Authorities and Tribunals about the Same Marriages, as well as the Protocol of Application thereto, both signed in Malta on the 3rd February 1993, as well as the Second Additional Protocol thereto signed in Malta on the 6th January, 1995, which Agreement and protocols are reproduced in the Schedule to this Act;

"Canon law" means the Code of Canon Law promulgated by the competent organs of the Catholic Church and any other rule of law sohowever called of the said Church relative to marriage;

"catholic marriage" means a marriage celebrated in accordance with the norms and formalities of Canon Law or with a dispensation therefrom granted by the competent organ in accordance with Canon Law;

"Marriage Registry", in respect of marriages taking place in the Island of Malta, means the division in the Public Registry Office in the said island charged by the Minister with responsibility for matters relating to marriages, and, in respect of marriages taking place in Gozo, means the division in the Public Registry Office in Gozo charged by the Minister as aforesaid;

"Minister" means the Minister responsible for the Public Registry;

"parish priest" for the purposes of this Act includes also any ecclesiastic who according to Canon Law, is equivalent to a parish priest or substitutes a parish priest;

"Registrar" means the public officer designated by the Minister to perform the functions of Marriage Registrar in respect of a Marriage Registry, and includes, for any purpose of this Act, any person authorised by the Registrar for that purpose;

"Tribunal" for the purposes of articles 23, 24, 29 and 30 means

the competent court or courts which in accordance with Canon Law applicable at the time can pronounce on the validity of a catholic marriage.

(2) Except where it is otherwise expressly provided, all the provisions of this Act shall apply to all marriages whether contracted in a civil or in a religious form.

Restrictions on marriage

Age for marriage. *Substituted by: I.1995.3.*

3. (1) A marriage contracted between persons either of whom is under the age of sixteen shall be void.

(2) Without prejudice to the provisions of sub-article (1), a person who is subject to paternal authority or to tutorship may not validly contract marriage without the consent of the person exercising such authority, or of the tutor, as the case may be.

(3) Notwithstanding the provisions of sub-article (2) the court of voluntary jurisdiction within whose jurisdiction the minor habitually resides, may upon good cause being shown, authorise the celebration of a marriage referred to in that sub-article, where the consent of the person exercising paternal authority or of the tutor, as the case may be, is not forthcoming; and for the purposes of proceedings in connection with this sub-article, article 781(*a*) of the Code of Organisation and Civil Procedure shall not apply.

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Infirmity of mind.

4. A marriage contracted between persons either of whom is incapable of contracting by reason of infirmity of mind, whether interdicted or not, shall be void.

Marriages within prohibited degrees. *Amended by: I.1995.4.*

5. (1) A marriage contracted between -

(*a*) an ascendant and a descendant in the direct line;

(*b*) a brother and a sister, whether of the full or half blood;

(*c*) persons related by affinity in the direct line; or

(*d*) the adopter and the adopted person or a descendant, or the husband or wife, of the adopted person,

shall, whether the relationship aforesaid derives from legitimate or illegitimate descent, be void.

(2) For the purposes of sub-article (1), the relationship of an adopted person shall be deemed to subsist both with reference to his natural and to his adoptive family.

(3) The court of voluntary jurisdiction within whose jurisdiction either of the spouses resides may upon good cause being shown dispense from the provisions of sub-article (1)(*c*) and (*d*).

Persons bound by previous marriage.

6. A marriage contracted between persons either of whom is bound by a previous marriage shall be void.

Formalities to precede marriage

Banns of matrimony. *Amended by: III. 1983.2; I.1995.5.*

7. (1) The celebration of marriage must be preceded by the publication of banns of matrimony.

(2) Banns of matrimony shall state the name, surname, place of birth and residence of each of the persons to be married, the place where they intend to contract marriage and, unless the Registrar in the case of natural filiation or other circumstances deems proper to act otherwise, the name of the father and the name and surname of the mother of each of the persons to be married.

(3) The publication of the banns consists in the posting up of the banns in a place at the Marriage Registry accessible to the public and reserved for that purpose and in keeping the banns so posted up for a period of not less than eight consecutive days excluding Saturdays, Sundays and other public holidays. The banns shall also be posted up at the place where official acts are usually posted up in the town, village or parish in Malta in which each of the persons to be married resides.

(4) Banns of matrimony shall be published by or by order of the Registrar on a request in writing signed by both persons to be married or, where the marriage is to take place by proxy, by the proxy and the other person.

(5) A request for the publication of banns shall not be entertained unless it is delivered to the Registrar earlier than six weeks before the date of the intended marriage, or than such shorter period as the Registrar may in his discretion accept in special circumstances, and unless and until, in addition to all other relevant information, there are delivered to the Registrar-

(*a*) the certificate of birth of each of the persons to be married;

(*b*) a declaration on oath made and signed by each of the persons to be married stating that to the best of his or her knowledge and belief there is no legal impediment to the marriage or other lawful cause why it should not take place:

Provided that if it is shown to the satisfaction of the Registrar that it is impracticable to obtain a certificate of birth required to be delivered by this sub-article, the Registrar may accept instead such other document or evidence as he may deem adequate for the purpose of this article.

(6) The Registrar may administer oaths for the purposes of this Act.

(7) Where banns have been published in accordance with the provisions of this Act and it appears to the Registrar that there is no legal impediment or other lawful cause why the marriage should not take place, the Registrar shall, at the request of either of the parties to be married, issue a certificate that the banns have been so published and indicate therein, in addition to other relevant information, the date of the completion of such publication.

(8) Subject to the provisions of article 10, no person shall

officiate at a marriage unless a certificate issued in accordance with sub-article (7) in respect of the persons to be married has been produced to him; and that certificate or a certificate issued in terms of article 10 shall be final and conclusive proof of its contents.

Refusal by Registrar to publish banns or issue certificates.

8. (1) If the Registrar is of the opinion that he cannot proceed to the publication of the banns or that he cannot issue a certificate of such publication he shall notify the persons requesting the publication of his inability to do so, giving the reasons therefor.

(2) In any such case, either of the persons to be married may apply to the competent court of voluntary jurisdiction for an order directing the Registrar to publish the banns or to issue a certificate of their publication, as the case may require, and the court may, after hearing the applicant and the Registrar, give such directions as it may deem appropriate in the circumstances, and the Registrar shall act in accordance with any such directions.

Marriage to be contracted within certain period from banns. *Amended by: III. 1983.3.*

9. (1) A marriage contracted before the sixth day after the completion of the period during which the banns are to remain posted up in accordance with the provisions of this Act, and a marriage contracted after the expiration of three months from the day on which the banns are first posted up as aforesaid, shall be void.

(2) Where the period of three months referred to in sub-article (1) has expired, the banns shall be published again and the procedure for their publication shall be started afresh.

Exceptions.

10. Notwithstanding the provisions of articles 8 and 9 -

(*a*) the period during which the banns are to remain posted up in accordance with article 7 or the period which must elapse, in accordance with article 9, before the marriage can take place, or both such periods, may be shortened by the Registrar if he is satisfied that the shortening of those periods is justified by the circumstances of the case; but in any such case the shortening of the periods must result from the banns;

(*b*) where either of the persons to be married is in imminent danger of death, the publication of the banns may be dispensed with altogether by the Registrar and the marriage may be contracted on his authority without any banns being published, if each of the persons to be married makes and signs the declaration on oath required by article 7(5); and in any such case the Registrar shall certify under his hand that the marriage, with dispensation from the publication of banns, is authorised by him and shall specify in the certificate the manner in which he ascertained the imminent danger of death.

Formalities of marriage

Forms of marriage. *Amended by: XXXIV. 1981.2.*

11. (1) A marriage may be contracted either in a civil form, that is to say in the form established by this Act for civil marriage,

or in a religious form, that is to say in a religious form in accordance with the provisions of this Act.

(2) A marriage, whether contracted in a civil or in a religious form, shall be valid only if all the provisions of this Act applicable thereto or to marriage generally are satisfied or observed.

(3) In the case of the non-observance of any formality or other similar requirement relating to the celebration of the marriage or preparatory thereto, a marriage may not be annulled and shall be held to have always been valid, if the demand for annulment is not made within two years after the celebration of the marriage.

Registration of marriage. *Substituted by: I.1995.6.*

12. (1) Registration is not essential to the validity of marriage.

(2) Registration shall not operate as to validate a marriage which, independently of such registration, is null.

(3) A marriage shall not have effect for any purpose of law unless and until the appropriate act of marriage is completed and delivered for registration in accordance with the provisions of articles 293 and 294 of the Civil Code.

Cap.16.

Witnesses.

13. (1) All marriages shall be contracted in the presence of at least two witnesses in addition to the officer, clergyman or other person officiating at the marriage ceremony.

(2) Any person over the age of eighteen years, even if related to any of the persons to be married, may be a witness for the purposes of this article or of article 14.

Marriage by proxy. *Amended by: XXXIV. 1981.3.*

14. (1) Marriage may be contracted by proxy with the written authority of the Registrar if one of the persons to be married is not, and the other person is, present in Malta, and there are, in the opinion of the Registrar, grave reasons for permitting the marriage to take place by proxy.

(2) The proxy must be operative and must contain a clear indication of the persons between whom the marriage is to take place; it shall be dated and shall be signed by the person making it in the presence of two witnesses and countersigned by the said witnesses and by a person authorised to authenticate signatures by the law of the country where the proxy is signed.

(3) A proxy shall cease to be operative ninety days after it is signed.

(4) In the case of a marriage contracted by proxy signed earlier than ninety days before marriage or which is revoked before the marriage without the knowledge of the other party, the marriage may not be annulled and shall be held to have always been valid, if there has been cohabitation for at least one month after the celebration of the marriage.

Form of civil marriage.

15. (1) A civil marriage shall be contracted in the presence of the Registrar, or of an officer of the Marriage Registry authorised by the Registrar to officiate at marriages, and of the witnesses required by this Act.

(2) The Registrar or other officiating officer shall ask each of the persons to be married, first to one of them and then to the other, whether he or she will take the other as his wife or her husband respectively, and upon the declaration of each of such persons that they so will, made without any condition or qualification, he shall declare them to be man and wife.

(3) The act of marriage shall be completed and delivered for registration immediately after the marriage.

Place where civil marriage may be contracted.

16. (1) A civil marriage shall be contracted in the Marriage Registry or in such other place open to the public as the persons to be married may designate and which the Registrar accepts as appropriate.

(2) If one of the persons to be married cannot, by reason of infirmity of body or other lawful cause, attend any of the places referred to in sub-article (1), the marriage may be contracted in such other place as the Registrar may deem appropriate in the circumstances.

Form of religious marriage. *Amended by: I.1995.7.*

17. (1) Saving the provisions of article 21, a religious marriage shall be contracted according to the rites or usages of a church or religion which is recognised for the purposes of this Act and which either of the persons to be married belongs to or professes; but the consent of the persons to be married must, in order that the marriage may be valid, conform in substance to the consent required by article 15(2).

(2) A church or religion shall be recognised for the purposes of this Act if it is generally accepted as a church or religion or if it is recognised for the purposes of this article by the Minister; and if any question arises as to the application of this sub-article, the decision of the Minister aforesaid shall be final and conclusive.

(3) The act of marriage shall be completed and delivered for registration immediately after the marriage.

Validity and annulment of marriages

Conflict of laws.

18. A marriage, whether celebrated in Malta or abroad, shall be valid for all purposes of law in Malta if -

(*a*) as regards the formalities thereof, the formalities required for its validity by the law of the country where the marriage is celebrated are observed; and

(*b*) as regards the capacity of the parties, each of the persons to be married is, by the law of the country of his or her respective domicile, capable of contracting marriage.

Nullity of marriage. *Substituted by: XXXIV. 1981.4.*

19. (1) In addition to the cases in which a marriage is void in accordance with any other provision of this Act, a marriage shall be void:

(*a*) if the consent of either of the parties is extorted by violence, whether physical or moral, or fear;

(*b*) if the consent of either of the parties is excluded by error on the identity of the other party;

(*c*) if the consent of either of the parties is extorted by fraud about some quality of the other party which could of its nature seriously disrupt matrimonial life;

(*d*) if the consent of either of the parties is vitiated by a serious defect of discretion of judgment on the matrimonial life, or on its essential rights and duties, or by a serious psychological anomaly which makes it impossible for that party to fulfil the essential obligations of marriage;

(*e*) if either of the parties is impotent, whether such impotence is absolute or relative, but only if such impotence is antecedent to the marriage;

(*f*) if the consent of either of the parties is vitiated by the positive exclusion of marriage itself, or of any one or more of the essential elements of matrimonial life, or of the right to the conjugal act;

(*g*) if either of the parties subjects his or her consent to a condition referring to the future;

(*h*) if either of the parties, although not interdicted or infirm of mind, did not have at the time of contracting marriage, even on account of a transient cause, sufficient powers of intellect or volition to elicit matrimonial consent.

(2) Subject to the provisions of this Act, an action for the annulment of a marriage may only be commenced by one of the parties to that marriage, and this provision shall apply even where such party is, under any provision of law, incapable of suing or being sued, and in any such case the action may be commenced by such party notwithstanding such incapacity, saving any assistance or other condition the court may deem appropriate to order. Where an action has been commenced by a party to a marriage, the action may be continued by any of the heirs.

Annulment of marriage on the grounds of non-consummation. *Added by: I.1995.8.*

19A. (1) A valid marriage may be annulled at the request of one of the spouses on the grounds that the other party has refused to consummate the same.

(2) The provisions of article 19(2) shall apply to an action for the annulment of a marriage referred to in sub-article (1) as it applies to an action for the annulment of a marriage therein referred to.

(3) An action for the annulment of a marriage under this article may not be instituted before the lapse of three months from the date of the celebration of the marriage.

Putative marriage. *Substituted by: XXXIV. 1981.5.*

20. (1) If a marriage is declared to be void the effects of a valid marriage shall be deemed to have existed, in favour of the spouses until the judgment of nullity has become a *res judicata* when both spouses had contracted the marriage in good faith.

(2) The effects of a valid marriage shall be deemed to have always existed with reference to the children born or conceived during a marriage declared to be void as well as with reference to children born before such marriage and acknowledged before the judgment declaring the nullity.

(3) If only one of the spouses was in good faith such effects shall apply in his or her favour and in favour of the children.

(4) If both spouses were in bad faith the effects of a valid marriage shall apply only in favour of the children born or conceived during the marriage declared to be void.

(5) Notwithstanding any other provision, the spouse who was responsible for the nullity of the marriage, is bound to pay maintenance to the other spouse in good faith for a period of five years, which duty shall cease if the party in good faith marries during such period.

Catholic Marriages

Recognition of Catholic marriage. *Added by: I.1995.10.*

21. (1) A marriage celebrated in Malta after the coming into force of this article, in accordance with the norms and formalities established by Canon Law shall as from the moment of its celebration, be recognised and have the same civil effects as a marriage celebrated in accordance with the norms and formalities of this Act.

(2) The provisions of sub-article (1) shall apply only where:

(*a*) the banns required by this Act have been either published or dispensed with in accordance with articles 7 to 10 and the Registrar has issued a certificate attesting such publication or dispensation;

(*b*) the parish priest who in accordance with Canon Law has jurisdiction in the place where the marriage was celebrated transmits to the Director of the Public Registry an act of marriage in the form as may be prescribed duly signed by such authority as is provided for in the Agreement; and

(*c*) no impediment to the marriage as is referred to in articles 3, 4, 5 and 6, subsists. So however that the competent organs of the Catholic Church may for the purpose of catholic marriages under this Act grant authorisations or dispense from the restrictions in article 3(2) and article 5(1)(*c*) and (*d*).

(3) The certificate referred to in sub-article (2)(*a*) hereof shall constitute definite and conclusive proof of its contents.

Transcription of act of marriage. *Added by: I.1995.10.* Cap.16.

22. (1) Notwithstanding anything contained in this Act or in the Civil Code relative to the procedure whereby, and the term in which, an act of marriage is to be registered, the Parish Priest referred to in article 21(2)(*b*), shall transmit to the Public Registry the act of marriage therein referred to for registration within five working days of the celebration of the marriage.

(2) Failure to transmit the act of marriage for registration as is

provided for in sub-article (1) shall not be an obstacle to such transmission after the lapse of such term. Either spouse may at all times demand that such transmission be effected by the Parish Priest who shall remain at all times obliged to effect such transmission.

(3) When the act of marriage has been transmitted to the Public Registry, the Director of the Public Registry shall ascertain that the provisions of article 21 apply to the marriage, and upon having so ascertained he shall register the act which shall be deemed for all effects at law to be an act of marriage referred to in article 12. Upon registration of the act of marriage the Director of the Public Registry shall, as soon as may be, give notice of such registration to the Parish Priest transmitting the act of marriage.

(4) A marriage which is recognised in accordance with article 21 shall upon transmission and registration of the act of marriage be recognised as from the moment of its celebration. Such recognition shall not, however, prejudice any property rights lawfully acquired by third parties in good faith before the transmission of the act of marriage as aforesaid in this article, where such act of marriage is transmitted after the expiry of the term referred to in sub-article (1) hereof.

Recognition of decisions given by tribunals. *Added by: I.1995.10.*

23. (1) A decision which has become executive, given by a tribunal, and declaring the nullity of a catholic marriage shall, where one of the parties is domiciled in, or a citizen of, Malta, and subject to the provisions of article 24 be recognised and upon its registration in accordance with the said article 24 shall have effect as if it were a decision by a court and which has become *res judicata*.

(2) An executive decision given by a tribunal and upholding the validity of a catholic marriage shall, where one of the parties is domiciled in, or a citizen of, Malta, and subject to the provisions of article 24 be recognised and upon its registration in accordance with the said article 24 shall have effect as if it were a decision by a court and which has become *res judicata* and as such shall not be subject to re-examination on the same grounds.

Registration of decisions given by tribunal. *Added by: I.1995.10.*

24. (1) Registration of a decision as is referred to in article 23 shall be effected by the Court of Appeal.

(2) A request for such registration shall be made by application filed in the registry of the said court, and which shall be served on the Director of the Public Registry and where it is presented by one only of the spouses, on the other spouse.

(3) The respondents shall have a right to file a reply within twelve working days of the service upon them of the application.

(4) Together with the application, the applicant shall file:

(*a*) an authentic copy of the decision;

(*b*) a declaration of executivity according to Canon Law issued by the Tribunal that has given the decision.

(5) The Court of Appeal registers that decision by giving a

decree declaring the decision enforceable in Malta; such decree shall not be given unless the Court of Appeal is satisfied that:

(i) the Tribunal was competent to judge the case of nullity of the marriage insofar as the marriage was a catholic marriage; and

(ii) during and in the proceedings before the Tribunal there was assured to the parties the right of action and defence in a manner substantially not dissimilar to the principles of the Constitution of Malta; and

(iii) there does not exist a contrary judgement binding the parties pronounced by a court, and which has become *res judicata*, based on the same grounds of nullity; and

(iv) in the case of a marriage celebrated in Malta after the 11th August, 1975, there has been delivered or transmitted to the Public Registry the act of marriage laid down by this Act; and

(v) in the case of a decision delivered on or after the 16th July, 1975, but before the coming into force of this article, the request for recognition is presented by both spouses; or where it is presented only by one of the spouses it is satisfied that the other spouse does not oppose the registration of the decision.

(6) Notwithstanding the provisions of sub-article (5)(v) where a request for the registration of a decision as is referred to in article 23(1) issued by a tribunal on or alter the 16th July, 1975 but before the coming into force of this article, is made by one only of the spouses, and the other spouse opposes such registration, the Court of Appeal shall give the spouse opposing such registration a term not exceeding two months within which the spouse opposing such registration may present a plea, in accordance with Canon Law applicable, before the competent Tribunal to have the decision revoked; and the Court of Appeal shall only register that decision where the party opposing the registration has not entered the plea in the term established, or has entered the plea but the same was rejected or the decision declaring the marriage null was confirmed by the Tribunal.

Recognition of decrees *super matrimonio rato et non consummato. Added by: I.1995.10.*

25. A decree given by the Roman Pontiff "*super matrimonio rato et non consummato*", when one of the spouses is domiciled in or is a citizen of Malta, shall, subject to the provisions of article 26, be recognised and upon its registration in accordance with the said article 26, shall have effect as if it were a decision given by a court and which has become *res judicata* annulling a marriage on the grounds of non-consummation, in accordance with article 19A.

Registration of decree. *Added by: I.1995.10.*

26. (1) Registration of a decree as is referred to in article 25 shall be effected by the Court of Appeal.

(2) A request for such registration shall be made by application accompanied by an authentic copy of the pontifical decree filed in

the registry of the said court, and which shall be served on the Director of the Public Registry and where it is presented by one only of the spouses, on the other spouse.

(3) The respondents shall have a right to file a reply within twelve working days of service upon them of the application.

(4) (*a*) Registration shall be effected by an order of the Court of Appeal declaring the decree of the Roman Pontiff enforceable in Malta.

(*b*) The Court of Appeal shall register the decree if it is satisfied that it refers to a catholic marriage which was celebrated after the coming into force of this article and either of the spouses is domiciled in or is a citizen of Malta.

(5) Notwithstanding the provisions of sub-article (4) hereof, the Court of Appeal shall give a decree which refers to a catholic marriage celebrated before the coming into force of this article where the application therefor is filed by both spouses, or where it is filed by one only of the spouses, the other spouse does not oppose the registration.

Applicability of sub-article (2) of article 19. *Added by: I.1995.10.*

27. The provisions of article 19(2) shall apply to applications made in terms of articles 24 and 26.

Court of Appeal not to re-examine issue. *Added by: I.1995.10.*

28. In the course of an application under articles 24 and 26 the Court of Appeal shall not go into the merits of the case leading to the decision or the decree the registration of which is demanded in the application but shall limit itself to ascertain if the requirements of this Act for the registration requested exist.

Evidence required before tribunal. *Added by: I.1995.10. Amended by: XXXI. 2002.262.*

29. (1) Where the evidence of any person is required before a Tribunal, any of the parties may request the appropriate section of the Civil Court to order that the evidence of such person be heard by one of the judicial assistants according to the residence of the witness, and upon such order being given the court shall fix a date for the hearing of the witness before the judicial assistant in the manner provided in articles 606 and 607 of the Code of Organization and Civil Procedure.

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(2) The parties to the case before the tribunal shall be notified of the date fixed for the hearing of the witness before the judicial assistant and may be present and be assisted by an advocate or legal procurator.

(3) Any deposition taken in the manner provided in the preceding sub-articles shall also be signed by the supplementary judge or magistrate and deposited in the registry of the court. The Registrar shall give official copies of any evidence so registered to any of the parties or the Chancellor of the Tribunal.

(4) Article 610(4) and (5) of the said Code shall apply to evidence taken under this article.

(5) All the provisions of the Code of Organisation and Civil Procedure and of any other law relating to the admissibility of

evidence and to the competence and compellability of witnesses, as well as to privileged communications, shall apply to evidence taken under this article as they apply to evidence of witnesses before the Civil Court, First Hall.

Courts to suspend action when matter is before a tribunal. *Added by: I.1995.10. Amended by: XXIV.1995.362.*

30. (1) Where the Tribunal decrees the acceptance of a petition whereby a case for the declaration of nullity of a catholic marriage celebrated after the coming into force of this article, is initiated before such Tribunal, the Chancellor of the Tribunal or his substitute shall deliver a certificate of such acceptance, duly authenticated, to the Registrar of Courts who shall keep the same in an appropriate register.

(2) Upon the registration as is referred to in sub-article (1), the court shall cease to be competent to deal with the matter; and where an action is pending before the court for the declaration of nullity of a marriage in relation to which a certificate has been delivered to the Registrar in accordance with sub-article (1), the court shall suspend the hearing of the case before it, and may not resume hearing the case and, in any case, shall not again be competent until the said case has, in accordance with the procedures of the Tribunal, been withdrawn from before the Tribunal or been declared abandoned.

(3) It shall be the duty of the Registrar to bring to the notice of the court any certificate which refers to that case, delivered to him in accordance with sub-article (1), as well as any decision relative thereto, registered in terms of article 24.

(4) Where an action for the declaration of nullity of a catholic marriage is brought before a court, the court shall ascertain its competence in terms of this Act.

Failure to oppose within term. *Added by: I.1995.10.*

31. (1) Where a person who is served with an application as is referred to in articles 24 and 26 does not oppose the request for registration within the term prescribed for filing a reply, he shall be deemed to have admitted the application.

(2) When all the parties to an application have admitted the same, the court shall not put the application for hearing but shall give the relative decree *in camera*.

Applicability of other articles to catholic marriages. *Added by: I.1995.10.*

32. Articles 11 to 17 shall not apply to catholic marriages celebrated after the coming into force of this article*.

Miscellaneous

Recognition of foreign judgments affecting status of married persons. *Amended by: I.1995.9.*

33. A decision of a foreign court on the status of a married person or affecting such status shall be recognised for all purposes of law in Malta if the decision is given by a competent court of the country in which either of the parties to the proceedings is domiciled or of which either of such parties is a citizen.

Regulations. *Amended by: I.1995.9.*

34. The Minister may make regulations -

(*a*) respecting the fees and other charges to be levied and

**See* Legal Notice 47 of 1995.

paid in respect of anything done or services rendered under this Act or in respect of any other matter provided for under this Act or related thereto or connected therewith;

(*b*) respecting the forms to be used for the purposes of this Act; and

(*c*) generally for carrying out any of the provisions of this Act and for any other matter incidental or supplementary to any of the foregoing matters.

Law and jurisdiction in relation to marriage. *Amended by: I.1995.9,11* Cap. 12.

35. Without prejudice to articles 21 to 31, Canon Law shall, in so far as it had effect as part of the law of Malta on marriage, cease to have such effect, and all jurisdiction in relation to marriage shall vest in the courts of Malta in accordance with the relevant provisions of the Code of Organization and Civil Procedure.

Application of the Act. *Amended by: I.1995.9,12.*

36. (1) Save as hereinafter provided, the provisions of articles 18, 19, 19A, 20 and 35 shall apply to all marriages whether contracted before or after the commencement of this Act, including a marriage in respect of which proceedings were instituted prior to such commencement.

(2) Nothing in this Act shall -

(*a*) affect the validity of a marriage which was valid at the time it was contracted; or

(*b*) affect the continued operation of a judgment having effect in Malta which is *res judicata* on or before July 15, 1975.

(3) Where any signature is required of any person who cannot or is unable to write, the requirements of this Act shall be satisfied if in place of his signature there is set a mark of such person attested as provided in article 634(1) of the Code of Organization and Civil Procedure or by the Registrar. Cap. 12.

Agreements with other Churches, etc. *Added by: I.1995.13.*

37. (1) The Government may enter into agreements with other churches, religions or denominations regarding the recognition of marriages celebrated in accordance with the rules and norms of that church, religion or denomination, and declarations of nullity or annulment of such marriages by the organs of such church, religion or denomination having authority in accordance with its rules.

(2) Such agreements shall conform substantially to the provisions of the Agreement between the Holy See and Malta referred to in this Act.

(3) When an agreement as is referred to in the preceding sub-article has been entered into by the Government, the Minister responsible for justice may make an order extending the provisions of this Act, with such modifications as may be required, to marriages celebrated in accordance with the rules and norms of such church, religion or denomination, and its declaration of nullity or annulment.

Marriages of convenience. *Added by: IX. 2004.20.*

38. (1) Any person who contracts a marriage with the sole purpose of obtaining -

(*a*) Maltese citizenship; or

(*b*) freedom of movement in Malta; or

(*c*) a work or residence permit in Malta; or

(*d*) the right to enter Malta; or

(*e*) the right to obtain medical care in Malta,

shall be guilty of an offence and shall on conviction be liable to imprisonment for a term not exceeding two years.

(2) Any right or benefit obtained by a person convicted of an offence under subarticle (1) on the basis of the marriage referred to in that subarticle (1) may be rescinded or annulled by the public authority from which it was obtained.

(3) Any person who contracts a marriage with another person knowing that the sole purpose of such other person in contacting the marriage is one or more of the purposes referred to in subarticle (1) shall be guilty of an offence and shall on conviction be liable for the same punishment laid down in subarticle (1).

SCHEDULE

Added by: I. 1995.15.

(ARTICLE 2)

AGREEMENT BETWEEN THE HOLY SEE AND MALTA ON THE RECOGNITION OF CIVIL EFFECTS TO CANONICAL MARRIAGES AND TO DECISIONS OF ECCLESIASTICAL AUTHORITIES AND TRIBUNALS ABOUT THE SAME MARRIAGES*

(The Agreement is in the Italian and English languages).

La Santa Sede e la Repubblica di Malta,

- tenendo conto, da parte della Santa Sede, della dottrina cattolica sul matrimonio, come è anche espressa nel Codice di Diritto Canonico, nonchè dell'insegnamento del Concilio Ecumenico Vaticano II sulle relazioni tra la Chiesa e lo Stato e, da parte della Repubblica di Malta, dei principi sanciti nella Costituzione di Malta;
- volendo assicurare, nel rispetto dei diritti fondamentali dell'uomo e dei valori della famiglia basata sul matrimonio, una libera scelta in materia matrimoniale;

hanno riconosciuto l'opportunità di addivenire ad un accordo sul riconoscimento degl effetti civili ai matrimoni canonici e alle decisioni delle Autorità e dei tribunal ecclesiastici circa gli stessi matrimoni.

A tale fine la Santa Sede, rappresentata da Mons. Pier Luigi Celata, Arcivescovo titolare di Doclea, Nunzio Apostolico a Malta, e la Repubblica di Malta, rappresentata dal Prof. Guido de Marco, Vice Primo Ministro e Ministro per gli Affari Esteri, hanno stabilito, di comune intesa, quanto segue.

Articolo 1

1. Sono riconosciuti gli effetti civili ai matrimoni celebrati a Malta secondo le norme canoniche della Chiesa Cattolica, dal momento della loro celebrazione, a condizione che:

a) risulti da un attestato del "Marriage Registrar" che sono state eseguite le pubblicazioni richieste dalla legge civile, o che vi è stata dispensa dalle stesse, costituendo tale attestato una prova definitiva ed insindacabile della regolarità delle pubblicazioni o della dispensa dalle stesse:

b) il Parroco del luogo dove è stato celebrato il matrimonio trasmetta al Registro Pubblico un esemplare originale dell'atto di matrimonio redatto nella forma stabilita di comune intesa fra le Alte Parti, e sottoscritto dall'Ordinario del luogo o dal Parroco o dal loro Delegato, che ha assistito alla celebrazione del matrimonio.

2. La Santa Sede prende atto che la Repubblica di Malta riconosce gli effetti civili dei matrimoni canonici quando non sussista fra i contraenti un impedimento che, secondo la legge civile, produca la nullità del matrimonio e che la stessa legge civile consideri inderogabile o non dispensabile.

Articolo 2

*Article 14 of Act I of 1995:

14. For the purposes of the Ratification of Treaties Act, the Government is hereby authorised to ratify the Agreement between the Holy See and Malta on the recognition of Civil effects to canonical marriages and to the decisions of the ecclesiastical authorities and Tribunals about the same marriages.

1. L'atto di matrimonio deve essere trasmesso al Registro Pubblico per la debita trascrizione entro cinque giorni utili dalla celebrazione del matrimonio.

2. Qual ora la trasmissione dell'atto di matrimonio non venga effettuata entro il termine stabilito, rimane l'obbligo del Parroco di effettuarla al più presto possibile. Le parti, o anche una di esse, hanno sempre il diritto di chiedere tale trasmissione. La trasmissione tardiva non osta alla trascrizione.

3. Ove consti che le condizioni stabilite nell'articolo 1 siano state soddisfatte, il Direttore del Registro Pubblico trascrive l'atto di matrimonio e, al più presto possibile, ne dà notizia in iscritto al Parroco.

Articolo 3

La Repubblica di Malta riconosce per tutti gli effetti civili, nei termini del presente Accordo, le sentenze di nullità e i decreti di ratifica di nullità di matrimonio emessi dai tribunali ecclesiastici e diventati esecutivi.

Articolo 4

1. Ai fini del riconoscimento degli effetti civili di cui all'articolo 3, la Santa Sede prende atto che:

a) dal momento in cui viene notificata al "Registrar of Courts" l'accettazione, da parte della Cancelleria dei tribunali ecclesiastici, della domanda presentata da almeno una delle parti per ottenere la dichiarazione di nullità di un matrimonio canonico celebrato dopo l'entrata in vigore del presente Accordo, è riconosciuta unicamente agli stessi tribunali ecclesiastici la competenza di decidere in merito, purchè i tribunali civili non abbiano già emanato una sentenza passata in giudicato, basata sugli stessi capi di nullità;

b) qualora risulti che sia stata ammessa dal giudice ecclesiastico la rinuncia ad una causa iniziata presso i tribunali ecclesiastici o che una causa sia canonicamente caduta in perenzione, i tribunali civili potranno riprendere l'esame della causa eventualmente già iniziata presso di essi e sospesa in virtù di quanto disposto alla precedente lettera a).

2. La Chiesa illuminerà i futuri sposi in merito alla specifica natura del matrimonio canonico e, di conseguenza, alla giurisdizione ecclesiastica in materia di vincolo matrimoniale.

I futuri sposi prenderanno formalmente atto di ciò, per accettazione, in iscritto.

Articolo 5

Le sentenze di nullità e i decreti di ratifica di nullità di matrimonio emessi dai tribunali ecclesiastici sono riconosciuti come efficaci per gli effetti civili, a condizione che:

a) dalle parti, o da una di esse, sia presentata domanda alla Corte d'Appello insieme con una copia autentica della sentenza o decreto, e con una dichiarazione di esecutività secondo ii diritto canonico rilasciata dal tribunale che ha emanato la decisione esecutiva;

b) consti alla Corte d'Appello che:

(i) il tribunale ecclesiastico era competente a conoscere della causa di nullità del matrimonio in quanto questo era stato celebrato secondo la forma canonica della Chiesa Cattolica o con dispensa da essa;

(ii) nel procedimento giudiziario cononico è stato assicurato alle parti il diritto di agire e di resistere in giudizio, in modo sostanzialmente non difforme dai principi

della Costituzione di Malta;

(iii) nel caso di un matrimonjo celebrato a Malta dopo l'11 agosto 1975 è stato consegnato, o trasmesso, al Registro Pubblico l'atto di matrimonio prescritto dalla legge civile;

(iv) non esiste una sentenza contraria emanata dai tribunali civili e passata in giudicato, basata sugli stessi capi di nullità.

Articolo 6

Le disposizioni di cui agli articoli 3 e 5 si applicano anche:

a) ai matrimoni canonici celebrati prima dell'entrata in vigore del presente Accordo;

b) alle sentenze di nullità e ai decreti di ratifica di nullità di matrimonio emanati dai tribunali ecclesiastici tra il 16 luglio 1975 e l'entrata in vigore del presente Accordo:

(i) quando la domanda per il riconoscimento degli effetti civili sia presentata da ambedue le parti o, almeno, da una di esse non contraddicente l'altra parte;

(ii) nel caso che vi sia una parte contraddicente, quando, dopo che alla stessa parte sia stato concesso dalla Corte d'Appello un termine, non superiore a due mesi, per presentare istanza al tribunale ecclesiastico contro la sentenza di nullità o il decreto di ratifica di nullità di matrimonio, sia trascorso inutilmente tale termine o, se sia stata interposta l'istanza, il competente tribunale ecclesiastico abbia respinto l'istanza o confermato la precedente sentenza di nullità o decreto di ratifica di nullità di matrimonio.

Articolo 7

1. I decreti del Romano Pontefice "super matrimonio rato et non consummato" sono riconosciuti per gli effetti civili dalla Repubblica di Malta, dietro richiesta, accompagnata da copia autentica del decreto pontificio, presentata alla Corte d'Appello dalle parti o da una di esse.

2. La Corte d'Appello ordina il riconoscimento dei decreti di cui al numero 1 del presente articolo se consta ad essa che gli stessi decreti sono relativi a matrimoni celebrati secondo le norme canoniche della Chiesa Cattolica:

a) dopo l'entrata in vigore del presente Accordo;

b) anche prima dell'entrata in vigore di questo Accordo, a condizione che la copia del decreto sia presentata da ambedue le parti o almeno da una di esse non contraddicente l'altra parte.

Articolo 8

Nell'espletamento delle proprie funzioni in ordine al riconoscimento dei decreti di cui all'articolo 7, come pure delle sentenze di nullità e dei decreti di ratifica di nullità di matrimonio di cui all'articolo 3, la Corte d'Appello non procede al riesame del merito.

Articolo 9

Gli effetti civili derivanti dal riconoscimento di cui agli articoli 3 e 7 sono regolati dalla legge civile.

Articolo 10

Se in avvenire sorgessero difficoltà di interpretazione o di applicazione del

presente Accordo, la Santa Sede e la Repubblica di Malta affideranno la ricerca di un' amichevole soluzione ad una commissione paritetica che sarà composta, per parte della Santa Sede, dal Nunzio Apostolico a Malta e dal Presidente della Conferenza Episcopale Maltese o da loro delegati, e, per parte della Repubblica di Malta, dal Ministro della Giustizia e dall'Avvocato Generale o da loro delegati.

Articolo 11

Il presente Accordo entrerà in vigore al momento in cui le Parti si scambieranno ufficiale comunicazione della avvenuta piena applicazione di tutte le disposizioni dello stesso Accordo mediante gli strumenti giuridici propri dei rispettivi ordinamenti.

Fatto alla Valletta, Malta, il tre febbraio millenovecentonovantatre, in doppio originale in lingua italiana ed inglese, ambedue i testi facendo ugualmente fede.

Per la Santa Sede — Per la Repubblica di Malta

(+Peir Luigi Celata) — (Guido de Marco)

PROTOCOLLO ADDIZIONALE

Al momento della firma dell'Accordo sul riconoscimento degli effetti civili ai matrimoni canonici e alle decisioni delle Autorità e dei Tribunali ecclesiastici circa gli stessi matrimoni, la Santa Sede e la Repubblica di Malta, desiderando precisare ulteriormente alcune disposizioni dello stesso Accordo per assicurarne un'accurata applicazione ed evitare ogni difficoltà d'interpretazione, dichiarano di comune intesa:

I. In relazione all'articolo 1,1.b)

a) Le Alte Parti stabiliranno, di comune intesa, il modulo dell'atto di matrimonio prima dell'entrata in vigore dell'Accordo, mediante scambio di Note tra la Nunziatura Apostolica ed il ministero degli Affari Esteri.

Esse seguiranno la stessa procedura qualora, in futuro, concordassero di apportare modifiche a tale modulo.

b) Escluso il caso di pericolo di morte in cui si trovi almeno una delle parti, il "Marriage Registrar", insieme all' attestato di cui all'articolo 1,1.a), rilascia alle parti un modulo dell'atto di matrimonio, debitamente riempito con tutti i dati relativi agli sposi. Il modulo così preparato dev'essere consegnato alle parti al più presto dopo la scadenza del periodo delle pubblicazioni e, in ogni caso, non più tardi di quattro giorni prima della data fissata per la celebrazione del matrimonio. Spetta alle parti di trasmettere immediatamente tale modulo al Parroco del luogo della celebrazione. Qualora rilevi qualche discrepanza tra i dati relativi agli sposi come risultano dal modulo di cui sopra e dai documenti canonici, il Parroco deve fare, al più presto possibile, le opportune verifiche al fine di concordare col "Marriage Registrar" la corretta stesura dello stesso modulo.

II. In relazione all'articolo 1,2

Ai fini dell'applicazione dell'articolo 1,2 si intendono come impedimenti

considerati inderogabili o non dispensabili dalla legge civile:

a) il difetto di età, che è di sedici anni compiuti per ambedue le parti;

b) l'infermità di mente di almeno una delle parti che renda incapace di contrarre matrimonio;

c) la consanguineità in linea retta e, fino al secondo grado, in linea collaterale;

d) la sussistenza di un precedente matrimonio, valido agli effetti civili, di almeno una delle parti.

III. In relazione all'articolo 4,1.a)

L'accettazione da parte della Cancelleria dei tribunali ecclesiastici viene immediatamente notificata in iscritto dal Cancelliere degli stessi tribunali o da chi ne fa le veci.

IV. In relazione all'articolo 5,b.i)

Si considera che il tribunale ecclesiastico era competente a conoscere della causa di nullità del matrimonio anche quando questo è stato impugnato per difetto di qualche elemento richiesto per la validità della forma canonica o della dispensa da essa.

V. In relazione agli articoli 6,b.i) e 7,2.b)

II termine perentorio per la presentazione della nota di contradizione alla Corte di Appello è di dodici giorni utili dalla data della notifica fatta dalla stessa Corte alla parte interessata.

VI. Col termine "parroco" si intende anche ogni ecclesiastico equiparato al parroco, o che lo sostituisce, a norma del diritto canonico.

Il presente Protocollo Addizionale fa parte integrante dell'Accordo sul riconscimento degli effetti civili ai matrimoni canonici e alle decisioni delle Autorità e dei tribunali ecclesiastici circa gli stessi matrimoni, contestualmente firmato tra la Santa Sede e la Repubblica di Malta.

Fatto alla Valletta, Malta il tre febbraio millenovecentonovantatre, in doppio originale in lingua italiana ed inglese, ambedue i testi facendo ugualmente fede.

Per la Santa Sede	Per la Repubblica di Malta
(+ Pier Luigi Celata)	(Guido de Marco)

Secondo Protocollo Addizionale

La Santa Sede e la Repubblica di Malta, desiderando evitare ogni difficoltà d'interpretazione ed assicurare la corretta applicazione dell'Accordo sul riconoscimento degli effetti civili ai matrimonii canonici e alle decisioni delle Autorità e dei tribunali ecclesiastici circa gli stessi matrimoni, firmato il 3 febbraio 1993, dichiarano di comune intesa che:

1. Le sentenze emanate dai tribunali ecclesiastici in cause di nullità che sono a favore della validità del matrimonio, che non sono state appellate o che sono state confermate in appello, comprese *mutatis mutandis* le sentenze nelle cause di cui all'Articolo 6, b), (i) dell'Accordo, sono riconosciute a tutti gli effetti di legge in Malta e saranno ritenute come *res judicata* e non riesaminabili sugli stessi capi dalle corti civili, a condizione che alla Corte di Appello consti quanto è stabilito all'Articolo 5,b) dell'Accordo. La stessa Corte, ai sensi dell'Articolo 8 dell'Accordo, non procede al riesame del merito della causa.

2. Quando una domanda per ottenere la dichiarazione di nullità del matrimonio è presentata alla corte civile, il giudice accerta la sua competenza ai sensi dell'Articolo 4,1 dell'Accordo e del Numero 1 di questo Protocollo.

Il presente Protocollo Addizionale fa parte integrante dell'Accordo sul riconoscimento degli effetti civili ai matrimoni canonici e alle decisioni delle Autorità e dei tribunali ecclesiastici circa gli stessi matrimoni, firmato a Malta tra la Santa Sede e la Repubblica di Malta il 3 febbraio 1993.

Fatto alla Valletta, Malta, il 6 gennaio millenovecentonovantacinque, in doppio originale in lingua italiana ed inglese, ambedue i testi facendo ugualmente fede.

Per la Santa Sede	Per la Repubblica di Malta
(+ Pier Luigi Celata)	(Guido de Marco).

The Holy See and the Republic of Malta,

- considering, on the part of the Holy See, Catholic doctrine on marriage, as also expressed in the Code of Canon Law, as well as the teaching of the Second Vatican Ecumenical Council on relations between the Church and the State, and, on the part of the Republic of Malta, the principles enforced by the Constitution of Malta;

- wanting to ensure, in line with fundamental human rights and the values of the family based on marriage, a free choice in matters of marriage;

have recognized that it is opportune to reach an agreement on the recognition of civil effects to canonical marriages and to the decisions of the ecclesiastical Authorities and tribunals about the same marriages.

Wherefore, the Holy See, as represented by Msgr. Pier Luigi Celata, titular Archbishop of Doclea, Apostolic Nuncio to Malta, and the Republic of Malta, as represented by Prof. Guido de Marco, Deputy Prime Minister and Minister of Foreign Affairs, have, by common accord, established as follows.

Article 1

1. Civil effects are recognized for marriages celebrated in Malta according to the canonical norms of the Catholic Church, from the moment of their celebration, provided that:

a) it results from a certificate issued by the Marriage Registrar that the banns required by civil law have been published, or that a dispensation from the same has been granted; such certificate shall constitute definitive and conclusive proof of the regularity of the banns or of the dispensation therefrom;

b) the Parish Priest of the place where the marriage was celebrated transmits to the Public Registry an original of the act of marriage compiled in the form established by common accord between the Parties, and signed by the local Ordinary or the Parish Priest or their Delegate, who has officiated at the celebration of the marriage.

2. The Holy See takes note that the Republic of Malta recognizes the civil effects of canonical marriages where there does not exist between the spouses an impediment that, according to civil law, produces the nullity of the marriage and that the said civil law considers as mandatory or not dispensable.

Article 2

1. The act of marriage shall be transmitted to the Public Registry for due transcription within five working days of the celebration of the marriage.

2. Should the transmission of the act of marriage not be effected within the established time limit, it shall be the duty of the Parish Priest to effect the same as soon as possible. The spouses, or either of them, always retain the right to demand such transmission. Late transmission shall not be an obstacle to transcription.

3. When it is ascertained that the conditions laid down in article 1 have been complied with, the Director of the Public Registry transcribes the act of marriage and, as soon as possible, gives written notice of this to the Parish Priest.

Article 3

The Republic of Malta recognizes for all civil effects, in terms of this Agreement, the judgements of nullity and the decrees of ratification of nullity of marriage given by the ecclesiastical tribunals and which have become executive.

Article 4

1. For the purposes of the recognition of the civil effects mentioned in article 3, the Holy See takes note that:

a) from the moment in which notice is given to the Registrar of Courts of the acceptance by the Chancery of the ecclesiastical tribunals of a petition presented by at least one of the parties to obtain the declaration of the nullity of a canonical marriage celebrated after the coming into force of the present Agreement, competence to decide on the matter is recognized solely to the ecclesiastical tribunals, provided that the civil tribunals have not already given a judgement that has become *res judicata*, based on the same grounds of nullity;

b) should it result that the ecclesiastical judge has admitted the renunciation of case opened before the ecclesiastical tribunals or that a case has canonically fallen into abatement, the civil tribunals shall be able to again take up the examination of the case that may have already been presented before them and suspended by virtue of what is provided in letter a) above.

2. The Church shall enlighten prospective spouses about the specific nature of canonical marriage and, consequently, about ecclesiastical jurisdiction concerning the marriage bond.

The prospective spouses shall, by way of acceptance, formally take note of this in writing.

Article 5

The judgements of nullity and the decrees of ratification of nullity of marriage given by the ecclesiastical tribunals are recognized as producing civil effects, provided that:

a) a request is presented, by the parties or either of them, to the Court of Appeal together with an authentic copy of the judgement or decree, as well as a declaration of its executivity according to canon law issued by the tribunal that has given the executive decision;

b) the Court of Appeal ascertains that:

(i) the ecclesiastical tribunal was competent to judge the case of nullity of the marriage insofar as the marriage was celebrated according to the canonical form of the Catholic Church or with a dispensation therefrom;

(ii) during the canonical judicial proceedings there was assured to the parties the right of action and defense, in a manner substantially not dissimilar to the principles of the Constitution of Malta;

(iii) in the case of a marriage celebrated in Malta after the 11 August 1975, there has been delivered or transmitted to the Public Registry the act of marriage laid down by the civil law;

(iv) there does not exist a contrary judgement pronounced by the civil tribunals and which has become *res judicata*, based on the same grounds of nullity.

Article 6

The provisions of articles 3 and 5 apply also:

a) to canonical marriages celebrated before the coming into force of this Agreement;

b) to the judgements of nullity and to the decrees of ratification of nullity of marriage given by the ecclesiastical tribunals between the 16 July 1975 and the coming into force of the present Agreement:

(i) if the request for the recognition of the civil effects is presented by both parties or, at least, by one of them with the other party not dissenting; or

(ii) in case there is a dissenting party, if, after the Court of Appeal has granted to this same party a time limit, not exceeding two months, to present a plea to the ecclesiastical tribunal against the judgement of nullity or the decree of ratification of nullity of marriage, such time limit has elapsed to no avail or, if the plea had been entered, the competent ecclesiastical tribunal has rejected the plea or has confirmed the previous judgement of nullity or decree of ratification of nullity of marriage.

Article 7

1. The decrees of the Roman Pontiff "super matrimonio rato et non consummato" are recognized as regards civil effects by the Republic of Malta, upon request, accompanied by an authentic copy of the pontifical decree, presented to the Court of Appeal by the parties or by either of them.

2. The Court of Appeal shall order the recognition of the decrees referred to in paragraph 1 of this article if it results to it that such decrees refer to marriages celebrated according to the canonical norms of the Catholic Church:

a) after the coming into force of this Agreement;

b) and also prior to the coming into force of this Agreement, on condition that the copy of the decree is presented by both parties, or at least by one of them with the other party not dissenting.

Article 8

In the exercise of its specific functions as regards the recognition of the decrees mentioned in article 7, as well as of the judgements of nullity or of the decrees of ratification of nullity of marriage mentioned in article 3, the Court of Appeal does not re-examine the merits of the case.

Article 9

The civil effects flowing from the recognition mentioned in articles 3 and 7 are regulated by civil law.

Article 10

If in future there shall arise difficulties of interpretation or of application of the present Agreement, the Holy See and the Republic of Malta shall entrust the search for an amicable solution to a Joint Commission that shall be composed of the Apostolic Nuncio to Malta and of the President of the Maltese Episcopal Conference or of their delegates for the Holy See, and of the Minister for Justice and the Attorney General or of their delegates for the Republic of Malta.

Article 11

The present Agreement shall come into force when the Parties exchange an official communication that the full implementation of all its provisions through the appropriate legal instruments according to their respective legal systems has taken place.

Done at Valletta, Malta, on the third day of February, one thousand nine hundred and ninety-three, in two originals, each in the Italian and English languages, both texts being equally authentic.

For the Holy See	For the Republic of Malta
(+ Pier Luigi Celata)	(Guido de Marco)

PROTOCOL OF APPLICATION

At the time of signature of the Agreement on the recognition of civil effects to canonical marriages and to the decisions of the ecclesiastical Authorities and tribunals about the same marriages, the Holy See and the Republic of Malta, desiring to further specify certain provisions of the same Agreement to ensure their precise application and to avoid all difficulties of interpretation, by common accord declare:

I. With reference to article 1,1.b)

a) The Parties shall establish, by common accord, the form of the act of marriage before the coming into force of the Agreement, through exchange of Notes between the Apostolic Nunciature and the Ministry of Foreign Affairs.

They shall follow the same procedure should they, in future, agree to modify the said form.

b) Except in case of danger of death in which at least one of the parties finds itself, the Marriage Registrar shall, together with the certificate mentioned in article 1,1. a), issue to the parties a form of the act of marriage, duly filled in with all the information referring to the spouses. The form so prepared shall be consigned to the parties as early as possible after the completion of the period of publication of the banns and, in any case, not later than four days prior to the date fixed for the celebration of the marriage. It is incumbent on the parties to immediately transmit such form to the Parish Priest of the place of celebration. Should the Parish Priest notice any discrepancy between the information referring to the spouses as it results from the form mentioned above and from the canonical documents, the Parish Priest must, as soon as possible, make the opportune verifications so as to reach agreement with the Marriage Registrar about the correct compilation of the said form.

II. With reference to article 1,2

For the purpose of putting into effect article 1,2 the following are understood to be impediments considered mandatory or not dispensable by the civil law:

a) the lack of age, which is sixteen years completed for both parties;

b) the infirmity of mind of at least one of the parties which renders it incapable of contracting marriage;

c) consanguinity in the direct line and up to the second degree in the collateral line;

d) the subsistence of a previous marriage, valid in civil law, of at least one of the parties.

III. With reference to article 4,1.a)

The acceptance by the Chancery of the ecclesiastical tribunals is to be immediately notified in writing by the Chancellor of the same tribunals or his substitute.

IV. With reference to article 5,b.i)

The ecclesiastical tribunal is considered to have been competent to judge the case of nullity of the marriage even when it was challenged on the ground of the lack of some element required for the validity of the canonical form or of the dispensation therefrom.

V. With reference to articles 6,b.i) and 7,2.b)

The peremptory time limit for the presentation of the note of pleas to the Court of Appeal is of twelve working days from the date of notification made by the same Court to the interested party.

VI. The terms "parish priest" refers also to any ecclesiastic equivalent to the parish priest, or who substitutes him, according to canon law.

The present Protocol of Application forms an integral part of the Agreement on the recognition of civil effects to canonical marriages and to the decisions of ecclesiastical Authorities and tribunals about the same marriages contextually signed between the Holy See and the Republic of Malta.

Done at Valletta, Malta on the third day of February, one thousand nine hundred ninety-three, in two originals, each in the Italian and English languages, both texts being equally authentic.

For the Holy See	For the Republic of Malta
(+ Pier Luigi Celata)	(Guido de Marco)

Second Additional Protocol

The Holy See and the Republic of Malta, desiring to avoid all difficulties of interpretation and to ensure the precise application of the Agreement on the recognition of civil effects to canonical marriages and to the decisions of the ecclesiastical Authorities and tribunals about the same marriages, signed on the 3rd February, 1993, by common accord declare that:

1. Judgements given by ecclesiastical tribunals in cases of nullity upholding the validity of the marriage, which have not been appealed or which have been confirmed on appeal, including *mutatis mutandis* judgements in cases in terms of paragraph b) sub-paragraph (i) of Article 6 of the Agreement, are recognized for all purposes of law in Malta and shall be considered as *res judicata* and not subject to re-examination on the same grounds by the civil courts provided that the Court of Appeal ascertains what is laid down in paragraph (b) of Article 5 of the Agreement.

It shall not in terms of Article 8 of the Agreement re-examine the merits of the case.

2. Whenever a plea for nullity of marriage is presented to the civil court, the judge is to ascertain his competence, in terms of paragraph 1 of Article 4 of the Agreement and of Number 1 of this Protocol.

The present Additional Protocol forms an integral part of the Agreement on the recognition of civil effects to canonical marriages and to the decisions of ecclesiastical Authorities and tribunals about the same marriages, signed in Malta between the Holy See and the Republic of Malta on the 3rd February, 1993.

Done at Valletta, Malta on the 6th day of January, one thousand nine hundred ninety-five, in two originals, each in the Italian and English languages, both texts being equally authentic.

For the Holy See	For the Republic of Malta
(+ Pier Luigi Celata)	(Guido de Marco).