



L-Att dwar

il-Koabitazzjoni

2020

The Cohabitation
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Dr Edward Zammit Lewis

MINISTRU GHALL-GUSTIZZJA,
L-UGWALJANZA U L-GOVERNANZA

Sa mill-bidu nett, il-mandat ta' dan il-Gvern kien imsejjes fuq il-prinċipji ta' mmodernizzar tas-soċjetà Maltija, u l-ħolqien ta' sistemi li jirriflettu r-realtajiet ta' pajjiżna. Dawk li kienu għadhom qed jgħixu d-diskriminazzjoni ta' kuljum, illum jafu li l-Gvern tagħhom qiegħed jisma', u fuq kollox, qiegħed jaġixxi.

L-Att tal-Koabitazzjoni huwa biss wieħed mir-riżultati li diġà kisbet din l-amministrazzjoni f'dan is-sens. Permezz tiegħu, ħloqna sistema ċara u aċċessibbli għar-reġistrazzjoni ta' koppji li mhux neċessarjament jixtiequ jidhru fi żwieġ jew unjoni ċivili, iżda xorta waħda jixtiequ jiksibu dawk id-drittijiet u dmirijiet li jsaħħu l-familja tagħhom.

Din il-liġi hi ukoll il-frott ta' amministrazzjoni li jhoss il-polz tal-poplu, u li fejn hemm bżonn, qatt ma ddejjaq itejjeb is-sistemi legali. Grazi għal konsultazzjoni kontinwa, mal-pubbliku iżda wkoll mal-esperti fil-qasam, hejjejna liġi li taħdem, u toffri ħarsien legali lil kull parti fil-familja.

Inħares 'il quddiem sabiex inkomplu noħolqu soċjetà moderna u miftuħa għal kulhadd.

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Rosianne Cutajar

SEGRETERJU PARLAMENTARI
GHALL-UGWALJANA U R-RIFORMI

M'hemmx familja waħda li hi identika għal oħra. Il-mod kif nifirħu flimkien, kif naqsmu t-tbatijiet tagħna, u fuq kollox, kif ngħixu l-ħajja tagħna ta' kuljum f'darna, huma lkoll uniċi għall-familja partikolari tagħna.

L-għan ewlieni ta' din il-liġi kienet proprju li l-iStat jirrikonoxxi uffiċjalment forma oħra ta' familja, u jagħniha bi drittijiet u dmirijiet legali. Bl-istess mod li konna fost l-ewwel pajjiżi fid-dinja li nidejna ż-żwieġ indaq, u l-unjonijiet ċivili, permezz tal-Att dwar il-Koabitazzjoni, qiegħdin għal darb' oħra nibagħtu messaġġ b'saħħtu: dan hu Gvern li jippremja l-imħabba u l-impenn familjari, jieħu liema forma jieħu.

Permezz ta' dan l-Att, irrikonoxxejna mudell familjari li jirrifletti l-koppji tal-2020. Lil hinn mill-formalitajiet legali, illum, il-Gvern qiegħed ikompli jegħleb kwalunkwe stigma li għal tant snin tefa' dell fuq il-benesseri ta' dawn il-familju.

Flimkien nistgħu nkomplu nħottu l-ħitan tal-preġudizzju u d-diskriminazzjoni.

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X'inhu l-Att dwar il-koabitazzjoni?

Sabiex jiproteġi u jagħti aktar drittijiet lill-koppji li jgħixu flimkien, il-Parlament għadu kemm approva liġi li tirrikonoxxi uffiċjalment familji li jikkoabitaw, mingħajr ma jkun miżżewġin jew f'unjoni ċivili.

Il-proċess ta' kif wieħed jista' jidhol f' koabitazzjoni huwa sempliċi u aċċessibbli għal kulhadd.

Il-Koabitazzjoni mhux diġà rikonoxxuta? Għalfejn saret liġi oħra?

L-Att tal-2017 dwar il-Koabitazzjoni filfatt diġà kien irrikonoxxa l-koabitazzjoni, iżda kien hemm numru ta' diffikultajiet fl-applikazzjoni tiegħu. Għalhekk, din il-liġi l-ġdida ser tkun qed tiegħu postu.

Min hu diġà marbut legalment b'dak l-Att permezz ta' kuntratt jew dikjarazzjoni unilaterali, jibqa' marbut bil-kundizzjonijiet f'dik il-liġi, sakemm ma jagħżilx li jibdel dik ir-rabta permezz ta' att pubbliku skont il-liġi l-ġdida.

Min jista' jkun koabitant?

Mhux kulhadd jista' jkun rikonoxxut bħala koabitant. Dan ifisser li att pubbliku ta' koabitazzjoni ikun null u bla effett jekk isir:

- *Bejn jew ma' persuni li diġà marbutin legalment ma' persuna oħra, kemm Malta kif ukoll barra minn Malta;*
- *Bejn jew ma' minorenni;*
- *Bejn axxendent u dixxendent f'linja diretta;*
- *Bejn aħwa;*
- *Bejn qraba;*
- *Bejn min jadotta u l-persuna adottata;*
- *Bejn jew ma' persuni li ma jistgħux jagħtu l-kunsens tagħhom.*

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Kif nista' nidhol f'att pubbliku ta' koabitazzjoni?

Il-proċess huwa wieħed sempliċi u aċċessibbli għal kulhadd:

- *Il-koppja tmur għand in-nutar tal-fiduċja tagħha;*
- *Kull parti tippreżenta lin-nutar il-Free Status Certificate tagħha, u l-karta tal-identità;*
- *Kull parti tiddikjara illi m'hemm xejn li żżommha milli tidhol f'dan l-att pubbliku, u jekk kinux f'koabitazzjoni oħra fil-passat;*
- *Il-koppja tiddeċiedi jekk tixtieqx tapplika l-komunjoni tal-assi jew le;*
- *In-nutar ifiehem l-effetti tal-att pubbliku ta' koabitazzjoni, jippubblikah, u jinsinwah;*
- *Fi żmien għoxrin jum minn meta n-nutar jinsinwa l-att pubbliku, r-Registru Pubbliku joħroġ Ċertifikat ta' Koabitazzjoni, il-konferma illi dik il-koabitazzjoni issa hi rikonoxxuta mill-Istat.*

Kif taħdem il-komunjoni tal-assi?

Jekk inti u s-sieħeb tiegħek tagħżlu li tapplikaw il-komunjoni tal-assi, dak ifisser illi:

- *Id-dar tal-koabitazzjoni, jekk tkun inxtrat wara li jsir l-att pubbliku; u*
- *Il-mobbli li hemm fl-istess dar ikunu tat-tnejn, f'porzjon indaqs. Dan ma jinkludix proprjetà jew mobbli li tkun ingħatat wara l-koabitazzjoni b'wirt, rigal, jew donazzjoni.*

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X'inhuma d-drittijiet tiegħi bħala koabitant?

Il-liġi tagħtik numru kbir ta' drittijiet, li huma simili ħafna għad-drittijiet tal-miżżewġin u ta' dawk li jidhlu f'unjoni civili:

- *Id-dritt ta' abitazzjoni fid-dar tal-koabitazzjoni;*
- *Ir-rikonoxximent bħala koinkwilin, jekk id-dar tal-koabitazzjoni qiegħdha tinkera;*
- *L-istess drittijiet mogħtija lill-miżżewġin jew sħab f'unjoni civili fejn jidhlu drittijiet relatati ma' xogħol u l-familja, inkluż drittijiet varji relatati mal-leave;*
- *Id-dritt illi tiegħu kull deċizjoni dwar il-kura medika tal-koabitant l-ieħor f'każ ta' bżonn;*
- *F'każ illi l-koabitant tiegħek jiġi nieqes, id-dritt ta' abitazzjoni fid-dar tal-koabitazzjoni għal sena, jekk il-proprietà ma tkunx kompletament tiegħek;*
- *Diversi benefiċċji soċjali, fosthom il-pensjoni tar-romol, il-pensjoni kontributorja tal-irtirar, dawk relatati ma' foster care, allowances għal tfal fil-kura, u tfal b'diżabilità, fost oħrajn.*

X'inhuma d-dmirijiet tiegħi bħala koabitant?

Bl-istess mod li l-liġi tagħtik id-drittijiet, daqstant ieħor għandek dmirijiet importanti:

- *Il-qsim indaqs tar-responsabbiltajiet familjari;*
- *Id-dmir reċiproku li tappoġġja lill-koabitant tiegħek, kemm moralment, kif ukoll materjalment;*
- *Id-dmir reċiproku li tmantni, teduka, u tiegħu ħsieb l-ulied.*

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Ma nixtieqx nibqa' f'din ir-relazzjoni. Kif tista' tiġi terminata koabitazzjoni?

Jekk hemm qbil dwar il-firda, kull ma għandu jsir huwa li tersqu għal att pubbliku ieħor li jtemm ir-relazzjoni. F'kull każ, l-awtorizzazzjoni tal-Qorti hi neċessarja, sabiex jiġu mħarsa d-drittijiet tal-partijiet kollha, speċjalment tal-minuri jew persuni vulnerabbli.

F'nuqqas ta' qbil, il-koabitazzjoni tintemm permezz ta' talba lill-Qorti sabiex tiddikjara x-xolijment tal-koabitazzjoni.

Minn dak il-punt 'il quddiem, id-drittijiet u dmirijiet relatati mal-koabitazzjoni jintemmu, ħlief għal dawk l-obbligi relatati mal-ħarsien tal-ulied.

L-Att dwar il-Koabitazzjoni huwa disponibbli kemm bil-Malti kif ukoll bl-Ingliż fuq legislation.mt



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I want to end this relationship. How is cohabitation dissolved?

Where there is agreement to end the cohabitation, a public deed is drafted, then authorised by Court, to ensure that no party, particularly minors and vulnerable persons, are harmed by how the cohabitation is dissolved.

Where there is no agreement, the cohabitation will be dissolved by means of an application in Court, requesting its declaration to dissolve the cohabitation.

Once the cohabitation is dissolved, the rights and duties related to the cohabitation will cease to exist, barring those related to the care of children.

The Cohabitation Act is available in both English and Maltese on legislation.mt



The Cohabitation

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What are my rights as a cohabitant?

The law gives you a considerable set of rights, similar to those given to married or civil union couples:

- The right of habitation in the cohabitation home;
- The recognition as co-tenant if the cohabitation home is being leased;
- The same rights granted to a person who is married or in a civil union in terms of rights related to labour and family, including various rights related to leave;
- The right to take all decisions relating to the medical care of the other cohabitant;
- In the event that your cohabitant dies, the right of habitation in the cohabitation home for a year, if that property does not completely belong to you;
- Various social benefits, including widow's or retirement pension, foster care, allowances for children in care, and children with disabilities, among others.

What are my duties as a cohabitant?

Cohabitation rights are complemented by important duties:

- The equal sharing of family responsibilities;
- The reciprocal duty to support each other, morally and materially;
- The reciprocal duty to maintain, educate, and care for children.



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How can I enter into a public deed of cohabitation?

This process is simple and accessible to all:

- The couple meets with their notary of choice;
- Both persons present to their notary their Free Status Certificate and identification document;
- Both persons declare before their notary that there is nothing precluding them from entering into a public deed of cohabitation, and whether they had previously been in another cohabitation;
- The couple chooses whether they wish to apply the community of assets or otherwise;
- The notary then explains to the couple the effects of the public deed of cohabitation, publishes it, then enrolls it;
- Within twenty days from when the notary enrolls the public deed, the Public Registry then issues a Certificate of Cohabitation, which confirms that the State recognises that cohabitation.

How does the community of assets work?

Should you and your partner choose to apply the community of assets:

- The cohabitation home, if acquired after the public deed of cohabitation; and
- The movables in the same home

Will belong to both in equal portions. This does not include any property or movables which belong to any one of the cohabitants by means of inheritance, personal gift, or donation.



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What is the Cohabitation Act?

Parliament has just approved a law to recognise cohabiting families, which are not married or in a civil union. This law gives several rights and protection mechanisms:

The process to enter into a cohabitation is simple and easily accessible by all.

Isn't Cohabitation already recognised? Why do we need another law?

The 2017 Cohabitation Act did indeed recognise cohabitations, however, there were several difficulties in its application. This is why this law will replace the former Act.

Nothing will change for those couples who are already in a cohabitation contract, or are cohabitants by means of a unilateral declaration in accordance with the previous Act, unless they choose to change that cohabitation by means of a public deed in accordance with the new law.

Who can be a cohabitant?

Not everyone can be recognised as a cohabitant. A public deed of cohabitation is null and void if it is:

- Between or with persons who are already legally bound to other persons, both in Malta or abroad;
- Between or with minors;
- Between an ascendant and descendant in the direct line;
- Between siblings;
- Between family members;
- Between an adoptee and their adopter;
- Between or with persons who cannot give their consent.

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Dr Edward Zammit Lewis
MINISTER FOR JUSTICE, EQUALITY
AND GOVERNANCE



From the very beginning, this Government's mandate was formed on the key pillar of social modernisation and the creation of systems that reflect our nation's realities. Today, anyone who had been suffering from acts of discrimination is well aware that Government is not only listening, but more importantly acting.

The Cohabitation Act is just one of this Administration's achievements in this regard. Through this Act, we have created a clear and accessible registration system for couples who seek legal recognition together with formal rights and duties, despite not being married or in a civil union.

This law is the result of an Administration that recognises the evolving needs of its citizens, and which will not hesitate to improve our legal framework in this respect. Through constant consultation with the public and relevant experts, we have created a working framework which offers legal protection to the entire family.

I look forward to more relentless work towards a modern and open society for all.

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Rosianne Cutajar
PARLIAMENTARY SECRETARY FOR
EQUALITY AND REFORM



No family is the same as the other. The way we share joys and sorrows, and the way we go about our daily lives in our homes is unique to our family unit, and our diversity is to be celebrated.

The main goal of this law was precisely that of giving official State recognition to yet another family model and endow it with legal rights and responsibilities. Malta was among the first countries globally to introduce marriage equality and civil unions; by means of the Cohabitation Act, we are once again clearly reaffirming that this Government rewards love and family commitment, in whichever form it chooses to take.

This Act recognises a family model which reflects couples in 2020. Over and above legal formalities, Government is once again working towards overcoming the taboos which, for too many years, have plagued these families' wellbeing.

Together, we can and will keep combating prejudice and discrimination.