

**Nru. 28**

26. 6. 2001

**MALTA**

---

**KAMRA TAD-DEPUTATI**

---

**ABBOZZ ta' Ligi mressaq mill-Onorevoli Tonio Borg, M.P., Ministru ta' l-Intern, u moqri għall-Ewwel darba fis-Seduta tat-13 ta' Lulju, 1999.**

**ATT li jemenda l-Kodiċi Kriminali, Kap. 9.**

---

**RICHARD J. CAUCHI**  
*Skrivan tal-Kamra tad-Deputati*

**HOUSE OF REPRESENTATIVES**

---

**A BILL introduced by the Honourable Tonio Borg, M.P., Minister for Home Affairs, and read the First time at the Sitting of the 13th July, 1999.**

**AN ACT to amend the Criminal Code, Cap. 9.**

---

**RICHARD J. CAUCHI**  
*Clerk of the House of Representatives*

## ABBOZZ TA' LIĠI

### msejjah

*ATT li jemenda l-Kodiċi Kriminali, Kap. 9.*

IL-PRESIDENT, bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqgħa f'dan il-Parlament, u bl-awtorità ta' l-istess, hareġ b'liġi dan li ġej:-

1. (1) It-titolu fil-qosor ta' dan l-Att hu Att ta' l-2001 li jemenda l-Kodiċi Kriminali, u għandu jinqara u jiftiehem haġa waħda mal-Kodiċi Kriminali, hawnhekk iżjed 'il quddiem imsejjah "il-liġi prinċipali". Titolu fil-qosor.

(2) Id-disposizzjonijiet li ġejjin ta' dan l-Att għandhom jibdew isehhu f'dik id-data li l-Ministru responsabbli għall-ġustizzja jistabjistabbilixxi b'avviż fil-Gazzetta, u dati differenti jistghu jiġu hekk stabbiliti għal disposizzjonijiet differenti ta' l-Att.

2. Fis-subartikolu (1) ta' l-artikolu 4 tal-liġi prinċipali, minflok il-kliem "tmiss lill-Gvern, illi jmexxiha" għandhom jidhlu l-kliem "tmiss lill-Istat u titmexxa". Emenda ta' l-artikolu 4 tal-liġi prinċipali.

3. Is-subartikolu (1) ta' l-artikolu 5 tal-liġi prinċipali għandu jiġi emendat kif ġej: Emenda ta' l-artikolu 5 tal-liġi prinċipali.

(a) minflok il-kliem "L-azzjoni kriminali tista' titmexxa f'Malta," għandhom jidhlu l-kliem "Bla hsara għal kull disposizzjoni speċjali ohra ta' dan il-Kodiċi jew ta' kull liġi ohra li

taghti ġurisdizzjoni lill-qrati f' Malta biex jiġġudikaw reati, l-azzjoni kriminali tista' titmexxa f' Malta,";

(b) fil-paragrafu (d) tiegħu, minflok il-kliem "ta' l-Att dwar l-Immigrazzjoni;" għandhom jidhlu l-kliem "ta' l-Att dwar l-Immigrazzjoni;" u l-frazi "reat kontra l-persuna" tinkludi r-reati msemmijin fl-artikoli 86 sa 90 u fl-artikoli 198 sa 205 ta' dan il-Kodiċi;" u

(ċ) minnufih wara l-paragrafu (g) tiegħu għandu jiżdied dan il-paragrafu ġdid li ġej:

"(h) kontra kull min ma tinhareġ ebda awtorità għal proċedimenti dwaru, jew ma ssir ebda ordni għar-ritorn tiegħu, wara talba li ssir minn xi pajjiż għall-estradizzjoni tiegħu minn Malta, mill-Ministru responsabbli għall-ġustizzja minhabba f'li jkun ċittadin ta' Malta jew li r-reat li dwaru kien mitlub ir-ritorn tiegħu jkun reat ta' xorta politika jew li jkun suġġett għall-piena kapitali fil-pajjiż li jkun għamel it-talba, ukoll jekk ma jkun hemm ebda disposizzjoni skond il-liġijiet ta' Malta hlief din id-disposizzjoni li bis-sahha tagħha tkun tista' tinbeda l-azzjoni kriminali kontra dik il-persuna;

(i) kontra kull min jagħmel reat li, b'disposizzjoni espressa tal-liġi, jkun jikkostitwixxi reat ukoll meta jsir barra minn Malta."

Emenda ta' l-  
artikolu  
9 tal-liġi prinċipali.

4. L-artikolu 9 tal-liġi prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, minflok il-kliem "tal-Gvern." għandhom jidhlu l-kliem "tal-Ministru responsabbli għall-ġustizzja jew tal-Ministru responsabbli għall-habs."; u

(b) minnufih wara s-subartikolu (6) tiegħu għandhom jiżdiedu dawn is-subartikoli godda li ġejjin:

"(7) Qabel tagħti l-piena tar-reklużjoni l-qorti għandha tissodisfa ruhha, jekk hemm bżonn permezz ta' provi mediċi, li jistgħu jinkludu eżami mediku tal-persuna misjuba hatja, illi l-persuna misjuba hatja tkun tajba biex tiskonta l-imsemmija piena.

(8) Jekk, matul l-esekuzzjoni tal-piena tar-reklużjoni, it-Tabib tal-Habs jiċċertifika bil-miktub illi l-prigunier ma jkunx għadu tajjeb biex jiskonta dik il-piena, l-esekuzzjoni ta' dik il-piena għandha tigi sospiża sa dak iż-żmien li l-



prigunier jerga' jigi ċċertifikat li jkun medikament tajjeb biex jiskonta dik il-piena.”.

5. Fil-proviso li hemm ghas-subartikolu (3) ta' l-artikolu 11 tal-liġi prinċipali, minflok il-kliem “tliet xhur jekk il-multa ma tkunx aktar minn elfejn lira, sitt xhur jekk il-multa ma tkunx aktar minn ghaxart elef lira, sena jekk il-multa ma tkunx aktar minn tletin elf lira u tmintax-il xahar jekk il-multa tkun aktar minn tletin elf lira.” ghandhom jidhlu l-kliem “sitt xhur jekk il-multa ma tkunx aktar minn elfejn lira, sena jekk il-multa ma tkunx aktar minn ghaxart elef lira, tmintax-il xahar jekk il-multa ma tkunx aktar minn tletin elf lira u sentejn jekk il-multa tkun aktar minn tletin elf lira.”.

Emenda ta' l-artikolu 11 tal-liġi prinċipali.

6. Minflok l-artikolu 12 tal-liġi prinċipali ghandu jidhol dan li ġej:

Sostituzzjoni ta' l-artikolu 12 tal-liġi prinċipali.

“Detenzjoni. 2. (1) Il-persuni kkundannati ghad-detenzjoni jigu miżmuma fil-habs jew f'dik il-parti tal-habs li qieghda ghall-ikkundannati ghal dik il-piena.

(2) Meta ma jkunx xort'ohra speċifikament provdut, ebda żmien ta' detenzjoni m'ghandu jkun iżjed minn tliet xhur.”.

7. L-artikolu 14 tal-liġi prinċipali ghandu jigi emendat kif ġej:

Emenda ta' l-artikolu 14 tal-liġi prinċipali.

(a) fl-ewwel proviso li hemm ghas-subartikolu (1) ta' l-artikolu 14, minflok il-kliem “hamsin ċenteżmu” kulfejn dawn jinsabu, ghandhom jidhlu l-kliem “hamsa u ghoxrin lira”; u

(b) minflok it-tieni proviso li tinsab mas-subartikolu (2) ghandu jidhol dan il-proviso li ġej:

“Iżda fin-nuqqas ta' hlas tal-multa jew ta' l-ammenda fiż-żmien stabbilit mill-qorti fis-sentenza tagħha jew, fin-nuqqas li jkun hemm impost terminu fis-sentenza, fi żmien ġurnata tax-xoghol wahda mid-data tas-sentenza, dik il-multa jew ammenda ghandha tigi konvertita minnufih fi prigunerija jew detenzjoni kif provdut fl-artikoli 11 u 13 skond il-każ, u l-Pulizija ghandhom, bis-sahha ta' l-awtorità mogħtija lilhom bis-sentenza u b'dan il-proviso, jarrestaw lill-persuna sentenzjata u jehduha bi skorta fil-post imsemmi skond il-liġi ghaż-żamma ta' persuni li jkollhom sentenza ta' multa jew ammenda konvertibbli fi prigunerija jew detenzjoni skond il-liġi.”.



Sostituzzjoni ta' l-artikolu 22 tal-liġi prinċipali.

8. (1) Bla hsara għad-disposizzjonijiet ta' l-artikolu 139 ta' dan l-Att, minflok l-artikolu 22 tal-liġi prinċipali għandu jidhol dan li ġej:

"Kalkolu ta' kundanni ta' prigionerija.

22. Kull żmien qabel id-dikjarazzjoni ta' htija u l-kundanna li tulu l-ikkundannat ikun inżamm fil-habs għar-reat jew reati li tiegħu jew tagħhom huwa jkun ġie hekk misjub hati u kkundannat, li ma jkunx żmien magħmul fil-habs f'esekuzzjoni ta' kundanna, jitqies bħala parti miż-żmien ta' prigionerija jew detenzjoni taht il-kundanna tiegħu, li ma tkunx kundanna ta' prigionerija għall-ghomor jew ta' prigionerija f'nuqqas tal-hlas ta' multa jew ta' detenzjoni f'nuqqas ta' hlas ta' ammenda, iżda jekk l-ikkundannat qabel kien sugġett għal ordni ta' *probation*, ordni għal liberazzjoni taht kondizzjoni jew għal sentenza sospiża dwar dak ir-reat jew reati, kull żmien bhal dak qabel l-ghemil ta' dak l-ordni jew l-ghoti tas-sentenza sospiża ma għandux jitqies għall-finijiet ta' dan l-artikolu:

Iżda meta xi żmien qabel id-dikjarazzjoni ta' htija kif imsemmi qabel ikun, bis-saħħa ta' dan l-artikolu, ġie meqjus bħala parti miż-żmien ta' prigionerija jew detenzjoni taht il-kundanna dwar dik id-dikjarazzjoni ta' htija dak iż-żmien ma għandux jitqies bħala parti miż-żmien ta' prigionerija jew detenzjoni taht xi kundanna ohra."

Żieda ta' l-artikoli 23A u 23B godda mal-liġi prinċipali.

9. Minnufih wara l-artikolu 23 tal-liġi prinċipali għandhom jiżdiedu dawn l-artikoli godda li ġejjin:

"Imblukkar tal-proprjetà ta' min ikun akkużat.

23A. (1) F'dan l-artikolu, kemm-il-darba r-rabta tal-kliem ma tkunx tehtieg xort'ohra -

"l-Att" tfisser l-Att kontra *Money Laundering*, Kap. 373;

"l-Ordinanzi" tfisser l-Ordinanza dwar il-Mediċini Perikolużi, Kap. 101, u l-Ordinanza dwar il-Professjoni Medika u l-Professjonijiet li għandhom x'jaqsmu magħha, Kap. 31;

"reat rilevanti" tfisser kull delitt, hlief għal delitt taht l-Ordinanzi jew taht l-Att, li għalih tista' tinghata l-piena ta' prigionerija għal żmien iktar minn sena.

(2) Meta persuna tiġi akkużata b'reat rilevanti, għandhom japplikaw *mutatis mutandis* id-disposizzjonijiet ta' l-artikolu 5 ta' l-Att u l-istess disposizzjonijiet għandhom japplikaw għal kull ordni li ssir mill-Qorti bis-saħħa ta' dan

l-artikolu bhallikieku din kienet ordni maghmula mill-Qorti taht l-imsemmi artikolu 5 ta' l-Att.

Konfiska  
ta' rikavat.

23B. (1) Minghajr preġudizzju għad-disposizzjonijiet ta' l-artikolu 23 ta' dan il-Kodiċi il-qorti għandha, b'żieda ma' kull kastig li jista' jinghata b'sentenza min jinsab hati ta' reat rilevanti u b'żieda ma' kull penali li jista' jehel korp magħqud taht id-disposizzjonijiet ta' l-artikolu 121D, tordna l-konfiska favur il-Gvern tar-rikavat li jiġi mir-reat jew ta' dik il-proprjetà li l-valur tagħha jkun jikkorrispondi għall-valur ta' dak ir-rikavat sew jekk dak ir-rikavat ikun ġie riċevut minn min ikun insab hati sew jekk mill-korp magħqud imsemmi fl-imsemmi artikolu 121D.

(2) Meta r-rikavat li jkun ġej mir-reat ikun ġie mberbaq, jew għal xi raġuni ohra li tkun ma jkunx possibbli li jiġi identifikat u konfiskat kull tali rikavat, jew li tiġi ordnata l-konfiska ta' dik il-proprjetà li jkollha l-valur tagħha jikkorrispondi għall-valur ta' dak ir-rikavat, il-qorti għandha tagħti sentenza fejn min ikun insab hati jew tali korp magħqud, jew kemm min ikun insab hati kemm il-korp magħqud solidament, skond il-każ, jehel multa li tkun tekwivali għall-ammont tar-rikavat mir-reat.

(3) Għall-finijiet ta' dan l-artikolu:

“proprjetà” tfisser kull attiv ta' liema xorta jkun, sew korporali sew inkorporali, mobbli jew immobbli, tangibbli jew intangibbli, u dokumenti jew strumenti legali li jkunu prova ta' titolu għal dak l-attiv jew xi interess fih;

“reat rilevanti” għandha l-istess tifsir kif inhu mogħti lilha bis-subartikolu (1) ta' l-artikolu 23A;

“rikavat” tfisser kull vantaġġ ekonomiku u kull proprjetà ġejja jew miksuba, b'mod dirett jew mhux dirett, mill-ghemil tar-reat u tinkludi kull qliegh jew benefiċċju iehor miksub minn dik il-proprjetà.”.

10. Minnufih wara s-subartikolu (5) ta' l-artikolu 28A tal-liġi prinċipali għandu jiżdied dan is-subartikolu ġdid li ġej:

Emenda ta'  
l-artikolu 28A tal-  
liġi prinċipali.

“(5A) Mingħajr preġudizzju għad-disposizzjonijiet ta' l-artikolu 28F, il-piena mogħtija f'sentenza sospiża li tkun għadha ma bdiex issehh għandha, għall-finijiet ta' l-artikolu

50, titqies li tkun giet skontata ma' l-iskadenza tal-perjodu operattiv originali msemmi fis-subartikolu (1) ta' dan l-artikolu jew tal-perjodu operattiv magħmul minflok kif provdut fil-paragrafu (b) tas-subartikolu (2) ta' l-artikolu 28B.”.

Emenda ta' l-artikolu 28C tal-liġi prinċipali.

**11.** L-artikolu 28C tal-liġi prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, minflok il-kliem “mill-Qorti Kriminali jew,” għandhom jidhlu l-kliem “mill-Qorti ta' l-Appell Kriminali, mill-Qorti Kriminali jew,”;

(b) minflok is-subartikolu (3) tiegħu għandu jidhol dan is-subartikolu li ġej:

“(3) Għall-finijiet ta' dan l-artikolu u ta' l-artikoli 28D u 28E -

(a) sentenza sospiża li tinghata lil hati fi grad ta' appell għandha titqies li tikun inghatat mill-Qorti ta' l-ewwel grad;

(b) il-Qorti tal-Minorenni għandha titqies li tkun Qorti tal-Maġistrati (Malta) jew Qorti tal-Maġistrati (Għawdex), skond il-każ.”.

Emenda ta' l-artikolu 28D tal-liġi prinċipali.

**12.** Fis-subartikolu (1) ta' l-artikolu 28D tal-liġi prinċipali, minflok il-kliem “il-Qorti Kriminali” għandhom jidhlu l-kliem “il-Qorti ta' l-Appell Kriminali, il-Qorti Kriminali”.

Emenda ta' l-artikolu 28E tal-liġi prinċipali.

**13.** Is-subartikolu (2) ta' l-artikolu 28E tal-liġi prinċipali għandu jithassar.

Emenda ta' l-artikolu 28G tal-liġi prinċipali.

**14.** L-artikolu 28G tal-liġi prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (2) tiegħu, minflok il-kliem “u li ismu jissemma' fl-ordni ta' superviżjoni.” għandhom jidhlu l-kliem “u li ismu jissemma' fl-ordni ta' superviżjoni; u l-ordni ta' superviżjoni jista' barra minn hekk jinhtieg li l-hati jikkonforma ruhu, matul il-perjodu kollu ta' superviżjoni jew matul parti minnu, ma' dawh il-htigiet li l-qorti tista' timponi taht id-disposizzjonijiet tas-subartikoli (2) u (4) ta' l-artikolu 5 ta' l-imsemmi Att.”; u

(b) fis-subartikolu (9) tiegħu -



(i) minflok il-kliem “htieġa li hemm fis-subartikolu (3) ta’ dan l-artikolu,” ghandhom jidhlu l-kliem “htieġa li hemm fis-subartikoli (2) u (3) ta’ dan l-artikolu,”; u

(ii) minflok il-kliem “hija tista’, minghajr hsara għall-kontinwazzjoni ta’ l-ordni, twahhlu ammenda ta’ mhux iżjed minn mitt lira.” ghandhom jidhlu l-kliem “hija tista’ jew tordna li s-sentenza sospiza mogħtija fil-proċedimenti li fihom ikun sar l-ordni tas-superviżjoni tibda ssehh jew, minghajr hsara għall-kontinwazzjoni ta’ l-ordni, twahhlu ammenda ta’ mhux iżjed minn mitt lira.”.

**15.** Fis-subartikolu (2) ta’ l-artikolu 30 tal-liġi prinċipali, minflok il-kliem “u kull ċirkostanza ohra tal-każ,” ghandhom jidhlu l-kliem “u kull ċirkostanza ohra tal-każ, u wara li tisma’ lill-Pulizija fil-każ ta’ talba quddiem il-Qorti tal-Maġistrati jew lill-Avukat Ġenerali fil-każ ta’ talba quddiem xi qorti ohra,”.

Emenda ta’ l-artikolu 30 tal-liġi prinċipali.

**16.** Fl-artikolu 36 tal-liġi prinċipali, minflok il-kliem “Il-minuri ta’ taht” ghandhom jidhlu l-kliem “Bla hsara għas-setgħat tal-Ministru taht l-Att dwar Tfal u Żgħażaġh (Ordnijiet għall-Harsien), il-minuri ta’ taht”.

Emenda ta’ l-artikolu 36 tal-liġi prinċipali. Kap. 285.

**17.** Minnufih wara l-artikolu 48 tal-liġi prinċipali u minnufih qabel it-Titolu V ta’ l-imsemmija liġi għandu jiżdied dan it-titolu ġdid u l-artikolu ġdid li ġejjin:

Żieda tat-Titolu IV BIS ġdid mal-liġi prinċipali.

## “Titolu IV BIS

### FUQ L-ASSOĊJAZZJONI

Assoċjazzjoni. **48A.** (1) Kull min f’Malta jassoċja ruhu ma’ xi persuna jew persuni bil-ghan li jagħmel xi delitt li għalih hemm il-piena ta’ prigunerija, u li ma jkunx delitt taht l-Att dwar l-Istampa, ikun hati tar-reat ta’ assoċjazzjoni biex jagħmel dak ir-reat.

(2) L-assoċjazzjoni msemmija fis-subartikolu (1) tibda teżisti mill-waqt li fih xi sura ta’ azzjoni li tkun tiġi ppjanata jew miftiehma bejn dawk il-persuni.

(3) Kull min jinsab hati ta’ assoċjazzjoni taht dan l-artikolu jista’ jehel il-piena għal delitt ikkunsmat li jkun l-ghan ta’ l-assoċjazzjoni, mnaqqsa b’żewġ gradi jew tlieta.

(4) Għall-ghanijiet tas-subartikolu (3), sabiex tiġi stabbilita l-piena għar-reat shih li jkun l-ghan ta' l-assoċjazzjoni, għandhom jitqiesu ċ-ċirkostanzi kollha li jaggravaw dak ir-reat.”.

Żieda ta' l-artikolu  
82A mal-liġi  
prinċipali.

**18.** Minnufih wara l-artikolu 82 tal-liġi prinċipali għandu jiżdied dan l-artikolu ġdid li ġej:

“Tixwix għal  
mibegħda  
razzjali.

82A. (1) Kull min juża kliem jew imġieba ta' theddid, abbużivi jew insolenti, jew jesibixxi xi materjal miktub jew stampat li jkun ta' theddid, abbużiv jew insolenti, jew xort'oħra jġib ruhu b'dak il-mod, bil-hsieb li b'hekk iqajjem mibegħda razzjali jew b'hekk johloq il-probabbiltà li, meta wiehed iqis iċ-ċirkostanzi kollha, titqajjem mibegħda razzjali, jehel, meta jinsab hati, l-piena ta' prigunerija minn sitt xhur sa tmintax-il xahar.

(2) Għall-finijiet tas-subartikolu qabel dan “mibegħda razzjali” tfisser mibegħda kontra grupp ta' persuni f'Malta definiti b'referenza għall-kulur, razza, nazzjonalità (inkluża ċ-ċittadinanza) jew oriġni etnika jew nazzjonali.”.

Żieda ta' l-artikolu  
83A  
ġdid mal-liġi  
prinċipali.

**19.** Minnufih wara l-artikolu 83 tal-liġi prinċipali għandu jiżdied dan l-artikolu ġdid li ġej:

“Promozzjoni  
eċċ. ta'  
assoċjazzjoni  
ta' żewġ  
persuni jew  
aktar  
bil-hsieb  
li jagħmlu  
reati  
kriminali.

83A. (1) Kull min jippromwovi, jikkostitwixxi, jorganizza jew jiffinanzja assoċjazzjoni ta' żewġ persuni jew aktar bil-hsieb li jagħmlu reati kriminali li għalihom jistghu jehlu l-piena ta' prigunerija għal żmien erba' snin jew iktar, jistghu jehlu l-piena ta' prigunerija għal żmien minn tlieta as seba' snin.

(2) Kull min ikun jappartjeni għal assoċjazzjoni msemmija fis-subartikolu (1) jista' għal dak il-fatt biss jehel il-piena ta' prigunerija għal żmien minn sena sa hames snin.

(3) Meta l-ghadd ta' persuni fl-assoċjazzjoni jkun ta' ghaxra jew iktar il-piena fis-subartikoli ta' qabel għandha tiżdied minn grad wiehed sa tnejn.

(4) Meta l-persuna li tkun insabet hatja ta' reat taht dan l-artikolu tkun id-direttur, *manager*, segretarju jew xi uffiċjal prinċipali iehor ta' korp magħqud jew tkun persuna li jkollha l-poter li tirrappreżenta lil dak il-korp jew li jkollha awtorità li tiehu deċiżjonijiet f'isem dak il-korp jew ikollha

awtorità li tesercita kontroll fi hdan dak il-korp u r-reat li dwaru tkun insabet hatja dik il-persuna jkun kollu jew f'parti sar għall-benefiċċju ta' dak il-korp magħqud, dik il-persuna għandha għall-ghanijiet ta' dan it-titolu titqies bħala li tkun vestita bir-rappreżentanza ġuridika ta' l-istess korp magħqud li jista' jehel kif ġej:

(a) meta r-reat li l-persuna tkun insabet hatja dwaru jkun ir-reat li hemm fis-subartikolu (1) ta' dan l-artikolu, l-hlas ta' multa ta' mhux inqas minn 15,000 lira u mhux iżjed minn 50,000 lira;

(b) meta r-reat li l-persuna tkun insabet hatja dwaru jkun ir-reat li hemm fis-subartikolu (2) ta' dan l-artikolu, l-hlas ta' multa ta' mhux inqas minn 10,000 lira u mhux iżjed minn 30,000 lira;

(ċ) meta r-reat li l-persuna tkun insabet hatja dwaru jkun punibbli kif hemm provdut fis-subartikolu (3) ta' dan l-artikolu -

(i) meta r-reat ikun dak li hemm dwaru fis-subartikolu (1) ta' dan l-artikolu, piena ta' multa ta' mhux inqas minn 20,000 lira u mhux iżjed minn 500,000 lira;

(ii) meta r-reat ikun dak li hemm dwaru fis-subartikolu (2) ta' dan l-artikolu, piena ta' multa ta' mhux inqas minn 15,000 lira u mhux iżjed minn 50,000 lira.

(5) L-azzjoni kriminali għal reat kontra d-disposizzjonijiet ta' dan l-artikolu tista' ssir f'Malta minkejja li l-assoċjazzjoni ta' persuni jkollha bażi jew tkun tmexxi l-attivitajiet kriminali tagħha barra minn Malta.”.

**20.** Minflok l-artikolu 100 tal-liġi prinċipali għandu jidhol dan li ġej:

Sostituzzjoni ta' l-artikolu 100 tal-liġi prinċipali.

“Tifsir.

100. F’dan is-sub-titolu “proċeduri kriminali” tinkludi l-kompilazzjoni msemmija fis-Sub-titolu II tat-Titolu II tat-Taqsima I tat-Tieni Ktieb ta' dan il-Kodiċi u kull proċedura skond l-Att dwar il-Forzi Armati ta' Malta.”.

Kap. 220.

**21.** Fil-paragrafu (b) ta' l-artikolu 102 tal-liġi prinċipali, il-kliem “b'theddid, rigali jew wegħdiet,” għandhom jithassru.

Emenda ta' l-artikolu 102 tal-liġi prinċipali.



Emenda ta' l-artikolu 104 tal-ligi prinċipali.

**22.** Fis-subartikolu (1) ta' l-artikolu 104 tal-ligi prinċipali, minflok il-kliem "il-persuna akkużata," ghandhom jidhlu l-kliem "il-persuna imputata jew akkużata,".

Emenda ta' l-artikolu 105 tal-ligi prinċipali.

**23.** Fl-artikolu 105 tal-ligi prinċipali, minflok il-kliem "il-persuna akkużata," ghandhom jidhlu l-kliem "il-persuna imputata jew akkużata,".

Emenda ta' l-artikolu 106 tal-ligi prinċipali.

**24.** Minnufih wara s-subartikolu (2) ta' l-artikolu 106 tal-ligi prinċipali ghandu jiżdied dan is-subartikolu ġdid li ġej:

"(3) Kull min jagħmel affidavit falz, kemm jekk f'Malta kemm jekk barra minn Malta, waqt li jkun jaf li dak l-affidavit ikun mehtieg jew mahsub għal proċeduri ċivili f'Malta, jehel, meta jinsab hati, il-piena msemmija fis-subartikolu (1) ta' dan l-artikolu.".

Emenda ta' l-artikolu 108 tal-ligi prinċipali.

**25.** Fis-subartikolu (1) ta' l-artikolu 108 tal-ligi prinċipali, minflok il-kliem "quddiem maġistrat" ghandhom jidhlu l-kliem "quddiem imħallef, maġistrat".

Emenda ta' l-artikolu 115 tal-ligi prinċipali.

**26.** L-artikolu 115 tal-ligi prinċipali ghandu jiġi emendat kif ġej:

(a) minflok il-kliem "jirċievi jew jaċċetta" ghandhom jidhlu l-kliem "jitlob, jirċievi jew jaċċetta"; u

(b) fil-paragrafu (a) tiegħu, minflok il-kliem "disa' xhur" ghandhom jidhlu l-kliem "tlettax-il xahar".

Emenda ta' l-artikolu 121 tal-ligi prinċipali.

**27.** L-artikolu 121 tal-ligi prinċipali ghandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, minflok il-kliem "ta' korp imwaqqaf b'ligi" ghandhom jidhlu l-kliem "ta' korp imwaqqaf b'ligi jew xi korp korporat ieħor";

(b) minnufih wara s-subartikolu (2) tiegħu ghandhom jiżdiedu dawn is-subartikoli ġodda li ġejjin:

"(3) Id-disposizzjonijiet ta' dan is-sub-titolu dwar xi uffiċjal jew persuna msemmija fl-artikolu 112 jew xi uffiċjal jew impjegat pubbliku msemmija fl-artikolu 115 ghandhom ikunu wkoll japplikaw għal u dwar kull impjegat jew persuna ohra meta dawn ikunu qed imexxu jew jahdmu f'xi kapaċità għal jew f'isem xi persuna naturali jew ġuridika li tkun qed taħdem fis-settur privat li xjentement, matul l-attivitajiet kummerċjali tagħha, sew b'mod dirett sew permezz ta' xi

intermedjarju u bi ksur ta' dmirijiet taghha, ġgib ruhha b'xi mod minn dawk li hemm provdut dwarhom f'dawk l-artikoli:

Iżda għall-finijiet ta' dan is-subartikolu l-frazi "ksur ta' dmirijiet" tinkludi kull imġieba mhux leali li tikkostitwixxi ksur ta' xi dmir statutorju, jew, skond il-każ, ksur tar-regolamenti jew struzzjonijiet professjonali, li jkunu japplikaw fi hdan il-kummerċ inkwistjoni.

(4) Id-disposizzjonijiet ta' dan is-sub-titolu għandhom ukoll japplikaw għal kull mġieba li tinkwadra fid-deskrizzjonijiet muriġa fid-disposizzjonijiet ta' dan is-sub-titolu u fejn ikun hemm involut:

(a) uffiċjal pubbliku jew impjegat ta' xi Stat barrani; jew

(b) xi uffiċjal jew impjegat, jew xi impjegat iehor b'kuntratt, ta' xi organizzazzjoni jew korp internazzjonali jew sovrannazzjonali li tiegħu Malta hija membru, jew xi persuna oħra li tkun qed taqdi funzjonijiet li jikkorrispondu għal dawk li jitwettqu minn xi uffiċjal, impjegat jew impjegat b'kuntratt bħal dawk; jew

(ċ) xi membru ta' assemblea parlamentari ta' xi organizzazzjoni internazzjonali jew sovrannazzjonali li tagħha Malta tkun membru; jew

(d) xi detentur ta' kariga ġudizzjarja jew xi uffiċjal ta' xi qorti internazzjonali li jkollha l-ġurisdizzjoni tagħha aċċettata minn Malta; jew

(e) xi membru, uffiċjal jew impjegat ta' Kunsill Lokali.”.

**28.** Minnufih wara l-artikolu 121 tiegħu għandhom jiżdiedu dawn l-artikoli godda li ġejjin:

Żieda ta' l-artikoli  
godda 121A  
sa 121J mal-liġi  
prinċipali.

“Meta  
persuna  
tuża  
l-influwenza  
li jkollha.

21A. (1) Kull min iwiegħed, jagħti jew joffri, sew b'mod dirett sew indirett, xi vantaġġ mhux xieraq lil xi persuna oħra li tasserixxi jew tikkonferma li huwa jew hija jkunu kapaċi li jagħmlu xi influwenza mhux xierqa fuq il-mod kif tiddeċiedi xi persuna li hemm imsemmija fl-artikoli preċedenti ta' dan is-sub-titolu, sabiex iġieghel lil dik il-persuna oħra tesercita dik l-influwenza, sew jekk dak il-vantaġġ mhux xieraq ikun għal dik il-persuna oħra jew għal xi hadd iehor,

ghandu, meta jinsab hati, jehel il-piena ta' prigunerija ghal żmien minn tliet xhur sa sena.

(2) Kull min jirċievi jew jaċċetta xi offerta jew weghda ta' xi vantaġġ mhux xieraq ghalih innifsu jew ghal xi hadd iehor bil-ghan li jeserċita xi influwenza mhux xierqa bhalma hemm imsemmi fis-subartikolu (1) jehel, meta jinsab hati, il-piena stabbilita f'dak is-subartikolu.

(3) Ir-reati msemmija fis-subartikoli (1) u (2) jkunu saru ghalkollox sew jekk il-kapaċità allegata li ssir influwenza mhux xierqa kienet jew ma kienetx teżisti, sew jekk l-influwenza tkun jew ma tkunx saret u sew jekk l-influwenza pretiża twassal jew ma twassalx ghar-riżultat intiż.

Reati li  
ghandhom  
x'jaqsmu  
mal-  
kontabilità.

21B. Kull min, bil-hsieb li jaghmel, jahbi jew juri haġa b'ohra dwar xi reat taht l-artikoli preċedenti ta' dan is-sub-titolu, johloq jew juża xi fattura jew xi dokument jew record ta' kontabilità iehor li jkun fih informazzjoni falza jew mhux kompleta jew jommetti b'mod mhux leġittimu milli jirreġistra xi hlas, jehel, meta jinsab hati, il-piena ta' prigunerija minn tliet xhur sa sena minghajr preġudizzju ghal kull piena ohra li jista' jehel taht xi disposizzjoni ohra ta' dan il-Kodiċi jew ta' kull liġi ohra.

Ġurisdizzjoni.

21C. Minghajr preġudizzju ghad-disposizzjonijiet ta' l-artikolu 5 ta' dan il-Kodiċi, il-qrati ta' Malta ghandhom ukoll ikollhom ġurisdizzjoni fuq ir-reati stabbiliti f'dan is-sub-titolu meta:

(a) biss parti mill-azzjoni li tikkostitwixxi l-esekuzzjoni tar-reat tkun saret ġewwa Malta; jew

(b) min jaghmel ir-reat ikun ċittadin jew residenti permanenti f'Malta, uffiċjal pubbliku jew impjegat ta' Malta jew membru tal-Kamra tar-Rappreżentanti jew ta' Kunsill Lokali; jew

(ċ) ir-reat ikun jinvolvi uffiċjal pubbliku jew impjegat ta' Malta jew persuna li tkun membru tal-Kamra tar-Rappreżentanti jew ta' Kunsill Lokali.

Responsabbiltà  
ta' korp  
magħqud  
ghal reati taht  
dan it-titolu.

21D. Meta l-persuna li tinsab hatja ta' reat taht dan it-titolu tkun id-direttur, il-*manager*, is-segretarju jew xi uffiċjal prinċipali iehor ta' korp magħqud jew tkun persuna li jkollha setgha ta' rappreżentanza ta' tali korp jew ikollha awtorità li



tiehu deċiżjonijiet f'isem dak il-korp jew ikollha awtorità li tesercita kontroll fi hdan dak il-korp u r-reat li dik il-persuna tkun instabet hatja dwaru jkun sar għall-benefiċċju, sew f'parti sew għalkollox, ta' dak il-korp magħqud, dik il-persuna għandha għall-finijiet ta' dan it-titolu titqies bħala li tkun vestita bir-rappreżentanza legali ta' l-istess korp magħqud li jista' jehel il-hlas ta' multa ta' mhux inqas minn 500 lira u mhux iktar minn 500,000 lira.”.

**29.** Minflok l-intestatura minnufih qabel l-artikolu 141 tal-liġi prinċipali u li taqra “Disposizzjoni Ġenerali li tghodd għal dan is-Sub-titolu” għandu jidhol dan li ġej:

Sostituzzjoni ta' l-intestatura minnufih qabel l-artikolu 141 tal-liġi prinċipali.

**“Disposizzjoni Ġenerali li tapplika għall-Uffiċjali Pubbliċi”.**

**30.** Fl-artikolu 161 tal-liġi prinċipali, minflok il-kliem “minn xahar sa tliet xhur jew il-multa” għandhom jidhlu l-kliem “minn xahar sa sena jew multa ta' mhux iżjed minn elf lira”.

Emenda ta' l-artikolu 161 tal-liġi prinċipali.

**31.** Fl-artikolu 162 tal-liġi prinċipali, minflok il-kliem “minn xahar sa tliet xhur jew il-multa.” għandhom jidhlu l-kliem “minn xahar sa tmintax-il xahar jew multa ta' mhux iżjed minn hames mitt lira.”.

Emenda ta' l-artikolu 162 tal-liġi prinċipali.

**32.** L-artikolu 172 tal-liġi prinċipali għandu jiġi emendat kif ġej:

Emenda ta' l-artikolu 172 tal-liġi prinċipali.

(a) fis-subartikolu (1) tiegħu:

(i) minflok il-kliem “jittimbraw jew jimmarkaw,” għandhom jidhlu l-kliem “jittimbraw, jimmarkaw, jawtentikaw jew jiċċertifikaw,”;

(ii) minflok il-kliem “dokumenti jew oġġetti ta' proprjetà pubblika, jew li jkunu qeghdin” għandhom jidhlu l-kliem “dokumenti jew oġġetti, sew jekk ta' proprjetà pubblika jew privata, jew li jkunu qeghdin”; u

(iii) fit-test Malti biss, minflok il-kliem “taht il-kustodja pubblika,” għandhom jidhlu l-kliem “taht il-garanzija pubblika,”; u

(b) fis-subartikolu (2) tiegħu, minflok il-kliem “jew marki,” għandhom jidhlu l-kliem “jew marki u kull min xjentement u minghajr awtorità legittima jkollu fil-pussess tiegħu l-imsemmija oġġetti,”.

Żieda ta' l-artikolu  
189A  
ġdid mal-liġi  
prinċipali.

**33.** Minnufih wara l-artikolu 189 tal-liġi prinċipali ghandu jiżdied dan l-artikolu ġdid li ġej:

“Tifsira  
ta'  
dokument,  
eċċ.

189A. Għall-finijiet ta' dan it-Titolu, “dokument”, “ghodda”, “skrittura” u “ktieb” jinkludu kull kartonċina, *disc*, *tape*, *soundtrack* jew mezz iehor li fuqu jew fih tkun jew tista' tiġi rreġistrata u mahżuna informazzjoni b'mezzi mekkaniċi, elettroniki jew mezzi ohra.”.

Żieda ta' l-artikolu  
203A  
ġdid mal-liġi  
prinċipali.

**34.** Minnufih wara l-artikolu 203 tal-liġi prinċipali ghandu jiżdied dan l-artikolu ġdid li ġej:

“Istigazzjoni,  
eċċ. ta'  
korruzzjoni  
ta' tfa' ta'  
taht l-età.

203A. Kull min, b'xi mezz barra minn dak imsemmi fis-subartikolu (1) ta' l-artikolu 203, jeċċita, jghin jew jiffaċilita l-korruzzjoni ta' persuna ta' taht l-età tas-sess il-wiehed jew l-iehor, jehel, meta jinsab hati, il-piena ta' prigionerija għal żmien ta' mhux iżjed minn sentejn u d-disposizzjonijiet tas-subartikoli (2) u (3) ta' l-artikolu 203 jghoddu, *mutatis mutandis*, għal delitt taht dan l-artikolu:

Iżda l-piena għal dan id-delitt tkun ta' prigionerija għal żmien ta' mhux iżjed minn erba' snin f'kull wiehed mill-każijiet imsemmijin fil-proviso li hemm għas-subartikolu (1) ta' l-artikolu 203.”.

Żieda ta' l-artikolu  
208A  
ġdid mal-liġi  
prinċipali.

**35.** Minnufih wara l-artikolu 208 tal-liġi prinċipali ghandu jiżdied dan l-artikolu ġdid li ġej:

“Ritratti,  
films, eċċ.,  
indicianti ta'  
persuni ta'  
taht l-età.

208A. (1) Kull ċittadin jew resident permanenti ta' Malta, sew jekk f'Malta jew barra minn Malta, kif ukoll kull persuna f'Malta, li jiġbdu jew jippermettu li jingibed xi ritratt, film, *video recording* jew xbieha elettronika indicianti ta' persuna ta' taht l-età, jew iqassmu jew juru ritratt, film, *video recording* jew xbieha elettronika indicianti bħal dawn, jew ikollhom fil-pussess tagħhom ritratt, film, *video recording* jew xbieha elettronika indicianti bħal dawn bil-hsieb li dawn jiġu mqassma jew murija minnhom jew minn persuni ohra, jehlu, meta jinsabu hatja, il-piena ta' prigionerija għal żmien ta' mhux iżjed minn sitt xhur jew multa ta' mhux iżjed minn mitejn lira, jew dik il-prigionerija u multa flimkien:

Iżda għall-finijiet ta' dan l-artikolu l-espressjoni “resident permanenti” għandha l-istess tifsir mogħti lilha bil-paragrafu (d) tas-subartikolu (1) ta' l-artikolu 5.

(2) Ritratt, film, *video recording* jew xbieha elettronika, jekk dawn ikunu juru persuna ta' taht l-età u jkunu indiċenti, ghandhom, għall-finijiet kollha ta' dan l-artikolu, jiġu trattati bħala ritratt, film, *video recording* jew xbieha elettronika indiċenti.

(3) Jekk id-delitt imsemmi fis-subartikolu (1) isir minn axxendent mid-demmi jew bi żwieġ, jew mill-missier jew l-omm adottivi, jew mit-tutor, jew minn haddiehor li lili, imqar jekk għal xi żmien, tkun giet fdata l-persuna ta' taht l-età murija fir-ritratt, film, *video recording* jew xbieha elettronika sabiex jiehu hsiebha, jedukaha, jgħallimha, jindukraha jew iżommha, jew meta dik il-persuna taht l-età ma tkunx għalqet id-disa' snin, il-piena tkun ta' prigunerija minn seba' xhur sa sena, bir-rekluzjoni jew minghajrha, u jghoddu wkoll id-disposizzjonijiet tas-subartikolu (4) ta' l-artikolu 197.

(4) Meta persuna tkun imputata ta' tqassim jew wiri, jew ta' pussess ta', xi ritratt, film jew *video recording* jew xbieha elettronika indiċenti taht is-subartikolu (1), hija tista' tiddefendi ruhha billi tipprova li kellha raġuni legittima biex tqassam jew turi, jew biex kellha fil-pussess tagħha, dak ir-ritratt, film, *video recording*, jew xbieha elettronika jew li hija nnifisha ma kenitx rat ir-ritratt, film, *video recording*, jew xbieha elettronika u la kienet taf u lanqas kellha xi raġuni biex tissuspetta li kienu indiċenti.

(5) Għall-finijiet tal-paragrafu (a) tas-subartikolu (1) ta' l-artikolu 635, il-persuna ta' taht l-età murija f'xi ritratt, film, *video recording* jew xbieha elettronika bħal dawn titqies li tkun il-persuna li kontra tagħha ikun sar ir-reat.

(6) F'dan l-artikolu referenzi għal ritratt jinkludu l-verżjoni negattiva kif ukoll il-verżjoni pozittiva.”.

**36.** Fl-artikolu 222A tal-liġi prinċipali, minflok il-kliem “hamsa u sittin sena” għandhom jidhlu l-kliem “sittin sena”.

Emenda ta' l-artikolu 222A tal-liġi prinċipali.

**37.** Fl-artikolu 225 tal-liġi prinċipali, minflok il-kliem “mhux iżjed minn sentejn jew multa mhux iżjed minn elfejn lira” għandhom jidhlu l-kliem “mhux iżjed minn erba' snin jew multa mhux iżjed minn hamest elef lira”.

Emenda ta' l-artikolu 225 tal-liġi prinċipali.

**38.** Is-subartikolu (1) ta' l-artikolu 226 tal-liġi prinċipali għandu jiġi emendat kif ġej:

Emenda ta' l-artikolu 226 tal-liġi prinċipali.



(a) fil-paragrafu (a) tieghu, minflok il-kliem “sitt xhur” ghandhom jidhlu l-kliem “sena” u minflok il-kliem “elf lira” ghandhom jidhlu l-kliem “elfejn lira”; u

(b) fil-paragrafu (b) tieghu, minflok il-kliem “tliet xhur” ghandhom jidhlu l-kliem “sitt xhur” u minflok il-kliem “hames mitt lira” ghandhom jidhlu l-kliem “elf lira”.

Emenda ta' l-artikolu 227 tal-ligi prinċipali.

**39.** Fil-paragrafu (ċ) ta' l-artikolu 227 minflok il-kliem “jinhtieg, fil-każijiet ta' provokazzjoni, illi fil-fatt” ghandhom jidhlu l-kliem “jinhtieg illi l-fatt”.

Emenda ta' l-artikolu 228 tal-ligi prinċipali.

**40.** Fis-subartikolu (2) ta' l-artikolu 228 minflok il-kliem “mhux aktar minn ghoxrin sena” ghandhom jidhlu l-kliem “minn hamsa sa ghoxrin sena”.

Sostituzzjoni ta' l-intestatura minnufih qabel l-artikolu 241 tal-ligi prinċipali.

**41.** Minflok l-intestatura minnufih qabel l-artikolu 241 tal-ligi prinċipali u li taqra “Fuq l-Abort u fuq min Jaghti jew Ibiegh Sustanzi Velenużi jew ta' Hsara ghas-Sahha” ghandha tidhol din l-intestatura li gejja:

**“Fuq l-Abort, fuq min Jaghti jew Ibiegh Sustanzi Velenużi jew ta' Hsara ghas-Sahha, u fuq it-Tixrid tal-Mard”.**

Emenda ta' l-artikolu 242 tal-ligi prinċipali.

**42.** Fl-artikolu 242 tal-ligi prinċipali, minflok il-kliem “ghall-omicidju jew ghall-offiżi fuq il-persuna,” ghandhom jidhlu l-kliem “ghall-omicidju volontarju jew ghall-offiżi volontarji fuq il-persuna,”.

Żieda ta' l-artikolu 243A ġdid mal-ligi prinċipali.

**43.** Minnufih wara l-artikolu 243 tal-ligi prinċipali ghandu jiżdied dan l-artikolu ġdid li gej:

“Abort kolpevoli.

243A. Kull min, b'nuqqas ta' hsieb, bi traskuragni, b'nuqqas ta' hila fl-arti jew professjoni tieghu, jew b'nuqqas ta' tharis ta' regolamenti, jikkaguna l-abort ta' mara tqila jehel, meta jinsab hati, il-piena ta' prigunerija ghal żmien ta' mhux iżjed minn sitt xhur jew multa ta' mhux iżjed minn elf lira.”.

Żieda ta' l-artikolu 244A ġdid mal-ligi prinċipali.

**44.** Minnufih wara l-artikolu 244 tal-ligi prinċipali ghandu jiżdied dan l-artikolu ġdid li gej:

“Trasmis-sjoni, komunikazzjoni, eċċ., ta' mard.

244A. (1) Kull min, meta jkun jaf li jkollu, jew li jkun afflitt b'xi marda jew kondizzjoni li tista' tigi speċifikata skond is-subartikolu (3), b'xi mod xjentement jittrasmetti, jikkomunika jew jghaddi dik il-marda jew kondizzjoni lil xi persuna ohra li ma tkunx marida jew afflitta biha jehel, meta

jinsab hati, il-piena ta' prigunerija ghal żmien ta' minn erba' snin sa disa snin:

Iżda jekk il-persuna l-oħra tmut bħala riżultat ta' dik il-marda jew kondizzjoni, il-hati jehel il-piena stabbilita fis-subartikolu (1) ta' l-artikolu 211.

(2) Meta dik il-marda jew kondizzjoni kif imsemmija fis-subartikolu (1) tigi trasmessa, ikkomunikata jew mghoddija b'nuqqas ta' hsieb, bi traskuragni jew b'nuqqas ta' tharis ta' xi regolament mill-persuna li kienet li kien imissha tkun taf li tkun marida jew li tkun afflitta b'dik il-marda jew kondizzjoni, dik il-persuna tehel, meta tinsab hatja, il-piena ta' prigunerija ghal żmien ta' mhux iżjed minn sitt xhur jew multa ta' mhux iżjed minn elf lira:

Iżda jekk il-persuna l-oħra tmut bħala riżultat ta' dik il-marda jew kondizzjoni, il-hati jehel il-pieni stabbiliti fl-artikolu 225.

(3) Il-Ministru responsabbli għall-gustizzja għandu, b'avviż fil-Gazzetta tal-Gvern, jispeċifika l-mard jew kondizzjonijiet li għalihom japplika dan l-artikolu.”.

**45.** Minflok l-intestatura minnufih qabel l-artikolu 245 tal-liġi prinċipali u li taqra “Fuq l-Infantiċidju u l-Abbandun u l-Esposizzjoni ta' Tifel” għandha tidhol din l-intestatura li gejjja:

Sostituzzjoni ta' l-intestatura minnufih qabel l-artikolu 245 tal-liġi prinċipali.

**“Fuq l-Infantiċidju u fuq l-Abbandun, Espozizzjoni u Mohqrija ta' Tifel”.**

**46.** Fis-subartikolu (1) ta' l-artikolu 247 tal-liġi prinċipali, minflok il-kliem “offiża fuq il-persuna” għandhom jidhlu l-kliem “offiża volontarja fuq il-persuna”.

Emenda ta' l-artikolu 247 tal-liġi prinċipali.

**47.** Minnufih wara l-artikolu 247 tal-liġi prinċipali għandu jiżdied dan l-artikolu ġdid li ġej:

Żieda ta' l-artikolu 247A ġdid mal-liġi prinċipali.

“Mohqrija jew traskuragni ta' tifel ta' taht it-tnax-il sena.

247A. (1) Kull min ikollu r-responsabbiltà ta' tifel ta' taht it-tnax-il sena u b'atti persistenti ta' ghemil jew ta' nuqqas ta' ghemil jahqar lit-tifel jew iġieghel jew jippermetti l-mohqrija tat-tifel b'mezzi simili, jehel, meta jinsab hati, kemm-il darba l-fatt ma jkunx jikkostitwixxi reat aktar gravi taht xi disposizzjoni oħra ta' dan il-Kodiċi, il-piena ta' prigunerija għal żmien ta' mhux iżjed minn sentejn.

(2) Għall-finijiet tas-subartikolu (1), mohqrija tinkludi li wiehed jittraskura lit-tifel fil-bżonnijiet tiegħu ta' nutrizzjoni adegwata, ta' lbies adegwat, ta' kenn adegwat, u ta' protezzjoni adegwata biex ma tigrilux hsara, li wiehed persistentement joffendi d-dinjità u l-karattru tat-tifel u li wiehed persistentement jimponi fuq it-tifel xogħol mhux adattat għall-età tiegħu jew xogħol fiżiku iebs.

(3) Id-disposizzjonijiet tas-subartikolu (4) ta' l-artikolu 197 jghoddu wkoll fil-każ ta' reat taht dan l-artikolu, meta r-reat isir minn axxendent jew tutur.”.

Emenda ta'  
l-artikolu 250  
tal-liġi prinċipali.

**48.** Is-subartikolu (1) ta' l-artikolu 250 tal-liġi prinċipali għandu jiġi emendat kif ġej:

(a) minflok il-kliem “titolu jew garanzija,” għandhom jidhlu l-kliem “titolu jew garanzija, jew tagħmel jew tonqos milli tagħmel xi haġa,”; u

(b) minflok il-kliem “kontra persuna ohra jew li jaghtiha malafama bhala hatja ta' reat jew ta' fatt li jtellef il-ġieħ,” għandhom jidhlu l-kliem “kontra, jew li jaghti malafama lil, dik il-persuna jew persuna ohra,”.

Emenda ta'  
l-artikolu 276A  
tal-liġi prinċipali.

**49.** Fl-artikolu 276A tal-liġi prinċipali, minflok il-kliem “hamsa u sittin sena” għandhom jidhlu l-kliem “sittin sena”.

Emenda ta'  
l-artikolu 293 tal-  
liġi prinċipali.

**50.** Fl-artikolu 293 tal-liġi prinċipali, minflok il-kliem “għal żmien mhux iżjed minn disa' xhur” għandhom jidhlu l-kliem “minn tliet xhur sa tmintax-il xahar”.

Emenda ta'  
l-artikolu 294 tal-  
liġi prinċipali.

**51.** Fl-artikolu 294 tal-liġi prinċipali, minflok il-kliem “minn hames xhur sa sena.” għandhom jidhlu l-kliem “minn seba' xhur sa sentejn.”.

Emenda ta'  
l-artikolu 295  
tal-liġi prinċipali.

**52.** Fl-artikolu 295 tal-liġi prinċipali, minflok il-kliem “minn hames xhur sa sena” għandhom jidhlu l-kliem “minn seba' xhur sa sentejn” u minflok il-kliem “minn sitt xhur sa tmintax-il xahar” għandhom jidhlu l-kliem “minn disa' xhur sa tliet snin”.

Emenda ta'  
l-artikolu 296 tal-  
liġi prinċipali.

**53.** Fis-subartikolu (1) ta' l-artikolu 296 tal-liġi prinċipali, minflok il-kliem “minn hames xhur sa tmintax-il xahar” għandhom jidhlu l-kliem “minn hames xhur sa sentejn.”.

Emenda ta'  
l-artikolu 297 tal-  
liġi prinċipali.

**54.** Fl-artikolu 297 tal-liġi prinċipali, minflok il-kliem “minn seba' xhur sa sentejn.” għandhom jidhlu l-kliem “minn disa' xhur sa tliet snin.”.



**55.** Minnufih wara l-artikolu 298B tal-liġi prinċipali għandu jidhol dan l-artikolu ġdid li ġej:

Żieda ta' l-artikolu 298C ġdid mal-liġi prinċipali.

“Użurja.

292A. (1) Kull min jirċievi minghand xi hadd iehor jew jikseb minghand xi hadd iehor xi wegħda li jingħataw, lilu jew lil oħrajn, b'korrispettiv għal xi self, mghaxijiet jew xi qligh iehor taht liema għamla jkun b'eċċess minn dak li jkun permess bil-liġi, jista' jehel il-piena ta' prigunerija għal żmien mhux iżjed minn sena u għall-hlas ta' multa minn elf lira sa hmistax-il elf lira.

(2) L-istess piena msemmija fis-subartikolu (1) tapplika għal kull min jirċievi minghand xi hadd iehor jew jikseb minghand xi hadd iehor xi wegħda li jingħataw, lilu jew lil oħrajn, b'korrispettiv għal xi servizz li jkun jikkonsisti f'xi benefiċċju iehor ta' liema xorta jkun, mghaxijiet jew xi qligh iehor taht liema għamla jkun b'eċċess minn dak li jkun permess bil-liġi jew li jkun xort'oħra sproporzjonat mas-servizz mogħti.

(3) L-istess piena msemmija fis-subartikolu (1) tapplika wkoll għal kull min, minkejja li ma jkunx komplici fir-reat imsemmi fl-istess subartikolu, jindahal biex jipprokura għal persuna oħra ammont ta' flus jew xi benefiċċju iehor billi jġieghel persuna tagħti jew twieghed li tagħti, lilu stess jew lil oħrajn, minhabba fl-indhil tiegħu, kumpens sproporzjonat.

(4) Għall-finijiet tas-subartikoli (1), (2) u (3), sabiex jiġi stabbilit jekk l-imghaxijiet ikunux, jew jekk xi qligh jew kumpens ikunux, sproporzjonat għandhom jitqiesu ċ-ċirkostanzi kollha tal-fatt u tar-rati medji li soltu jingħataw għal hidmiet bħal dik inkwistjoni.”.

**56.** Fl-artikolu 308 tal-liġi prinċipali, minflok il-kliem “minn erba' xhur sa sena.” għandhom jidhlu l-kliem “minn seba' xhur sa sentejn.”.

Emenda ta' l-artikolu 308 tal-liġi prinċipali.

**57.** Fl-artikolu 309 tal-liġi prinċipali, minflok il-kliem “minn xahar sa tliet xhur” għandhom jidhlu l-kliem “minn xahar sa sitt xhur”.

Emenda ta' l-artikolu 309 tal-liġi prinċipali.

**58.** Minflok il-paragrafi (a) u (b) tas-subartikolu (1) ta' l-artikolu 310 tal-liġi prinċipali għandu jidhol dan li ġej:

Emenda ta' l-artikolu 310 tal-liġi prinċipali.

“(a) meta l-ammont tal-ħsara magħmula mill-ħati huwa aktar minn elf lira, il-piena tkun ta' prigunerija minn tlethtax-il xahar sa seba' snin;

(b) meta l-ammont tal-hsara maghmula mill-hati huwa aktar minn mitt lira iżda mhux aktar minn elf lira, il-piena tkun ta' prigunerija minn hames xhur sa tliet snin:

Iżda jekk il-piena stabbilita ghar-reat relevanti fl-artikoli preċedenti ta' dan is-sub-titolu tkun oghla mill-piena stabbilita f'dan il-paragrafu ghandha tapplika l-piena l-ewwel imsemmija miżjuda bi grad u fil-każ tar-reat taht l-artikolu 294 il-piena hekk miżjuda ma tinghatax fil-minimum taghha.”.

Emenda ta' l-artikolu 313 tal-liġi prinċipali.

**59.** Fl-artikolu 313 tal-liġi prinċipali, minflok il-kliem “ta' Hatjin” ghandhom jidhlu l-kliem “ta' Hatjin u ta' l-artikolu 21 ta' dan il-Kodiċi”.

Emenda ta' l-artikolu 325 tal-liġi prinċipali.

**60.** L-artikolu 325 tal-liġi prinċipali ghandu jiġi emendat kif ġej:

(a) id-disposizzjoni prezenti ghandha tigi enumerata mill-ġdid bhala subartikolu (1);

(b) minnufih wara s-subartikolu (1) ghandu jiżdied dan is-subartikolu ġdid li ġej:

“(2) Jekk minhabba n-natura jew importanza ġeoloġika, paleontoloġika, arkeoloġika, arkitettonika, artistika jew storika tal-proprjetà mhassra, dannegġata jew mgħarrqa ma jkunx possibbli li l-hsara titqies skond ir-regola stabbilita fl-artikolu 335, il-hsara ghandha titqies li tkun ta' aktar minn hames mitt lira.”.

Emenda ta' l-artikolu 330 tal-liġi prinċipali.

**61.** Il-paragrafu (a) ta' l-artikolu 330 tal-liġi prinċipali ghandu jiġi emendat kif ġej:

(a) minflok il-kliem “kien li jagħmel serq,” ghandhom jidhlu l-kliem “kien li jagħmel serq jew hsara lil proprjetà jew xi reat kontra l-persuna kif definit fil-paragrafu (d) tas-subartikolu (1) ta' l-artikolu 5,”; u

(b) minflok il-kliem “kien ġa ġie ikkundannat għal serq” ghandhom jidhlu l-kliem “kien ġa ġie kkundannat għal xi reat minn dawn”.

Żieda ta' l-artikolu 334A ġdid mal-liġi prinċipali.

**62.** Minnufih wara l-artikolu 334 tal-liġi prinċipali ghandu jiżdied dan l-artikolu ġdid li ġej:

“Meta wiehed jonqos li jgħarraf lill-Pulizija dwar hwejjeg misruqa eċċ.

**334A.** Kull min, malli jsir jaf li xi haġa li tkun fil-pussess tiegħu tkun haġa misruqa jew haġa mehuda b'qerq jew akkwistata b'reat, jonqos li jgħarraf lill-Pulizija b'dak il-

fatt fi żmien ġimgha minn meta jkun hekk sar jaf, jehel, meta jinsab hati, il-piena ta' prigionerija għal żmien mhux iżjed minn tliet xhur jew multa."

63. Minflok l-artikolu 337 tal-liġi prinċipali għandu jidhol dan li ġej: Sostituzzjoni ta' l-artikolu 337 tal-liġi prinċipali.

"Tnaqqis tal-piena.

337. (1) Fil-każ ta' frodi, il-piena stabbilita titnaqqas bi grad jew b'żewġ gradi, kemm-il darba l-hati, qabel ma tibda titmexxa xi proċedura kriminali kontra tiegħu, jrodd għal kollox il-hsara kkaġunata bir-reat.

(2) Fil-każ ta' serq, sew jekk sempliċi sew ikkwalfikat, kif ukoll reat ta' hsara volontarja lil proprjetà li jsir filwaqt li jkun qed isir ir-reat ta' serq, il-piena stabbilita titnaqqas b'żewġ gradi kemm-il darba, qabel ma jitressaq quddiem il-qorti f'konnessjoni ma' dak is-serq:

(a) il-hati jikxef lill-awtorità kompetenti kull persuna li setgħet laqgħet għandha jew xtrat minghandu, jew li setgħet hadet sehem fil-bejgħ jew tmexxiya tal-proprjetà misruqa; u

(b) (i) jew jikkonsenja lill-awtorità kompetenti l-proprjetà kollha misruqa minnu, u jrodd lill-offiż kull hsara li setgħet tkun giet ikkaġunata lill-proprjetà, jew

(ii) fil-każ li l-proprjetà ma tkunx ingabret lura, ihallas lill-offiż il-valur shih tal-proprjetà hekk misruqa; u

(ċ) irodd għal kollox lill-offiż kull hsara, lil proprjetà mobbli jew immobbli ohra, kkaġunata bir-reat ta' serq jew filwaqt li jkun qed isir ir-reat ta' serq.

(3) Il-piena stabbilita fil-każ tar-reati msemmija fis-subartikolu (2) tista' titnaqqas bi grad jekk il-hati jhares id-disposizzjonijiet ta' dak is-subartikolu wara li jitressaq quddiem il-qorti kif hawn aktar qabel imsemmi.

(4) Id-disposizzjonijiet tas-subartikoli (2) u (3) ma jghoddux -

(a) fil-każ ta' serq ikkwalfikat bi vjolenza li tkun tikkonsisti f'omicidju volontarju, attentat ta' omicidju,



offiża volontarja fuq il-persuna jew sekwestru tal-persuna;

(b) fil-każ ta' serq ikkwalifikat bi vjolenza diretta kontra xi wahda mill-persuni msemmija fl-artikolu 276A;

(ċ) fil-każ ta' serq li filwaqt li dan ikun qed isir tiġi kkaġunata mewt jew offiża fuq il-persuna kif provdut fl-artikolu 226A.

(5) Iċ-ċirkostanzi msemmija fis-subartikoli (1) u (2) ma ghandhomx jitqiesu bħala raġunijiet speċjali jew straordinarji għall-finijiet ta' l-artikolu 21.”.

Żieda ta' l-artikolu 337A għid mal-liġi prinċipali.

**64.** Minnufih wara l-artikolu 337 tal-liġi prinċipali għandu jiżdied dan l-artikolu għid li ġej:

“Traffiku fil-persuni sabiex dawn jiddaħħlu jew jinharġu minn Malta kontra l-liġi.

337A. Kull min bil-hsieb li jagħmel xi qliegħ li jkun, jgħin, jassisti, jagħti parir jew iħabrek biex persuna oħra tidhol jew tittanta tidhol jew toħroġ jew tittanta toħroġ minn Malta bi ksur tal-liġijiet ta' Malta, jew li, sew f'Malta sew barra minn Malta, jikkongura f'dak is-sens ma' xi persuna oħra jista', mingħajr preġudizzju għal kull piena oħra taht dan il-Kodiċi jew taht xi liġi oħra, jehel il-piena ta' prigunerija minn sitt xhur sa hames snin jew multa ta' għaxart elef lira u d-disposizzjonijiet ta' l-artikoli 21 u 28A u dawk ta' l-Att dwar *Probation* ta' Hatjin ma jkunux japplikaw:

Iżda meta l-ghadd ta' persuni mghejjuna, assistiti, mogħtija parir, li jkun sar thabrik dwarhom, jew il-mira tal-kongura kif imsemmi qabel ikun ta' aktar minn tlieta, il-piena għandha tiżdied bi grad wiehed sa tliet gradi.”.

Emenda ta' l-artikolu 338 tal-liġi prinċipali.

**65.** L-artikolu 338 tal-liġi prinċipali għandu jiġi emendat kif ġej:

(a) minflok il-paragrafu (ż) għandu jidhol dan li ġej:

“(ż) meta hekk ordnat minn xi qorti jew hekk marbut b'kuntratt jonqos li jagħti lil martu jew tonqos li tagħti lil żewġha, is-somma ffissata minn dik il-qorti jew stipulata fil-kuntratt bħala manteniment għaliha jew għalih u, jew, għall-ulied fi żmien hmistax-il jum minn dak il-jum li fih, skond dik l-ordni jew dak il-kuntratt, ikollha tithallas dik is-somma;”;

u

(b) fil-paragrafu (ll) tieghu, minnufih wara l-kliem “mill-qorti” ghandhom jidhlu l-kliem “jew kif marbut jew marbuta bil-kuntratt”.

**66.** Minflok l-artikoli 346 sa 355, it-tnejn inklużi, tal-liġi prinċipali għandu jidhol dan li ġej:

Sostituzzjoni ta' l-artikoli 346 sa 355 tal-liġi prinċipali.

### “ĠENERALI

Dmirijiet tal-Pulizija.

346. (1) Huwa dmir tal-Pulizija li żżomm l-ordni u l-kwiet pubbliku, li ma tħallix isiru reati, li tikxef u tinvestiga r-reati li jsiru, li tiġbor il-provi, sew kontra sew favur il-persuna suspettata li tkun ghamlet dak ir-reat, u li ġġib il-hatjin, kemm l-awturi kemm il-kompliċi, quddiem l-awtorità ġudizzjarja.

(2) Minkejja l-generalità tas-subartikolu (1), meta tkun awtorizzata bil-liġi u bil-mod hekk provdut, il-Pulizija tista' ddewwem l-intervent tagħha immedjat għall-prevenzjoni ta' l-għemil ta' reat.

(3) Il-Pulizija ma timxix hlief b'talba tal-parti privata fil-każijiet li fihom il-liġi ma tagħtix li l-azzjoni titmexxa mingħajr dik it-talba.

Ordni jiet legittimi.

347. Ordni mogħtija minn uffiċjal tal-Pulizija fl-esekuzzjoni ta' dmirijietu u li tkun raġonevolment meħtieġa fiċ-ċirkostanzi tal-każ għandha titqies bħala ordni legittima sakemm ma jintweriex il-kuntrarju.

Għajnuna li tingħata meta mitluba minn kap ta' dar.

348. Jekk kap ta' dar jitlob lil uffiċjal tal-Pulizija biex imur f'dik id-dar, sabiex jiżgura ruhu minn reat li jkun sar jew biex jaqbad il-provi tiegħu, l-uffiċjal għandu jfittex imur mill-aktar fis li jista' jkun, u għandu jiehu xhieda miegħu, meta dan jista' jsir.

Setgħat skond il-liġi.

349. (1) Uffiċjal tal-pulizija għandu jkollu biss dawk is-setgħat vestiti fih skond il-liġi u fil-limitu awtorizzat mil-liġi, u f'dan il-provvediment il-kelma liġi għandha l-istess tifsira mogħtija lilha fl-artikolu 124 tal-Kostituzzjoni.

Ommissjoni tal-kawzjoni, formalità jew hteġa mħumiex ostaklu għall-ammissibilità tal-provi.

(2) L-ommissjoni ta' xi kawzjoni, formalità jew hteġa preskritti taħt dan it-Titolu m'għandhom ikunu ta' ebda ostaklu biex tingieb prova, waqt il-ġuri, b'mod permess bil-liġi, dwar il-fatti li għalihom tkun tirrelata dik il-prekawzjoni, formalità jew hteġa.

Tifsiriet.

350. (1) F'dan it-Titolu, u bla hsara ghad-disposizzjonijiet tas-subartikolu (2):

“kampjun intimu” tfisser kampjun ta’ demm, sperma jew fluwidu tessutali iehor, urina, saliva jew xaghar pubiku, u tinkludi kampjun miġbur b’assorbenti minn fetha fil-ġisem ta’ persuna minbarra l-halq;

“kampjun mhux intimu” tfisser -

- (a) kampjun ta’ xaghar minbarra xaghar pubiku;
- (b) kampjun mehud minn difer jew minn taht difer;
- (ċ) kampjun miġbur b’assorbenti mehud minn xi parti tal-ġisem ta’ persuna inkluż il-halq iżda mhux minn xi fetha ohra fil-ġisem;
- (d) saliva;
- (e) marka tas-sieq jew xi marka simili ta’ xi parti tal-ġisem ta’ persuna minbarra xi parti minn idu;

“kunsens xieraq” tfisser -

- (a) dwar persuna li tkun ghalqet 18-il sena, l-kunsens ta’ dik il-persuna;
- (b) dwar persuna li ghadha ma ghalqitx 18-il sena iżda li tkun ghalqet 14-il sena, l-kunsens ta’ dik il-persuna u l-kunsens tal-ġenitur jew tutur taghha;
- (ċ) dwar persuna li ghadha ma ghalqitx 14-il sena, l-kunsens tal-ġenitur jew tutur taghha;

“materjal eskluż” tfisser:

- (a) *records* personali akkwistati jew originati minn persuna matul l-esercizzju ta’ xi kummerċ, negozju, professjoni jew okkupazzjoni ohra, jew ghal finijiet ta’ xi kariga bi hlas jew bla hlas li dik il-persuna kunfidenzjalment ikollha;



(b) tessut uman jew fluwidu tessutali mehud ghal finijiet ta' djanjosi jew kura medika u li dik il-persuna kunfidenzjalment ikollha;

(ċ) materjal ġurnalistiku li persuna kunfidenzjalment ikollha;

“materjal ġurnalistiku” tfisser materjal li jkun ghand xi hadd li jkun kisbu jew originah għall-finijiet tal-ġurnalizmu, u min jirċievi materjal minghand xi persuna li jkollha l-hsieb li min jirċevih se jużah għall-fini tal-ġurnalizmu ghandu jitqies li jkun kisbu għal dawk l-ghanijiet;

“oġġetti soġġetti għal privileġġ legali” tfisser kull komunikazzjoni bejn konsulent legali professjonali u l-klijent tiegħu jew kull persuna li tirrappreżenta lill-klijent tiegħu u kull dokument jew *record* li jkunu annessi ma' jew li ssir referenza ghalihom fl-istess komunikazzjoni u magħmula għall-finijiet ta' l-ghoti ta' parir legali jew b'konnessjoni ma', jew b'kontemplazzjoni ta' xi proċeduri legali u għall-finijiet ta' dawk il-proċeduri, imma l-frazi ma tinkludix oġġetti miżmuma bil-ghan tat-tkomplija ta' xi fini kriminali;

“perkwizizzjoni intima” tfisser tfittxija li tikkonsisti fl-eżami fiżiku ta' fethiet fil-ġisem ta' persuna minbarra l-halq;

“ghassa tal-pulizija msemija” tfisser għassa tal-pulizija msemija mill-Ministru responsabbli għall-Pulizija b'avviż pubblikat fil-Gazzetta;

“*records* personali” tfisser *records* dokumentati jew *records* ohra li ghandhom x'jaqsmu ma' individwu (haj jew mejjet) li jista' jiġi identifikat permezz tagħhom u li jirreferu -

(a) għas-sahha fiżika jew mentali tiegħu; jew

(b) għal pariri jew għajnuna spiritwali lilu mogħtija jew li tkun se tinghatalu;

(ċ) għal pariri jew għajnuna lilu mogħtija jew li tkun se tinghatalu, għall-finijiet tal-ġid personali tiegħu, minn xi organizzazzjoni volontarja jew minn xi individwu li minhabba

fil-kariga jew l-okkupazzjoni tieghu jkun responsabbli għall-għid personali tieghu, jew li minhabba f'xi ordni tal-qorti jkun responsabbli għas-superviżjoni tieghu.

(2) Għall-finijiet ta' dan l-artikolu -

(a) persuna kunfidenzjalment ikollha materjal ġurnalistiku jekk -

(i) dan ikun għandha suġġett għal tali impenn, restrizzjoni jew obligazzjoni; u

(ii) dan ikun inżamm kontinwament (minn persuna waħda jew iktar) suġġett għal tali impenn, restrizzjoni jew obligazzjoni minn jkun gie l-ewwel miksub jew orġinat għall-finijiet tal-ġurnaliżmu.

(b) persuna kunfidenzjalment ikollha materjal li ma jkunx materjal ġurnalistiku jekk dan ikun għandha skond -

(i) impenn espress jew taċitu li żżommu għandha kunfidenzjalment; jew

(ii) restrizzjoni dwar l-iżvelar jew obligazzjoni ta' segretezza li tinsab f'dan il-Kodiċi jew f'kull liġi oħra.

## Sub-titolu I

### SETGHA TA' TWAQQIF U PERKWIZIZZJONI

Setgħa ta' twaqqif u perkwizzjoni.

351. (1) Uffiċjal tal-Pulizija jista', f'post puubliku jew f'post aċċessibbli għall-pubbliku, ukoll bi hlas, jipperkwizixxi kull persuna jew vettura, jekk ikollu suspett raġonevoli li l-perkwizzjoni tista' tikxef il-pussess ta' affarijiet li huma projbiti, misruqa jew akkwistati permezz ta' reat ikun liema jkun, jew li jistgħu jiġu wżati jew li setgħu ġew użati biex isir xi reat.

(2) Għall-finijiet tas-subartikolu (1) ta' dan l-artikolu, il-Pulizija tista' twaqqaf persuna jew vettura sakemm issir il-perkwizzjoni, u għandha taqbad kull oġġett misjub

waqt il-perkwizzizzjoni u li l-pussess tieghu jkun projbit jew li jista' jkollu x'jaqsam ma' xi reat.

Mandat.

352. Meta l-perkwizzizzjoni li ghandha ssir tkun mehtiega fuq vettura li ma jkun hemm hadd maghha u ma jkunx possibbli li jingieb is-sid registrat taghha, ufficjal tal-Pulizija jista' biss jaghmel il-perkwizzizzjoni jekk ikollu mandat ta' ufficjal superjuri ta' grad mhux inqas minn dak ta' spettur.

Limitazzjoni tal-perkwizzizzjoni, *in flagrante delicto*, eċċ.

353. Hlief f'kazijiet urgenti u meta persuna tinqabad *in flagrante delicto* ebda haġa f'dan l-artikolu ma tawtorizza l-perkwizzizzjoni ta' persuna minn ufficjal tal-Pulizija tas-sess oppost, jew li l-perkwizzizzjoni tkun maghmula minn ufficjal tal-Pulizija li ma jkunx liebes l-uniformi jekk dan ma jkunx identifikat b'mod ċar bil-wiri ta' karta ta' l-identità tal-Pulizija.

Rapport fuq il-perkwizzizzjoni.

354. Kull oġġett maqbud permezz ta' perkwizzizzjoni taht l-artikoli ta' qabel ta' dan it-Titolu ghandu jkun konservat u l-Pulizija li jaghmlu l-perkwizzizzjoni ghandhom jaghmlu rapport li jaghti d-dettalji kollha tal-perkwizzizzjoni u li jkun jinkludi elenku dettaljat ta' l-oġġetti maqbudin.

## Sub-titolu II

### KONTROLLI FIT-TOROQ

Kondizzjonijiet għal kontrolli fit-toroq.

355. Il-Pulizija tista' taghmel kontroll fit-toroq meta jkun hemm raġunijiet xierqa biex taħseb li l-kontroll ta' vetturi go xi lokalità jew li jghaddu minnha jista' jwassal għal -

(a) l-arrest ta' persuna li tkun ghamlet, jew li hemm suspett raġonevoli li ghamlet jew li ser taghmel reat serju, minbarra delitt punibbli taht l-Att dwar l-Istampa; jew

(b) il-kxif ta' oġġetti li l-pussess taghhom hu projbit jew limitat bil-liġi jew li b'xi mod jew iehor ghandhom konnessjoni ma' l-ghemil ta' reat serju jew li huma prova ta' dan ir-reat; jew



(ċ) l-arrest ta' persuna li l-arrest taghha gie ordnat minn qorti jew minn xi awtorità legittima ohra jew li hi b'xi mod iehor illegalment libera; jew

(d) l-aċċertament li persuna ma tkunx qed thares xi kondizzjoni legittimament imposta fuqha minn xi qorti; jew

(e) l-aċċertament ta' vjolazzjonijiet ta' xi ligi dwar vetturi bil-mutur jew ir-regolament tat-traffiku:

Izda għall-finijiet ta' dan l-artikolu "reat serju" tfisser kull reat li għalih hemm il-piena ta' prigunerija.

Kif isir il-kontroll fit-toroq.

355A. (1) Għal kemm idum il-kontroll fit-toroq il-Pulizija tista' twaqqaf kull jew xi vetturi għaddejin minn jew go xi lokalità fejn ikun qed isir il-kontroll fit-toroq.

(2) Meta xi vettura ttitwaqqaf skond id-disposizzjonijiet ta' dan is-sub-titolu dik il-vettura tista' tigi perkwiżita mill-Pulizija.

Awtorizzazzjoni.

355B. Il-kontroll fit-toroq taht dan is-sub-titolu jista' biss jiġi organizzat jekk ikun hemm l-awtorizzazzjoni bil-miktub ta' uffiċjal tal-Pulizija mhux taht ir-grad ta' Spettur sakemm ma jistax ikun hemm dewmien fil-kwistjoni, f'liema każ dik l-awtorizzazzjoni tista' wkoll tinghata bil-fomm u wara titniżżel bil-miktub kemm jista' jkun malajr.

Provi ta' reati ohra.

355ċ. Minkejja kull haġa li tinsab fl-artikoli ta' qabel ta' dan is-sub-titolu, meta matul kontroll fit-toroq jinsabu provi li jkun sar reat iehor minbarra dak li dwaru jkun sar il-kontroll fit-toroq, il-Pulizija jkollha wkoll il-jedd li tinvestiga dak ir-reat u fejn xieraq jibdew proċedimenti dwar dak ir-reat.

Riservi dwar ligijiet ohra.

355D. Id-disposizzjonijiet ta' dan is-sub-titolu jkunu minghajr preġudizzju għal kull setgha mogħtija lill-Pulizija b'kull ligi ohra biex iwaqqfu l-vetturi għal finijiet ohra li ma jkunux dawk imsemmija f'dan is-sub-titolu.

### Sub-titolu III

#### SETGHAT TA' DHUL, PERKWIZIZZJONI U QBID B'MANDAT

Kondizzjoni-  
jiet għal  
perkwizizz-  
zjoni.

355E. Salvi l-każijiet fejn il-liġi tipprovdi xort'ohra, ebda uffiċjal tal-Pulizija ma għandu, sakemm ma jkollux mandat minn Maġistrat, jidhol f'xi lokal, dar, bini jew reċint għall-fini li jagħmel xi perkwizizzjoni hemm ġew jew li jarresta lil xi persuna li tkun għamlet reat jew li tkun raġonevolment suspettata li tkun għamlet jew li tkun se tagħmel xi reat, hlief jekk -

(a) ir-reat ikun delitt, minbarra delitt punibbli taht l-Att dwar l-Istampa, u jkun hemm periklu imminenti li dik il-persuna tista' tahrab jew li l-*corpus delicti* jew il-provi dwar ir-reat jistghu jiġu mnehhija; jew

(b) il-persuna tinkixef fl-att ta' l-għemil tar-reat innifsu, minbarra reat punibbli taht l-Att dwar l-Istampa; jew

(ċ) l-intervent tal-pulizija jkun mehtieg sabiex jipprevjeni l-għemil ta' delitt, li ma jkunx delitt punibbli taht l-Att dwar l-Istampa; jew

(d) d-dhul ikun mehtieg għall-esekuzzjoni ta' xi mandat jew ordni mahruġin minn xi awtorità kompetenti ohra fil-każijiet preskritti bil-liġi; jew

(e) l-arrest ikun għall-fini li persuna tinqabad li tkun għadha tigri barra kontra l-liġi wara li tkun harbet minn arrest jew detenzjoni legittimi.

(2) Il-frazi "reċint" ma tinkludix biċċa art mdawra b'hitan tas-sejjieh.

Setghat  
sussidjarji  
tal-  
Pulizija  
fl-  
esekuzzjoni  
ta'  
mandati.

355F. Fil-każijiet fejn uffiċjal tal-Pulizija jkollu setgha jidhol f'xi postijiet imsemmija fl-artikolu li jiġi minufih qabel dan, dak l-uffiċjal jista' bil-liġi jiftah jew jiskassa kull bieb jew tieqa, jekk, wara li jkun għarraf bil-kariga u l-iskop tiegħu, huwa jibqa' ma jistax jidhol xort'ohra.

Skop ta' per-  
kwizizzjoni  
u mandat  
ta' perkwiziz-  
zjoni.

355G. (1) Kull mandat ta' dhul u perkwizizzjoni mahruġ taht dan is-Sub-titolu u kull tfittxija jew qbid magħmulin taht id-disposizzjonijiet ta' dan is-Sub-titolu ma

ghandhomx jestendu ghal xi privileġġ legali jew materjal eskluż.

(2) Kull mandat ta' dhul u perkwiżizzjoni mahruġ taht dan is-Subtitolu ghandu jitqies li jkun inghata lill-uffiċjal jew uffiċjali tal-pulizija li jkunu qeghdin jeseġwuh.

(3) Minghajr preġudizzju ghad-dritt li jinkiseb mandat ġdid għall-istess skop, mandat ta' dhul u perkwiżizzjoni ma jistax jiġi esegwit wara li jiskadi xahar mid-data tal-hruġ tiegħu.

Hinijiet għall-  
esekuzzjoni  
ta' mandat.

355H. Ebda mandat ta' dhul u perkwiżizzjoni ma jista' jiġi esegwit bejn is-sebgha ta' filghaxija u s-sebgha ta' filghodu kemm-il darba l-Maġistrat ma jkunx awtorizza li jsir xort'ohra fil-mandat, jew kemm-il darba l-uffiċjal tal-pulizija esekutur ikollu għaliex raġonevolment jahseb li l-fini tad-dhul u t-tfittxija kien se jiġi ffrustrat jekk l-esekuzzjoni tal-mandat tiddewwem.

Tinghata  
kopja tal-  
mandat lill-  
persuna.

355I. L-uffiċjal esekutur ghandu jaghti kopja tal-mandat lill-persuna li tkun toqghod u tkun preżenti fil-post imfittex jew lil kull persuna ohra li tkun tidher lil dak l-uffiċjal bhala li tkun inkarigata mill-istess post u li tista' tkun hemm preżenti waqt it-tfittxija. Jekk ma jkunx hemm persuna preżenti li l-uffiċjal esekutur ikun jidhirlu li tkun inkarigata mill-post, il-kopja tal-mandat ghandha tithalla fil-post b'tali mod li tkun faċilment tidher.

Limitazzjoni.

355J. Kull perkwiżizzjoni li ssir b'mandat ghandha tkun perkwiżizzjoni limitata għal dak li hu mehtieġ għall-finijiet li għalihom ikun inhareġ il-mandat:

Iżda jekk, matul il-perkwiżizzjoni, jinkixfu reati li ma jkunux dawk imsemmija fil-mandat, il-perkwiżizzjoni tista' testendi kif mehtieġ għall-finijiet ta' dawk ir-reati l-ohra.



### Sub-titolu IV

#### SETGHAT TA' DHUL U PERKWIZIZZJONI MINGHAJR MANDAT

Każijiet  
fejn ma  
jista' jkun  
hemm ebda  
dewmien.

355K. Kull uffiċjal tal-Pulizija jista' jidhol u jfittex minghajr mandat kull post, dar, bini jew reċint fiċ-ċirkostanzi stabbiliti fil-paragrafi (a) sa (e) tas-subartikolu (1) ta' l-artikolu 355E.

Dhul u  
perkwizzjoni  
wara arrest.

355L. (1) Il-Pulizija ghandha s-setgha li tidhol u tfittex f'kull post, dar, bini jew reċint użat, okkupa jew kontrollat, ukoll jekk biss għal xi żmien, minn persuna li tkun taht arrest, jekk ikollhom għaliex ragonevolment jissuspettaw li hemm provi, minbarra oġġetti li jaqgħu taht il-privileġġ legali, li għandhom x'jaqsmu mar-reat jew ma' reat li għandu x'jaqsam miegħu, u dik it-tfittxija għandha tkun limitata għal dak li hu ragonevolment mehtieg biex jinstabu dawk il-provi:

Iżda jekk jiġu mikxufa reati matul it-perkwizzjoni li ma jkunux ir-reat jew ir-reati li dwarhom il-persuna tkun ġiet arrestata, dik il-perkwizzjoni tista' testendi kif mehtieg għall-finijiet ta' dawk ir-reati l-oħra.

(2) Minghajr preġudizzju għad-disposizzjonijiet tas-Sub-titolu V, il-Pulizija jistgħi matul xi perkwizzjoni li ssir skond id-disposizzjonijiet tas-subartikolu (1) taqbad u żżomm kull oġġett li ma jkunx sugġett għal xi privileġġ legali u li jkun jikkostitwixxi provi rilevanti għall-fini ta' xi reat imsemmi fl-istess subartikolu.

Limitazzjoni.

355M. (1) Is-setghat imsemmija fl-artikolu 355L jistgħu jiġu eserċitati minn uffiċjal tal-Pulizija ta' grad mhux anqas minn dak ta' spettur jew minn uffiċjali ta' grad ibaxx jekk jekk dawn ikunu hekk awtorizzati bil-miktub minn uffiċjal mhux taht il-grad ta' spettur.

(2) Meta l-uffiċjali tal-Pulizija fuq il-post ikunu kollha taht il-grad ta' spettur u l-każ ma jkunx jisa' jiddewwem, u l-persuna li tokkupa jew tikkontrolla l-post tkun preżenti u l-preżenza tagħha tkun mehtieġa għall-investigazzjoni effettiva tar-reat, dawk l-uffiċjali tal-Pulizija jistgħu jgħaddu għal biex jidhlu u jagħmlu perkwizzjoni tal-post minghajr l-awtorizzazzjoni bil-miktub imsemmija fis-subartikolu (1) ta' dan l-artikolu.

Rapport  
mill-uffiċjal.

355N. Uffiċjal tal-Pulizija li jkun eserċita xi setghat minn dawk imsemmija fl-artikoli 355K u 355L ghandu, kemm jista' jkun malajr, jaghmel rapport tad-dhul u l-perkwizzizzjoni minghajr mandat, fejn jaghti r-raġunijiet ghaliex ikun sar dan, u jiddeskrivi r-riżultati tal-perkwizzizzjoni.

Reat li ghandu  
x'jaqsam ma'  
reat iehor.

355O. Għall-finijiet ta' dan is-Sub-titolu reat ikollu x'jaqsam ma' l-iehor meta:

- (a) il-fatti tar-reati jkunu sostanzjalment l-istess;  
jew
- (b) reat ikun serva bhala mezz għall-ghemil ta' reat iehor; jew
- (ċ) il-prova ta' reat jew ta' ċirkostanza tiegħu jkun jolqot il-provi ta' reat iehor jew ta' xi ċirkostanza tiegħu.

## Sub-titolu V

### QBID U ŻAMMA

Regoli  
generali  
dwar qbid.

355P. Il-Pulizija, meta tkun bil-ligi go xi lokal, tista' taqbad kull oġġett li jkun f'dak il-lokal jekk ikollha ghaliex raġonevolment tahseb li dak l-oġġett ikun gie akkwistat b'riżultat ta' l-ghemil ta' reat jew li jkun prova dwar xi reat u l-qbid tiegħu jkun mehtieg biex jiġi evitat li jinheba, jintilef, jitgharraq, jinbidel jew jinqered.

Computer  
data.

355Q. Il-Pulizija tista', flimkien mas-setgha li taqbad magna ta' *computer*, titlob li tinghatalha informazzjoni li tkun mahzuna f'xi *computer* f'ghamla li tista' tingarr u li tkun tidher u tinqara.

Riċevuta  
għall-  
oġġetti  
maqbuda.

355R. Il-Pulizija ghandha dejjem tohroġ riċevuta lill-persuna fil-post jew li jkollha l-kontroll ta' l-oġġett maqbud għal kull oġġett maqbud u fuq talba ta' l-istess persuna, il-Pulizija ghandha, bi hlas u fi żmien raġonevoli, taghtih ritratti fotografici jew kopji ta' l-oġġett maqbud, hlief jekk l-uffiċjal invesigatur ma jkollux tassew ghaliex raġonevolment jahseb li dan jista' jkun ta' preġudizzju għall-investigazzjoni jew għal xi proċedimenti kriminali li jistghu jinbdew b'riżultat ta' dan.

Żamma.

355S. (1) Kull oġġett li jkun ġie maqbud bil-ligi mill-Pulizija jista' jinżamm għal kemm żmien ikun mehtieg fiċ-ċirkostanzi kollha.

(2) Minghajr preġudizzju għall-ġeneralità ta' dak hawn aktar qabel imsemmi, kull oġġett maqbud bil-ligi skond dan il-Kodiċi jista' jinżamm biex jingieb bi prova fil-kawża jew għal eżamijiet forensiċi jew f'kull aspett iehor ta' l-investigazzjoni, jew sabiex jiġi stabbilit min ikun sidu bil-ligi.

(3) Il-Kummissarju għandu jipprovdi għall-kustodja kif dovuta ta' kull oġġett maqbud.

Għoti lura lis-sid.

355T. Kull min ikun is-sid bi dritt ta' oġġett maqbud u miżmum jista', hlief jekk ikunu għadhom pendent quddiem xi qorti proċedimenti kriminali li matulhom l-oġġett maqbud ikun ġie esibit jew ikun għad irid jiġi esibit, jagħmel rikors quddiem il-Maġistrat biex dan jingħatalu lura, u l-Maġistrat jista', wara li jisma' lill-Pulizija, b'digriet jordna r-rilaxx ta' l-oġġett jew minghajr ebda kondizzjoni, jew taht dawk il-kondizzjonijiet li jistghu jenhtiegu sabiex jiġi konservat il-valur probatorju tiegħu.

Ritratti fotografici.

355U. Sakemm ma jkunx il-każ li oġġett jista' jiġi konfiskat, ebda oġġett ma għandu jinżamm jekk ritratt fotografiku, film, *video recording* jew xbieha elettronika jew kopja ta' l-oġġett tkun suffiċjenti:

Iżda qabel ma jtitilqu l-oġġett minn idejhom il-Pulizija jistghu, fejn ikunu jqisu li jkun hekk mehtieg, jagħmlu rikors quddiem il-Maġistrat sabiex isir *repertus* u għandhom japplikaw id-disposizzjonijiet tat-Titolu II tat-Taqsima II tat-Tieni Ktieb ta' dan il-Kodiċi.

## Sub-titolu VI

### SETGHAT TA' ARREST U DETENZJONI

Arrest b'mandat.

355V. Meta jkun hemm raġunijiet bil-ligi għall-arrest ta' persuna, il-Pulizija tista' titlob il-hruġ mandat ta' arrest minghand Maġistrat, hlief jekk skond xi disposizzjoni tal-ligi dak l-arrest jista' jsir minghajr mandat.



Arrest minn  
persuni  
privati.

355W. (1) Kulhadd ukoll jekk ma jkunx uffiċjal pubbliku jista' jagħmel arrest minghajr mandat lil xi hadd li jkun fl-att li jagħmel jew li jkun għadu kemm għamel delitt li jolqot il-paċi u l-unur tal-familji u l-morali, xi delitt ta' omiċidju volontarju jew offiża kontra l-persuna, jew xi delitt ta' serq jew dhul volontarju illegali jew hsara lill-proprjetà.

(2) Min ikun qed jagħmel l-arrest taht is-subartikolu (1) ta' dan l-artikolu għandu minghajr ebda dewmien jgħarraf lill-Pulizija li jkun għamel dak l-arrest u għandu jeserċita dik is-setgħa biss sakemm din tkun għalkollox mehtieġa biex il-Pulizija tiehu f'idejha l-persuna arrestata.

Arrest mill-  
Pulizija  
minghajr  
mandat.

355X. (1) Kull uffiċjal tal-Pulizija jista' jarresta minghajr mandat lil persuna li tkun fl-att ta' għemil jew li tkun għadha kemm għamlet delitt punibbli bi priġunerija, jew li jkollu suspett raġonevoli fiha li qegħda biex tagħmel jew li tkun għadha kif għamlet xi delitt.

(2) Kull uffiċjal tal-Pulizija jista' wkoll jgħaddi biex jarresta lil xi persuna li xjentement, jew wara twissija xierqa, tostakolah jew ittellfu fl-esekuzzjoni ta' dmirijietu, jew ma tobdux l-ordnijiet legittimi tiegħu.

(3) Is-setgħat imsemmija fis-subartikoli (1) u (2) ta' dan l-artikolu għandhom ikunu biss eserċitati sakemm ikunu għalkollox mehtieġa għall-uffiċjal tal-Pulizija biex jiehu l-persuna arrestata f'Għassa tal-Pulizija u jikkonsenjaha lil uffiċjal superjuri mhux anqas mill-grad ta' surgent.

(4) Id-disposizzjonijiet ta' dan l-artikolu ma għandhomx japplikaw għal xi delitt punibbli taht l-Att dwar l-Istampa.

Arrest għal  
reati żgħar.

355Y. F'każ ta' kontravvenzjonijiet, jew ta' delitti mhux sugġetti għal piena ta' priġunerija, minbarra dejjem id-delitti punibbli taht l-Att dwar l-Istampa, il-Pulizija tista' bil-ligi tghaddi għall-arrest ta' persuna minghajr mandat, sakemm -

(a) il-persuna tinqabad fl-att li tagħmel ir-reat; jew

(b) l-arrest ikun mehtieġ biex iwaqqaf reat li għalih il-Pulizija tista' tmexxi proċedimenti kriminali minghajr il-kwerela tal-parti offiża; u

(ċ) f'kull wiehed mill-każijiet imsemmija fil-paragrafu (a) jew (b) ta' dan is-subartikolu, xi waħda mill-kondizzjonijiet imsemmija fl-artikolu 355Z trid tkun teżisti wkoll.

(2) Persuna għandha titqies li tinqabad fl-att li tagħmel ir-reat, jekk tinqabad jew fl-att li tkun qed tagħmel ir-reat, jew filwaqt li tkun qed tiġi segwita mill-parti offiċja jew minn għajta pubblika ta' allarm.

Kondizzjonijiet ġenerali għall-arrest.

355Z. Il-kondizzjonijiet ġenerali għall-arrest huma li -

(a) l-identità tal-persuna ma tkunx magħrufa jew ma tistax tiġi aċċertata malajr mill-uffiċjal tal-Pulizija; jew

(b) ikun hemm dubju dwar jekk id-dettalji mogħtija mill-persuna humiex veri;

(ċ) il-persuna m tkunx tat indirizz sodisfaċenti għan-notifika jew ikun hemm dubju dwar jekk l-indirizz mogħti huwiex sodisfaċenti għan-notifika, jew għall-inqas ikun hemm xi persuna ohra li tista' skond il-liġi tiġi notifikata għan-nom tiegħu fl-indirizz mogħti; jew

(d) l-arrest ikun meħtieġ biex iwaqqaf lil persuna milli -

(i) tikkawża hsara fiżika lilha nnifisha jew lil xi persuna ohra; jew

(ii) ssofri hsara fuq il-persuna tagħha; jew

(iii) tikkawża telf jew hsara ta' proprjetà; jew

(iv) tikkawża ingombri kontra l-liġi f'xi triq pubblika; jew

(e) l-uffiċjal tal-Pulizija jkollu għaliex raġonevolment jahseb li l-arrest ikun meħtieġ biex iħares minuri jew xi persuna ohra vulnerabbli.

Mgħieba lejn il-persuna arrestata.

355AB. Meta l-uffiċjal jew kull min hu iktar awtorizzat bil-liġi jkun qed jagħmel arrest, huwa ma għandu juża ebda hruxija, rbit jew xi mezz iehor ta' trażzin kemm-il darba dan ma jkunx meħtieġ b'mod indispensabbli biex iqiġghed fiż-

żgur, jew isir mehtieg bl-insubordinazzjoni tal-persuna arrestata.

Taghrif li  
jinghata  
ma' l-arrest.

355AC. (1) Meta persuna tigi arrestata, l-arrest ma jkunx wiehed legittimu kemm-il darba l-persuna arrestata ma tkunx mgharrfa li qieghda taht arrest, ukoll jekk l-arrest jista' jidher li hu evidenti.

(2) L-arrest ma jkunx wiehed legittimu kemm-il darba l-persuna arrestata ma tkunx mgharrfa fil-waqt ta' l-arrest jew detenzjoni taghha, f'ilsien li hija tifhem, bir-ragunijiet ta' l-arrest jew id-detenzjoni taghha:

Izda jekk ikun mehtieg interpretu u ma jkunx jista' jinstab wiehed malajr jew inkella jekk ma jkunx xort'ohra Prattiku li jitharsu d-disposizzjonijiet ta' dan is-subartikolu fil-waqt ta' l-arrest jew id-detenzjoni tal-persuna, dawk id-disposizzjonijiet ghandhom jitharsu kemm jista' jkun malajr:

Izda wkoll, f'kull kaz, meta l-arrest isir minn persuna privata taht id-disposizzjonijiet ta' l-artikolu 355V, l-ghoti ta' dak it-taghrif jista' jiddewwem sakemm il-persuna arrestata tittiehed f'idejn il-Pulizija.

Attendenza  
f'xi Ghasa  
jew ufficju  
tal-Pulizija.

355AD. (1) Meta, waqt investigazzjoni, persuna tmur minn jeddha, jew tmur flimkien ma' ufficjal tal-Pulizija f'xi Ghasa jew ufficju tal-Pulizija, dik il-persuna tkun hielsa li titlaq minn hemm fi x'hin trid, kemm-il darba u sakemm ma tkunx mgharrfa li qieghda taht arrest.

(2) Meta spettur tal-Pulizija jkollu suspett ragonevoli li l-persuna li marret minn jeddha fl-Ghasa jew fl-ufficju tal-Pulizija setghet ghamlet reat li ghalih hemm prigunerija, huwa jista' jarresta lil dik il-persuna minnufih minghajr ebda mandat u jgharrafha b'dan kollu. Ghandu jigi minnufih registrat il-hin ta' l-arrest filwaqt li jinghata avviż immedjat dwar dan kollu lil Magistrat.

(3) Il-Pulizija tista, bil-fomm jew b'avviż bil-miktub, tehtieg lil xi persuna li tattendi l-Ghasa tal-Pulizija jew xi post iehor li tindikalha sabiex hemm taghti dak it-taghrif u ggib maghha dawk id-dokumenti li l-Pulizija jistghu jinhtieg u jekk dik il-persuna hekk tattendi fl-Ghasa tal-Pulizija jew post lilha indikat hija ghandha titqies bhala li tkun attendiet dik l-Ghasa tal-Pulizija jew post iehor



volontarjament. L-avviż bil-miktub imsemmi f'dan is-subartikolu għandu jkun fih twissija dwar il-konsegwenzi li n-nuqqas ta' tharis igħib miegħu, kif jinsabu msemmija fis-subartikolu (5) ta' dan l-artikolu.

(4) Kull min il-Pulizija tqis li jkollu xi tagħrif jew dokument rilevanti għal xi investigazzjoni, għandu l-obbligu legali li jimxi mat-talba li ssirlu mill-Pulizija li jattendi f'Għassa tal-Pulizija sabiex hemm jagħti kif ikun meħtieġ dak it-tagħrif jew dokument:

Iżda hadd ma jkun marbut li jagħti xi tagħrif jew dokument li jista' jinkriminaha.

(5) Persuna li tonqos milli thares xi avviż bil-miktub bħalma hemm imsemmi fis-subartikolu (3) ta' dan l-artikolu jew li tonqos, meta tkun hekk għet mitluba, ukoll jekk biss bil-fomm, li tmur minn jeddha ma' uffiċjal tal-Pulizija f'xi Għassa tal-Pulizija jew xi post iehor li jindikalha l-uffiċjal tal-Pulizija għal xi għan imsemmi fis-subartikolu (3) msemmi, tkun hatja ta' kontravvenzjoni punibbli b'detenzjoni u tkun tista' tiġi arrestata minnufih taħt mandat.

(6) L-avviż imsemmi fis-subartikolu (3) jista' jiġi notifikat b'urgenza f'każijiet fejn l-interessi tal-gustizzja jistgħu jkunu hekk jeħtieġu.

(7) Persuna li tmur minn jeddha kif imsemmi fis-subartikolu (3) tista' tinzamm mwarrba minn kull persuna ohra, iżda ma għandhiex tinzamm f'xi post li normalment jintuża għad-detenzjoni ta' persuni arrestati.

Arrest barra  
l-Għasses jew  
uffiċċji tal-  
Pulizija.

355AE. (1) Meta uffiċjal tal-Pulizija jarrest lil xi persuna f'post li ma jkunx Għassa tal-Pulizija, il-persuna arrestata għandha tittiehed fl-eqreb Għassa u meta l-uffiċjal li jagħmel l-arrest ikun uffiċjal ta' grad inqas minn dak ta' spettur huwa għandu minnufih jirrapporta l-arrest lil uffiċjal mhux inqas mill-grad ta' spettur. F'kull każ l-ispettur jew l-uffiċjal inkarigat minn dik l-Għassa tal-Pulizija għandhom ukoll jiġu mgharrfa.

(2) Meta jkun hemm raġunijiet għaliex l-arrest għandu jitkompla, l-persuna arrestata għandha tittiehed għewwa Għassa tal-Pulizija msemmija kemm jista' jkun malajr u f'ebda każ iktar tard minn sitt siegħat mill-waqt ta' dak l-arrest.

(3) It-tehid ta' persuna arrestata f'Ghassa tal-Pulizija skond id-disposizzjonijiet ta' qabel ta' dan l-artikolu jista' jiddewwem jekk il-preżenza ta' dik il-persuna tkun tenhtieg xi mkien iehor għall-fini ta' xi investigazzjoni li tista' tkun mehtieġa.

(4) Meta persuna li tkun giet arrestata wara tigi mehlusa, l-uffiċjal tal-Pulizija li jkun ordna dak il-helsien għandu jirreġistra bil-miktub dak il-fatt filwaqt li jaghti r-raġunijiet.

Perkwizzizzjoni fuq persuna arrestata.

355AF. (1) Uffiċjal tal-Pulizija jista' jagħmel perkwizzizzjoni minnufih fuq il-persuna arrestata:

(a) jekk l-uffiċjal tal-Pulizija għandu tassew għax jahseb raġonevolment li l-persuna arrestata tista' tkun ta' periklu għaliha nnifisha jew għall-ohrajn; jew

(b) għal kull haġa li l-persuna arrestata tista' tuża b'għajnuna biex tahrab mill-kustodja; jew

(ċ) għal kull haġa li tista' tkun ta' prova li jkollha x'taqsam mar-reat.

(2) Id-disposizzjonijiet ta' l-artikolu 353 ta' dan il-Kodiċi għandhom japplikaw għal kull perkwizzizzjoni taht dan l-artikolu.

## Sub-titolu VII

### MANDATI

Id-dmir ta' l-esekuzzjoni ta' mandati ta' arrest jew ta' perkwizzizzjoni hu tal-Pulizija.

355AG. (1) Salvi d-disposizzjonijiet ta' l-artikolu 666, huwa d-dmir tal-Pulizija li jseggwixxu xi mandat jew ordni ta' arrest jew ta' perkwizzizzjoni li jistgħu, fil-każijiet preskritti bil-liġi, jinhargu jew jingħataw minn xi awtorità kompetenti ohra.

(2) Mandat jew ordni bħal dawk għandu jkun fih ix-xorta tar-reat, isem-il persuna, jekk ikun magħruf, li r-reat ikun qed jiġi allegat li sar minnha u, fil-każ ta' mandat ta' perkwizzizzjoni, dan għandu jindika l-post fejn għandha ssir it-tfittxija.

(3) Galadarba jkun inhareġ mandat jew ordni, kull uffiċjal tal-pulizija jkun jista' jezegwixxi dak il-mandat jew ordni.

Proċedura  
ghall-hruġ  
ta'  
mandati.

355AH. (1) Kulmeta skond il-liġi l-ghemil ta' xi att mill-Pulizija ikun jehtieg il-hruġ ta' mandat minn Maġistrat, uffiċjal tal-Pulizija jista' jattendi personalment quddiem Maġistrat u jitolbu johroġ il-mandat dovut, filwaqt li jiddikjara x'ikunu r-raġunijiet ghal dik it-talba u jaghti lill-Maġistrat dak it-taghrif kollu li jista' jwassal lill-Maġistrat jiddeċiedi dwar dik it-talba. Qabel ma jiddeċiedi jekk ghandux johroġ il-mandat il-Maġistrat jista' jitlob lill-uffiċjal tal-Pulizija jikkonferma bil-gurament it-taghrif li jkun wassallu u l-mandat jinhareġ biss jekk il-Maġistrat ikun sodisfatt li jkunu jeżistu raġunijiet biżżejjed ghall-hruġ tal-mandat.

(2) F'każijiet urgenti, it-talba ghall-hruġ tal-mandat jistghu jiġu mibghuta wkoll bil-*facsimile*:

Izda l-mandat originali ghandu jiġi kkunsinnat kemm jista' jkun malajr ghall-iskop ta' żamma ta' inkartamenti.

(3) Mandat mahruġ minn Maġistrat ghandu jinhareġ fuq il-Kummissarju tal-Pulizija u jista' jiġi esegwit minn kull uffiċjal tal-pulizija.

Kopji ta'  
mandati.

355AI. Hlief fil-każ ta' mandat li jiġi trasmess bil-*facsimile*, mandat ghandu jsir bi tliet kopji ffirmati li wahda minnhom ghandha tinżamm mill-Maġistrat filwaqt li l-ohrajn ghandhom jinghataw lill-uffiċjal tal-Pulizija li ghandu jżomm kopja wahda fl-inkartamenti tiegħu u jara li l-kopja l-ohra tiġi notifikata lill-persuna li lilha din ghandha tiġi notifikata:

Izda meta uffiċjal tal-pulizija jiltaqa' ma' persuna li kontriha jkun inhareġ mandat ta' arrest u, ghalkemm ma jkollux fuqu kopja tal-mandat, l-uffiċjal tal-pulizija jkun jaf li l-mandat ikun hekk inhareġ, l-uffiċjal ghandu jarresta lil dik il-persuna u jinnotifikaha bil-kopja tal-mandat ma' l-ewwel opportunità li jkollu.

Rapport  
dwar  
arrest.

355AJ. (1) Meta persuna tkun arrestata, sew b' mandat jew minghajru, l-uffiċjal tal-pulizija li jkun qed jagħmel l-arrest jew is-superjur tiegħu ghandu, kemm jista' jkun malajr u sakemm il-persuna arrestata ma tkunx inhelset fi żmien sitt siegħat mill-arrest tagħha, jgharraf lill-Maġistrat, billi jagħtih id-dettalji kollha tal-hin u l-post fejn il-persuna tkun qed tiġi miżmuma.



(2) Il-Maġistrat jista' jordna li l-persuna arrestata ghandha tiġi trasferita ghal xi mkien ieħor b'effett immedjat.

(3) Min ikun ġie arrestat biex tithares xi disposizzjoni ta' dan il-Kodiċi u ma jkunx ingiebb quddiem qorti fi żmien tmienja u erbghin siegħa mill-arrest tiegħu għandu jinheles.

Ordinijiet  
immedjati.

355AK. Ordni ta' awtorità kompetenti li tolqot id-drittijiet ta' l-individwu li johorġu mid-disposizzjonijiet ta' dan is-sub-titolu għandha tiġi esegwita mingħajr dewmien, u għal dak l-ghan tista' tiġi mwassla ukoll b'*facsimile* jew bit-telefon, taht dawkl il-kondizzjonijiet li tiġi żgurata l-awtenticià ta' dik l-ordni.

## Sub-titolu VIII

### DETENZJONI

Dritt għall-  
helsien  
mill-  
kustodja.

355AL. (1) Ikun id-dmir ta' l-uffiċjal tal-kustodja li jordna l-helsien immedjat mill-kustodja ta' persuna li tkun qed tinżamm f'detenzjoni mill-Pulizija fiċ-ċirkostanzi msemmija fis-subartikolu (3) ta' l-artikolu 355AJ jew meta l-uffiċjal tal-kustodja jsir jaf li r-raġunijiet għad-detenzjoni ta' dik il-persuna jkunu temmu japplikaw u li ma jkunx hemm raġunijiet ohra bil-liġi li minhabba fihom id-detenzjoni mkomplija ta' dik il-persuna tista' tkun ġustifikata.

(2) Meta l-uffiċjal tal-kustodja jidhirlu li xi persuna kienet qegħda tiġri barra kontra l-liġi meta ġiet arrestata, din ma għandhiex tiġi mehlusa taht is-subartikolu (1).

(3) Persuna li jiġi ordnat il-helsien tagħha taht id-disposizzjonijiet tas-subartikolu (1) għandu jinheles bla ebda kondizzjoni sakemm l-uffiċjal tal-kustodja ma jkunx jidhirlu –

(a) li jkun hemm bżonn ta' iktar investigazzjoni dwar xi kwistjoni li jkollha x'taqsam ma' dak li dwaru tkun saret id-detenzjoni f'xi waqt matul il-perjodu tad-detenzjoni tiegħu; jew

(b) li jkunu jistghu jinbdew proċeduri kontrib dvar dik il-kwistjoni,

u jekk ikun hekk jidhirlu, il-persuna ghandha tinheles bla hsara għall-kondizzjonijiet, li għandhom jitniżżlu bil-miktub u jiġu ffirmati mill-persuna li tkun se tinheles, li ma tippruvax jew tagħmel xi haġa biex tahrab minn Malta minghajr l-awtorità ta' l-uffiċjal investigattiv li kienet ġiet arrestata taht l-awtorità tiegħu, u li jkollha tattendi f'xi Għassa tal-Pulizija u f'xi hin hekk kif l-uffiċjal tal-kustodja jista' jahtar u, jew li jkollha tattendi quddiem il-Qorti tal-Maġistrati f'dak il-hin u f'dak il-post hekk kif il-qorti tista' tistabbilixxi.

(4) Meta uffiċjal tal-kustodja jkun ta l-helsien taht garanzija li xi persuna b'dan li hija m'għandhiex tipprova jew tagħmel xi haġa biex titlaq minn Malta minghajr l-awtorità ta' l-uffiċjal investigattiv li kienet ġiet arrestata taht l-awtorità tiegħu jew li għandha tidher f'Għassa tal-Pulizija, l-uffiċjal tal-kustodja jista' jagħti avviż bil-miktub lil dik il-persuna li l-kondizzjoni li hija m'għandhiex tipprova jew tagħmel xi haġa biex titlaq minn Malta minghajr l-awtorità ma kinetx għadha tapplika jew li l-attendenza tagħha fl-Għassa tal-Pulizija ma tkunx mehtieġa.

(5) Kull min jonqos milli jhares xi kondizzjoni imposta fuqu meta huwa jinheles kif hemm provdut fis-subartikolu (3) jkun hati ta' kontravvenzjoni.

(6) Uffiċjal tal-Pulizija jista' jarresta minghajr mandat lil persuna li, wara li tkun ġiet mehlusa bla ebda kondizzjoni taht is-subartikolu (3) b'dan li hija m'għandhiex tipprova jew tagħmel xi haġa biex titlaq minn Malta minghajr l-awtorità jew li għandha tattendi f'xi Għassa tal-Pulizija jew li jkollha tidher quddiem il-Qorti tal-Maġistrati, tipprova jew tagħmel xi haġa biex titlaq minn Malta minghajr awtorità jew tonqos milli tattendi f'dik l-Għassa jew quddiem dik il-Qorti fil-hin li jkun ġie lilha mogħti għaldaqshekk.

(7) Għall-finijiet ta' dan is-sub-titolu, persuna li terġa' lura f'Għassa tal-Pulizija biex twieġeb għal xi kondizzjoni ta' helsien taht garanzija jew li tiġi arrestata taht is-subartikolu (6) għandha tiġi ttrattata bħallikieku arrestata għar-reat taht is-subartikolu (5) u għar-reat li dwaru jkun ingħata l-helsien taht garanzija u d-disposizzjonijiet ta' dan l-artikolu għandhom ikunu japplikaw għal dik il-persuna.

(8) Ebda haġa f'dan il-Kodiċi ma għandha tipprevjeni l-arrest mill-ġdid mingħajr mandat ta' persuna li tkun ġiet mehlusa taht garanzija b'dan li għandha tattendi f'xi Għassa tal-Pulizija jekk ikunu nkixfu provi ġodda minn meta tkun l-aħhar inhelset li jiġġustifikaw arrest ulterjuri.

Htieġa ta' uffiċjal tal-kustodja.

355AM. Il-Kummissarju tal-Pulizija għandu jahtar f'kull post ta' detenzjoni stabbilit lil xi uffiċjal tal-kustodja wiehed jew iktar mhux taht il-grad ta' surgent li, fi kwistjonijiet ta' detenzjoni, għandu jhares kull ordni ta' Magistrat.

(2) Jista' uffiċjal ta' kull grad iwettaq il-funzjonijiet ta' uffiċjal tal-kustodja f'post ta' detenzjoni stabbilit jekk ma jkunx jista' jinstab malajr uffiċjal tal-kustodja biex ikun hu li jwettaqhom.

(3) Meta l-uffiċjal tal-kustodja li jissejjah biex iwettaq xi wahda mill-funzjonijiet tiegħu dwar persuna li tkun qed tinżamm mill-Pulizija jkun, fil-hin li dik il-funzjoni għandha titwettaq, involut fl-investigazzjoni ta' xi reat li dwaru l-persuna tkun qegħda tinżamm mill-Pulizija, dik il-funzjoni għandha titwettaq minn xi uffiċjal tal-kustodja iehor jew inkella jekk ma jkunx hemm uffiċjal tal-kustodja iehor disponibbli, mill-uffiċjal tal-Pulizija l-aktar anzjan li jmiss li jista' jkun disponibbli f'dak il-hin.

(4) F'dan l-artikolu u mkien iehor f'dan is-sub-titolu "post ta' detenzjoni stabbilit" tfisser dak il-post li jiġi stabbilit mill-Ministru fejn persuna tista' tinżamm għal iktar minn sitt sigħat.

Funzjonijiet ta' uffiċjal tal-kustodja.

355AN. L-uffiċjal tal-kustodja għandu jwettaq dawk il-funzjonijiet li jistgħu jkun lillu assenjati b'dan il-Kodiċi jew b'kull liġi oħra.

Funzjonijiet ta' l-uffiċjal tal-kustodja f'post iehor minbarra post ta' detenzjoni msemmi.

355AO. Meta persuna arrestata tittiehed f'Għassa tal-Pulizija li ma tkunx post ta' detenzjoni msemmi, dawk il-funzjonijiet li jirrigwardawha li kieku kienu jitwettqu minn uffiċjal tal-kustodja għandhom jitwettqu:

(a) minn uffiċjal mhux taht il-grad ta' surgent li ma jkunx involut fl-investigazzjoni ta' reat li għalih il-persuna arrestata tkun qed tiġi miżmuma, jekk dak l-uffiċjal jkun jista' jinstab malajr; u



(b) meta ma jkun hemm disponibbli ebda tali ufficjal, mill-ufficjal li jkun wassal lill-persuna arrestata fl-Ghassa tal-Pulizija jew mill-iktar ufficjal tal-Pulizija anzjan li jkun hemm fl-Ghassa dak il-hin.

Perkwizzjoni  
intimi  
tal-persuna  
mizmuma.

355AP. Meta l-ufficjal li jaghmel l-arrest jew l-ufficjal tal-kustodja jkollu suspett ragonevoli li l-persuna arrestata setghet hbiet fuq il-persuna taghha xi droga li l-pussess illegali taghha jikkostitwixxi reat kriminali jew xi oggett iehor li ufficjal tal-kustodja huwa awtorizzat b'dan il-Kodiċi jew b'xi ligi ohra li jaqbad mill-pussess ta' persuna arrestata, dak l-ufficjal jista' jitlob lil Magistrat biex jordna perkwizzjoni intima tal-persuna arrestata.

Periti li  
jinhatru.

355AQ. (1) Meta ssir talba ghal ordni taht l-artikolu 355AP il-Magistrat ghandu jahtar perit biex jaghmel il-perkwizzjoni b'dawk il-garanziji li jista' jqis bhala li jkunu xierqa ghall-finijiet ta' decenza u biex jaghmillu rapport dwar ir-riżultanzi tieghu. Kopja ta' dak ir-rapport ghandha tintbaghat minghajr dewmien lill-ufficjal li jaghmel l-arrest jew lill-ufficjal tal-kustodja, skond il-każ.

(2) Hadd ma jista' jinhatar perit biex jaghmel perkwizzjoni intima fuq persuna tas-sess oppost kemm-il darba l-perit ma jkunx tabib u l-persuna li fuqha ghandha ssir it-tfittxija ma taghtix il-kunsens taghha bil-miktub.

Qbid.

355AR. Kull haġa li tinstab bhala riżultat ta' perkwizzjoni intima taht l-artikolu ta' qabel tista' tinżamm ghal xi żmien mill-perit u tista' sussegwentement tinqabad b'ordni tal-Magistrat, u din ghandha tinghata riċevuta ghaliha lill-persuna mizmuma. Il-Magistrat jista' jawtorizza l-kunsinna, b'riċevuta, ta' kull haġa hekk maqbuda lill-ufficjal tal-Pulizija li jkun qed jinvestiga lill-persuna li tkun saritilha l-perkwizzjoni intima.

## Sub-titolu IX

### DRITTIJET TAL-PERSUNA MIŻMUMA

Taghrif lil  
terzi u dritt  
ghal  
ghajnuna  
medika.

355AS. (1) Ikun id-dmir tal-Pulizija li tgharraf bla ebda dewmien lill-persuna arrestata jew detenuta bid-dritt li ghandu li jitlob li xi qarib jew habib jigu mgharrfa li huwa jinsab arrestat u fejn huwa jkun jinsab kemm-il darba dak il-

qarib jew habib ma jkunx raġonevolment suspettat li jkun involut fir-reat li jkun qed jiġi investigat. Jekk il-persuna arrestata tagħmel użu minn dak id-dritt, il-qarib jew il-habib għandhom minghajr ebda dewmien jkunu mgħarrfa b'dan u għandha tinzamm reġistrazzjoni kif provdut fis-subartikoli (2) u (3) dwar il-mod kif il-Pulizija jkunu wettqu dmiriethom taht dan is-subartikolu.

(2) F'kull każ għandu jiddahhal dan it-tagħrif fir-reġistrazzjoni tad-detenzjoni tal-persuna miżmuma:

(a) il-jum u l-hin meta l-persuna miżmuma ġiet mgħarrfa bid-dritt li għandha taht dan l-artikolu;

(b) jekk il-persuna miżmuma tkunx għażlet li tagħmel użu minn dak id-dritt jew le;

(c) jekk il-persuna miżmuma tkun għażlet li tagħmel użu minn dak id-dritt, id-dettalji tal-qarib jew tal-habib mgħarrfa bl-arrest tal-persuna miżmuma u fejn din tkun tinsab, flimkien mal-jum u l-hin meta jkun inghata dak it-tagħrifgħ jekk dak il-qarib jew habib ma jkunux ġew hekk mgħarrfa, ir-raġuni għal dan.

(3) Il-persuna arrestata jew miżmuma għandha tintalab tiffirma r-reġistrazzjoni imsemmija fis-subartikolu (2) u jekk din tirrifjuta li tagħmel dan għandu jsir notament dwar dan f'dik l-istess reġistrazzjoni.

(4) Minkejja d-disposizzjonijiet tas-subartikolu (1) ta' dan l-artikolu, l-uffiċjal investigatur jista' jitlob permezz ta' rikors lil Maġistrat li jkun awtorizzat li jdewwem iż-żmien meta jgħaddi t-tagħrif lil xi qarib jew habib tal-persuna miżmuma jekk ikun hemm kawżi raġonevoli li jiġi suspettat li l-ghoti ta' dik l-informazzjoni tista' tkun waħda ta' preġudizzju għall-investigazzjoni jew għall-ksib lura ta' l-oġġetti, jew li tista' tnebbah lil xi persuni oħra li jkollhom x'jaqsmu mar-reat u li jkunu għadhom mhumieq taht il-kustodja tal-Pulizija. Dewmien bhal dak ma għandux ikun ta' aktar minn sitt sigħat mill-hin meta jkun sar l-arrest.

(5) Persuna arrestata għandha, fuq talba tagħha, tithalla tara tabib li tagħzel hi, sakemm dak it-tabib ikun jista' jinsab malajr.

(6) Ir-rikors imsemmi fis-subartikolu (4) jista' jiġi kkumunikat lill-Maġistrat permezz ta' *facsimile*:

Iżda, kemm jista' jkun malajr, ir-rikors originali ghandu jiġi kkunsinnat bil-ghan li jinżamm fl-inkartament.

Jedd għal  
parir legali.

355AT. (1) Bla hsara għad-disposizzjonijiet tas-subartikolu (3), persuna li tkun arrestata u qed tinżamm taht il-kustodja tal-Pulizija f'xi Għassa jew f'xi post iehor ta' detenzjoni awtorizzat ghandha, jekk hija hekk titlob, tithalla kemm jista' jkun malajr tikkonsulta privatament ma' avukat jew prokuratur legali, wiċċ imb'wiċċ jew bit-telefon, għal mhux iktar minn siegħa żmien. Kemm jista' jkun malajr qabel ma tibda tiġi interrogata, l-persuna taht kustodja ghandha titgħarraf mill-Pulizija bid-drittijiet li ghandha taht dan is-subartikolu.

(2) Talba magħmula taht is-subartikolu (1) ghandha titniżżel fir-registrazzjoni tal-kustodja flimkien malhin li tkun saret kemm-il darba t-talba ma tkunx saret filwaqt li l-persuna li tagħmilha tkun tinsab il-qorti wara li tkun ġiet akkuzata b'reat, f'liema każ dik it-talba ma tkunx tenhtieg li tiġi hekk registrata.

(3) Bla hsara għad-disposizzjonijiet tas-subartikolu (7), it-talis ta' talba taht is-subartikolu (1) jista' jiddewwem jekk min ikun qed jagħmel it-talba jkun qiegħed fid-detenzjoni tal-pulizija għal xi delitt u jekk uffiċjal mhux taht il-grad ta' suprintendent jawtorizza dak id-dewmien.

(4) Awtorizzazzjoni taht is-subartikolu (3) tista' tingħata bil-fomm jew bil-miktub imma jekk din tingħata bil-fomm din ghandha tiġi kkonfermata bil-miktub kemm jista' jkun malajr.

(5) Uffiċjal jista' biss jawtorizza li jkun hemm dewmien meta jkun tal-fehma msejsa fuq kawżi raġonevoli li l-esercizzju tad-dritt mogħti bis-subartikolu (1) f'dak il-waqt li l-persuna miżmuma tkun tixtieq tesercitah -

(a) se jwassal għal indhil jew thassir fil-provi li għandhom x'jaqsmu mar-reat li jkun qed jiġi investigat jew indhil jew hsara fiżika lil persuni ohra; jew



(b) se jwassal ghat-tnebbih ta' persuni ohra suspettati li jkunu ghamlu dak ir-reat iżda li jkunu ghadhom ma ġew arrestati dwaru; jew

(ċ) se jfixkel il-ksib lura ta' proprjetà miksuba b'riżultat ta' dak ir-reat; jew

(d) fil-każ ta' persuna miżmuma ghal reat ta' traffikar ta' drogi, tixhim u korruzzjoni, jew *money laundering*, se jfixkel il-ksib lura tal-valur tar-rikavat li dik il-persuna tkun ghamlet minn dak ir-reat.

(6) Meta d-dewmien ikun ġie awtorizzat kif provdut fis-subartikolu (5) il-Pulizija tista' minnufih tghaddi biex tinterroga lill-persuna miżmuma.

(7) Id-dewmien imsemmi fis-subartikolu (3) ma ghandu f'ebda każ ikun iktar minn sitta w tletin siegħa mill-hin ta' l-arrest.

(8) Uffiċjal tal-Pulizija li jittanta jindika lil xi persuna miżmuma isem l-avukat jew il-prokuratur legali li ghandu jitqabbad waqt id-detenzjoni ta' dik il-persuna, ikun hati ta' reat punibbli b'ammenda u dan minghajr preġudizzju ghal kull proċedura dixxiplinari li tista' tittiehed kontriha.

(9) Meta l-persuna miżmuma tagħzel li ma jkollhiex ghajnuna legali, l-uffiċjal investigatur ghandu jagħmel notament bil-miktub dwar dan fil-preżenza ta' żewġ xhieda u malli dan tista' tinbeda l-interrogazzjoni minnufih.

Inferenzi  
min-nuqqas  
li  
jissemmew  
fatti.

355AU. (1) Meta fi proċeduri kontra persuna ghal xi reat, tinghata xiehda li l-akkużat -

(a) f'kull waqt qabel ma jkun ġie akkużat bir-reat, meta jkun qed jiġi interrogat mill-Pulizija li jkunu qed jippruvaw jikxfu jekk ir-reat ikunx sar u min ikun ghamlu, jkun naqas milli jsemmi xi fatt li huwa jserrah fuqu fid-difiża tiegħu f'dawk il-proċeduri; jew

(b) meta jkun qed jiġi akkużat bir-reat jew ikun qed jiġi uffiċjalment mgharraf li jista' jiġi mharrek dwaru, jkun naqas milli jsemmi dak il-fatt,

li jkun fatt li fiċ-ċirkostanzi li jkunu jeżistu f'dak il-waqt l-imputat seta' raġonevolment jkun mistenni li jsemmi meta

jkun ġie hekk interrogat, akkużat jew mgharraf, skond il-każ, ghandu japplika is-subartikolu (2) jekk jintwera li l-imputat kien irċieva parir legali qabel ma jkun ġie interrogat, akkużat jew mgharraf kif hawn aktar qabel imsemmi.

(2) Meta dan is-subartikolu jkun japplika -

(a) Qorti tal-Maġistrati bħala qorti istruttoria li tkun qed tagħmel deċiżjoni taht is-subartikolu (2) ta' l-artikolu 401,

(b) il-qorti jew il-ġuri, meta jkunu qed jiddeċiedu jekk persuna akkużata jew imputata tkunx hatja tar-reat li bih tkun ġiet akkużata,

tista' tagħmel dawk l-inferenzi minn dan in-nuqqas bhalma jidhru xierqa, liema inferenzi ma jistghux wahedhom jitqiesu bħala prova ta' htija iżda jistghu jitqiesu bħala li jammontaw għal korroborazzjoni ta' kull xieħda ta' htija tal-persuna akkużata jew imputata.

### Sub-titolu X

#### TEHID TA' KAMPJUNI, MARKI TAS-SWABA U PROCEDURI OHRA INVESTIGATTIVI

Kampjuni  
eċċ. taht  
avtorizzazzjoni

355AV. L-uffiċjal investigatur jista' personalment, permezz ta' rikors jew *facsimile*, jitlob lil Maġistrat jawtorizza l-proċedura meħtieġa -

(a) meta jkollu kawżi raġonevoli li jeħtieġ it-tehid ta' kampjuni intimi minn fuq il-persuna arrestata; jew

(b) li jieħu ritratti, film, *video recording* jew xbieha elettronika ta' partijiet intimi ta' ġisem il-persuna arrestata; jew

(ċ) meta l-persuna arrestata ma tagħtix il-kunsens tagħha għal xi proċedura li l-uffiċjal investigatur jista' jagħmel skond il-liġi bil-kunsens tal-persuna arrestata:

Iżda meta t-talba ssir taht il-paragrafu (a) ta' dan l-artikolu, id-disposizzjonijiet ta' l-artikolu 355AW għandhom ikunu japplikaw u, jekk it-talba ssir taht il-paragrafu (b) ta' dan l-artikolu, għandhom *mutatis mutandis* japplikaw id-disposizzjonijiet ta' l-artikolu 355AP.

Kampjuni  
intimi  
b'kunsens.

355AW. Bla hsara ghad-disposizzjonijiet ta' l-artikoli 355AV u 355AX, kampjun intimu jisa' jittiehed minn persuna arrestata biss jekk jinghata l-kunsens taghha kif dovut.

Meta l-  
kunsens ghal  
kampjun  
intimu jiġi  
rifjutat.

355AX. (1) Meta ssir talba taht il-paragrafu (a) ta' l-artikolu 355AV, il-Maġistrat ghandu jikseb kull taghrif bhal dak minghand l-ufficjal investigatur biex ikun jista' jiddeċiedi dwar jekk it-talba tkunx ġustifikata jew le.

(2) Meta l-Maġistrat jiddeċiedi li t-talba tkun wahda ġustifikata huwa ghandu jżur lill-persuna arrestata biex jitlob il-kunsens taghha u qabel ma jitlob il-kunsens taghha huwa ghandu jfissrilha:

(a) ix-xorta tat-talba u r-raġunijiet ghalha;

(b) il-konsegwenzi li jitnisslu mill-ghoti jew mir-rifjut ta' l-ghoti tal-kunsens tieghu kif provdut fl-artikolu 355AZ; u

(ċ) li jkollha jedd tikkonsulta avukat jew prokuratur legali qabel ma tiddeċiedi jekk ghandhiex taghti jew le l-kunsens taghha.

(3) Meta l-persuna arrestata tkun tehtieg tikkonsulta avukat jew prokuratur legali taht is-subartikolu (2) il-Maġistrat ghandu jirreġistra l-fatt, id-data u l-hin tat-talba u, bla hsara ghad-disposizzjonijiet tas-subartikolu (4) ghandha tippermetti lill-persuna arrestata tikkonsulta ma' avukat jew prokuratur legali ghal dak il-hin li l-maġistrat jista' jqis li jkun xieraq fiċ-ċirkostanzi tal-każ.

(4) Il-Maġistrat jista', meta ssir oġġezzjoni ġustifikata mill-Pulizija, idewwem kull komunikazzjoni ma' avukat jew prokuratur legali jekk l-interessi tal-ġustizzja jkunu hekk jehtiegu jew meta xi wahda mill-ġrajjet imsemmija fis-subartikolu (5) ta' l-artikolu 355AT x'aktarx li ssehħ jekk dik il-komunikazzjoni tkun permessa minnufih:

Izda meta l-persuna arrestata tkun talbet li tikkonsulta avukat jew prokuratur legali l-kunsens taghha jista' biss jintalab wara li tkun saret dik il-konsultazzjoni.

Proċedura li  
tapplika  
ghal  
kampjuni.

355AY. Meta jkollu jittiehed kampjun intimu taht dawn l-artikoli ghandhom japplikaw id-disposizzjonijiet ta' l-artikolu 355AP.



Inferenzi  
minn rifjut.

355AZ. Meta l-kunsens kif dovut ghat-tehid ta' kampjun intimu minn fuq persuna jkun gie rifjutat minghajr kawża ġusta, fi proċeduri kontra dik il-persuna ghal xi reat, kull min ghandu jiġġudika l-fatti jista' jiġbed dawk l-inferenzi mir-rifjut bhalma jidhru li jkunu xierqa u r-rifjut jista', minhabba f'dawk l-inferenzi, jitqies bhala, jew bhala li hu kapaċi jammonta ghal korroborazzjoni ta' xiehda kontra l-persuna li dwarha r-rifjut ikun wiehed materjali.

Kampjuni  
fuq talba  
tal-persuna  
arrestata.

355BA. (1) L-uffiċjal investigattiv jista', bil-kunsens kif dovut bil-miktub tal-persuna arrestata, jara li jittiehdu:

(a) marki tas-swaba, marki tal-pali ta' l-idejn mill-persuna arrestata;

(b) ritratti fotografici tal-persuna arrestata jew ta' partijiet mhux intimi ta' ġisimha;

(ċ) kampjuni mhux intimi mill-persuna arrestata.

(3) Il-persuna arrestata tista' titlob bil-miktub li ghandhom jittiehdu:

(a) l-marki tas-swaba', marki tal-pala ta' l-id jew marki ohra taghha,

(b) ritratti fotografici tal-persuna taghha jew ta' partijiet mhux intimi ta' ġisimha,

(ċ) kampjuni mhux intimi minn fuq il-persuna taghha,

u kull talba bhal dik ghandha tigi mharsa mill-uffiċjal investigatur bl-ghajnuna ta' persuna kompetenti kif jista' jkun mehtieg.

(3) Il-persuna arrestata tista' wkoll titlob bil-miktub li l-uffiċjal investigatur iwettaq xi proċeduri minn dawk imsemmija fil-paragrafi (a) u (b) ta' l-artikolu 355 AV, u kull talba bhal dik ghandha tintbaghat minghajr dewmien ghand Maġistrat. Il-Maġistrat ghandu jawtorizza l-proċedura mehtiega wara li jivverifika t-talba maghmula mill-persuna arrestata u fejn jghodd ghandhom japplikaw id-disposizzjonijiet ta' l-artikolu 355AP.

Kampjuni minn fuq persuni li mhumiex daww arrestati.

355BB. Kampjuni minn persuna li ma tkunx persuna arrestata jistghu biss jittiehdu bil-kunsens moghti bil-quddiem u bil-miktub ta' dik il-persuna:

Izda ghat-tehid ta' kampjun intimu, ghandha tinkiseb ukoll l-awtorizzazzjoni ta' Magistrat wara li jsirlu rikors.

Kampjuni fuq talba ta' persuni li mhumiex daww arrestati.

355BC. Id-disposizzjonijiet ta' l-artikolu 355BA ghandhom *mutatis mutandis* japplikaw ghal kull persuna li ma tkunx persuna arrestata li taghmel talba ghall-ghemil fir-rigward taghhu ta' xi procedura msemmija f'dak l-artikolu sakemm it-talba ssir bil-miktub u jkun fiha dikjarazzjoni li l-persuna li taghmel it-talba jkollha ghaliex ragonevolment tahseb li hu probabbli li n-nuqqas li tintagħmel il-procedura mitluba x'aktarx jirriżulta f'li hija tigi arrestata jew miżmuma.”.

Inserzjoni ta' Sub-titolu gdid mal-ligi prinċipali.

67. Minnufih qabel l-artikolu 356 tal-ligi prinċipali ghandu jidhol dan is-Sub-titolu li ġej:

### “Sub-titolu XI

#### SETGHAT U DMIRIJET TAL-PULIZIJA DWAR PROCEDURI FIL-QRATTI”.

Emenda ta' l-artikolu 356 tal-ligi prinċipali.

68. L-artikolu 356 tal-ligi prinċipali ghandu jiġi emendat kif ġej:

(a) is-subartikolu (2) tiegħu ghandu jiġi enumerat bhala s-subartikolu (3); u

(b) minnufih wara s-subartikolu (1) tiegħu ghandu jidhol dan is-subartikolu li ġej:

“(2) Ikun id-dmir ta' l-ufficjali tal-pulizija prosekuturi li jiżvelaw lid-difiża daww il-provi li jistghu jidhru li jiffavorixxu lill-persuna akkuzata u li l-Pulizija, ghal liema raguni tkun, jista' ma jkollhomx il-hsieb li jgibu quddiem il-qorti bhala provi tal-prosekuzzjoni.”.

Sostituzzjoni ta' l-artikolu 358 tal-ligi prinċipali.

69. Minflok l-artikolu 358 ghandu jidhol dan li ġej:

“Dmirijiet tal-Pulizija fi proceduri kriminali.

358. (1) Ikun id-dmir tal-Pulizija li tohroġ u tinnotifka citazzjonijiet li jharrku persuni biex jidhru quddiem il-Qorti tal-Magistrati, f'daww il-hwejjeg li jaqghu fil-gurisdizzjoni ta' dik il-qorti.



(2) Fil-każ ta' proċeduri sommarji dwar reati li jaqghu taht il-ġurisdizzjoni tal-Qorti ta' Ġudikatura Kriminali, ma jkunx id-dmir tal-Pulizija li tinnotifika lill-persuna akkużata b'avviż tad-data tas-smigh minbarra dak għall-ewwel seduta tal-proċedimenti.”.

70. Minnufih wara l-artikolu 360 tal-liġi prinċipali għandu jiżdied dan l-artikolu ġdid li ġej:

Żieda ta' l-artikolu 360A ġdid mal-liġi prinċipali.

“Kull affidavit jiġi notifikat flimkien maċ-ċitazzjoni.

360A. (1) Fi proċeduri sommarji għal reati li jaqghu taht il-ġurisdizzjoni tal-Qorti tal-Maġistrati bhala qorti ta' ġudikatura kriminali taht is-subartikolu (1) ta' l-artikolu 370 il-Pulizija tista', flimkien maċ-ċitazzjoni jew f'kull waqt li jiġi wara, tinnotifika lill-akkużat kopji ta' kull affidavit magħmul minn persuni li għandhom jingiebu bhala xhieda tal-prosekuzzjoni f'dawk il-proċeduri kif ukoll dokumenti li jkunu se jingiebu bhala provi fl-istess proċeduri, u jekk l-akkużat ikun irid jagħmel kontro-eżami lil xi persuna li kellha l-affidavit tagħha notifikat lilu kif hawn aktar qabel imsemmi, huwa għandu, mhux aktar tard minn hmistax-il ġurnata qabel l-ewwel seduta li tiġi minnufih wara n-notifika ta' l-affidavit, javża b'dan lill-Kummissarju tal-Pulizija b'ittra registrata u malli dan, il-persuna li jrid isirilha l-kontro-eżami għandha titharrek biex tixhed fil-proċeduri:

Iżda għall-finijiet ta' dan is-subartikolu il-kelma “dokument” għandu jkollha l-istess tifsira mogħtija lilha bis-subartikolu (2) ta' l-artikolu 558:

Iżda wkoll meta jirriżulta li ma kienx possibbli għall-imputat li jagħti avviż lill-Kummissarju tal-Pulizija fiż-żmien provdut kif imsemmi qabel, dak l-avviż li huwa jkun jixtieq jagħmel il-kontro-eżami jista' jingħata matul l-ewwel seduta li tiġi minnufih wara n-notifika ta' l-affidavit, f'liema każ il-persuna li għandu jsirilha l-kontro-eżami għandha titharrek biex tixhed fis-seduta li jkun imiss.

(2) Il-persuna li kellha l-affidavit tagħha notifikat lill-akkużat kif provdut fis-subartikolu (1) ma għandhiex titharrek biex tixhed fil-proċeduri jekk l-akkużat jonqos milli jagħti avviż tal-hsieb tiegħu li jagħmel kontro-eżami lil dik il-persuna kif provdut f'dak is-subartikolu u dak l-affidavit għandu jkun ammissibbli bhala prova b'xiehda tal-kontenut tiegħu f'dawk il-proċeduri bl-istess mod bħallikieku kien xiehda mogħtija *viva voce* fil-preżenza ta' l-akkużat.”.



Emenda ta' l-  
artikolu  
362 tal-liġi  
prinċipali.

**71.** L-artikolu 362 ghandu jiġi emendat kif ġej:

(a) id-disposizzjoni li hemm ghandha tigi enumerata mill-  
ġdid bhala s-subartikolu (1) ta' l-artikolu; u

(b) minnufih wara s-subartikolu (1) kif enumerat mill-ġdid  
ghandhom jidhlu dawn is-subartikoli godda li ġejjin:

“(2) Il-Ministru responsabbli għall-ġustizzja wara li  
jikkonsulta lill-Ministru responsabbli għall-Pulizija jista’  
jagħmel regolamenti li jkunu jipprovdu għan-notifika ta’  
ċitazzjoni u ta’ kull dokument meħmuż magħha bil-posta jew  
b’xi mod ieħor li jista’ jiġi pprovdut dwaru fir-regolamenti.

(3) Meta l-persuna li lilha tkun indirizzata ċ-ċitazzjoni  
skond regolamenti magħmulin taht is-subartikolu (2) tirrifjuta  
li tirċeviha, il-qorti tista’ permezz ta’ digriet li jingħata wara  
rikors li jsirilha mill-Pulizija u wara li teżamina r-riferta ta’  
notifika, tiddikjara lil dik il-persuna bhala li tkun ġiet  
debitament notifikata biċ-ċitazzjoni u tagħmel ordni għall-  
arrest tagħha.

(4) Meta xi persuna, minbarra l-persuna li lilha tkun  
indirizzata ċ-ċitazzjoni, tirrifjuta li tirċievi ċ-ċitazzjoni  
personalment, il-qorti tista’, wara li jsirilha rikors mill-Pulizija  
u wara li tkun eżaminat ir-riferta ta’ notifika u tkun sodisfatta  
li dik il-persuna kienet wahda li setgħet tigi notifikata biċ-  
ċitazzjoni skond il-liġi, tikkundanna lil dik il-persuna għall-  
hlas ta’ ammenda:

Izda l-Qorti tista’, f’kull waqt li jkun, jekk jintwera li  
kien hemm kawża ġusta, tahfer l-ammenda.”.

Emenda ta' l-  
artikolu 367  
tal-liġi prinċipali.

**72.** Minflok is-subartikolu (2) ta' l-artikolu 367 tal-liġi prinċipali  
ghandu jidhol dan li ġej:

“Għadd ta’  
Qrati  
tal-  
Maġistrati.

(2) Ghandu jkun hemm żewġ Qrati tal-Maġistrati, qorti  
għall-Gżira ta’ Malta u qorti għall-Gzejjer ta’ Ghawdex u  
Kemmina li jkunu magħrufa bhala l-Qorti tal-Maġistrati  
(Malta) u l-Qorti tal-Maġistrati (Ghawdex) rispettivament.”.

Emenda ta' l-  
artikolu 370 tal-liġi  
prinċipali.

**73.** L-artikolu 370 tal-liġi prinċipali ghandu jiġi emendat kif ġej:

(a) fis-subartikolu (2) tiegħu, minflok il-kliem “u ta’ pieni  
jew minhabba r-reċidiva,” ghandhom jidhlu l-kliem “u ta’ pieni,

minhabba r-reċidiva jew minhabba l-applikazzjoni tad-disposizzjonijiet ta' l-artikolu 18,";

(b) minnufih wara s-subartikolu (4) tiegħu għandhom jiżdiedu dawn is-subartikoli ġodda li ġejjin:

“(5) Id-disposizzjonijiet tas-subartikolu (2) għandhom, *mutatis mutandis*, japplikaw għad-delitti msemmin fis-subartikoli (3) u (4).

(6) Il-qorti hija wkoll kompetenti li tagħti s-sentenza lill-akkużat fiċ-ċirkostanzi u kif provdut fl-artikolu 392A.”.

74. Fl-artikolu 373 tal-liġi prinċipali, minflok il-kliem “Fir-reati ta’ kompetenza tal-Qorti tal-Maġistrati,” għandhom jidhlu l-kliem “Fir-reati msemmin fis-subartikolu (1) ta’ l-artikolu 370,”.

Emenda ta' l-artikolu 373 tal-liġi prinċipali.

75. Is-subartikolu (3) ta’ l-artikolu 377 tal-liġi prinċipali għandu jiġi emendat kif ġej:

Emenda ta' l-artikolu 377 tal-liġi prinċipali.

(a) minflok il-kliem “li bih ikun sar ir-reat fi żmien,” għandhom jidhlu l-kliem “li bih ikun sar ir-reat, jew, skond iċ-ċirkostanzi, li jikkonforma ruhu mal-liġi, fi żmien,”;

(b) minflok il-kliem “hu jehel penali ta’ ammenda” għandhom jidhlu l-kliem “hu jkun hati ta’ reat u jehel, meta jinsab hati, ammenda”; u

(ċ) il-kliem “kif il-qorti tistabbilixxi,” għandhom jithassru.

76. Minflok is-subartikolu (3) ta’ l-artikolu 385 tal-liġi prinċipali għandu jidhol dan li ġej:

Emenda ta' l-artikolu 385 tal-liġi prinċipali.

“(3) Id-disposizzjonijiet tas-subartikolu (1) ta’ l-artikolu 12 għandhom, *mutatis mutandis*, japplikaw għal persuna miżmuma taht detenzjoni taht dan l-artikolu.”.

77. Minnufih wara l-artikolu 392 tal-liġi prinċipali għandu jiżdied dan l-artikolu ġdid li ġej:

Żieda ta' l-artikolu 392A ġdid mal-liġi prinċipali.

“Meta l-akkużat jistqarr li hu hati waqt l-eżami.

392A (1) Jekk l-akkużat, bi twegiba għall-mistoqsija fil-paragrafu (ċ) tas-subartikolu (1) ta’ l-artikolu 392, jistqarr li hu hati tar-reat li bih ikun akkużat u l-imsemmi reat ikun sugġett għal piena ta’ mhux aktar minn għaxar snin prigunerija, id-disposizzjonijiet tas-subartikolu (1) ta’ l-

artikolu 453 ghandhom *mutatis mutandis* japplikaw bla hsara ghad-disposizzjonijiet li ġejjin ta' dan l-artikolu.

(2) Bla hsara ghad-disposizzjonijiet tas-subartikolu (3) u minkejja kull disposizzjoni ohra ta' dan il-Kodiċi jew ta' kull liġi ohra, jekk l-akkużat jibqa' jtenni fit-twegiba tiegħu li hu hati tar-reat li bih ikun akkużat il-Qorti bhala qorti ta' ġudikatura kriminali ghandha tghaddi 'l quddiem biex tagħti lill-akkużat dik is-sentenza li ghandha tinghata skond il-liġi kontra akkużat li jinsab hati tar-reat u tordna li l-atti, flimkien ma' kopja tas-sentenza, jiġu mibghuta lill-Avukat Ġenerali kif provdut fis-subartikolu (3) ta' l-artikolu 401.

(3) Izda, meta jkun hemm raġuni tajba biex wiehed jiddubita jekk ir-reat kienx ġie tassew magħmul, jew jekk l-akkużat hux hati tar-reat, il-qorti ghandha, ghalkemm l-akkużat ikun stqarr, tordna li l-kompilazzjoni titmexxa 'l quddiem, bhallikieku l-akkużat ma wegibx li hu hati.

(4) Id-disposizzjonijiet tas-subartikolu (2) ta' l-artikolu 370 u ta' l-artikolu 371 ghandhom *mutatis mutandis* japplikaw għal proċeduri taht dan l-artikolu dwar reat li għalih japplika s-subartikolu (1) ta' dan l-artikolu.

(5) Id-disposizzjonijiet ta' l-artikolu 453A ghandhom japplikaw *mutatis mutandis* qabel ma l-akkużat iwieġeb għall-mistoqsija fil-paragrafu (b) tas-subartikolu (1) izda għandu, għal dak l-iskop, jidher l-Avukat Ġenerali għall-prosekuzzjoni.”.

Emenda ta' l-artikolu 401 tal-liġi prinċipali.

**78.** Minnufih wara s-subartikolu (3) ta' l-artikolu 401 tal-liġi prinċipali għandu jiżdied dan is-subartikolu ġdid li ġej:

“(4) Meta tkun qed tiddeċiedi jekk ikunx jew ma jkunx hemm raġunijiet biżżejjed biex l-imputat jitqiegħed taht att ta' akkuża l-Qorti ma ghandha tikkonsidra ebda kwistjoni ta' preskrizzjoni jew xi eċċezzjoni bħal dik imsemmija fil-paragrafu (d) tas-subartikolu (1) ta' l-artikolu 449.”.

Żieda ta' l-artikolu 409A ġdid mal-liġi prinċipali.

**79.** Minnufih wara l-artikolu 409 tal-liġi prinċipali għandu jiżdied dan l-artikolu ġdid li ġej:



"Rikors minn  
persuna  
miżmuma  
taht arrest li  
tallega li qed  
tinżamm  
detenuta  
kontra l-ligi.

409A. (1) Kull min jallega li jkun qiegħed jiġi detenut kontra l-ligi taht l-awtorità tal-Pulizija jew ta' xi awtorità pubblika oħra mhux f'dak li għandu x'jaqsam ma' xi reat li dwaru qiegħed jiġi imputat jew akkużat f'xi qorti, jista' f'kull waqt jagħmel rikors quddiem il-Qorti tal-Maġistrati bħala qorti istruttorja fejn jitlob il-helsien tiegħu mill-kustodja. Rikors bħal dak għandu jiġi appuntat għas-smigh bl-urgenza u r-rikors flimkien mad-data tas-smigh għandhom jiġu notifikati fl-istess jum li jsir ir-rikors sew lir-rikorrent sew lill-Kummissarju tal-Pulizija jew lill-awtorità pubblika li taht l-awtorità tagħha r-rikorrent ikun qiegħed jallega li qiegħed jiġi detenut kontra l-ligi. Il-Kummissarju tal-Pulizija jew l-awtorità pubblika, skond il-każ, jistgħu jippreżentaw risposta sa mhux aktar tard mill-jum tas-smigh.

(2) Fil-jum appuntat għas-smigh tar-rikors, il-qorti għandha tisma' fil-qosor lir-rikorrent u lill-intimat u kull prova relevanti li tingieb minnhom biex isostnu s-sottomissjonijiet tagħhom, kif ukoll ir-raġunijiet u ċ-ċirkostanzi li jmorru favur jew kontra l-legalità tad-detenzjoni kontinwata tar-rikorrent.

(3) Jekk il-qorti, wara li tkun semgħet il-provi miġjuba u s-sottomissjonijiet magħmula mir-rikorrent u mill-intimat, jirriżultalha li l-kontinwazzjoni ta' l-arrest tar-rikorrent ma tkun imsejsa fuq ebda disposizzjoni ta' dan il-Kodiċi jew ta' xi ligi oħra li tkun tawtorizza l-arrest u d-detenzjoni tar-rikorrent, din għandha tilqa' r-rikors. Jekk ikun xort'oħra l-qorti għandha tiċhad ir-rikors.

(4) Meta l-qorti tiddeċiedi li tilqa' r-rikors, l-inkartament tal-proċeduri, inkluża kopja tad-deċiżjoni tal-qorti, għandhom jintbagħtu lill-Avukat Ġenerali sa mhux aktar tard mill-jum tax-xogħol li jiġi minnufih wara, u l-Avukat Ġenerali jista', fi żmien jumejn tax-xogħol minn meta jirċievi l-inkartament u jekk ikun tal-fehma li l-arrest u l-kontinwazzjoni tad-detenzjoni tal-persuna mehlusa mill-arrest kienu imsejsa fuq xi provvedimenti ta' dan il-Kodiċi jew ta' xi ligi oħra, jagħmel rikors quddiem il-Qorti Kriminali sabiex jikseb l-arrest mill-ġdid u l-kontinwazzjoni tad-detenzjoni tal-persuna hekk mehlusa mill-arrest. L-inkartament tal-proċeduri u d-deċiżjoni tal-qorti li jkunu ntbagħtu lill-Avukat Ġenerali taht id-disposizzjonijiet ta' dan is-subartikolu għandhom jiġu ppreżentati flimkien mar-rikors ta' l-Avukat Ġenerali quddiem il-Qorti Kriminali."

Emenda ta' l-artikolu 410 tal-liġi prinċipali.

**80.** Minnufih wara s-subartikolu (3) ta' l-artikolu 410 tal-liġi prinċipali għandu jidhol dan is-subartikolu ġdid li ġej:

“Il-parti offiċja tista' tkun preżenti fil-qorti waqt is-seduti.

(4) Minghajr preġudizzju għad-disposizzjonijiet tas-subartikolu (3) u bla hsara għad-disposizzjonijiet tas-subartikolu (6), parti offiċja li jkollha interess li tkun preżenti matul proċeduri magħmulin mill-Pulizija jkollha l-jedd li tikkomunika dak l-interess lill-pulizija billi tagħti l-partikolaritajiet tagħha flimkien ma' l-indirizz fejn tkun toqghod u malli jsir dan dik il-parti offiċja għandha tiġi notifikata b'avviż li jkun fih id-data, il-post u l-hin ta' l-ewwel smigh f'dawk il-proċeduri u jkollha l-jedd li tkun preżenti fil-qorti matul dak is-smigh u matul kull smigh iehor li jiġi wara wkoll jekk tkun xhud.

(5) Minghajr preġudizzju għad-disposizzjonijiet tas-subartikolu (3) u bla hsara għad-disposizzjonijiet tas-subartikolu (6), persuna li ma tiġix notifikata bl-avviż imsemmi fis-subartikolu (4) u li tkun qed tippretendi li hi parti offiċja tista' titlob lill-Qorti li tiddaħhal fil-proċeduri bħala parti offiċja u jekk il-pretensjoni tagħha li hija parti offiċja tintlaqa' mill-qorti, minn dak il-waqt 'il quddiem dik il-persuna jkollha l-jedd li tkun preżenti matul kull smigh li jiġi wara wkoll jekk tkun xhud.

(6) Jekk l-avviż tad-data ta' l-ewwel smigh ma jiġix notifikat lill-parti offiċja wara li jkun sar tentattiv għaldaqshekk, jew jekk għal xi raġuni li tkun parti offiċja tonqos milli tidher waqt xi seduta, dan ma għandux jipprekludi lill-qorti milli tipproċedi bis-smigh tal-każ jew tal-kompilazzjoni sakemm dawn jiġu konkluzi.”.

Emenda ta' l-artikolu 412 tal-liġi prinċipali.

**81.** Minflok is-subartikolu (1) ta' l-artikolu 412 tal-liġi prinċipali għandu jidhol dan is-subartikolu li ġej:

Kap. 252.

“Granet li fihom il-Qorti tal-Maġistrati tista' żżomm is-seduti.

(1) Il-Qorti tal-Maġistrati għandha żżomm is-seduti ordinarji tagħha kuljum, minbarra s-Sibt, btajjel pubbliċi skond l-Att dwar il-Jum Nazzjonali u Btajjel Pubbliċi ohra, u l-Erbgħa u l-Hamis tal-Gimgha l-Kbira.”.

Żieda ta' l-artikoli 412A u 412B godda mal-liġi prinċipali.

**82.** Minnufih wara l-artikolu 412 tal-liġi prinċipali għandhom jiżdiedu dawn l-artikoli godda li ġejjin:

"Kondizzjonijiet imposti fuq l-akkużat jew l-imputat li ma jkunx taht arrest,

412A. (1) Meta l-imputat jew l-akkużat li jitressaq quddiem il-Qorti tal-Maġistrati, sew bhala qorti ta' ġudikatura kriminali sew bhala qorti istruttoria, ma jkunx taht arrest, il-Pulizija tista' f'dak il-waqt stess jew f'kull stadju tal-proċeduri li jiġi wara titlob lill-Qorti li timponi xi kondizzjonijiet fuq l-akkużat jew l-imputat sabiex tiġi żgurata d-dehra fil-proċeduri ta' dik il-persuna fil-hin u l-post stabbiliti jew sabiex jiġi xort'ohra żgurat li dik il-persuna ma tkun sejra b'ebda mod mhux legittimu tindahal fl-amministrazzjoni korretta tal-ġustizzja f'dawk il-proċeduri.

(2) Il-qorti tista' tehtieg li tinghata garanzija biżżejjed mill-akkużat jew mill-imputat sabiex jiġi żgurat li huwa jkun se jhares il-kondizzjonijiet imposti fuqu minnha u d-disposizzjonijiet ta' l-artikoli 576 u 577 ghandhom japplikaw għall-ammont tal-garanzija mehtieg mill-qorti taht dan is-subartikolu u għall-mezzi differenti kif din issir.

(3) Is-somma li tinghata b'garanzija tghaddi favur il-Gvern ta' Malta u jiġi mahruġ mandat ta' arrest kontra l-imputat jew l-akkużat meta dik il-persuna tonqos milli thares xi wahda mill-kondizzjonijiet imposti mill-qorti skond id-disposizzjonijiet ta' dan l-artikolu u f'xi wahda miċ-ċirkostanzi l-oħra msemmija fl-artikolu 579, iżda d-disposizzjonijiet ta' dan is-subartikolu m'għandhomx japplikaw meta l-qorti tikkunsidra li l-ksur tal-kondizzjoni imposta mill-qorti ma hiex ta' konsegwenza serja.

Rikors minn persuna arrestata, pendenti proċedimenti kriminali, li tallega arrest mhux legittimu.

412B.(1) Kull min ikun jinsab taht arrest għal reat li dwaru jkun qed jiġi imputat jew akkużat quddiem il-Qorti tal-Maġistrati u li, f'kull stadju iehor minbarra dak li jirreferi għalih l-artikolu 574A, jallega li l-kontinwazzjoni tad-detenzjoni tiegħu ma tkunx skond il-liġi, jista' f'kull waqt jagħmel rikors lill-qorti fejn jitlob il-helsien tiegħu mill-arrest. Rikors bhal dak għandu jiġi appuntat għas-smigh b'urgenza u flimkien mad-data tas-smigh għandu jiġi notifikat fl-istess jum li jsir lill-Kummissarju tal-Pulizija jew, skond il-każ, lill-Kummissarju tal-Pulizija u lill-Avukat Ġenerali, li jistgħu jippreżentaw risposta għalih sa mhux aktar tard mill-jum tas-smigh.

(2) Id-disposizzjonijiet tas-subartikoli (2) u (3) ta' l-artikolu 574A għandhom *mutatis mutandis* japplikaw għal rikors li jsir taht dan l-artikolu.



(3) Meta r-rikors isir ghar-rigward ta' proċeduri li jkunu għadhom pendenti quddiem il-Qorti tal-Maġistrati bħala qorti istruttoria qabel ma jkun gie pprezentat att ta' l-akkuża u l-inkartament ta' l-inkjesta jkun għand l-Avukat Ġenerali ghar-rigward ta' xi att tal-proċeduri, r-rikors isir quddiem il-Qorti Kriminali u għandhom *mutatis mutandis* japplikaw id-disposizzjonijiet ta' qabel ta' dan l-artikolu dwar dak ir-rikors.

(4) Id-disposizzjonijiet tas-subartikolu (4) ta' l-artikolu 355A għandhom japplikaw għal deċiżjoni tal-Qorti tal-Maġistrati taht dan l-artikolu.”.

Emenda ta'  
l-artikolu 413 tal-  
liġi prinċipali.

**83.** Is-subartikoli (1) u (1A) ta' l-artikolu 413 tal-liġi prinċipali għandhom jithassru u minflok għandu jidhol dan li ġej:

“(1) Jistghu jappellaw mis-sentenzi tal-Qorti tal-Maġistrati -

(a) il-persuna misjuba hatja;

(b) f'każijiet li għandhom x'jaqsmu ma' proċeduri sommarji għal reati li jaqghu taht il-ġurisdizzjoni tal-Qorti tal-Maġistrati bħala Qorti ta' Ġudikatura Kriminali taht is-subartikolu (1) ta' l-artikolu 370, mill-Avukat Ġenerali, u, fil-każijiet imsemmija fl-artikolu 373, mill-kwerelant meta:

(i) l-qorti inferjuri taqta' li ma jkollha ebda ġurisdizzjoni li tittratta r-reat;

(ii) il-fatt li dwaru jkun instab hati l-imputat jista' jinkorri piena li tkun teċċedi l-ġurisdizzjoni ta' dik il-qorti bħala qorti ta' ġudikatura kriminali;

(iii) il-piena mogħtija mill-qorti inferjuri tkun, minhabba fix-xorta jew kwantità tagħha, differenti minn dik preskritta bil-liġi għar-reat li dwaru l-parti misjuba hatja tkun ingħatat sentenza;

(iv) l-imputat jew l-intimat jiġi liberat minhabba f'li -

i) l-fatt ma jkunx fih l-ingredjenti ta' reat,

ii) l-azzjoni tiġi estinta,

iii) ikun hemm sejbien ta' htija jew liberazzjoni precedenti;

(v) l-intimat, f'każ li fih ikun gie permess li jipprova l-verità tal-fatt attribwit lill-kwerelant skond id-disposizzjonijiet ta' l-artikolu 253, jiġi dikjarat bħala eżenti mill-piena;

(vi) il-Pulizija, jew, skond il-każ, il-kwerelant ma jkunx gie permess waqt il-ġuri li jipproduċi, b'appoġġ għall-akkuża, xi prova indispensabbli li kienet ammissibbli skond il-liġi;

(vii) il-parti akkużata kienet inhelset minn xi wahda mill-obbligazzjonijiet imsemmija fl-artikolu 321 tal-Kodiċi tal-Liġijiet tal-Pulizija jew fl-artikolu 377 ta' dan il-Kodiċi, jew mill-osservanza ta' xi projbizzjoni maghmula, jew mill-osservanza jew mill-esekuzzjoni ta' xi projbizzjoni jew ordnijiet maghmula jew mogħtija, mill-pulizija jew minn kull uffiċjal pubbliku iehor, taht il-Kodiċi tal-Liġijiet tal-Pulizija jew taht kull liġi ohra;

(ċ) fil-każijiet l-ohra kollha, l-Avukat Ġenerali, u, fil-każijiet imsemmija fl-artikolu 373, il-kwerelant.”.

**84.** L-artikolu 414 tal-liġi prinċipali għandu jiġi emendat kif ġej: Emenda ta' l-artikolu 414 tal-liġi prinċipali.

(a) fis-subartikolu (1) tiegħu, minflok il-kliem “fuq talba bil-miktub, maghmula lilha mill-Pulizija” għandhom jidhlu l-kliem “fuq talba bil-miktub maghmula lilha mill-Pulizija, jew mill-parti offiċja notifikata bl-avviż ta' l-ewwel smiġh jew imdajhha fil-proċeduri kif provdut fis-subartikoli (4) u (5) ta' l-artikolu 410,”; u

(b) fis-subartikolu (2) tiegħu, minflok il-kliem “mill-qorti ta' Ghawdex u Kemmuna,” għandhom jidhlu l-kliem mill-Qorti tal-Maġistrati (Ghawdex),”.

**85.** L-artikolu 416 tal-liġi prinċipali għandu jiġi emendat kif ġej: Emenda ta' l-artikolu 416 tal-liġi prinċipali.

(a) minnufih wara s-subartikolu (1) tiegħu għandu jiżdied dan is-subartikolu ġdid li ġej:

“(1A) Meta l-parti misjuba hatja li ma tkunx taht arrest għar-reat li tiegħu tkun ġiet misjuba hatja tiġi kkundannata għal prigunerija jew detenzjoni u minnufih qabel

is-sejbien ta' htija dik il-persuna kienet qed tgawdi l-helsien mill-arrest kif provdut fit-Titolu IV tat-Taqsima II tat-Tieni Ktieb ta' dan il-Kodiċi, il-kondizzjonijiet relattivi ghal dak il-helsien mill-arrest, inkluż il-mod ta' garanzija u s-somma jew plegg ekwivalenti, jekk ikun il-każ, speċifikati fil-helsien mill-arrest taġt garanzija, ghandhom jibqghu japplikaw b'żieda mal-garanzija mehtieġa taht is-subartikolu (1) malli jinkiseb waqfien fl-esekuzzjoni tas-sentenza kif provdut f'dak is-subartikolu sew sakemm jiskadi ż-żmien biex ikun jista' jiġi ppreżentat l-appell jekk ma jiġi ppreżentat ebda appell, sew jekk xort'ohra sa meta jiġi deċiż l-appell.”; u

(b) fil-proviso ghas-subartikolu (2) tieghu:

(i) minflok il-kliem “daqs is-somma tal-piena, imma” ghandhom jidhlu l-kliem “daqs is-somma tal-piena, u f'dak il-każ il-qorti tista' titlob li l-garanzija ghandha jew tkun fl-ghamla ta' depożitu ta' somma daqs l-ammont imsemmi jew fl-ghamla ta' garanzija bankarja, maghmula ghas-sodisfazzjon taghha, ghall-ammont imsemmi; imma”; u

(ii) minflok il-kliem “tal-parti interessata” ghandhom jidhlu l-kliem “tal-prosekuzzjoni”.

Emenda ta'  
l-artikolu 419 tal-  
liġi prinċipali.

**86.** L-artikolu 419 tal-liġi prinċipali ghandu jiġi emendat kif ġej:

(a) fis-subartikolu (3) tieghu, minflok il-kliem minn “ghandu jiġi ikkunsinnat lir-registratur tal-qorti” sa “lir-Registratur tal-Qrati,” ghandhom jidhlu l-kliem “ghandu jiġi ppreżentat fir-registru tal-qorti li tkun tat is-sentenza li minnha jsir l-appell. Ir-registratur ghandu, fi żmien jumejn tax-xoghol minn dak in-nhar li jirċievi r-rikors, jibghat dan ir-rikors lill-qorti superjuri,”; u

(b) fis-subartikolu (4) tieghu, minflok il-kliem “tal-qorti ta' Ghawdex u Kemmuna,” ghandhom jidhlu l-kliem “tal-Qorti tal-Maġistrati (Ghawdex),”.

Sostituzzjoni ta'  
l-artikolu 420 tal-  
liġi prinċipali.

**87.** Minflok l-artikolu 420 tal-liġi prinċipali ghandu jidhol dan li ġej:

“420. L-appellant kif ukoll l-appellat jista' jkun assistit mill-Avukat ghall-Ghajjnuna Legali u ghandhom japplikaw il-provvedimenti ta' l-artikolu 570 ta' dan il-Kodiċi.”.



88. L-artikolu 421 tal-ligi prinċipali ghandu jiġi emendat kif ġej: Emenda ta' l-artikolu 421 tal-ligi prinċipali.

(a) fis-subartikolu (1) tiegħu:

(i) minnufih wara l-kliem “lill-partijiet” ghandhom jidhlu l-kliem “u lill-parti offiża li tkun ġiet notifikata bl-avviż ta’ l-ewwel smigh jew iddahhlet fil-proċeduri kif provdut fis-subartikoli (4) u (5) ta’ l-artikolu 410”; u

(ii) minflok il-kliem “mir-Registratur tal-Qrati.” ghandhom jidhlu l-kliem “mir-Registratur tal-Qrati:” u minnufih wara dan ghandu jidhol dan il-proviso ġdid li ġej:

“Iżda l-fatt li l-avviż tad-data ta’ l-ewwel smigh ma jiġix notifikat lill-parti offiża wara li jkun sar tentattiv għaldaqshekk, jew il-fatt li l-parti offiża tonqos għal xi raġuni milli tkun preżenti waqt xi seduta, m’ghandux izomm lill-qorti milli tibqa’ għaddejja bl-appell sakemm tinghata s-sentenza finali.”; u

(b) minnufih wara s-subartikolu (2) tiegħu ghandu jiżdied dan is-subartikolu ġdid li ġej:

“(3) Il-parti offiża li tkun ġiet notifikata bl-avviż ta’ l-ewwel smigh jew iddahhlet fil-proċeduri kif provdut fis-subartikoli (4) u (5) ta’ l-artikolu 410, tista’ tkun preżenti waqt kull seduta ta’ l-appell u tista’ tqabbad avukat sabiex jassistiha għalkemm jista’ jkun li ma tkunx ġiet notifikata bl-avviż imsemmi fis-subartikolu (1) u għalkemm hija tista’ tkun xhud fil-proċeduriġ avukat imqabbad mill-parti offiża jista’ jagħmel eżami jew kontro-eżami tax-xhieda u jagħmel kull sottomissjoni ohra li l-qorti tista’ tqis li tkun ammissibbli.

(4) Ghandu wkoll jinghata avviż bil-miktub, kif provdut fis-subartikolu (1), lill-parti li minhabba fl-assenza tagħha l-appell ikun ġie differit.

(5) Iż-żmien tal-preskrizzjoni dwar ir-reati msemija fid-deċiżjoni li minnha jkun qed isir l-appell ghandu jiġi sospiż mill-ġurnata meta jiġi ppreżentat l-appell sa meta il-partijiet jkunu ġew notifikati b’dak l-avviż.”.

89. L-artikolu 422 tal-ligi prinċipali ghandu jiġi emendat kif ġej: Emenda ta' l-artikolu 422 tal-ligi prinċipali.

(a) fis-subartikolu (1) tiegħu:

(i) minflok il-kliem “fil-jum tas-smigh ta’ l-appell,” ghandhom jidhlu l-kliem “f’jum tas-smigh ta’ l-appell,”; u

(ii) minflok il-kliem “ighoddu d-disposizzjonijiet ta’ l-ahhar artikolu qabel dan.” ghandhom jidhlu l-kliem “jghoddu d-disposizzjonijiet tas-subartikoli (1) u (2) ta’ l-ahhar artikolu qabel dan.”; u

(b) minnufih wara s-subartikolu (2) tieghu ghandhom jizdiedu dawn is-subartikoli godda li ġejjin:

“(3) Ir-rikors imsemmi fis-subartikolu (1) jikser iż-żmien tal-preskrizzjoni dwar ir-reati trattati fis-sentenza li minnha jsir l-appell u jekk il-qorti taghti gurnata ohra ghas-smigh ta’ l-appell il-mixi taż-żmien tal-preskrizzjoni ma’ dan jieqaf sa meta l-partijiet ikunu ġew notifikati bl-avviż imsemmi fis-subartikolu (1) ta’ l-ahhar artikolu qabel dan.

(4) F’każ meta l-appellant kien hieles mill-arrest kif provdut fis-subartikoli (1A) u (3) ta’ l-artikolu 416 qabel id-deżerzjoni ta’ l-appell, it-talba tieghu ghal helsien mill-arrest tista’ ssir fl-istess rikors imsemmi fis-subartikolu (1) ta’ dan l-artikolu.”.

Emenda ta’ l-artikolu 425 tal-liġi prinċipali.

**90.** Fl-artikolu 425 tal-liġi prinċipali, minflok il-kliem “jghoddu, sa fejn jistghu jghoddu, id-disposizzjonijiet ta’ l-artikolu 441.” ghandhom jidhlu l-kliem “jghoddu, sa fejn jistghu jghoddu, id-disposizzjonijiet ta’ l-artikolu 441. Kemm-il darba l-qorti ma tordnax xort’ohra, ix-xhieda ghandhom jiġu mharrka mill-Pulizija Esekuttiva b’dak il-mod li hemm provdut fl-artikolu 365.”.

Emenda ta’ l-artikolu 428 tal-liġi prinċipali.

**91.** L-artikolu 428 tal-liġi prinċipali ghandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tieghu, minflok il-kliem “bhala qorti istruttorja.” ghandhom jidhlu l-kliem “biex tipproċedi skond il-liġi.”;

(b) fis-subartikolu (4) tieghu, fit-test Ingliż biss, minflok il-kliem “of the inferior court.” ghandhom jidhlu l-kliem “to the inferior court.”;

(ċ) fis-subartikolu (8) tieghu, minflok il-kliem “lir-registratur tal-Qorti Inferjuri,” ghandhom jidhlu l-kliem “lill-qorti inferjuri”.

92. L-artikolu 429 tal-liġi prinċipali għandu jiġi emendat kif ġej:

Emenda ta' l-artikolu 429 tal-liġi prinċipali.

(a) fis-subartikolu (2) tiegħu, minflok il-kliem “għall-ispejjeż, għall-hlas ta’ ammenda.” għandhom jidhlu l-kliem “għall-ispejjeż, fejn applikabbli, għall-hlas ta’ ammenda ta’ mhux iżjed minn mitt lira.”;

(b) fis-subartikolu (4) tiegħu, minflok il-kliem “fil-kawżi bi kwerela tal-parti,” għandhom jidhlu l-kliem “fil-kawżi meta l-eżerċizzju ta’ l-azzjoni kriminali jmiss lill-offiż jew lill-persuni msemmijin fl-artikolu 542, kif provdut fl-artikolu 373,”.

93. Fis-subartikolu (1) ta’ l-artikolu 431 tal-liġi prinċipali, minflok il-kliem “Il-funzjonijiet ta’” għandhom jidhlu l-kliem “Kemmil darba mhux provdut xort’ohra f’dan il-Kodiċi jew f’xi liġi ohra, il-funzjonijiet ta’”.

Emenda ta' l-artikolu 431 tal-liġi prinċipali.

94. Minnufih wara l-artikolu 435 tal-liġi prinċipali għandu jiżdied dan li ġej:-

Żieda ta' l-artikoli 435A sa 435D godda mal-liġi prinċipali.

“Poteri ta’ investigazzjoni speċjali.

435A. (1) Id-disposizzjonijiet ta’ l-artikolu 4 ta’ l-Att għandhom japplikaw *mutatis mutandis* meta l-Avukat Ġenerali jkollu raġuni għaliex jissuspetta li persuna tkun hatja ta’ reat rilevanti u d-disposizzjonijiet ta’ l-imsemmi artikolu 4 għandhom japplikaw għal kull ordni ta’ investigazzjoni jew ordni ta’ sekwestru li ssir applikazzjoni dwaru jew li jinhareġ bis-sahha ta’ dan is-subtitolu bhallikieku kien ordni ta’ investigazzjoni jew ordni ta’ sekwestru li ssir applikazzjoni dwaru jew li jinhareġ taht l-istess artikolu 4 ta’ l-Att u b’mod partikolari, id-disposizzjonijiet tas-subartikoli (12) u (13) ta’ l-imsemmi artikolu 4 għandhom ukoll japplikaw għal kull investigazzjoni għal reat rilevanti bis-sahha ta’ dan is-subartikolu.

(2) Id-disposizzjonijiet ta’ l-artikolu 5 ta’ l-Att għandhom japplikaw *mutatis mutandis* meta persuna tkun akkużata b’reat rilevanti u d-disposizzjonijiet ta’ l-artikolu 6 ta’ l-Att għandhom japplikaw għal kull ordni li jinhareġ bis-sahha ta’ dan is-subartikolu bhallikieku kien ordni mahruġ taht l-imsemmi artikolu 5.

(3) F’dan l-artikolu l-frażi “reat rilevanti” għandha l-istess tifsir bhalma hu mogħti lilha bis-subartikolu (1) ta’ l-artikolu 23A ta’ dan il-Kodiċi.



Poteri ta' investigazzjoni li għandhom x'jaqsmu ma' reati li jsiru proċedimenti dwarhom fi qrati barra minn Malta.

435B. (1) Meta l-Avukat Ġenerali jirċievi talba li ssir minn awtorità ġudizzjarja jew prosekuttriċi ta' xi pajjiż barra minn Malta biex isiru investigazzjonijiet f'Malta dwar xi persuna (hawnhekk iżjed 'il quddiem f'dan l-artikolu msemmija "is-suspettat") li tkun suspettata minn dik l-awtorità dwar xi att jew ommissjoni li jekk isiru f'dawn il-Gżejjer, jew f'ċirkostanzi korrispondenti, jikkostitwixxu reat rilevanti fi hdan it-tifsira tas-subartikolu (1) ta' l-artikolu 23A ta' dan il-Kodiċi, l-Avukat Ġenerali jista' jagħmel rikors quddiem il-Qorti Kriminali għal ordni ta' investigazzjoni jew ordni ta' sekwestru jew għat-tnejn li huma u d-disposizzjonijiet ta' l-artikolu 24A ta' l-Ordinanza dwar Mediċini Perikolużi, hawnhekk iżjed 'il quddiem f'dan it-titolu msemmija "l-Ordinanza", għandhom *mutatis mutandis* japplikaw għal dak ir-rikors u għas-suspettat u għal kull ordni ta' investigazzjoni jew ordni ta' sekwestru magħmulin mill-qorti bħala riżultat ta' dak ir-rikors.

(2) Il-frażi "ordni ta' investigazzjoni" fis-subartikoli (2) u (5) ta' l-istess artikolu 24A ta' l-Ordinanza għandhom jinqraw u jiftiehm bħala li jinkludu ordni ta' investigazzjoni magħmula taht id-disposizzjonijiet ta' dan l-artikolu.

(3) Il-frażi "ordni ta' sekwestru" fis-subartikolu (6A) ta' l-artikolu 24A ta' l-Ordinanza għandha tinqara u tiftiehem bħala li tinkludi ordni ta' sekwestru taht id-disposizzjonijiet ta' dan l-artikolu.

Imblukkar ta' proprjetà ta' persuna imputata b'reati li jsiru proċedimenti dwarhom minn qrati barra minn Malta.

435C. (1) Meta l-Avukat Ġenerali jirċievi talba li ssir minn awtorità ġudizzjarja jew prosekuttriċi ta' xi pajjiż barra minn Malta għall-qbid temporanju ta' kull jew parti mill-flus jew proprjetà, mobbli jew immobbli, ta' persuna (hawnhekk iżjed 'il quddiem f'dan l-artikolu msemmija bħala "l-imputat") li tigi akkużata jew imputata fi proċedimenti quddiem il-qrati ta' dak il-pajjiż b'reat li jkun jikkonsisti f'att jew ommissjoni illi, li kieku jkun sar f'dawn il-Gżejjer, jew f'ċirkostanzi korrispondenti, kien jikkostitwixxi reat rilevanti fi hdan it-tifsira tas-subartikolu (1) ta' l-artikolu 23A ta' dan il-Kodiċi, l-Avukat Ġenerali jista' jagħmel rikors quddiem il-Qorti Kriminali għal ordni (hawnhekk iżjed 'il quddiem f'dan it-titolu msemmija "ordni ta' mblukkar") li jkollha l-istess effett bħalma għandha ordni bħal dik imsemmija fis-subartikolu (1) ta' l-artikolu 22A ta' l-Ordinanza, u d-disposizzjonijiet ta' l-imsemmi artikolu 22A għandhom, bla ħsara għad-disposizzjonijiet tas-subartikolu

(2) ta' dan l-artikolu, japplikaw *mutatis mutandis* ghal dik l-ordni.

(2) Id-disposizzjonijiet tas-subartikoli (2) sa (5) ta' l-artikolu 24C ta' l-Ordinanza ghandhom japplikaw ghal ordni li jsir taht dan l-artikolu bhallikieku kien ordni maghmul taht l-imsemmi artikolu 24C.

(3) L-artikolu 22B ta' l-Ordinanza ghandu wkoll japplika ghal kull persuna li tagixxi bi ksur ta' ordni ta' mblukkar taht dan l-artikolu.

Infurzar ta' ordnijiet ta' konfiska li jsiru minn qrati barra minn Malta wara sejbien ta' htija ghal reati li jsiru proċedimenti dwarhom f'dawk il-qrati.

435D. (1) Ordni ta' konfiska li ssir minn qorti barra minn Malta li tkun tipprovdi jew ikollha l-iskop li tkun qed tipprovdi ghall-konfiska jew it-tehid ta' xi proprjetà ta' xi persuna misjuba hatja ta' reat rilevanti, jew li tkun fil-pussess jew fil-kontroll taghha, ghandha tkun esegwibbli f'Malta skond id-disposizzjonijiet tas-subartikoli (2) sa (11) ta' l-artikolu 24D ta' l-Ordinanza.

(2) Ghall-finijiet ta' dan l-artikolu:

“ordni ta' konfiska” tinkludi sentenza, deċiżjoni, dikjarazzjoni, jew xi ordni ohra maghmula minn qorti ta' ġurisdizzjoni sew kriminali sew ċivili li tkun tipprovdi jew li jkollha l-iskop li tipprovdi ghall-konfiska jew it-tehid ta' proprjetà kif hemm deskritt fis-subartikolu (1) ta' dan l-artikolu;

“reat rilevanti” tfrisser reat li jkun jikkonsisti f'xi att jew ommissjoni illi, li kieku jsiru f'dawn il-Gżejjer, jew f'ċirkostanzi korrispondenti, jikkostitwixxu reat rilevanti fi hdan it-tifsira tas-subartikolu (1) ta' l-artikolu 23A ta' dan il-Kodiċi.”.

**95.** Fil-proviso li hemm ghas-subartikolu (4) ta' l-artikolu 438 tal-liġi prinċipali, minflok il-kliem “bix-xhieda” ghandhom jidhlu l-kliem “bix-xhieda, dokumenti jew oġġetti”.

Emenda ta' l-artikolu 438 tal-liġi prinċipali.

**96.** Fis-subartikolu (3) ta' l-artikolu 441 tal-liġi prinċipali, minflok il-kliem “lir-registratur tal-Qorti tal-Maġistrati (Ghawdex)”, kull fejn dawn jinsabu, ghandhom jidhlu l-kliem “lill-uffiċjal inkarigat mill-Qorti tal-Maġistrati (Ghawdex)”.

Emenda ta' l-artikolu 441 tal-liġi prinċipali.

Emenda ta' l-artikolu 444 tal-liġi prinċipali.

**97.** Fit-tieni proviso ta' l-artikolu 444 tal-liġi prinċipali, minflok il-kliem "lil xhieda li jixhdu fuq hwejjeg tal-professjoni tagħhom" għandhom jidhlu l-kliem "lil xhieda li jixhdu fuq hwejjeg tal-professjoni tagħhom jew bhala periti".

Emenda ta' l-artikolu 446 tal-liġi prinċipali.

**98.** Fis-subartikolu (7) ta' l-artikolu 446 tal-liġi prinċipali, minflok il-kliem "jastjeni ruhu." għandhom jidhlu l-kliem "jastjeni ruhu, hlief meta r-raġuni ta' l-eċċezzjoni ta' rikuża jew astensjoni ssir magħrufa wara li jinqara l-imsemmi att ta' l-akkuża".

Emenda ta' l-artikolu 449 tal-liġi prinċipali.

**99.** L-artikolu 449 tal-liġi prinċipali għandu jiġi emendat kif ġej:

(a) fil-paragrafu (f) tas-subartikolu (1) tiegħu, minflok il-kliem "eċċezzjoni ta' kull punt iehor ta' fatt" għandhom jidhlu l-kliem "eċċezzjoni tal-ġenr fiż-żmien tar-reat jew kull eċċezzjoni ta' kull punt iehor ta' fatt li jneħhi l-imputabilità ta' l-akkużat jew";

(b) is-subartikolu (2) tiegħu għandu jithassar;

(ċ) fis-subartikolu (3) tiegħu, minflok il-kliem "imsemmijin fis-subartikoli (1) u (2) ta' dan l-artikolu" għandhom jidhlu l-kliem "imsemmijin fis-subartikolu (1) ta' dan l-artikolu".

Żieda ta' artikolu ġdid 453A mal-liġi prinċipali.

**100.** Minnufih wara l-artikolu 453 għandu jiżdied dan l-artikolu ġdid li ġej:

"Sentenza fuq talb tal-partijiet.

**453A.** (1) Qabel ma l-imputat iwieġeb dwar il-każ b'mod ġenerali kif hemm provdut fl-artikolu 453, l-imputat u l-Avukat Ġenerali jistgħu jitolbu lill-qorti, fil-każ li jkun hemm ammissjoni ta' htija, li tapplika sanzjoni jew miżura jew, meta jkun hekk provdut bil-liġi, kombinazzjoni ta' sanzjonijiet jew miżuri, tax-xorta u l-kwantità miftehma bejnithom u li dwarhom l-imputat ikun jista' jingħata sentenza meta jinsab hati għar-reat jew ir-reati li jiġi akkużat bihom.

(2) Jekk il-qorti tkun sodisfatta li s-sanzjoni jew il-miżura, jew il-kombinazzjoni ta' sanzjonijiet u miżuri, mitluba kif provdut fis-subartikolu (1) ikunu tali li kien ikun legittimmu illi hija timponi mas-sejbien ta' htija għar-reat li dwaru l-imputat ikun ammetta l-htija u ma jkollhiex għaliex tordna li jitkompla li jsir il-ġuri tal-każ għal xi raġuni msemmija fis-subartikolu (2) ta' l-artikolu 453 jew għal xi raġuni oġra li tiċhad it-talba, u wara li tispjega lill-imputat bi kliem ċar x'ikunu l-konsegwenzi tat-talba tiegħu, il-qorti



ghandha, meta ssir l-ammissjoni ta' htija ta' l-imputat, tghaddi biex taghti s-sentenza lilha indikata mill-partijiet fejn tiddikjara fid-deċiżjoni taghha li s-sentenza li tkun qeghda tinghata tkun qeghda hekk tigi moghtija fuq talba tal-partijiet.

(3) Meta l-Avukat Ġenerali u l-imputat jaqblu li s-sentenza li ghandha tinghata tkun tikkonsisti f'perjodu ta' prigunerija li ghandu jkun sospiż skond id-disposizzjonijiet ta' l-artikolu 28A u l-ftehim ma jincahadx mill-qorti kif provdut fis-subartikolu (1), dak il-ftehim m'ghandu b'ebda mod jolqot il-poter li ghandha l-qorti li taghmel ordni taht l-artikolu 28G jew 28H jew it-tnejn.

(4) Meta l-Avukat Ġenerali u l-imputat jaqblu li ghandha tigi applikata miżura li jkun hemm provdut dwarha taht l-Att dwar *Probation* ta' Hatjin, u l-ftehim ma jkunx miċhud mill-qorti kif provdut fis-subartikolu (1) dak il-ftehim m'ghandu b'ebda mod jolqot il-poter li ghandha l-qorti li taghmel ordni taht l-artikolu 11 ta' l-imsemmi Att.

(5) Sentenza li tinghata fuq talba tal-partijiet kif provdut f'dan l-artikolu m'ghandhiex tolqot xi kwistjoni msemmija fil-paragrafi (a) sa (b) tas-subartikolu (3) ta' l-artikolu 12 ta' l-Att dwar *Probation* ta' Hatjin.”.

**101.** Minnufih wara l-artikolu 458 tal-liġi prinċipali ghandu jiżdied dan l-artikolu ġdid li ġej:

Emenda ta' l-artikolu 458A tal-liġi prinċipali.

“Meta l-prosekuzzjoni titmexxa minn aktar minn avukat wiehed.

458A. Id-disposizzjonijiet tas-subartikolu (2) ta' l-artikolu 458 japplikaw *mutatis mutandis* meta t-tmexxija tal-prosekuzzjoni tigi ddelegata mill-Avukat Ġenerali lil aktar minn avukat wiehed.”.

**102.** Minnufih wara l-artikolu 459 tal-liġi prinċipali ghandu jiżdied dan l-artikolu ġdid li ġej:

Żieda ta' l-artikolu 459A ġdid mal-liġi prinċipali.

“Kontrolli eżami dwar karattru hażin jew xi sejbien ta' htija ta' qabel.

459A. (1) L-imputat li jitla' jixhed m'ghandux jiġi mistoqsi, u jekk jiġi mistoqsi ma jkunx mehtieg li jwieġeb, xi mistoqsija li x'aktarx turi li huwa jkun ikkommetta, jew instab hati, jew ikun ġie akkużat b'xi reat hlief dak ir-reat li jkun qed jiġi akkużat dwaru, jew li jkollu karattru hażin, kemm-il darba -

(a) l-prova li jkun ikkommetta jew insab hati ta' reat iehor bhal dak tkun prova ammissibbli biex turi li jkun hati ta' reat li jkun qed jiġi akkużat bih; jew

(b) huwa jkun personalment jew permezz ta' l-avukat tieghu staqsa mistoqsijiet lix-xhieda tal-prosekuzzjoni bil-ghan li jistabbilixxi l-karattru tajjeb tieghu, jew ikun ta xiehda tal-karattru tajjeb tieghu, jew ix-xorta jew l-andament tad-difiża jkunu tali li jinvolvu akkużi dwar il-karattru tal-prosekutur jew ix-xhieda tal-prosekuzzjoni, jew il-vittma l-mejta tad-delitt allegat; jew

(c) ikun ta xiehda kontra xi persuna ohra akkużata fl-istess procedimenti.

(2) F'kull cirkostanza msemmija fil-paragrafi (a) sa (c) hawn aktar qabel kull *record* li jkun jindika li kien hemm xi sejbien ta' htija precedenti tal-persuna akkużata jew imputata jista' jingieb bi prova.”.

Emenda ta' l-artikolu 467 tal-liġi prinċipali.

**103.** L-artikolu 467 tal-liġi prinċipali għandu jiġi emendat kif ġej:

Fis-subartikolu (2) tieghu minflok il-kliem “li kien kompliċi,” għandhom jidhlu l-kliem “li kien kompliċi jew li jkun hati ta' kospirazzjoni għall-ghemil ta' dak ir-reat,” u minflok il-kliem “kompliċi f'dak ir-reat.” għandhom jidhlu l-kliem “kompliċi f'dak ir-reat jew hati ta' kospirazzjoni għall-ghemil ta' dak ir-reat; reċiprokament, meta persuna tkun akkużata, fl-att ta' l-akkuża, b'kompliċità f'reat il-ġuri jista' jiddikjara lil dik il-persuna hatja ta' kospirazzjoni għall-ghemil ta' dak ir-reat jew hatja bħala l-awtur, jew wiehed mill-awturi, ta' dak ir-reat u jekk hija tkun akkużata b'kospirazzjoni għall-ghemil ta' reat hija tista' tigi ddikjarata hatja bħala kompliċi f'dak ir-reat jew bħala awtur, jew wiehed mill-awturi, ta' dak ir-reat, ikkunsmat jew ittentat, jekk ikun hemm provi ta' dan:

Iżda meta persuna akkużata, fl-att ta' l-akkuża, b'kospirazzjoni għall-ghemil ta' reat tigi ddikjarata hatja kif imsemmi qabel bħala awtur, jew wiehed mill-awturi, tar-reat, ikkunsmat jew ittentat, il-piena ma għandhiex tkun aktar gravi mill-piena mitluba fl-att ta' l-akkuża.”.

Emenda ta' l-artikolu 476 tal-liġi prinċipali.

**104.** L-artikolu 476 tal-liġi prinċipali għandu jiġi emendat kif ġej:

(a) id-disposizzjoni preżenti għandha tigi enumerata mill-ġdid bħala subartikolu (1); u

(b) minnufih wara s-subartikolu (1), kif enumerat mill-ġdid, għandu jizdied dan is-subartikolu ġdid li ġej:

“Verdett fil-każ ta’ serq, misapproprjazzjoni jew ricettazzjoni.

(2) Jekk persuna, fuq akkuża tas-serq, sew jekk sempliċi jew ikkwalifikat, ta’ xi oġġett tigi misjuba mhux hatja ta’ dik l-akkuża, il-ġuri jista’ jiddikjaraha hatja ta’ misapproprjazzjoni ta’ dak l-oġġett jew tar-reat ikkontemplat fl-artikolu 334 rigward dak l-oġġett, jekk ikun hemm provi ta’ dan; u, reċiprokament, persuna fuq akkuża ta’ misapproprjazzjoni jew tar-reat ikkontemplat fl-artikolu 334 tista’ tigi ddikjarata hatja ta’ serq, sew jekk sempliċi jew ikkwalifikat, ta’ l-oġġett involut jekk ikun hemm provi ta’ dan:

Izda l-piena ma għandha f’ebda każ tkun aktar gravi minn dik mitluba fl-att ta’ l-akkuża.”.

**105.** Minnufih wara s-subartikolu (2) ta’ l-artikolu 490 tal-liġi prinċipali għandu jidhol dan is-subartikolu ġdid li ġej:

Emenda ta’ l-artikolu 490 tal-liġi prinċipali.

“Sottomissjonijiet mill-parti offiża dwar is-sentenza.

(3) Parti offiża tista’, b’rikors, titlob lill-Qorti Kriminali li tkun ammessa, sew personalment sew b’avukat, li tagħmel sottomissjonijiet dwar is-sentenza idonea li għandha tinghata lill-akkużat u jekk il-qorti tilqa’ dak ir-rikors, il-parti offiża jew l-avukat tagħha jinghataw l-opportunità li jagħmlu dawk is-sottomissjonijiet fl-istadju msemmi fis-subartikolu (1) ta’ dan l-artikolu u qabel ma l-qorti ssaqsi lill-akkużat jekk ikunx irid jagħmel xi sottomissjoni dwar l-applikabilità tal-piena mitluba mill-Avukat Ġenerali:

Izda jekk għal xi raġuni tkun li tkun il-parti offiża tonqos milli tagħmel is-sottomissjonijiet tagħha dwar is-sentenza kif imsemmi hawn aktar qabel, dan in-nuqqas ma għandux iżomm lill-qorti milli tkompli bis-smiġh jew milli tagħti s-sentenza kif provdut fl-artikolu 491.”.

**106.** Fis-subartikolu (4) ta’ l-artikolu 495, minflok il-kliem “jimrad l-Avukat Ġenerali qabel” għandhom jidhlu l-kliem “jimrad l-Avukat Ġenerali jew l-avukat prosekutur qabel” u minflok il-kliem “fl-artikoli 456 u 457” għandhom jidhlu l-kliem “fl-artikoli 456, 457 u 464”.

Emenda ta’ l-artikolu 495 tal-liġi prinċipali.

**107.** L-artikolu 500 tal-liġi prinċipali għandu jiġi emendat kif ġej:

Emenda ta’ l-artikolu 500 tal-liġi prinċipali.



(a) il-provvediment li hemm ghandu jigi enumerat mill-ġdid bħala s-subartikolu (1); u

(b) minnufih wara s-subartikolu (1), kif enumerat mill-ġdid, ghandu jiżdied dan is-subartikolu li ġej:

“Appelli  
mill-Avukat  
Ġenerali  
kontra  
sentenza.

(2) Minkejja d-disposizzjonijiet tas-subartikolu (2) ta' l-artikolu 28I u ta' l-Att dwar *Probation* ta' Hatjin, jekk l-Avukat Ġenerali jkun jidhirlu li s-sentenza hi wahda mtaffija hafna, huwa wkoll jista' jappella minn deċiżjoni ta' sejbien ta' htija ta' persuna għal reat li għalih tista' tehel prigunerija għal żmien ta' iżjed minn sentejn jekk is-sentenza tkun applikat id-disposizzjonijiet ta' l-artikolu 21 jew ta' l-artikoli 28A sa 28H jew id-disposizzjonijiet ta' l-Att dwar il-*Probation* tal-Hatjin.”.

Kap. 152.

Żieda ta' l-artikoli  
500A u 500B  
għodda mal-liġi  
prinċipali.

**108.** Minnufih wara l-artikolu 500 tal-liġi prinċipali għandhom jidhlu dawn l-artikoli għodda li ġejjin:

“Sottomissjoni-  
jiet mill-parti  
offiża  
quddiem il-  
Qorti ta' l-  
Appell  
Kriminali  
dwar is-  
sentenza.

500A. Meta jsir appell minn sentenza, parti offiża tista', b'rikors, titlob lill-Qorti ta' l-Appell Kriminali li tiġi ammessa, sew personalment sew b'avukat, li tagħmel sottomissjonijiet dwar is-sentenza idonea li għandha tinghata lill-akkużat u jekk il-qorti tilqa' dak ir-rikors, il-parti offiża jew l-avukat tagħha jinghataw l-opportunità li jagħmlu dawk is-sottomissjonijiet wara li l-qorti tkun semgħet is-sottomissjonijiet ta' l-appellant li fuqhom ikun qed isejjes l-appell tiegħu; sew min ikun insab hati sew l-Avukat Ġenerali għandhom jinghataw l-opportunità li jwieġbu għas-sottomissjonijiet li tagħmel il-parti offiża jew l-avukat tagħha:

Izda jekk għal xi raġuni l-parti offiża jew l-avukat tagħha jonqsu milli jagħmlu s-sottomissjonijiet tagħhom dwar is-sentenza kif hawn aktar qabel imsemmi fil-jum stabbilit, dan in-nuqqas ma għandux iżomm lill-qorti milli tkompli bis-smigh jew milli tagħti s-sentenza.

Riferenzi  
mill-Avukat  
Ġenerali.

500B. (1) Meta persuna li tkun ġiet proċessata fuq att ta' akkuża tkun ġiet mehlusa (sew dwar l-att ta' akkuża kollu jew parti minnu) l-Avukat Ġenerali jista', jekk jixtieq ikollu l-fehma tal-Qorti ta' l-Appell Kriminali fuq xi punt ta' dritt li jkun qam matul il-każ u fit-terminu ta' żmien stabbilit fl-artikolu 504, jirreferi dak il-punt lill-qorti, u l-qorti għandha, skond dan l-artikolu, tqis il-punt u tagħti fehemtha fuqu.

(2) Għall-fini tal-konsiderazzjoni ta' punt riferit taht dan l-artikolu l-Qorti ta' l-Appell Kriminali għandha tisma' r-raġunijiet li jingħataw -

(a) mill-Avukat Ġenerali; u

(b) sew mill-avukat difensur, jekk il-persuna mehlusa tkun tixtieq tippreżenta xi raġuni quddiem il-qorti jew, fin-nuqqas, mill-Avukat għal Għajnuna Legali.

(3) Referenza taht dan l-artikolu ma għandhiex tolgħot il-kawża li dwarha ssir ir-referenza jew xi liberazzjoni f'dik il-kawża.

(4) Il-Bord imsemmi fis-subartikolu (3) ta' l-artikolu 516 jista' jagħmel regoli sabiex jirregola l-ghamla u l-kontenut tar-referenza mill-Avukat Ġenerali taht dan l-artikolu u sabiex jipprovdi għal kull haġ'ohra li għandha x'taqsam ma' dan jew li hi anċillari għalih."

**109.** L-artikolu 501 tal-liġi prinċipali għandu jiġi emendat kif  
gej: Emenda ta'  
l-artikolu 501 tal-  
liġi prinċipali.

(a) fis-subartikolu (1) tiegħu, minflok il-kliem "Fuq kull appell kontra dikjarazzjoni ta' htija" għandhom jidhlu l-kliem "Fuq kull appell kontra dikjarazzjoni ta' htija mill-persuna misjuba hatja";

(b) fis-subartikolu (3) tiegħu, minflok il-kliem "appell kontra sentenza l-Qorti" għandhom jidhlu l-kliem "appell kontra sentenza mill-persuna misjuba hatja, il-Qorti"; u

(c) minnufih wara s-subartikolu (3) għandu jiżdied dan is-subartikolu ġdid li gej:

"(4) Fuq appell kontra sentenza mill-Avukat Ġenerali, il-Qorti ta' l-Appell Kriminali għandha jekk jidhrilha li kellha tingħata sentenza aktar gravi, thassar is-sentenza mogħtija fil-kawża u tagħti dik is-sentenza aktar gravi ġustifikata bil-liġi minflok l-ohra kif jidhrilha li kellha tingħata, u f'kull każ iehor għandha tiċhad l-appell."

**110.** Bla hsara għad-disposizzjonijiet tas-subartikolu (1) ta' l-artikolu 139 ta' dan l-Att, is-subartikolu (5) ta' l-artikolu 509 tal-liġi prinċipali għandu jithassar. Emenda ta'  
l-artikolu 509 tal-  
liġi prinċipali.

Emenda ta' l-artikolu 510 tal-ligi prinċipali.

**111.** Fis-subartikolu (2) ta' l-artikolu 510 tal-ligi prinċipali, minflok il-kliem "ghall-akkużat ghandha tifiehem bhala riferenza ghall-appellant" ghandhom jidhlu l-kliem "ghall-akkużat ghandha tiftiehem bhala li tinkludi lill-persuna misjuba hatja fuq att ta' akkuża li tkun appellat u lil kull persuna li tappella skond is-subartikolu (1) ta' l-artikolu 503,".

Emenda ta' l-artikolu 511 tal-ligi prinċipali.

**112.** Fis-subartikolu (2) ta' l-artikolu 511 tal-ligi prinċipali, minflok il-kliem "Jekk l-Avukat Ġenerali jmut" ghandhom jidhlu l-kliem "Jekk l-Avukat Ġenerali jew l-avukat delegat minnu jmut".

Emenda ta' l-artikolu 512 tal-ligi prinċipali.

**113.** Fis-subartikolu (1) ta' l-artikolu 512 tal-ligi prinċipali, minflok in-numri "427, 442," ghandhom jidhlu n-numri "427, 441, 442,".

Emenda ta' l-artikolu 517 tal-ligi prinċipali.

**114.** L-artikolu 517 tal-ligi prinċipali ghandu jiġi emendat kif ġej:

(a) fis-subartikolu (2) tiegħu, minflok il-kliem "mir-registratur ta' dik il-qorti" ghandhom jidhlu l-kliem "mir-registratur";

(b) fis-subartikolu (4) tiegħu, minflok il-kliem "Qorti tal-Maġistrati" ghandhom jidhlu l-kliem "lill-Qorti tal-Maġistrati (Malta) jew lill-Qorti tal-Maġistrati (Ghawdex), bhala qorti ta' ġudikatura kriminali,"; u

(ċ) fis-subartikolu (6) tiegħu, minflok il-kliem "kopja vera ta' l-att ta' l-akkuża," ghandhom jidhlu l-kliem "kopja vera ta' l-akkuża jew ta' l-att ta' akkuża,".

Emenda ta' l-artikolu 518 tal-ligi prinċipali.

**115.** Fl-artikolu 518 tal-ligi prinċipali, minflok il-kliem "Iżda proċessi verbali" ghandhom jidhlu l-kliem "Iżda proċessi verbali u kull xieħda u dokumenti mdahhlin magħhom".

Emenda ta' l-artikolu 525 tal-ligi prinċipali.

**116.** L-artikolu 525 tal-ligi prinċipali ghandu jiġi emendat kif ġej:

(a) minflok is-subartikolu (2) tiegħu, ghandu jidhol dan li ġej:

"(2) Id-disposizzjonijiet ta' l-artikoli 362, 363, 364, 383 sa 387, inkluzi, u tas-subartikolu (5) ta' l-artikolu 397 ghandhom ukoll japplikaw għall-Qorti Kriminali u għall-Qorti ta' l-Appell Kriminali; u d-disposizzjonijiet ta' l-artikolu 452 ghandhom ikunu wkoll japplikaw għall-Qorti ta' l-Appell



Kriminali fis-smigh ta' appelli minn sentenzi tal-Qorti tal-Maġistrati.”;

(b) minnufih wara s-subartikolu (2) tiegħu kif sostitwit, għandu jżied dan is-subartikolu ġdid li ġej:

“(2A) Id-disposizzjonijiet tas-subartikoli (1) u (2) ta' l-artikolu 412B għandhom ukoll japplikaw *mutatis mutandis* għall-Qorti Kriminali għar-rigward ta' persuna li tkun taht arrest għal reat li dwaru jkun ġie ppreżentat att ta' l-akkuża kif ukoll għall-Qorti ta' l-Appell Kriminali għar-rigward ta' persuna li tkun taht arrest u li tkun parti fi proċeduri ta' l-appell quddiem dik il-Qorti:

Izda għar-rigward tal-Qorti Kriminali d-deċiżjoni relevanti għandha f'kull każ tittiehed minn dik il-Qorti li toqghod minghajr ġurija.”; u

(ċ) fis-subartikolu (3) tiegħu, minflok il-kliem “ta' l-artikolu 623” għandhom jidhlu l-kliem “tas-subartikolu (5) ta' l-artikolu 397 u ta' l-artikolu 623”.

**117.** Fis-subartikolu (1) ta' l-artikolu 531 tal-liġi prinċipali, minflok il-kliem “il-qorti, jekk din tkun il-Qorti Kriminali jew il-Qorti ta' l-Appell Kriminali,” għandhom jidhlu l-kliem “il-qorti”. Emenda ta' l-artikolu 531 tal-liġi prinċipali.

**118.** Fl-artikolu 540 tal-liġi prinċipali, minflok il-kliem “lill-Qorti tal-Maġistrati biex tiehu minn għandha” għandhom jidhlu l-kliem “lill-Qorti tal-Maġistrati (Malta), jew lill-Qorti tal-Maġistrati (Għawdex), jew lil maġistrat, skond il-każ, biex tiehu minn għandhom”. Emenda ta' l-artikolu 540 tal-liġi prinċipali.

**119.** Minnufih wara s-subartikolu (2) ta' l-artikolu 541 tal-liġi prinċipali għandu jidhol dan is-subartikolu ġdid li ġej: Emenda ta' l-artikolu 541 tal-liġi prinċipali.

“(3) Kull deċiżjoni tal-Qorti tal-Maġistrati li tippermetti, għalkollox jew biss f'parti, rikors taht is-subartikolu (1) għandha tiġi notifikata lill-Avukat Ġenerali fi żmien għaxart ijiem tax-xogħol mid-data tad-deċiżjoni u l-Avukat Ġenerali jista' fi żmien tliet ijiem tax-xogħol minn notifika jagħmel rikors fil-Qorti Kriminali għat-thassir jew bdil tad-deċiżjoni. Ir-rikorrent jista' wkoll jagħmel rikors bhal dak fil-Qorti Kriminali fi żmien tliet ijiem tax-xogħol mid-data tad-deċiżjoni tal-Qorti tal-Maġistrati li biha ma jkunx intlaqa' r-rikors, sew għalkollox sew biss f'parti minnu. Rikors fil-Qorti Kriminali taht dan is-subartikolu għandu jkollu effett ta' waqfien ta' eżekuzzjoni tad-deċiżjoni tal-Qorti tal-Maġistrati.”.

Emenda ta' l-artikolu 546 tal-liġi prinċipali.

120. L-artikolu 546 tal-liġi prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu:

(i) minflok il-kliem “li dwaru għandha ssir kompilazzjoni” għandhom jidhlu l-kliem “li jista’ jinghata l-piena ta’ prigunerija għal iżjed minn erba’ snin,”; u

(ii) minflok il-kliem “għandu jsir aċċess fuq il-post” għandhom jidhlu l-kliem “għandu jsir aċċess fuq il-post:

Iżda fejn jirriżulta li l-fatt li dwaru ma tkunx saret investigazzjoni taht dan is-subartikolu kien jikkostitwixxi reat li għalih kienet tinghata l-piena msemmija f’dan is-subartikolu, n-nuqqas li tinżamm investigazzjoni taht dan is-subartikolu m’għandux, għal dik ir-raġuni biss, jippreġudika b’kull mod li jkun li jinbdew jew jitkomplew proċedimenti kriminali għal dak ir-reat jew l-ammissibilità ta’ kull prova dwar dak ir-reat f’dawk il-proċedimenti.”;

(b) fis-subartikolu (2) tiegħu, minflok il-kliem “jew xi whud minnhom:” għandhom jidhlu l-kliem “jew x’whud minnhom, ukoll jekk il-fatt x’aktarx li jikkostitwixxi reat li għalih hemm il-piena ta’ prigunerija għal iżjed minn erba’ snin,”; u

(ċ) fis-subartikolu (3) tiegħu, minflok il-kliem minn “Meta r-reat li għandu” sa “il-maġistrat jista’” għandhom jidhlu l-kliem “Meta r-reat li għandu jiġi investigat ikun serq, li ma jkunx serq bi vjolenza kontra l-persuna, il-maġistrat jista’”.

Emenda ta' l-artikolu 547 tal-liġi prinċipali.

121. Minflok is-subartikolu (2) ta’ l-artikolu 547 tal-liġi prinċipali għandu jidhol dan li ġej:

“(2) Kull meta l-maġistrat assenjat lill-Qorti tal-Maġistrati (Ghawdex) ikun nieqes għal xi ftit taż-żmien minn Ghawdex bil-permess tal-Ministru responsabbli għall-gustizzja, jew, minhabba impediment legittimu, ma jkunx jista’ jagħmel id-dmirijiet tiegħu, l-aċċess u l-proċeduri kollha konnessi miegħu jistgħu, bil-kunsens ta’ l-Avukat Ġenerali, jsiru mir-registratur li għal dan il-ghan għandu jkollu s-setgħat u d-dmirijiet kollha mogħtija b’dan it-Titolu lil maġistrat.”.

Emenda ta' l-artikolu 551 tal-liġi prinċipali.

122. L-artikolu 551 tal-liġi prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tieghu:

(i) minflok il-kliem “lill-Qorti tal-Maġistrati;” ghandhom jidhlu l-kliem “lil maġistrat”; u

(ii) minflok il-kliem “u fih jaghti l-fehma tieghu dwar il-kaġun tal-mewt;” ghandhom jidhlu l-kliem “u fih jaghti l-fehma tieghu dwar il-kaġun tal-mewt.” u l-kliem minn “iżda, meta l-aċċess imissu jsir” sa “m’ghandux setgha illi jordna l-arrest ta’ persuna.”, iz-żewġ frazijiet inkluzi, ghandhom jithassru; u

(b) minnufih wara s-subartikolu (4) tieghu ghandu jiżdied dan is-subartikolu ġdid li ġej:

“(5) Id-disposizzjonijiet tas-subartikolu (2) ta’ l-artikolu 547 jghoddu ghal aċċessi li jsiru għall-fini ta’ dan l-artikolu.”.

**123.** Minnufih wara s-subartikolu (2) ta’ l-artikolu 554 tal-liġi prinċipali ghandu jiżdied dan is-subartikolu ġdid li ġej:

Emenda ta’ l-artikolu 554 tal-liġi prinċipali.

“(3) F’kull proċedura taht dan it-Titolu l-maġistrat ghandu jkollu l-istess setghat u privileggi ta’ maġistrat li jippresjedi l-Qorti tal-Maġistrati bħala qorti istruttorja.”.

**124.** Minnufih wara s-subartikolu (4) ta’ l-artikolu 569 tal-liġi prinċipali ghandhom jiżdiedu dawn is-subartikoli ġodda li ġejjin:

Emenda ta’ l-artikolu 569 tal-liġi prinċipali.

“(5) Meta fi proċess verbal il-maġistrat ikun ordna li persuna tiġi mressqa quddiem il-qorti fuq xi akkuża waħda jew aktar, il-maġistrat ghandu jordna li kopja ta’ l-istess proċess verbal tintbagħat mir-reġistratur lill-Kummissarju tal-Pulizija li, bla ħsara għad-disposizzjonijiet tas-subartikolu (6), ghandu jipproċedi skond hekk.

(6) Minkejja d-disposizzjonijiet tas-subartikolu (5), f’każ ta’ dubju l-Kummissarju tal-Pulizija jista’ jikkonsulta ruhu ma’ l-Avukat Ġenerali li jista’ jordna li ma ghandhom jittiehdu ebda proċeduri jew li l-proċeduri li ghandhom jittiehdu ghandhom ikunu għal akkuża jew għal akkuzi differenti minn dawk speċifikati mill-maġistrat fil-proċess verbal, minghajr preġudizzju għall-jedd ta’ l-Avukat Ġenerali li jordna xort’ohra kulmeta jkun hemm provi ġodda:



Iżda jekk l-Avukat Ġenerali jkun ordna li ma ghandhom jittiehdu ebda proċeduri, huwa ghandu jibghat rapport lill-President ta' Malta fejn jiddikjara r-raġunijiet ghaliex ikun ghamel dan.”.

Sostituzzjoni ta' l-artikolu 570 tal-liġi prinċipali.

**125.** Minflok l-artikolu 570 tal-liġi prinċipali ghandu jidhol dan li ġej:

“570. (1) L-Avukat ghal Ghajnuna Legali ghandu jassumi minghajr ebda hlas id-difiża ta' xi akkużat li ma jkun qabbad lil ebda avukat iehor jew li jkun ġie ammess li jharrek jew jiddefendi ruhu bil-benefiċċju ta' l-ghajnuna legali f'xi qorti msemmija f'dan il-Kodiċi.

(2) It-talba ghall-assistenza mill-Avukat ghal Ghajnuna Legali jew ghall-benefiċċju ta' l-ghajnuna legali jsir jew b'rikors jew bil-fomm lill-Avukat ghal Ghajnuna Legali.

(3) Is-subartikoli (4), (5) u (6) ta' l-artikolu 911 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili ghandhom *mutatis mutandis* japplikaw ghall-Avukat ghal Ghajnuna Legali.

(4) Meta qorti tiġi mgharrfa mill-akkużat li huwa ma rnexxilux iqabbad lil xi avukat jew li xtaq jagħmel użu mill-benefiċċju ta' l-ghajnuna legali, dik il-qorti ghandha tara li d-dikjarazzjoni li ssir mill-akkużat tiġi registrata fl-atti tal-kawża u ghandha tordna li dik id-dikjarazzjoni, flimkien mad-dettalji ta' l-akkużat, ghandhom jiġu notifikati lill-Avukat ghal Ghajnuna Legali li jkollu jumejn tax-xogħol biex jippreżenta risposta li fiha jindika jekk it-talba ta' l-akkużat tkunx ġiet aċċettata u jekk tkun, l-isem ta' l-Avukat ghal Ghajnuna Legali li jkun se jirrappreżenta lill-akkużat:

Iżda fil-każ ta' proċeduri sommarji quddiem Qorti tal-Maġistrati bhala Qorti ta' Ġudikatura Kriminali, l-Qorti ghandha tahtar lill-avukat li jkun imissu mill-elenku ta' avukati msemmija fl-artikolu 91 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili sabiex jassisti lill-akkużat f'dawk il-proċeduri kif ukoll f'kull appell minn xi deċiżjoni mogħtija f'dawk il-proċeduri b'dan illi qabel ma jiġi ppreżentat xi appell bhal dak huwa ghandu jikkonsulta lill-Avukat ghal Ghajnuna Legali li jista', f'kull waqt, jiddeċiedi li jittratta dak l-appell hu nnifsu.

(5) L-Avukat ghal Ghajnuna Legali jista' jirrifjuta l-ghajnuna tiegħu biss ghal xi raġuni li, fil-fehma tal-qorti, tkun *prima facie* tiġġustifika ċ-ċaħda ta' l-ghajnuna tiegħu. F'dak il-każ il-Qorti ghandha tordna li l-akkużat ikun rappreżentat minn avukat iehor, li ma jkunx hu nnifsu skużabbli, u li jiġi mahtur mill-Qorti

fuq ir-rakkomandazzjoni ta' l-Avukat għal Ghajnuna Legali mill-elenku ta' avukati msemija fl-artikolu 91 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili iżda l-qorti tista' f'ċirkostanzi eċċezzjonali li għandha ssemmi fid-digriet tagħha tordna lil xi avukat ieħor li jassumi d-difiża ta' l-akkużat.

(6) L-avukat li jinhatar mill-qorti fiċ-ċirkostanzi eċċezzjonali msemija fis-subartikolu (5) ta' dan l-artikolu għandu jagħti s-servizz tiegħu minghajr ebda hlas.”.

**126.** Fis-subartikolu (1) ta' l-artikolu 571 tal-liġi prinċipali, il-kliem minn “F’dan il-każ” sa “ikun irid iżomm.” għandhom jithassru. Emenda ta' l-artikolu 571 tal-liġi prinċipali.

**127.** Fl-artikolu 572 tal-liġi prinċipali, minflok il-kliem “l-aħhar artikolu qabel dan” għandhom jidhlu l-kliem “is-subartikolu (4) ta' l-artikolu 570”. Emenda ta' l-artikolu 572 tal-liġi prinċipali.

**128.** Minflok is-subartikolu (1) ta' l-artikolu 574 tal-liġi prinċipali għandu jidhol dan li ġej: Emenda ta' l-artikolu 574 tal-liġi prinċipali.

“(1) L-imputat jew akkużat li jkun taht arrest għal delitt jew għall-kontravvenzjoni jista', b'talba tiegħu jew kif provdut fl-artikolu 574A, jiġi mogħti l-helsien mill-arrest, meta huwa jagħti garanzija tajba li jidher għal kull att tal-proċess fiż-żmien u fil-post li jiġu lil ordnati taht dawk il-kondizzjonijiet li l-Qorti jkun jidhrilha xieraq li timponi fid-digriet li jagħti l-helsien mill-arrest liema digriet għandu f'kull każ jiġi notifikat lill-imputat jew akkużat.”.

**129.** Minnufih wara l-artikolu 574 tal-liġi prinċipali għandu jiżdied dan l-artikolu ġdid li ġej: Żieda ta' l-artikolu 574A ġdid mal-liġi prinċipali.

“Proċeduri  
malli persuna  
tidher għall-  
ewwel darba  
quddiem il-  
Qorti  
tal-  
Magistrati.

**574A.** (1) Meta l-imputat jew l-akkużat li jkun taht arrest jitressaq għall-ewwel darba quddiem il-Qorti tal-Magistrati, sew bhala qorti ta' ġudikatura kriminali sew bhala qorti istruttoria, il-qorti għandha tara li jinqraw b'mod ċar u sew lill-imputat sew lill-akkużat l-akkużi li jkunu qed jinġiebu u, wara li jsir l-eżami ta' l-imputat kif provdut fl-artikolu 392 skond ma jehtiegu l-proċeduri, hija għandha tisma fil-qosor lill-uffiċjal prosekutur jew akkużatur u kull prova li tingieb minn dak l-uffiċjal dwar ir-raġunijiet li jkunu jsaħhu l-akkużi u dwar ir-raġunijiet u ċ-ċirkostanzi, jekk ikun hemm, li jkunu jmorru kontra l-helsien mill-arrest ta' l-akkużat jew l-imputat.

(2) Wara li l-qorti tisma' lill-uffiċjal tal-Pulizija akkużatur jew prosekutur u kull prova li tingieb kif provdut

fis-subartikolu (1) ta' dan l-artikolu, il-qorti ghandha tgharraf lill-akkużat jew imputat li jista' jinheles ghal xi żmien mill-arrest taht garanzija mill-qorti taht dawk il-kondizzjonijiet li jiġu stabbiliti minnha u ghandha tistaqsih x'ikollu xi jghid dwar l-arrest u d-detenzjoni ulterjuri tiegħu u dwar ir-raġunijiet u ċ-ċirkostanzi li jmorru favur il-helsien tiegħu.

(3) Meta xi reati li jkunu qeghdin jiġu imputati jkunu jikkonsistu f'xi reat imsemmi fis-subartikolu (2) ta' l-artikolu 575 il-qorti ghandha, wara li tisma lill-akkużat jew imputat kif provdut fis-subartikolu (2) ta' dan l-artikolu, tistaqsi lill-uffiċjal prosekutur jew akkużatur dwar jekk huwa ghandux xi jghid fuq il-kwistjoni tal-helsien mill-arrest taht garanzija ta' l-akkużat jew imputat, u dan l-aħhar imsemmi jkun jista' wkoll jaghti r-risposta tiegħu.

(4) Meta ebda wiehed mir-reati li jkunu qeghdin jiġu imputati ma jkun jikkonsisti f'xi reat imsemmi fis-subartikolu (2) ta' l-artikolu 575 il-qorti ghandha, wara li tisma lill-akkużat jew imputat kif provdut fis-subartikolu (2) ta' dan l-artikolu, tistaqsi lill-uffiċjal prosekutur jew akkużatur dwar jekk huwa u l-Avukat Ġenerali ghandhom xi jghidu, bil-miktub jew xort'ohra, fuq il-kwistjoni tal-helsien mill-arrest ta' l-akkużat jew imputat, u dan l-aħhar imsemmi jkun jista' ukoll jaghti r-risposta tiegħu.

(5) Fi tmiem is-sottomissjonijiet bhalma hemm provdut fis-subartikoli ta' qabel ta' dan l-artikolu, il-qorti ghandha teżamina ċ-ċirkostanzi li jmorru favur jew kontra dik id-detenzjoni.

(6) Jekk il-qorti jirrizultalha li d-detenzjoni ulterjuri ta' l-akkużat jew imputat ma tkunx imsejsa fuq xi disposizzjoni ta' dan il-Kodiċi jew ta' xi liġi oħra li tawtorizza l-arrest u d-detenzjoni tal-persuna arrestata, il-qorti ghandha tehles lil dik il-persuna mill-arrest minghajr kondizzjoni.

(7) Jekk il-qorti ma jkollhiex raġuni ghaliex tehles minghajr ebda kondizzjoni lill-akkużat jew imputat taht id-disposizzjonijiet tas-subartikolu (6) ta' dan l-artikolu hija madankollu tista', salvi d-disposizzjonijiet tas-subartikolu (1) ta' l-artikolu 575 ta' dan il-Kodiċi u kemm-il darba l-helsien ma jkunx projbit b'xi disposizzjoni tal-liġi, tehles lil dik il-persuna mill-arrest taht garanzija u taht dawk il-kondizzjonijiet li jista' jidhrilha xierqa.



(8) Jekk il-qorti ma jkollhiex raġuni għaliex teħles minghajr kondizzjoni lill-akkużat jew imputat u tiċhad milli tagħti lil dik il-persuna l-helsien mill-arrest, il-qorti għandha tibghat lil dik il-persuna biex tinżamm taħt kustodja u għandhom japplikaw id-disposizzjonijiet tas-subartikolu (11) ta' l-artikolu 575.

(9) Meta l-qorti tordna l-helsien mill-arrest tal-persuna akkużata jew imputata, sew minghajr ebda kondizzjoni sew b'garanzija sugġetta għal kondizzjonijiet, taħt xi dispożizzjoni ta' dan l-artikolu, id-deċiżjoni tal-qorti f'dak ir-rigward għandha tiġi notifikata lill-Avukat Ġenerali sa mhux aktar tard mill-ġurnata tax-xogħol li jkun imiss u l-Avukat Ġenerali jista' jagħmel rikors quddiem il-Qorti Kriminali sabiex jitlob l-arrest mill-ġdid u detenzjoni ulterjuri tal-persuna li tkun giet hekk mehlusa jew sabiex jemenda l-kondizzjonijiet, inkluż l-ammont tal-garanzija, li setghu ġew stabbiliti mill-Qorti tal-Maġistrati.”.

130. L-artikolu 575 tal-liġi prinċipali għandu jiġi emendat kif  
 ġej: Emenda ta' l-artikolu 575 tal-liġi prinċipali.

(a) is-subartikolu (1) tiegħu għandu jiġi emendat kif ġej:

(i) minflok il-kliem “ta' l-aħhar artikolu qabel dan” għandhom jidhlu l-kliem “ta' l-artikolu 574”; u

(ii) fil-paragrafu (ċ) tiegħu, minflok il-kliem “li timponi fl-obbligazzjoni tal-garanzija;” għandhom jidhlu l-kliem “li timponi fid-digriet tagħha li bih jinġhata l-helsien;”;

(b) is-subartikolu (2) tiegħu għandu jiġi emendat kif  
 ġej:

(i) minflok il-kliem “It-talba għall-helsien mill-arrest għandha ssir” għandhom jidhlu l-kliem “F'kull stadju minbarra dak imsemmi fl-artikolu 574A, it-talba għall-helsien mill-arrest jew kull talba għal bdil fil-kondizzjonijiet tal-helsien wara li jkun inġhata dak il-helsien, għandha ssir”; u

(ii) fil-paragrafu (ċ) tiegħu, minflok il-kliem “aktar minn tliet snin prigunerija, imbarra minn fil-każijiet imsemmijin fl-artikoli 217, 218 u 219.” għandhom jidhlu l-kliem “aktar minn tliet snin prigunerija.”;

(ċ) minnufih wara s-subartikolu (4) tiegħu għandu jidhol dan is-subartikolu ġdid li ġej:

“(4A) Meta l-Qorti tal-Maġistrati, sew bhala qorti ta’ ġudikatura kriminali sew bhala qorti istruttorja, taghti l-helsien mill-arrest lill-persuna taht arrest jew fi żmien li jiġi wara temenda l-kondizzjonijiet tal-helsien mill-arrest, id-deċiżjoni tal-qorti f’dak ir-rigward ghandha tiġi notifikata lill-Avukat Ġenerali sa mhux aktar tard mill-ġurnata tax-xoghol li tiġi minnufih wara u l-Avukat Ġenerali jista’ b’rikors jitlob lill-Qorti Kriminali biex jikseb l-arrest mill-ġdid u d-detenzjoni ulterjuri tal-persuna li tkun ġiet hekk mehlusa jew biex jemenda l-kondizzjonijiet, inkluż l-ammont li jithallas bhala garanzija, li setghu ġew stabbiliti mill-Qorti tal-Maġistrati.”;

(d) fis-subartikolu (5) tieghu minflok il-kliem “tingieb quddiem l-imsemmija qorti,” ghandhom jidhlu l-kliem “tingieb quddiem l-imsemmija qorti, jew minn dakinhar meta hija tiġi arrestata kif provdut fis-subartikolu (5) ta’ l-artikolu 397,”;

(e) fil-paragrafu (a) tas-subartikolu (8) tieghu, minflok il-kliem “tingieb quddiem il-Qorti tal-Maġistrati,” ghandhom jidhlu l-kliem “tingieb quddiem il-Qorti tal-Maġistrati jew minn dak inhar meta hija tkun ġiet arrestata kif provdut fis-subartikolu (5) ta’ l-artikolu 397,”;

(f) fis-subartikolu (10) tieghu, minflok il-kliem “ma ghandhomx japplikaw” ghandhom jidhlu l-kliem “ma ghandhomx japplikaw jekk meta ssir it-talba għall-ghoti tal-helsien mill-arrest jew fi żmien ġimgha mit-talba jkun ġie pprezentat l-att ta’ l-akkuża, jew”; u

(g) minnufih wara s-subartikolu (10) ghandu jiżdied dan is-subartikolu ġdid li ġej:

“Il-qorti  
ghandha  
tghid  
x’inhuma  
r-raġunijiet  
tagħha.

(11) Meta tirrifjuta li taghti l-helsien mill-arrest il-qorti ghandha tghid x’ikunu r-raġunijiet tagħha għal dak ir-rifjut fl-istess digriet li bih tiċhad il-helsien mill-arrest, u dak id-digriet ghandu jiġi notifikat lill-imputat.”.

Emenda ta’ l-  
artikolu 577 tal-liġi  
prinċipali.

**131.** Fis-subartikolu (3) ta’ l-artikolu 577 tal-liġi prinċipali, minflok il-kliem “tal-Qorti tal-Maġistrati bhala qorti ta’ ġudikatura kriminali,” ghandhom jidhlu l-kliem “tal-Qorti tal-Maġistrati bhala qorti ta’ ġudikatura kriminali skond is-subartikolu (1) ta’ l-artikolu 370 u s-subartikolu (2) ta’ l-artikolu 371,”.

Emenda ta’ l-  
artikolu  
579 tal-liġi  
prinċipali.

**132.** L-artikolu 579 tal-liġi prinċipali ghandu jiġi emendat kif ġej:

(a) minflok il-kliem “jew jonqos li josserva xi kondizzjoni fiha imposta,” ghandhom jidhlu l-kliem “jew jonqos li josserva xi kondizzjoni imposta mill-qorti fid-digriet taghha li bih taghti l-helsien mill-arrest,”; u

(b) fil-proviso li hemm mieghu, minflok il-kliem “l-ksur tal-kondizzjoni imposta fl-obbligazzjoni tal-garanzija” ghandhom jidhlu l-kliem “l-ksur tal-kondizzjoni imposta fid-digriet li bih jinghata l-helsien mill-arrest”.

**133.** Minflok is-subartikolu (4) ta’ l-artikolu 580 tal-liġi prinċipali ghandu jidhol dan li ġej:

Emenda ta’ l-artikolu 580 tal-liġi prinċipali.

“quddiem il-Qorti tal-Maġistrati. (4) Hlief kif provdut fis-subartikolu (2) ta’ l-artikolu 575, it-talba għall-helsien mill-arrest quddiem il-Qorti tal-Maġistrati, issir bil-fomm.”.

**134.** Fl-artikolu 587 tal-liġi prinċipali, minflok il-kliem “jew isiefer” ghandhom jidhlu l-kliem “jew isiefer, ukoll jekk għal xi żmien,”.

Emenda ta’ l-artikolu 587 tal-liġi prinċipali.

**135.** Fis-subartikolu (5) ta’ l-artikolu 597 tal-liġi prinċipali, minflok il-kliem “mill-Qorti tal-Gżira ta’ Malta u mhux mill-Qorti tal-Gżejjer ta’ Ghawdex u Kemmuna, jew mill-qorti ta’ Ghawdex u Kemmuna u mhux mill-qorti ta’ Malta.” ghandhom jidhlu l-kliem “mill-Qorti tal-Maġistrati (Malta) u mhux mill-Qorti tal-Maġistrati (Ghawdex) jew mill-Qorti tal-Maġistrati (Ghawdex) u mhux mill-Qorti tal-Maġistrati (Malta).”.

Emenda ta’ l-artikolu 597 tal-liġi prinċipali.

**136.** Fl-artikolu 602 tal-liġi prinċipali, minflok il-kliem “tordna li l-imputat jiġi illiberat:” ghandhom jidhlu l-kliem “tordna li l-imputat jiġi illiberat, u d-disposizzjonijiet ta’ l-artikolu 434 ghandhom, *mutatis mutandis*, japplikaw:”.

Emenda ta’ l-artikolu 602 tal-liġi prinċipali.

**137.** L-artikolu 604 tal-liġi prinċipali ghandu jiġi emendat kif ġej:

Emenda ta’ l-artikolu 604 tal-liġi prinċipali.

(a) fis-subartikolu (1) tiegħu:

(i) minflok il-kliem “il-maġistrati, ir-Registratur tal-Qrati,” ghandhom jidhlu l-kliem “il-persuni impjegati fl-uffiċċju ta’ l-Avukat Ġenerali, il-maġistrati, ir-registratur u l-persuni impjegati fis-servizz tal-qrati,”;

(ii) minflok il-kliem “il-professuri ta’ l-Università,” ghandhom jidhlu l-kliem “il-professuri u l-kapijiet tad-dipartimenti ta’ l-Università,”; u



(iii) minflok il-kliem “l-Uffiċjal Prinċipali u l-Uffiċjali tal-*Probation*.” ghandhom jidhlu l-kliem “l-Uffiċjal Prinċipali tal-*Probation*, l-Uffiċjali tal-*Probation*, u persuni ohra skond ma jistghu jiġu preskritti b’regolamenti maghmulin mill-Ministru responsabbli għall-gustizzja.”.

Emenda ta’ l-artikolu 608 tal-liġi prinċipali.

**138.** Minnufih wara s-subartikolu (3) ta’ l-artikolu 608 tal-liġi prinċipali għandu jidhol dan is-subartikolu ġdid li ġej:

“(4) Ir-regolamenti maghmulin taht is-subartikolu (2) ta’ l-artikolu 362 għan-notifika bil-posta għandhom ikunu wkoll japplikaw għan-notifika taċ-ċitazzjoni msemmija fis-subartikolu (1) ta’ dan l-artikolu u d-sipożizzjonijiet tas-subartikoli (3) u (4) ta’ l-istess artikolu għandhom *mutatis mutandis* japplikaw għan-notifika ta’ ċitazzjoni taht dan l-artikolu. Persuna li tiġi notifikata b’dik iċ-ċitazzjoni kif provdut f’dawk ir-regolamenti jew kif provdut f’dan is-subartikolu għandhom jitqiesu bħala li jkunu ġew imharrka bil-mod provdut f’dan l-artikolu.”.

Emenda ta’ l-artikolu 617 tal-liġi prinċipali.

**139.** L-artikolu 617 tal-liġi prinċipali għandu jiġi emendat kif ġej:

(a) minflok is-subartikolu (2) tiegħu u n-nota marginali li hemm għalih għandu jidhol dan li ġej:

“Komunikazzjoni mal-gurati.

(2) Kull min, b’xi mod ikun li jkun, xjentement jikkomunika jew jipprova jikkomunika ma’ persuna li isimiha jkun tela’ biex isservi ta’ gurat u jkun ġie ppubblikat kif provdut fis-subartikolu (5) ta’ l-artikolu 606 u fis-subartikolu (4) ta’ l-artikolu 607, bil-hsieb li jġieghilha tmil sewwa favur jew kontra l-akkużat, ikun hati ta’ reat u jehel, meta jinsab hati, il-piena ta’ prigunerija minn tliet xhur sa disa’ xhur.”; u

(b) minnufih wara s-subartikolu (2) tiegħu għandu jiżdied dan is-subartikolu ġdid li ġej:

“(3) Id-disposizzjonijiet ta’ qabel ta’ dan l-artikolu jghoddu, *mutatis mutandis*, b’relazżjoni għall-membri tal-guri mahtur bħalma jghoddu b’relazżjoni għall-persuni mharrka biex iservu ta’ gurati jew li isimhom ikun ġie ppubblikat kif imsemmi fis-subartikolu (2).”.

Emenda ta’ l-artikolu 634 tal-liġi prinċipali.

**140.** Fil-proviso mas-subartikolu (1) ta’ l-artikolu 634 minflok il-kelma “Izda” għandhom jidhlu l-kliem “Izda, salvi d-disposizzjonijiet ta’ l-artikolu 634A.”.

**141.** Minnufih wara l-artikolu 634 tal-ligi prinċipali għandu jiżdied dan l-artikolu ġdid li ġej:

Żieda ta' l-artikolu 634A ġdid mal-ligi prinċipali.

"Effett tas-silenzju ta' l-imputat waqt il-proċediment f'ċerti ċirkostanzi.

634A. (1) Waqt is-smigh tal-kawża ta' persuna għal xi reat, għandhom japplikaw is-subartikoli (2) u (3) kemm-il darba -

(a) il-htija ta' l-imputat ma tkunx is-suġġett inkwistjoni; jew

(b) il-qorti jkun jidhrulha li l-kondizzjoni fiżika jew mentali ta' l-akkużat ma tagħmilhiex haġa mixtieqa li huwa jixhed;

imma s-subartikolu (2) ma japplikax jekk, fi tmiem ix-xhieda tal-prosekuzzjoni, l-avukat ta' l-imputat jgħarraf lill-qorti li l-imputat ikun se jixhed jew, fejn l-akkużat ma jkollux avukat jidher għalih, il-qorti tisma' minn fomm u li huwa jkun se jixhed.

(2) Meta jkun japplika dan is-subartikolu, il-qorti għandha, ma' tmiem ix-xiehda għall-prosekuzzjoni, tissodisfa lilha nnifisha (meta l-qorti toqghod flimkien ma' ġurija, fil-presenza tal-ġurija) li l-imputat jagħraf li jkun intlaħaq l-istadju fejn tista' tinghata xiehda għad-difiża u li hu jkun jista', jekk ikun hekk jixtieq, jagħti x-xiehda tiegħu u li, jekk hekk jagħzel li ma jixhidx, jew wara li jinghata l-ġurament, minghajr raġuni valida jirrofta milli jwieġeb għal xi mistoqsija, il-qorti jew il-ġurija jkunu jistgħu jaslu għal dawk l-inferenzi hekk kif ikunu jidhru adatti min-nuqqas tiegħu li jixhed jew ir-rifjut tiegħu, minghajr raġuni valida, li jwieġeb għall-mistoqsijiet.

(3) Meta jkun japplika dan is-subartikolu, il-qorti jew il-ġurija, sabiex jistabbilixxu jekk l-imputat ikunx hati tar-reat li jkun qed jiġi akkużat bih jew ta' xi reat iehor li dwaru l-imputat jista' jiġi leġittimament misjub hati fuq dik l-akkuża, jistgħu jaslu għal dawk l-inferenzi hekk kif ikunu jidhru adatti min-nuqqas ta' l-akkużat li jixhed jew ir-rifjut tiegħu, minghajr raġuni valida, li jwieġeb għall-mistoqsijiet.

(4) Dan l-artikolu ma jirrendix lill-imputat li għandu jixhed tabilfors favur tiegħu nnifsu, u huwa għaldaqstant m'għandu jkun hati ta' ebda disprezz tal-qorti minhabba f'li jonqos milli jagħmel dan.

(5) Għall-finijiet ta' dan l-artikolu min, wara li jkun inghata l-gurament, jirrofta milli jwieġeb għal xi mistoqsija għandu jiftiehem li jkun qed jagħmel dan minghajr raġuni valida kemm-il darba -

(a) ma jkollux jedd li jirrofta li jwieġeb il-mistoqsija minhabba f'xi ligi, meta din tgħaddi jew issir, jew minhabba f'xi privileġġ; jew

(b) il-qorti fl-esercizzju ta' xi diskrezzjoni vestita fiha bil-ligi ma tiskuzahx milli jwieġeb għaliha.

(6) M'għandhiex persuna tinsab hatja ta' reat unikament minhabba f'inferenza li wiehed jasal għaliha minn tali nuqqas jew rifjut bħal dawk imsemmija fis-subartikolu (3) ta' dan l-artikolu.”.

Emenda ta' l-artikolu 645 tal-ligi prinċipali.

**142.** Fl-artikolu 645 tal-ligi prinċipali, minflok il-kliem “jgħoddu wkoll għall-qrati ta' ġustizzja kriminali.” għandhom jidhlu l-kliem “jgħoddu wkoll għall-qrati ta' ġustizzja kriminali u l-imsemmija artikoli 570, 574, 583, 590, u 592 jgħoddu wkoll għal kull proċedura taht it- Titolu II tat-Taqsima II tat-Tieni Ktieb ta' dan il-Kodiċi.”.

Emenda ta' l-artikolu 647 tal-ligi prinċipali.

**143.** Fis-subartikolu (2) ta' l-artikolu 647 tal-ligi prinċipali, minflok il-kliem “lir-registratur tal-Qorti tal-Maġistrati (Għawdex)” għandhom jidhlu l-kliem “lir-registratur”.

Sostituzzjoni ta' l-artikolu 649 tal-ligi prinċipali.

**144.** Minflok l-artikolu 649 tal-ligi prinċipali għandu jidhol dan li ġej:

“Eżami ta' xhieda u investigazzjoni dwar reati ta' kompetenza ta' qrati barra minn Malta.

**649. (1)** Meta l-Avukat Ġenerali jikkomunika lil maġistrat talba magħmula mill-awtorità ġudizzjarja jew prosekuttriċi ta' pajjiż barra minn Malta għall-eżami ta' xhud li jkun jinsab f'Malta, jew għal xi investigazzjoni, dwar reat ta' kompetenza tal-qrati ta' dak il-pajjiż, il-maġistrat għandu jeżamina bil-gurament dak ix-xhud, fuq il-mistoqsijiet li jkunu ġew mibgħuta mill-awtorità hawn fuq imsemmija jew xort'ohra, u għandu jniżżel din ix-xiehda bil-miktub, jew imexxi l-investigazzjoni mitluba, skond il-każ.

(2) Id-disposizzjonijiet tas-subartikolu (1) jgħoddu biss meta t-talba ta' l-awtorità ġudizzjarja jew prosekuttriċi ssir bis-saħħa ta', jew skond, xi trattat, konvenzjoni, ftehim jew qbil bejn Malta u l-pajjiż li jagħmel it-talba jew li japplikaw għal dawk iz-żewġ pajjiżi jew li fihom dawk iz-żewġ pajjiżi jkunu parti. Dikjarazzjoni magħmula



minn jew taht l-awtorità ta' l-Avukat Ġenerali li tikkonferma li t-talba tkun saret bis-saħħa ta', u skond, dak it-trattat, konvenzjoni, ftehim jew qbil tkun prova konkluziva ta' dak li jkun jinsab f'dik id-dikjarazzjoni. Fl-assenza ta' dak it-trattat, konvenzjoni, ftehim jew qbil ghandhom japplikaw id-disposizzjonijiet tas-subartikolu (3).

(3) Meta l-Ministru responsabbli għall-ġustizzja jikkomunika lil maġistrat talba magħmula mill-awtorità ta' xhud li jkun jinsab Malta, dwar reat ta' kompetenza tal-qrati ta' dak il-pajjiż, il-maġistrat għandu jeżamina bil-ġurament dak ix-xhud fuq il-mistoqsijiet li jkunu ġew mibghuta mill-awtorità hawn fuq imsemmija jew xort'ohra, għalkemm l-imputat ma jkunx preżenti u għandu jniżżel din ix-xieħda bil-miktub.

(4) Il-maġistrat għandu jibgħat ix-xieħda hekk meħuda, jew ir-rizultat ta' l-investigazzjoni mmexxija, lill-Avukat Ġenerali.

(5) Għall-finijiet tas-subartikoli (1) u (3), il-maġistrat għandu jkollu l-istess setgħat, jew kważi kemm jista' jkun l-istess setgħat, li huma mogħtija bil-liġi lill-Qorti tal-Maġistrati bħala qorti istruttoria, kif ukoll is-setgħat, jew kważi kemm jista' jkun is-setgħat, li huma bil-liġi mogħtija lilu b'konnessjoni mal-verifika tal-prova dwar l-*"in genere"*: iżda maġistrat ma jistax jarresta persuna, sabiex jingħata effett lil ordni magħmul jew mogħti taht is-subartikolu (2) ta' l-artikolu 554, jew fuq suspett raġonevoli li dik il-persuna tkun għamlet reat, kemm-il darba l-fatti li jkunu jammontaw għar-reat li dik il-persuna tkun akkuzata jew suspettata li għamlet ma jkunux ukoll jammontaw għal reat li jista' jiġi proċessat f'Malta."

**145.** Fis-subartikolu (1) ta' l-artikolu 662 tal-liġi prinċipali, minflok il-kliem "taht id-disposizzjonijiet ta' dan il-Kodiċi," għandhom jidhlu l-kliem "taht id-disposizzjonijiet ta' dan il-Kodiċi (barra minn aċċess għall-finijiet tal-verifika tal-prova dwar l-*"in genere"*),".

Emenda ta' l-artikolu 662 tal-liġi prinċipali.

**146.** Fis-subartikolu (1) ta' l-artikolu 663 tal-liġi prinċipali, minflok il-kliem "bil-miftuh," għandhom jidhlu l-kliem "bil-miftuh: iżda deċizzjoni li tagħti jew tirrifjuta ħelsien mill-arrest tista' tingħata *in camera*."

Emenda ta' l-artikolu 663 tal-liġi prinċipali.

**147.** L-artikoli 667 sa 685 tal-liġi prinċipali, t-tnejn inklużi, għandhom jigu mhassra u minflokhom għandu jidhol dan li ġej:

Sostituzzjoni ta' l-artikoli 667 sa 685 tal-liġi prinċipali.

“L-oġġetti  
ghandhom  
jinżammu  
mir-  
Registratur.

667. L-oġġetti li jkollhom x'jaqsmu mal-proċeduri kriminali ghandhom, bla hsara ghad-disposizzjonijiet li ġejjin ta' dan it-Titolu, jinżammu mir-registratur sa tmiem dawk il-proċeduri inklużi l-proċeduri kollha ta' l-appell.

Registrazzjoni  
ta' l-oġġetti.

668. (1) L-oġġetti li jkollhom x'jaqsmu mal-proċeduri kriminali ghandhom jinghataw mill-Qorti lir-registratur u ghandhom, bla hsara ghad-disposizzjonijiet li ġejjin ta' dan it-Titolu, jibqghu fil-kustodja tar-registratur hlief meta jkun hekk mehtieg mill-qorti ghas-smigh ta' dawk il-proċeduri.

(2) Il-Ministru responsabbli ghall-ġustizzja jista' jagħmel regolamenti li jkunu jipprovdu ghar-registrazzjoni u l-preservazzjoni ta' proprjetà li jkollha rabta ma' proċeduri kriminali u dwar il-mod kif ghandu jinżamm tagħrif dwar kull ċaqlieq ta' dik il-proprjetà.

Preservazzjoni  
ta' proprjetà.

669. (1) Ir-registratur ghandu jiżgura li l-oġġetti kollha lilu kkunsinnati ghandhom jiġu katalogati, mahżuna u preservati sew kif ukoll miżmuma f'post sigur li jiġi stabbilit mir-registratur.

(2) Għall-ghanijiet ta' dan l-artikolu, ir-registratur jista', bl-approvazzjoni tal-Ministru responsabbli ghall-ġustizzja, jahtar lil persuni ohra biex iżommu dawk l-oġġetti jew klassijiet ta' oġġetti f'ismu taht dawk il-pattijiet u kondizzjonijiet li l-Ministru jista' jqis li jkun sew iżda l-ismijiet ta' dawk il-persuni ghandhom jiġu ppubblikati fil-Gazzetta.

Ghandu jsir  
proċess  
verbal  
meta l-  
oġġetti jiġu  
rilaxxati.

670. (1) Kull oġġett li jkun ser jiġi rilaxxat mir-registratur lil xi persuna jew li ghandu jinqered jew inkella jsir minnu xort'ohra skond il-provvedimenti ta' dan it-Titolu ghandu jiġi biss rilaxxat, meqrud jew isir xort'ohra minnu wara li jsir proċess verbal li jkun fih deskrizzjoni preċiża ta' l-oġġetti rilaxxati, il-kwantità u l-kwalità tagħhom u kull fotografija, registrazzjoni tal-*video* u xbihat tal-*computer* ta' dik il-proprjetà hekk kif il-maġistrat jew ir-registratur jista' jqis li ghandhom isiru.

(2) Il-proċess verbal ghandu jkun iffirmat mir-registratur u jekk il-proprjetà ser tiġi rilaxxata, meqruda jew isir xort'ohra minnha matul il-proċeduri *in genere* jew matul il-kumpilazzjoni, dan ghandu jkun iffirmat ukoll mill-maġistrat. F'kull każ meta l-oġġetti jkunu ser jiġu rilaxxati lil xi persuna matul proċeduri kriminali li ma jkunux ġew

finaliment deċiżi, dawk l-oġġetti għandhom biss jiġu hekk rilaxxati wara li l-persuna li lilha jkunu se jinghataw l-oġġetti tintrabat bil-miktub li terġa' tipproduċi dik il-proprjetà jekk il-qorti hekk tordnalha li tagħmel.

(3) Minkejja kull provvediment ieħor ta' dan il-Kodiċi jew ta' xi liġi oħra, proċess verbal li jsir skond id-disposizzjonijiet ta' dan l-artikolu, inkluża kull fotografija, reġistrazzjonijiet tal-*video* u xbihat tal-*computer*, għandu jkun ammissibbli bħala prova fi proċedimenti kriminali bħallikieku kienu l-oġġetti nnifishom deskritti fil-proċess verbal.

(4) Il-provvedimenti ta' dan it-Titolu għandhom ukoll ikunu japplikaw *mutatis mutandis* għal kull oġġett esibit filwaqt li jkunu qegħdin isiru proċedimenti taht il-provvedimenti tat-Titolu II tat-Taqsima II tat-Tieni Ktieb ta' dan il-Kodiċi wkoll matul dak iż-żmien li l-proċess verbal relattiv jkun għand l-Avukat Ġenerali.

(5) Id-disposizzjonijiet ta' dan l-artikolu għandhom japplikaw *mutatis mutandis* għal oġġetti li jkun sar minnhom skond il-provvedimenti ta' l-artikoli 671, 672 u 673.

Oġġetti  
pprojbti.

671. (1) Bla hsara għad-disposizzjonijiet tas-subartikolu (2), meta l-Kontrullur tad-Dwana jiċċertifika li xi oġġetti li jkunu miżmuma mir-reġistratur jkunu oġġetti li ma jistghux jiġu importati f'Malta, r-reġistratur għandu jagħmel rikors quddiem il-qorti kompetenti u jitlobha tordna t-tnehhija ta' dawk l-oġġetti. Il-qorti għandha tilqa' r-rikors meta din tkun sodisfatta li l-oġġetti involuti jkunu qegħdin ġewwa Malta bi ksur tal-liġi.

(2) Meta l-oġġetti li jiġu ċertifikati mill-Kontrullur tad-Dwana kif provdut fis-subartikolu (1) jkunu oġġetti li jkunu ġew esibiti bħala provi matul proċeduri kriminali li jkunu għadhom ma ġewx finalment konkluzi, ir-rikors li r-reġistratur jagħmel għandu jiġi notifikat lill-parti imputata jew akkużata u lill-Avukat Ġenerali jew lill-Kummissarju tal-Pulizija skond il-każ sabiex jagħmlu s-sottomissjonijiet tagħhom, u l-qorti ma għandhiex tilqa' r-rikors kemm-il darba ma tkunx sodisfatta li l-oġġetti nnifishom ma jkunux jew ma jkunux għadhom mehtieġa bħala provi fil-proċeduri.



(3) Meta l-qorti tkun ordnat it-tnehhija ta' l-oġġetti skond il-provvedimenti ta' dan l-artikolu, r-registratur ghandu jnehi dawk l-oġġetti billi jeqridhom, iżda l-Ministru responsabbli għall-ġustizzja jista' jordna li l-oġġetti jitnehhew b'kull mod iehor li jkun għal raġunijiet speċjali li jiġu espressament dikjarati fl-ordni.

Oġġetti esibiti  
f'ċerti  
proċeduri.

672. Minkejja kull provvediment iehor ta' dan il-Kodiċi jew ta' xi liġi oħra, meta l-oġġett ikun ġie esibit f'qorti filwaqt li jkunu qeghdin isiru proċeduri għal xi reat kontra l-Ordinanza tad-Dwana jew kontra l-Att dwar il-Kontroll fuq il-Kambju u l-oġġett ikun ġie kkonfiskat favur il-Gvern bis-sahha tat-thaddim ta' xi provvediment ta' dan il-Kodiċi jew ta' xi liġi oħra dak l-oġġett għandu jiġi rilaxxat favur il-Kontrullur tad-Dwana. F'kull każ iehor l-oġġett esibit kif hawn aktar qabel imsemmi ma għandux jiġi rilaxxat, hlief fl-eżekuzzjoni ta' deċiżjoni finali tal-qorti ċivili kompetenti, jekk il-Kontrullur tad-Dwana joġġezzjona għal dak ir-rilaxx.

Tnehhija ta'  
oġġetti li  
għandhom  
x'jaqsmu ma'  
proċeduri  
kriminali.

673. (1) B'dak kollu li hemm fid-disposizzjonijiet ta' qabel ta' dan it-Titolu u bla hsara għad-disposizzjonijiet ta' l-artikolu 671 il-qorti għandha, fuq rikors ta' l-Avukat Ġenerali magħmul fi kwalunkwe żmien matul il-proċeduri kriminali jew, meta l-awtur tad-delitt ikun assenti jew mhux magħruf, qabel ma jinbdew il-proċeduri, tordna lir-registratur li jiddisponi minn kull oġġett li jkollu x'jaqsam mal-proċeduri kriminali jew ma' xi delitt, sew jekk dak l-oġġett ikun soġġett għall-konfiska sew jekk le, f'kull wiehed minn dawn il-każi li ġejjin:

(a) meta, minhabba x-xorta, il-kwantità jew il-kobor ta' dak l-oġġett, ikun jenhtiegħ hafna spazju sabiex dan l-oġġett ikun jista' jinżamm;

(b) meta dak l-oġġett ikun jista' jithassar jew jonqoslu l-valur tiegħu matul iż-żamma jew inkella l-ispiża għall-manutenzjoni tiegħu tkun wisq akbar b'paragun mal-valur tiegħu;

(ċ) meta ma jkunx prattiku jew konvenjenti li dak l-oġġett għal xi raġuni oħra jinżamm f'kustodja;

(d) meta, minhabba l-assenza ta' l-akkużat, proċess ma jinghalaqx fi żmien sentejn mill-ġurnata li fiha dak l-oġġett ikun ingiebb għall-ewwel darba quddiem il-qorti;

(e) f'kull każ iehor meta l-qorti jidhrilha xieraq.

(2) Ir-rikors ghal ordni bhal dik imsemmija fis-subartikolu (1) u fl-istess ċirkostanzi msemmija f'dak is-subartikolu jista' jsir ukoll mir-registratur, f'liema każ ir-rikors ghandu jiġi notifikat lill-Avukat Ġenerali ghar-risposta tiegħu f'dak il-perjodu, li ma jkunx inqas minn jumejn tax-xogħol, kif jista' jiġi stabbilit mill-Qorti u r-rikors ma ghandux jintlaqa' meta l-Avukat Ġenerali joġġezzjona ghar-rikors.

(3) Id-disposizzjonijiet tas-subartikoli (1) u (2) ghandhom japplikaw ukoll jekk daww l-oġġetti jkunu sekwestrati.

(4) Meta l-qorti tilqa' rikors li jsir taht dan l-artikolu, l-ordni tal-qorti ghandha tiġi notifikata lill-persuni kollha, jekk ikun magħruf fejn dawn jinstabu, identifikati mir-registratur bhala li ghandhom interess fl-oġġetti, b'dan illi l-ordni tal-qorti ma ghandhiex tkun suġġetta ghar-revoka jew għall-modifika hlief fuq talba ta' l-Avukat Ġenerali.

(5) Jekk l-oġġett jinbiegħ, ir-rikavat ghandu jiġi depożitat fil-qorti u ghandu jsir minnu malli jintemmu l-proċeduri bl-istess mod bħallikieku dan kien l-oġġett li tiegħu hu r-rikavat.

(6) Jekk l-oġġett ma jinbiegħx, ir-rikavat jista' jsir minnu hekk kif ir-registratur jista' jqis li jkun xieraq bla hsara għall-hlas ta' dak l-indennizz li jista' jkun dovut lis-sid ta' l-oġġett imnehhi.

674. (1) Minkejja d-disposizzjonijiet ta' qabel ta' dan it-Titolu u bla hsara għad-disposizzjonijiet ta' l-artikolu 671, il-Qorti tista', matul il-proċeduri kriminali, tordna r-rilaxx ta' kull oġġett esibit fil-qorti lil min ikun jappartjeni.

Rilaxx ta' oġġetti filwaqt li jkunu qegħdin isir l-proċeduri.

(2) L-ordni msemmija fis-subartikolu (1) tista' tingħata mill-Qorti minn jeddha jew wara li jsir rikors minn min ikun qed jitlob li jiehu l-oġġett. Meta l-Qorti tagħxi minn jeddha din ghandha tgharraf il-hsieb tagħha li tagħmel ordni bhal dik permezz ta' digriet. Kull digriet bhal dak jew inkella rikors li jsir minn min ikun qed jitlob li jiehu l-oġġett skond dan is-subartikolu ghandu jiġi notifikat lill-Avukat Ġenerali jew lill-Kummissarju tal-Pulizija, skond il-każ, u lill-persuna imputata jew akkużata, u kull wieħed minnhom ikollu żmien hamest ijiem tax-xogħol biex jagħmel ir-risposta.

(3) Bla hsara ghad-disposizzjonijiet tas-subartikolu (4), jekk l-oġġett ikun jappartjeni lill-persuna imputata jew akkużata u dan b'ebda mod ma jkollu x'jaqsam mar-reat jew ikun b'xi mod mehtieg għall-iskop ta' xi proċeduri kriminali, l-qorti għandha, wara li tisma' lill-Avukat Ġenerali jew lill-Kummissarju tal-Pulizija, skond il-każ, tagħti lura l-oġġett lill-persuna imputata jew akkużata li lilha jkun jappartjeni l-oġġett jew tikkunsinnah lill-persuna li hu jahtar għal dak l-iskop jew li jkollha l-jedd tidher għalih.

(4) Minkejja d-disposizzjonijiet tas-subartikolu (3), il-qorti tista' tastjeni milli tordna li jinghatah lura l-oġġett lill-persuna imputata jew akkużata -

(a) meta l-valur ta' l-oġġett ikun kbir u l-persuna imputata jew akkużata tkun fqira jew ta' fortuna suspetta; jew

(b) meta l-persuna imputata jew akkużata tkun ipproċessata għal falsifikazzjoni bil-hsieb li tappropja ruhha minn xi oġġett ta' haddiehor, jew għal serq, jew għal xi reat iehor kontra l-proprjetà;

Izda d-disposizzjonijiet ta' dan is-subartikolu ma jghoddux jekk l-imputat jagħti garanzija tajba.

Tnehhija ta' oġġetti meta jintemmu l-proċeduri.

675. (1) Bla hsara għad-disposizzjonijiet ta' l-artikolu 671 u tas-subartikoli li ġejjin ta' dan l-artikolu, meta l-Qorti fi tmiem il-proċeduri kriminali ma tkunx ipprovdiet dwar kif l-oġġetti esibiti matul il-proċeduri għandhom jitnehhew skond il-liġi, kull oġġett li jkun gie hekk esibit għandu jibqa' jinżamm mir-registratur.

(2) Meta l-Qorti tal-Maġistrati bhala Qorti ta' ġudikatura kriminali tordna l-liberazzjoni ta' l-imputat skond kif provdut fis-subartikolu (2) ta' l-artikolu 401 u l-Qorti tiddeċiedi x'għandu jsir mill-oġġetti esibiti quddiemha, dik id-deċiżjoni ma għandhiex tiġi esegwita qabel ma jghaddi l-perjodu ta' xahar li għalih hemm referenza fis-subartikolu (3) ta' l-artikolu 433 u jekk l-Avukat Ġenerali, f'dak il-perjodu, johroġ mandat għall-arrest tal-persuna liberata, dik id-deċiżjoni għandha tibqa' minghajr effett.

(3) Meta l-Qorti tal-Maġistrati bhala qorti ta' istruttoria kriminali tordna l-liberazzjoni ta' l-imputat iżda ma tiddeċidix x'għandu jsir mill-oġġetti esibiti fil-proċeduri, u l-Avukat



Ġenerali ma johroġx mandat għall-arrest tal-persuna liberata, dawk l-oġġetti għandhom jibqgħu jinżammu mir-reġistratur u jekk fi żmien sena mid-data tal-liberazzjoni ma jergħu jinbdew ebda proċeduri godda kif provdut fl-artikolu 434 u l-oġġetti ma jkunux ġew rilaxxati skond id-disposizzjonijiet ta' dan it-titolu, r-reġistratur jista' jagħmel rikors quddiem il-Qorti sabiex din tohroġ ordni li tkun tawtorizza li jinghataw lura l-oġġetti lil kull min dawn ikunu jappartjenu, jekk maghrufa, jew li tkun tiddikjara dawk l-oġġetti kkonfiskati favur il-Gvern ta' Malta meta ma jkunx maghruf lil min ikunu jappartjenu dawk l-oġġetti.

(4) Meta f'xi sentenza finali ta' xi qorti ta' ġurisdizzjoni kriminali ma jsir ebda provvediment dwar x'għandu jsir mill-oġġetti li jkunu ġew esibiti fil-proċeduri u ma ssir ebda talba għar-rilaxx ta' dawk l-oġġetti fi żmien xahar mid-data ta' dik is-sentenza, dawk l-oġġetti, sakemm ma jkunux ġew kkonfiskati bis-sahha tal-provvedimenti ta' l-artikolu 18 jew ta' kull disposizzjoni ohra ta' dan il-Kodiċi jew ta' xi liġi ohra, għandhom jiġu kkonfiskati u l-qorti għandha, fuq rikors tar-reġistratur u bla hsara għad-disposizzjonijiet tas-subartikolu (5), tordna r-rilaxx ta' dawk l-oġġetti favur il-Gvern ta' Malta.

(5) Kull min minnufih qabel il-konfiska kellu jedd bil-liġi għall-oġġetti kkonfiskati kif hawn aktar qabel imsemmi, jew il-werrieta legittimi tagħhom, għandu jkollhom jedd għal kumpens għall-oġġetti kkonfiskati iżda meta l-oġġetti jkunu inbiegħu, dak il-kumpens ma għandux ikun jeċċedi l-ammont tar-rikavat li l-Gvern jagħmel mill-bejgħ ta' l-oġġetti u b'dan ukoll li l-kumpens jintalab permezz ta' rikors quddiem il-qorti kompetenti fi żmien sitt xhur mid-data ta' l-ordni msemmija fis-subartikolu (2).

Oġġetti  
konfiskati.

676. Ir-reġistratur jista' jiddisponi minn kull oġġett li jiġi kkonfiskat favur il-Gvern skond id-disposizzjonijiet ta' dan il-Kodiċi kemm-il darba l-oġġett ma jkunx ġie esibit matul xi prosekuzzjoni kriminali f'liema każ l-oġġett ma għandux jitnehha qabel is-sentenza finali u mhux minghajr il-kunsens mogħti bil-quddiem tal-Kummissarju tal-Pulizija jew ta' l-Avukat Ġenerali skond il-każ.

Meta loġġetti  
jkollhom  
jitreġġgħu  
lura b'ordni  
tal-qorti fis-  
sentenza  
finali.

677. (1) Kull oġġett li jkollu jinghata lura lil xi persuna minhabba f'xi ordni li l-qorti tagħmel fis-sentenza finali tagħha għandu jinżamm mir-reġistratur għal żmien sitt xhur li matulu jkun jispetta lil dik il-persuna, jew lill-werrieta legittimi tagħha, li jitolbu lura dak l-oġġett minghand ir-

reġistratur. Matul l-istess żmien ir-reġistratur jkollu d-dmir li jagħmel dak kollu mehtieg biex isib u jinnotifika bl-ordni mahruġa mill-qorti lill-persuna li lilha għandhom jinghataw lura l-oġġetti.

(2) Meta l-persuna li lilha għandhom jinghataw lura l-oġġetti, jew il-verrieta tagħha, jonqsu sew b'mod spontanju sew wara li jiġu notifikati bl-ordni tal-qorti milli jitolbu lura l-oġġetti fiż-żmien stabbilit fis-subartikolu (1) ta' dan l-artikolu jew meta r-reġistratur fl-istess perjodu ma jirnexxilux isib lil dik il-persuna, jew lill-verrieta legittimi tagħha, u ma ssir ebda talba għall-oġġetti kif imsemmi qabel b'mod spontanju, dawk l-oġġetti jiġu kkonfiskati favur il-Gvern.

(3) Fil-każ li dawk l-oġġetti jkunu jappartjenu lil sidien kongunti r-reġistratur għandu jitqies li jkun hares dmirijietu sew u skond il-liġi jekk huwa jagħti l-oġġetti lil xi wiehed minn dawk is-sidien.

(4) Ir-reġistratur għandu b'rikors jirreferi lill-qorti li tkun tat is-sentenza kull tilwima li tkun tolqot il-jedd fuq dawk l-oġġetti. Ir-rikors għandu jiġi notifikat lill-partijiet kollha li jkollhom hamest ijiem tax-xogħol li fihom ikunu jistgħu jagħmlu r-risposta tagħhom u wara li jiskadi dak il-perjodu l-qorti għandha tqiegħed ir-rikors fuq il-lista għas-smigh u wara li tisma' lill-partijiet għandha tiddeċiedi dwar x'għandu jsir mill-proprjetà. Ma hux mogħti appell mid-deċiżjoni tal-qorti.

(5) Jekk il-persuna li lilha jkollhom jinghataw lura l-oġġetti, jew il-verrieta legittimi tagħha, jitolbu lura l-oġġetti fiż-żmien imsemmi fis-subartikolu (1) ta' dan l-artikolu, dawk l-oġġetti għandhom, sakemm ma jkunx hemm xi impediment legittimu, jinghataw lura mir-reġistratur minghajr ebda hlas.

(6) Jekk l-oġġetti jkunu ġew kkonfiskati skond dan l-artikolu u ġew wara mibjugħin b'irkant wara li jkunu ġew pubblikati l-avviżi, il-persuna li lilha kellhom jinghataw lura l-oġġetti skond l-ordni tal-qorti, jew il-verrieta legittimi tagħha, jkunu jistgħu jitolbu l-ammont li jkun inkiseb mill-bejgħ wara li ttnaqqas kull spiża u drittijiet dovuti lir-reġistratur sakemm dik it-talba ssir fi żmien sentejn minn meta l-proprjetà tkun tnehhiet.

Meta s-sid  
ma jkunx  
maghruf.

678. Meta l-qorti fl-ahhar sentenza taghha tkun ordnat li proprjetà ghandha titreggà' lura iżda ma ssemmix lill-persuna li lilha ghandha hekk titreggà' lura dik il-proprjetà u l-identità ta' dik il-persuna ma tkunx maghrufa, dak l-oġġett ghandu jinżamm mir-registratur ghal żmien sitt xhur, f'liema perjodu kull min jippretendi li jkollu xi jedd skond il-ligi fuq dak l-oġġett jista' jiġi 'l quddiem biex jitlob dak l-oġġett.

(2) Meta l-persuna li jkollha jedd skond il-ligi fuq dak l-oġġett tonqos milli titlob dak l-oġġett fiż-żmien speċifikat fis-subartikolu (1), jew meta l-pretenzjonijiet maghmulin f'dak il-perjodu jkunu ġew miċhuda mill-qorti, l-oġġett jiġi kkonfiskat favur il-Gvern.

(3) Kull talba li ssir taht is-subartikolu (1) ghandha ssir b'rikors quddiem dik il-qorti fejn l-oġġett ikun esibit u ghandha tiġi notifikata lir-registratur u lill-Kummissarju tal-Pulizija jew lill-Avukat Ġenerali, skond il-każ, li mbaghad ikollhom ghaxart ijiem tax-xoghol li matulhom ikunu jistghu jaghmlu risposta. Malli jiskadi ż-żmien għall-preżentata tar-risposta l-qorti ghandha tiddeċiedi fuq ir-rikors u ma huwiex moghti appell minn dik id-deċiżjoni.

(4) Jekk il-qorti tilqa' r-rikors l-oġġett ghandu jinghata lil min jaghmel it-talba ghalih minghajr ebda hlas.

Regoli li  
ghandhom  
jiġu osservati  
fit-tnehhija  
ta' l-oġġetti  
kkonfiskati.

679. Meta jiġi biex jiddisponi minn oġġetti kkonfiskati favur il-Gvern skond ma hemm f'dan il-Kodiċi r-registratur ghandu josserva dawn ir-regoli li ġejjin:

(a) oġġetti li ma jkunu ta' ebda valur jew ta' ftit valur jistghu jitnehhew fid-diskrezzjoni tar-registratur sakemm jinżamm notament sew ta' dik it-tnehhija;

(b) armi tan-nar, munizzjon, splużivi jew sustanzi perikolużi ohra ghandhom jiġu kkunsinnati lill-awtoritajiet idonei mahtura mill-Ministru responsabbli għall-ġustizzja sabiex dawn l-oġġetti jitnehhew minnhom;

(ċ) oġġetti ohra li jkunu ta' valur għandhom jinbieghu b'irkant mir-registratur wara l-pubblikazzjoni ta' mill-inqas tliet avvizi f'gurnal ta' kuljum u kull rikavat fi flus ghandu jghaddi għand il-Gvern.”.



Emenda ta' l-artikolu 687 tal-ligi prinċipali.

**148.** L-artikolu 687 tal-ligi prinċipali ghandu jigi emendat kif ġej:

(a) l-artikolu preżenti ghandu jigi enumerat mill-ġdid bhala s-subartikolu (1) tieghu;

(b) minnufih wara s-subartikolu (1) ta' l-artikolu 687 kif enumerat mill-ġdid ghandu jiżdied dan is-subartikolu ġdid li ġej:

“(2) Iż-żmien ta' preskrizzjoni ghar-rigward ta' kull reat kriminali ghandu jkun sospiż mill-waqt li imputazzjoni u, jew att ta' akkuża jigu notifikati lill-persuna akkużata jew imputata sa dak iż-żmien meta tinghata sentenza finali u definittiva fil-proċedimenti li jkunu inbdew bhala riżultat ta' dik l-imputazzjoni jew att ta' akkuża.”.

Emenda tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, Kap. 12.

**149.** Il-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili ghandu jigi emendat kif ġej:

(a) minflok is-subartikolu (1) ta' l-artikolu 89 tieghu, ghandu jidhol dan li ġej:

“(1) Il-Ministru responsabbli għall-ġustizzja ghandu jahtar dawk il-listi li jista' jqis li jkunu xierqa, u kull lista tkun maghmula minn dak l-ghadd li jista' jqis xieraq ta' avukati, prokuraturi legali u esperti ohra, biex iwettqu d-dmirijiet ta' kuraturi, avukati jew prokuraturi legali *ex ufficio* u ta' esperti fil-Qrati ta' Malta u ta' Ghawdex skond ma jkun jenhtieg taht dan il-Kodiċi.”;

(b) l-artikolu 90 tieghu ghandu jithassar;

(ċ) l-artikolu 911 tieghu ghandu jigi emendat kif ġej:

(i) minflok is-subartikolu (5) tieghu ghandu jidhol dan li ġej:

“(5) Il-Ministru responsabbli għall-ġustizzja ghandu jipprovdi dawk il-faċilitajiet li jistghu jkunu mehtiega għall-amministrazzjoni xierqa tal-benefiċċju ta' l-ghajnuna legali.”; u

(ii) minflok is-subartikolu (6) tieghu ghandu jidhol dan li ġej:

“(6) Ghandu jkun hemm Avukat ghal Ghajnuna Legali u l-kliem “Avukat ghal Ghajnuna Legali” f’dan il-Kodiċi jew f’kull liġi oħra jinkludu lil kull avukat, uffiċjal jew uffiċjal pubbliku iehor li jinhatru mill-Ministru responsabbli għall-gustizzja biex iwettqu, taht it-tmexxija ta’ l-Avukat ghal Ghajnuna Legali, kull funzjoni li tappartjeni lill-Avukat ghal Ghajnuna Legali jew għall-amministrazzjoni tal-benefiċċju ta’ l-ghajnuna legali.”.

**150.** Fis-subartikolu (2ċ) ta’ l-artikolu 120A ta’ l-Ordinanza dwar il-Professjoni Medika u l-Professjonijiet li għandhom x’jaqsmu magħha, minnufih wara l-kliem “f’kull żmien qabel ma jippreżenta l-att ta’ l-akkuża,” għandhom jidhlu l-kliem “jew f’kull żmien wara li jippreżenta l-att ta’ l-akkuża u qabel ma jintaghżel il-ġuri, u bil-kunsens ta’ l-akkużat,” u minnufih wara l-kliem “daqsliekeu ma jkun inghata ebda ordni qabel.” għandhom jiżdiedu l-kliem “Meta l-Avukat Ġenerali jkun ta ordni ġdid bhal dak wara l-preżentata ta’ l-att ta’ l-akkuża, ir-registratur tal-Qorti Kriminali għandu jara li l-inkartament jintbagħat lill-Qorti tal-Maġistrati, u jara li kopja ta’ l-ordni ta’ l-Avukat Ġenerali tiġi notifikata lill-Kummissarju tal-Pulizija.”.

Emenda ta’ l-Ordinanza dwar il-Professjoni Medika u l-Professjonijiet li għandhom x’jaqsmu magħha, Kap. 31.

**151.** Fl-artikolu 31 ta’ l-Ordinanza dwar il-Mediċini Perikolużi, minnufih wara l-kliem “f’kull żmien qabel ma jippreżenta l-att ta’ l-akkuża,” għandhom jidhlu l-kliem “jew f’kull żmien wara li jippreżenta l-att ta’ l-akkuża u qabel ma jintaghżel il-ġuri, u bil-kunsens ta’ l-akkużat,” u minnufih wara l-kliem “daqsliekeu ma jkun inghata ebda ordni qabel.” għandhom jiżdiedu l-kliem “Meta l-Avukat Ġenerali jkun ta ordni ġdid bhal dak wara l-preżentata ta’ l-att ta’ l-akkuża, ir-registratur tal-Qorti Kriminali għandu jara li l-inkartament jintbagħat lill-Qorti tal-Maġistrati, u jara li kopja ta’ l-ordni ta’ l-Avukat Ġenerali tiġi notifikata lill-Kummissarju tal-Pulizija.”.

Emenda ta’ l-Ordinanza dwar il-Mediċini Perikolużi, Kap. 101.

**152.** L-Att dwar l-Estradizzjoni għandu jiġi emendat kif ġej u għandu jinqara u jiftiehem skond hekk:

Emenda ta’ l-Att dwar l-Estradizzjoni, Kap. 276.

(a) fl-artikolu 12 tiegħu, minflok il-kliem “għal xi pajjiż, jew tintbagħat jew tinzamm f’kustodja għall-fini ta’ dak it-treġġigh lura,” għandhom jidhlu l-kliem “għal xi pajjiż”;

(b) minnufih wara s-subartikolu (3) ta’ l-artikolu 15 tiegħu għandhom jiżdiedu dawn is-subartikoli ġodda li ġejjin:

“(4) Meta persuna tkun ingiebet quddiem qorti rimandanti kif provdut fis-subartikolu (1) ta’ dan l-artikolu, id-disposizzjonijiet tas-subartikolu (1) ta’ l-artikolu 401 tal-

Kodiċi Kriminali għandhom japplikaw bhallikieku l-kelma “xahar” kulfejn din hemm tinsab kienet sostitwita bil-kelma “xahrejn” u bhallikieku l-kliem “tliet xhur” fil-proviso tiegħu kienu sostitwiti bil-kliem “sitt xhur”.

(5) Meta l-persuna arrestata tiddikjara quddiem il-qorti rimandanti li tkun trid titregġa’ lura dik il-qorti għandha, jekk tkun sodisfatta li dik id-dikjarazzjoni tkun saret b’mod volontarju, tibghat lil dik il-persuna taht kustodja sakemm din tkun qed jistenna li terġa’ lura u d-disposizzjonijiet kollha ta’ dan l-Att għat-treġġigh lura tagħha għandhom jitqiesu bħala sodisfatti u l-Ministru għandu malli dan, minkejja kull disposizzjoni ohra ta’ dan l-Att iżda salvi d-disposizzjonijiet tas-subartikoli (2) u (4) ta’ l-artikolu 21 tiegħu, jordnalha b’mandat li titregġa’ lura lejn il-pajjiż li jagħmel it-talba. Ma jista’ jsir ebda appell mid-deċiżjoni tal-qorti li tibghat lill-persuna taht kustodja taht id-disposizzjonijiet ta’ dan is-subartikolu.”;

(ċ) fl-artikolu 16 tiegħu:

(i) minflok il-kliem “u li hi tista’ tappella” għandhom jidhlu l-kliem “u li, hlief fil-każ li tintbagħat taht kustodja biex tistenna li titregġa’ lura taht id-disposizzjonijiet tas-subartikolu (5) ta’ l-imsemmi artikolu 15, hi tista’ tappella”;

(ii) minnufih wara l-kliem “tal-Kostituzzjoni ta’ Malta” għandhom jidhlu l-kliem “jew ta’ l-Att dwar il-Konvenzjoni Ewropea”; u

(iii) minflok il-kliem “ta’ l-artikolu 46 ta’ l-imsemmija Kostituzzjoni” għandhom jidhlu l-kliem “ta’ l-artikolu 46 ta’ l-imsemmija Kostituzzjoni jew ta’ l-Att dwar il-Konvenzjoni Ewropea, skond il-każ”;

(d) fis-subartikolu (2) ta’ l-artikolu 21 tiegħu:

(i) fil-paragrafu (b), minflok il-kliem “l-ordni tal-qorti biex tiġi mibghuta taht kustodja, u jkun hemm stabbilit” għandhom jidhlu l-kliem “l-ordni tal-qorti biex tiġi mibghuta taht kustodja, u l-persuna li tintbagħat tkun bdiet daww il-proċedimenti jew, jekk ikun hemm stabbilit”; u

(ii) fil-proviso li hemm mal-paragrafu (ċ), minflok il-kliem “rtirati jew abbandunati.” għandhom jidhlu l-kliem



“rtirati jew abbandunati;” u minnufih warajhom ghandu jizdied dan il-paragrafu gdid li ġej:

“(d) jekk il-persuna mibghuta taht kustodja tkun ġiet akkużata jew tqatta’ ż-żmien ta’ xi sentenza kif provdut fl-artikolu 12, sakemm din tkun ġiet mehlusa jew b’liberazzjoni jew ghax jiskadilha ż-żmien tas-sentenza jew xort’ohra.”;

(e) minnufih wara s-subartikolu 31 tieghu ghandu jidhol dan l-artikolu gdid li ġej:

“Reati ta’  
estradizzjoni  
ohra speċjali.

132. (1) Ir-reati msemmija fl-artikoli 115 sa 121B tal-Kodiċi Kriminali ghandhom jitqiesu bhala li ġew inklużi bhala reati ta’ estradizzjoni f’kull trattat ta’ estradizzjoni li saru minn Malta (jew li japplikaw ghal Malta) ma’ pajjiżi msehbin fil-Konvenzjoni u li jestendu ghal, u jorbtu lil, Malta fid-data tad-dhul fis-sehh ghal Malta tal-Konvenzjoni.

(2) Meta dan l-Att ma jkunx japplika fil-każ ta’ xi Stat li jkun parti fil “Konvenzjoni tad-Dritt Penali dwar il-Korruzzjoni” id-disposizzjonijiet tas-subartikoli (2) u (3) ta’ l-artikolu 31 ta’ dan l-Att ghandhom *mutatis mutandis* japplikaw ghal kull tali pajjiż b’dan illi r-referenza “mis-subartikolu (1)” fl-imsemmi saubartikolu (3) ghandha tinqara u tiftiehem bhala referenza ghas-subartikolu (1) ta’ dan l-artikolu.

(3) F’dan l-artikolu -

“pajjiżi msehbin fil-Konvenzjoni” tfisser daww il-pajjiżi li huma partijiet kontraenti fil-Konvenzjoni;

“il-Konvenzjoni” tfisser “il-Konvenzjoni tad-Dritt Penali dwar il-Korruzzjoni” maghruf bhala *Criminal Law Convention on Corruption* maghmula fi Strasbourg fis-27 ta’ Jannar, 1999.”.

**153.** L-Att kontra *Money Laundering* ghandu jiġi emendat kif ġej u ghandu jinqara u jiftiehem skond hekk:

Emenda ta’ l-Att  
kontra  
*Money Laundering*,  
Kap 373.

(a) minflok is-subartikolu (3) ta’ l-artikolu 3 tieghu ghandu jidhol dan li ġej:

“(3) Fi proċeduri dwar reat ta’ *money laundering* taht dan l-Att id-disposizzjonijiet tal-paragrafu (b) tas-subartikolu (1C) ta’ l-artikolu 22 ta’ l-Ordinanza dwar il-Mediċini Perikolużi, ghandhom ikunu *mutatis mutandis* japplikaw.

(4) Meta l-persuna misjuba hatja ta' reat ta' *money laundering* taht dan l-Att ikun ufficjal ta' korp maghqud bhalma hemm imsemmi fl-artikolu 121F tal-Kodiċi Kriminali jew tkun persuna li jkollha setgha ta' rappreżentanza jew li jkollha tali awtorità bhalma hemm imsemmi f'dak l-artikolu u r-reat li dik il-persuna tkun instabet hatja tieghu jkun sar għall-benefiċċju, f'parti jew kollu kemm hu, ta' dak il-korp maghqud, dik il-persuna għandha għall-finijiet ta' dan l-Att titqies bhala li hi vestita bir-rappreżentanza legali ta' l-istess korp maghqud li għandu jkun responsabbli għall-hlas ta' multa ta' mhux anqas minn 500 lira u mhux iżjed minn 500,000 lira.

(5) Minghajr preġudizzju għad-disposizzjonijiet ta' l-artikolu 23 tal-Kodiċi Kriminali l-qorti għandha, b'żieda ma' kull piena li għaliha tista' tiġi kkundannata persuna misjuba hatja ta' reat ta' *money laundering* taht dan l-Att u b'żieda ma' kull piena li korp maghqud jista' jehel taht id-disposizzjonijiet tas-subartikolu (4) ta' dan l-artikolu, tordna t-tehid favur il-Gvern tar-rikavat jew ta' dik il-proprjetà li l-valur tagħha jkun jikkorrispondi għall-valur ta' dak ir-rikavat sew jekk dak ir-rikavat ikun ġie riċevut mill-persuna misjuba hatja jew mill-korp maghqud imsemmi fl-imsemmi subartikolu (4) ta' dan l-artikolu u kull proprjetà li tappartjeni lil, jew li tkun fil-pussess jew taht il-kontroll ta' xi persuna misjuba hatja kif imsemmi qabel jew ta' korp maghqud kif imsemmi f'dan is-subartikolu għandha, sakemm ma jiġix ippruvat il-kuntrarju, titqies li tkun inkisbet mir-reat ta' *money laundering* u tkun sugġetta għal konfiska jew tehid mill-qorti:

Iżda, għall-finijiet ta' dan is-subartikolu, "rikavat" tfisser xi vantaġġ ekonomiku u kull proprjetà li tiġi jew titnissel, sew b'mod dirett sew mhux dirett, minn xi attività kriminali u tinkludi kull qliegħ jew benefiċċju iehor miksub minn dik il-proprjetà.

(6) Minghajr preġudizzju għad-disposizzjonijiet ta' l-artikolu 5 tal-Kodiċi Kriminali, il-qorti ta' Malta għandhom ukoll ikollhom ġurisdizzjoni fuq kull reat ta' *money laundering* taht dan l-Att fl-istess ċirkostanzi bhalma huma msemmija fl-artikolu 121C tal-Kodiċi Kriminali."; u

(b) minnufih wara l-artikolu 4 tieghu għandu jiżdied dan l-artikolu għdid li ġej:

"Kunsinna w  
xiri  
kontrollati.

4A. Id-disposizzjonijiet ta' l-artikolu 30B ta' l-Ordinanza dwar il-Mediċini Perikolużi, ghandhom japplikaw *mutatis mutandis* ghal kull rikavat li jaqa' taht it-tifsira tas-subartikolu (5) ta' l-artikolu 3 ta' dan l-Att."

**154.** Fis-subparagrafu (iv) tal-paragrafu (a) ta' l-artikolu 10 ta' l-Att dwar il-Gwardjani Privati u Lokali, minnufih wara l-kliem "tkun ufficjal pubbliku" ghandhom jidiedu l-kliem "hlief ufficjal li jkun jappartjeni ghal grad jew kategorija kif jistghu jigu preskritti mill-Ministru".

Emenda ta' l-Att  
dwar il-Gwardjani  
Privati u Lokali,  
Kap. 389.

**155.** (1) Id-disposizzjonijiet ta' l-artikolu 22 u tas-subartikolu (5) ta' l-artikolu 509 tal-Kodiċi Kriminali qabel id-data tal-bidu fis-sehh ta' dan l-Att (hawnhekk iżjed 'il quddiem f'dan l-artikolu msejha "id-data rilevanti") ghandhom ikomplu japplikaw ghal kull sentenza li tinghata qabel id-data rilevanti dwar kull persuna jew li tinghata fid-data rilevanti jew warajha dwar persuna li fid-data rilevanti tkun fil-habs tistenna biex tigi proċessata ghar-reat jew reati li dwarhom tkun is-sentenza u d-disposizzjonijiet ta' l-artikolu 8 u ta' l-artikolu 104 ta' dan l-Att ma jkollhom ebda effett fuq sentenza bhal dik.

Transitorji.

(2) Dawn id-disposizzjonijiet li ġejjin ghandhom japplikaw ghal oġġetti li jkunu jappartjenu lill-persuna akkużata jew imputata jew lil persuni ohra u konnessi ma' proċeduri kriminali meta daww l-oġġetti jkunu diġà ġew esibiti fi proċeduri kriminali qabel id-data rilevanti:

(a) oġġetti esibiti fi proċeduri li ma jkunux ġew deċiżi b'sentenza finali ghandhom ikunu esklużivament regolati bl-artikoli 667 sa 679 tal-liġi prinċipali kif sostitwiti bl-artikolu 147 ta' dan l-Att;

(b) oġġetti esibiti fi proċeduri li jkunu ġew deċiżi b'sentenza finali ghandhom:

(i) jekk il-persuna li lilha tappartjeni l-proprjetà ma tkunx maghrufa mir-registratur, din ghandu jsir minnha bil-mod kif provdut dwaru fl-artikolu 679 tal-liġi prinċipali kif sostitwit bl-artikolu 147 ta' dan l-Att sakemm il-proċedimenti jkunu ġew stabbiliti kif hawn qabel imsemmi ghal żmien ta' mill-anqas sitt xhur u r-registratur jaghmel proċess verbal li jkun jghid dan qabel ma ssir it-tnehhija;

(ii) jekk il-persuna preżunta bhala l-persuna li lilha jkunu jappartjenu l-oġġetti tkun maghrufa, l-oġġetti ghandhom jitnehhew skond il-provvedimenti tas-



subparagrafu (i) ta' dan il-paragrafu jekk wara li r-registratur ikun kiteb lil dik il-persuna u jaghtiha żmien xahar biex tirtira dawk l-oġġetti, dik il-persuna tonqos mill tagħmel dang iżda l-persuna li lilha jkunu jappartjenu dawk l-oġġetti tista' titlob li tinghata r-rikavat li r-registratur ikun ġieb mit-tnehhija ta' dawk l-oġġetti jekk dik il-persuna tagħmel it-talba tagħha fi żmien sentejn mid-data li fiha l-oġġetti jkunu tnehhew u jġib prova dwar il-jedd tieghu fuq l-oġġetti mitluba.

(3) Kull hatra korrenti u li setghet saret skond l-artikoli 89 u 90 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili qabel id-data rilevanti jista' jintemm mill-Ministru responsabbli għall-ġustizzja minkejja li dawk il-hatriet saru għal perjodu fiss b'dan illi kull kawża li setghet diġà ġiet assenjata lil xi avukat għandha tkompli tiġi trattata minn dak l-avukat.

---

### **Għanijiet u Raġunijiet**

L-għanijiet ewlenin ta' l-Abbozz huma sabiex jagħtu d-dritt lil vittmi ta' reati li jintervjenu fi proċeduri kriminali, sabiex jipprovdi aktar dwar persuni li jkunu jinsabu taht arrest jew detenzjoni, sabiex jiffaċilita l-preżentata ta' atti fil-każ ta' appelli mill-qrati ta' Ghawdex, u sabiex jipprovdi mill-ġdid dwar kif tinżamm u titneħħa l-proprjetà li tkun esibita fi proċeduri kriminali u dwar il-benefiċċju ta' l-ghajnuna legali, flimkien ma' emendi konsegwenzjali.

A BILL  
entitled

*AN ACT to amend the Criminal Code, Cap. 9.*

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same as follows:

1. (1) The short title of this Act is the Criminal Code (Amendment) Act, 2001, and shall be read and construed as one with the Criminal Code, hereinafter referred to as “the principal law”. Short title.

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

2. In sub-article (1) of article 4 of the principal law, for the words “is vested in the Government by whom it is prosecuted” there shall be substituted the words “is vested in the State and is prosecuted”. Amendment of article 4 of the principal law.

3. Sub-article (1) of article 5 of the principal law shall be amended as follows: Amendment of article 5 of the principal law.

(a) for the words “A criminal action may be prosecuted in Malta,” there shall be substituted the words “Saving any other special provision of this Code or of any other law conferring jurisdiction upon the courts in Malta to try offences, a criminal action may be prosecuted in Malta,”;

(b) in paragraph (d) thereof, for the words “of the Immigration Act;” there shall be substituted the words “of the Immigration Act; and the expression “offence against the person” includes the offences referred to in articles 86 to 90 and in articles 198 to 205 of this Code;”; and

(c) immediately after paragraph (g) thereof, there shall be added the following new paragraph:

“(h) against any person in respect of whom an authority to proceed, or an order for his return, following a request by a country for his extradition from Malta, is not issued or made by the Minister responsible for justice on the ground that the said person is a Maltese citizen or that the offence for which his return was requested is an offence of a political character or that it is subject to the death penalty in the country which made the request, even if there is no provision according to the laws of Malta other than the present provision in virtue of which the criminal action may be prosecuted in Malta against that person;

(i) against any person who commits an offence which, by express provision of law, constitutes an offence even when committed outside Malta.”.

Amendment of  
article 9 of the  
principal law.

4. Article 9 of the principal law shall be amended as follows:

(a) in sub-article (1) thereof, for the words “by the Government,” there shall be substituted the words “by the Minister responsible for justice or by the Minister responsible for the prisons,”; and

(b) immediately after sub-article (6) thereof, there shall be added the following new sub-articles:

“(7) Before awarding the punishment of solitary confinement the court shall satisfy itself, if necessary by medical evidence, which may include a medical examination of the person convicted, that the person convicted is fit to undergo the said punishment.

(8) Where, in the course of the execution of the punishment of solitary confinement, the Medical Officer of the prison certifies in writing that the prisoner is no longer fit to undergo such punishment, the execution of that punishment shall be suspended until such time as the prisoner is again certified to be medically fit to undergo such punishment.”.



5. In the proviso to sub-article (3) of article 11 of the principal law, for the words "three months if the fine is not higher than two thousand liri, six months if the fine is not higher than ten thousand liri, one year if the fine is not higher than thirty thousand liri and eighteen months if it is higher than thirty thousand liri." there shall be substituted the words "six months if the fine is not higher than two thousand liri, one year if the fine is not higher than ten thousand liri, eighteen months if the fine is not higher than thirty thousand liri and two years if it is higher than thirty thousand liri."

Amendment of  
article 11 of the  
principal law.

6. For article 12 of the principal law there shall be substituted the following:

Substitution of  
article 12 of the  
principal law.

"Detention.

12. (1) Persons sentenced to detention shall be detained in the prison or in that part of the prison appointed for persons sentenced to that punishment.

(2) Where it is not otherwise specifically provided, no term of detention shall exceed three months."

7. Article 14 of the principal law shall be amended as follows:

Amendment of  
article 14 of the  
principal law.

(a) in the first proviso to sub-article (1) thereof, for the words "fifty cents" wherever they occur there shall be substituted the words "twenty-five liri" ; and

(b) for the second proviso to sub-article (2) there shall be substituted the following proviso:

"Provided that in default of payment of the fine (*multa* or *ammenda*) within the time laid down by the court in its sentence or, failing a time-limit in the sentence, within the time of one working day from the date of the sentence, the said fine shall be converted forthwith into imprisonment or detention as provided in articles 11 and 13 as the case may be, and the police shall, by virtue of the authority conferred upon them by the sentence and by this proviso, arrest the person sentenced and shall escort him to the place designated according to law for the confinement of persons sentenced to a fine convertible into imprisonment or detention according to law;"

8. (1) Subject to the provisions of sub-article (1) of article 139 of this Act, for article 22 of the principal law there shall be substituted the following:

Substitution of  
article 22 of the  
principal law.

"Computation  
of sentences  
of  
imprisonment.

22. Any time prior to conviction and sentence during which the person sentenced is in prison for the offence or offences for which he has been so convicted and sentenced, not being time in prison in execution of a sentence, shall count as part of the term of imprisonment or detention under his sentence, other than a sentence of imprisonment for life or of imprisonment in default of payment of a fine (*multa*) or of detention in default of payment of a fine (*ammenda*), but where he was previously subject to a probation order, an order for conditional discharge or to a suspended sentence in respect of such offence or offences, any such period falling before that order was made or suspended sentence passed shall be disregarded for the purposes of this article:

Provided that where any time prior to conviction as aforesaid has, by virtue of this article, been counted as part of the term of imprisonment or detention under the sentence in respect of that conviction such time shall not be counted as part of the term of imprisonment or detention under any other sentence."

Addition of new  
Articles 23A and  
23B to the principal  
law.

9. Immediately after article 23 of the principal law there shall be added the following new articles:

"Freezing of  
property of  
person  
accused.

23A. (1) In this article, unless the context otherwise requires:

"relevant offence" means any crime, other than a crime under the Ordinances or under the Act, liable to the punishment of imprisonment for a term of more than one year,

"the Act" means the Prevention of Money Laundering Act, Cap. 373;

"the Ordinances" means the Dangerous Drugs Ordinance, Cap. 101, and the Medical and Kindred Professions Ordinance, Cap. 31.

(2) Where a person is charged with a relevant offence the provisions of article 5 of the Act shall apply *mutatis mutandis* and the same provisions shall apply to any order made by the Court by virtue of this article as if it were an order made by the Court under the said article 5 of the Act.

"Forfeiture of  
proceeds.

23B. (1) Without prejudice to the provisions of article 23 of this Code the court shall, in addition to any punishment to which the person convicted of a relevant offence may be sentenced and in addition to any penalty to which a body corporate may become liable under the provisions of article 121D, order the forfeiture in favour of the Government of the proceeds of the offence or of such property the value of which corresponds to the value of such proceeds whether such proceeds have been received by the person found guilty or by the body corporate referred to in the said article 121D.

(2) Where the proceeds of the offence have been dissipated or for any other reason whatsoever it is not possible to identify and forfeit those proceeds or to order the forfeiture of such property the value of which corresponds to the value of those proceeds the court shall sentence the person convicted or the body corporate, or the person convicted and the body corporate *in solidum*, as the case may be, to the payment of a fine (*multa*) which is the equivalent of the amount of the proceeds of the offence.

(3) For the purposes of this article:

"proceeds" means any economic advantage and any property derived from or obtained, directly or indirectly, through the commission of the offence and includes any income or other benefits derived from such property;

"property" means assets of every kind, whether corporeal or incorporeal, movable or immovable, tangible or intangible, and legal documents or instruments evidencing title to, or interest in, such assets.

"relevant offence" has the same meaning assigned to it by sub-article (1) of article 23A."

10. Immediately after sub-article (5) of article 28A of the principal law there shall be added the following new sub-article:

Amendment of  
article 28A of the  
principal law.

"(5A) Without prejudice to the provisions of article 28F, the punishment awarded under a suspended sentence which has not taken effect shall, for the purposes of article 50, be deemed to have expired on the expiration of the original operational period referred to in sub-article (1) of this article or of the operational period substituted therefore as provided in paragraph (b) of sub-article (2) of article 28B."



Amendment of  
article 28C of the  
principal law.

**11.** Article 28C of the principal law shall be amended as follows:

(a) in sub-article (1) thereof, for the words “by the Criminal Court or,” there shall be substituted the words “by the Court of Criminal Appeal, by the Criminal Court or,”;

(b) for sub-article (3) thereof there shall be substituted the following sub-article:

“(3) For the purposes of this article and of articles 28D and 28E -

(a) a suspended sentence passed on an offender on appeal shall be deemed to have been passed by the court from which the appeal was made;

(b) the Juvenile Court shall be deemed to be a Court of Magistrates (Malta) or a Court of Magistrates (Gozo), as the case may be.”.

Amendment of  
article 28D of the  
principal law.

**12.** In sub-article (1) of article 28D of the principal law, for the words “to the Criminal Court” there shall be substituted the words “to the Court of Criminal Appeal, to the Criminal Court”.

Amendment of  
article 28E of the  
principal law.

**13.** Sub-article (2) of article 28E of the principal law shall be deleted.

Amendment of  
article 28G of the  
principal law.

**14.** Article 28G of the principal law shall be amended as follows:

(a) in sub-article (2) thereof, for the words “and named in the supervision order.” there shall be substituted the words “and named in the supervision order; and the supervision order may moreover require the offender to comply, during the whole or any part of the period of supervision, with such requirements as may be imposed by the court under the provisions of sub-articles (2) and (4) of article 5 of the said Act.”; and

(b) in sub-article (9) thereof -

(i) for the words “of the requirements of sub-article (3) of this article,” there shall be substituted the words “of the requirements of sub-articles (2) and (3) of this article,”; and

(ii) for the words “it may, without prejudice to the continuation of the order, impose on him a fine (*ammenda*) not exceeding one hundred liri.” there shall be substituted the

words “it may either order that the suspended sentence passed in the proceedings in which the supervision order was made shall have effect or, without prejudice to the continuation of the order, impose on him a fine (*ammenda*) not exceeding one hundred liri.”.

**15.** In sub-article (2) of article 30 of the principal law, for the words “and to any other circumstances of the case,” there shall be substituted the words “and to any other circumstances of the case, and after hearing the Police in the case of an application before the Court of Magistrates or the Attorney General in the case of an application before any other court,”.

Amendment of article 30 of the principal law.

**16.** In article 36 of the principal law, for the words “Minors under the age” there shall be substituted the words “Saving the powers of the Minister under the Children and Young Persons (Care Orders) Act, minors under the age”.

Amendment of article 36 of the principal law. Cap. 285.

**17.** Immediately after article 48 of the principal law and immediately before Title V of the said law there shall be added the following new title and new article:

Addition of new Title IV BIS to the principal law.

#### **“Title IV BIS**

#### **OF CONSPIRACY**

“ Conspiracy. 48A. (1) Whosoever in Malta conspires with one or more persons for the purpose of committing any crime liable to the punishment of imprisonment, not being a crime under the Press Act, shall be guilty of the offence of conspiracy to commit that offence.

(2) The conspiracy referred to in sub-article (1) shall subsist from the moment in which any mode of action whatsoever is planned or agreed upon between such persons.

(3) Any person found guilty of conspiracy under this article shall be liable to the punishment for the completed offence object of the conspiracy with a decrease of two or three degrees.

(4) For the purposes of sub-article (4), in the determination of the punishment for the completed offence object of the conspiracy account shall be had of any circumstances aggravating that offence.”

Addition of new article 82A to the principal law.

**18.** Immediately after article 82 of the principal law there shall be added the following new article:

"Incitement to racial hatred.

82A. (1) Whosoever uses any threatening, abusive or insulting words or behaviour, or displays any written or printed material which is threatening, abusive or insulting, or otherwise conducts himself in such a manner, with intent thereby to stir up racial hatred or whereby racial hatred is likely, having regard to all the circumstances, to be stirred up shall, on conviction, be liable to imprisonment for a term from six to eighteen months.

(2) For the purposes of the foregoing subarticle "racial hatred" means hatred against a group of persons in Malta defined by reference to colour, race, nationality (including citizenship) or ethnic or national origins."

Addition of new article 83A to the principal law.

**19.** Immediately after article 83 of the principal law there shall be added the following new article:

"Promoting etc. an association of two or more persons with a view to commit criminal offences.

"83A. (1) Any person who promotes, constitutes, organises or finances an association of two or more persons with a view to commit criminal offences liable to the punishment of imprisonment for a term of four years or more shall be liable to the punishment of imprisonment for a term from three to seven years.

(2) Any person who belongs to an association referred to in sub-article (1) shall for that mere fact be liable to the punishment of imprisonment for a term from one to five years.

(3) Where the number of persons in the association is ten or more the punishment in the preceding sub-articles shall be increased from one to two degrees.

(4) Where the person found guilty of an offence under this title is the director, manager, secretary or other principal officer of a body corporate or is a person having a power of representation of such a body or having an authority to take decisions on behalf of that body or having authority to exercise control within that body and the offence of which that person was found guilty was committed for the benefit, in part or in whole, of that body corporate, the said person shall for the purposes of this title be deemed to be vested with the legal representation of the same body corporate which shall be liable as follows:



(a) where the offence of which the person was found guilty is the offence in sub-article (1) of this article, to the payment of a fine (*multa*) of not less than 15,000 liri and not more than 50,000 liri;

(b) where the offence of which the person was found guilty is the offence in sub-article (2) of this article, to the payment of a fine (*multa*) of not less than 10,000 liri and not more than 30,000 liri;

(c) where the offence of which the person was found guilty is punishable as provided in sub-article (3) of this article—

(i) where the offence is that provided in sub-article (1) of this article, to the punishment of a fine (*multa*) of not less than 20,000 liri and not more than 500,000 liri;

(ii) where the offence is that provided in sub-article (1) of this article, to the punishment of a fine (*multa*) of not less than 15,000 liri and not more than 50,000 liri.

(5) The criminal action for an offence against the provisions of this article may be prosecuted in Malta notwithstanding that the association of persons is based or pursues its criminal activities outside Malta.”.

**20.** For article 100 of the principal law there shall be substituted the following:

Substitution of article 100 of the principal law.

“Interpretation.

100. In this sub-title “criminal proceedings” includes the inquiry referred to in Sub-title II of Title II of Part I of Book Second of this Code and any proceedings under the Malta Armed Forces Act.”.

Cap. 220.

**21.** In paragraph (b) of article 102 of the principal law, the words “by threats, bribes or promises,” shall be deleted.

Amendment of article 102 of the principal law.

**22.** In sub-article (1) of article 104 of the principal law, for the words “of the person accused,” there shall be substituted the words “of the person charged or accused,”.

Amendment of article 104 of the principal law.

Amendment of  
article 105 of the  
principal law.

**23.** In article 105 of the principal law, for the words “of the person accused,” there shall be substituted the words “of the person charged or accused,”.

Amendment of  
article 106 of the  
principal law.

**24.** Immediately after sub-article (2) of article 106 of the principal law there shall be added the following new sub-article:

“(3) Whosoever shall make a false affidavit, whether in Malta or outside Malta, knowing that such affidavit is required or intended for any civil proceedings in Malta, shall, on conviction, be liable to the punishment mentioned in sub-article (1) of this article.”.

Amendment of  
article 108 of the  
principal law.

**25.** In sub-article (1) of article 108 of the principal law, for the words “before a magistrate” there shall be substituted the words “before a judge, magistrate”.

Amendment of  
article 115 of the  
principal law.

**26.** Article 115 of the principal law shall be amended as follows:

(a) for the words “receives or accepts” there shall be substituted the words “requests, receives or accepts”; and

(b) in paragraph (a) thereof, for the words “nine months” there shall be substituted the words “thirteen months”.

Amendment of  
article 121 of the  
principal law.

**27.** Article 121 of the principal law shall be amended as follows:

(a) in sub-article (1) thereof, for the words “of a statutory body” there shall be substituted the words “of a statutory or other corporate body”;

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

“(3) The provisions of this sub-title in relation to an officer or person referred to in article 112 or a public officer or servant referred to in article 115 shall also apply to and in relation to any employee or other person when directing or working in any capacity for or on behalf of a natural or legal person operating in the private sector who knowingly, in the course of his business activities, directly or through an intermediary and in breach of his duties, conducts himself in any manner provided for in those articles:

Provided that for the purposes of this sub-article the expression “breach of duty” includes any disloyal behaviour constituting a breach of a statutory duty, or, as the case may



be, a breach of professional regulations or instructions, which apply within the business in question.

(4) The provisions of this sub-title shall also apply to any conduct falling within the descriptions set out in the provisions of this sub-title and in which is involved:

(a) a public officer or servant of any foreign State;  
or

(b) any officer or servant, or any other contracted employee, of any international or supranational organization or body of which Malta is a member, or any other person carrying out functions corresponding to those performed by any said officer, servant or contracted employee; or

(c) any member of a parliamentary assembly of any international or supranational organisation of which Malta is a member; or

(d) any holder of judicial office or any official of any international court whose jurisdiction is accepted by Malta; or

(e) any member, officer or servant of a Local Council.”.

**28.** Immediately after article 121 of the principal law there shall be added the following new articles:

Addition of new articles 121A to 121J to the principal law.

“Trading in influence,

**121A.** (1) Any person who promises, gives or offers, directly or indirectly, any undue advantage to any other person who asserts or confirms that he or she is able to exert an improper influence over the decision-making of any person referred to in the preceding articles of this sub-title, in order to induce such other person to exercise such influence, whether such undue advantage is for such other person or anyone else, shall on conviction be liable to the punishment of imprisonment for a term from three months to one year.

(2) Any person who receives or accepts any offer or promise of any undue advantage for himself or for anyone else with the object of exercising any improper influence as is referred to in sub-article (1) shall on conviction be liable to the punishment laid down in that sub-article.



(3) The offences referred to in sub-articles (1) and (2) shall be complete whether or not the alleged ability to exert an improper influence existed, whether or not the influence is exerted and whether or not the supposed influence leads to the intended result.

Accounting offences.

121B. Whosoever, with intent to commit, conceal or disguise any offence under the preceding articles of this sub-title, creates or uses an invoice or any other accounting document or record containing false or incomplete information or unlawfully omits to make a record of payment, shall on conviction be liable to the punishment of imprisonment from three months to one year without prejudice to any other punishment to which he may be liable under any other provision of this Code or of any other law.

Jurisdiction.

121C. Without prejudice to the provisions of article 5 of this Code, the Maltese courts shall also have jurisdiction over the offences laid down in this sub-title where:

(a) only part of the action giving execution to the offence took place in Malta; or

(b) the offender is a Maltese national or permanent resident in Malta, a public officer or servant of Malta or a member of the House of Representatives or of a Local Council; or

(c) the offence involves a public officer or servant of Malta or is a member of the House of Representatives or of a Local Council.

Corporate liability for offences under this title.

121D. Where the person found guilty of an offence under this title is the director, manager, secretary or other principal officer of a body corporate or is a person having a power of representation of such a body or having an authority to take decisions on behalf of that body or having authority to exercise control within that body and the offence of which that person was found guilty was committed for the benefit, in part or in whole, of that body corporate, the said person shall for the purposes of this title be deemed to be vested with the legal representation of the same body corporate which shall be liable to the payment of a fine (*multa*) of not less than 500 liri and not more than 500,000 liri.”.

29. For the heading immediately preceding article 141 of the principal law and which reads "General Provision applicable to this Sub-title" there shall be substituted the following:

Substitution of heading preceding article 141 of the principal law.

**"General Provision applicable to Public Officers".**

30. In article 161 of the principal law for the words "from one to three months or to a fine (*multa*)" there shall be substituted the words "from one month to one year or to a fine (*multa*) not exceeding one thousand liri".

Amendment of article 161 of the principal law.

31. In article 162 of the principal law, for the words "from one to three months or to a fine (*multa*).", there shall be substituted the words "from one to eighteen months or to a fine (*multa*) not exceeding five hundred liri."

Amendment of article 162 of the principal law.

32. Article 172 of the principal law shall be amended as follows:

Amendment of article 172 of the principal law.

(a) in sub-article (1) thereof:

(i) for the words "stamping or marking," there shall be substituted the words "stamping, marking, authenticating or certifying,";

(ii) for the words "documents or effects which are public property or are" there shall be substituted the words "documents or effects, whether public or private property, or which are"; and

(iii) in the Maltese text only, for the words "that il-kustodja pubblika," there shall be substituted the words "that il-garanzija pubblika,"; and

(b) in sub-article (2) thereof, for the words "or mark," there shall be substituted the words "or mark and whosoever shall knowingly and without lawful authority be in possession of the said objects,".

33. Immediately after article 189 of the principal law there shall be added the following new article:

Addition of new article 189A to the principal law.

"Definition of document, etc.

189A. For the purposes of this Title, "document", "instrument", "writing" and "book" include any card, disc, tape, soundtrack or other device on or in which information is or may be recorded or stored by mechanical, electronic or other means."

Addition of new article 203A to the principal law.

**34.** Immediately after article 203 of the principal law there shall be added the following new article:

"Instigation, etc., of defilement of minors.

203A. Whosoever, by any means other than those mentioned in sub-article (1) of article 203, instigates, encourages or facilitates the defilement of a minor of either sex, shall, on conviction be liable to imprisonment for a term not exceeding two years and the provisions of sub-articles (2) and (3) of article 203 shall, *mutatis mutandis*, apply to an offence under this article:

Provided that the offence shall be punishable with imprisonment for a term not exceeding four years in any of the cases referred to in the proviso to sub-article (1) of article 203".

Addition of new article 208A to the principal law.

**35.** Immediately after article 208 of the principal law there shall be added the following new article:

"Indecent photographs, films, etc., of persons under age.

208A. (1) Any citizen or permanent resident of Malta, whether in Malta or outside Malta, as well as any person in Malta, who takes or permits to be taken any indecent photograph, film, video recording or electronic image of a minor, or distributes or shows such indecent photograph, film, video recording or electronic image, or is in possession of such indecent photograph, film, or video recording or electronic image with a view to its being distributed or shown by that person or by others, shall, on conviction, be liable to imprisonment for a term not exceeding six months or to a fine (*multa*) not exceeding two hundred liri, or to both such imprisonment and fine:

Provided that for the purposes of this article the expression "permanent resident" shall have the same meaning assigned to it by paragraph (d) of sub-article (1) of article 5.

(2) A photograph, film, video recording or electronic image shall, if it shows a person under age and is indecent, be treated for all purposes of this article as an indecent photograph, film, video recording or electronic image.

(3) Where the offence referred to in sub-article (1) is committed by any ascendant by consanguinity or affinity, or by the adoptive father or mother, or by the tutor, or by any other person charged, even though temporarily, with the care, education, instruction, control or custody of the person under



age shown in the photograph, film, video recording or electronic image, or where such person under age has not completed the age of nine years, the punishment shall be of imprisonment for a term from seven months to one year, with or without solitary confinement, and the provisions of sub-article (4) of article 197 shall also apply.

(4) Where a person is charged with distributing or showing, or with being in possession of, any indecent photograph, film, video recording or electronic image under sub-article (1), it shall be a defence for him to prove that he had a legitimate reason for distributing or showing, or for having in his possession, such photograph, film, video recording or electronic image, or that he had not himself seen the photograph, film, video recording or electronic image, and neither knew nor had any reason to suspect them to be indecent.

(5) For the purposes of paragraph (a) of sub-article (1) of article 635, the person under age shown in any such photograph, film, video recording or electronic image shall be deemed to be the person against whom the offence is committed.

(6) In this article references to a photograph includes the negative as well as the positive version.”.

**36.** In article 222A of the principal law, for the words “sixty-five years” there shall be substituted the words “sixty years”. Amendment of article 222A of the principal law.

**37.** In article 225 of the principal law, for the words “not exceeding two years or to a fine (*multa*) not exceeding two thousand liri” there shall be substituted the words “not exceeding four years or to a fine (*multa*) not exceeding five thousand liri”. Amendment of article 225 of the principal law.

**38.** Sub-article (1) of article 226 of the principal law shall be amended as follows: Amendment of article 226 of the principal law.

(a) in paragraph (a) thereof, for the words “six months” there shall be substituted the words “one year” and for the words “one thousand liri” there shall be substituted the words “two thousand liri”; and

(b) in paragraph (b) thereof, for the words “three months” there shall be substituted the words “six months” and for the words “five hundred liri” there shall be substituted the words “one thousand liri”.

Amendment of article 227 of the principal law.

**39.** In paragraph (c) of article 227 for the words “whenever, in cases of provocation, the homicide” there shall be substituted the words “whenever the homicide”.

Amendment of article 228 of the principal law.

**40.** In sub-article (2) of article 228 for the words “not exceeding twenty years” there shall be substituted the words “from five to twenty years”.

Substitution of heading immediately preceding article 241 of the principal law.

**41.** For the heading immediately preceding article 241 of the principal law and which reads “Of Abortion and of the Administering or Supplying of Substances Poisonous or Injurious to Health” there shall be substituted the following heading:

**“Of Abortion, of the Administration or Supplying of Substances Poisonous or Injurious to Health, and of the Spreading of Disease”.**

Amendment of article 242 of the principal law.

**42.** In article 242 of the principal law, for the words “to homicide or bodily harm,” there shall be substituted the words “to wilful homicide or wilful bodily harm,”.

Addition of new article 243A to the principal law.

**43.** Immediately after article 243 of the principal law there shall be added the following new article:

“Culpable miscarriage.

**243A.** Whosoever, through imprudence, carelessness, unskilfulness in his art or profession, or non-observance of regulations, causes the miscarriage of a woman with child, shall, on conviction, be liable to imprisonment for a term not exceeding six months or to a fine (*multa*) not exceeding one thousand liri.”.

Addition of new article 244A to the principal law.

**44.** Immediately after article 244 of the principal law there shall be added the following new article:

“Transmission, communication, etc., of disease.

**244A.** (1) Any person who, knowing that he suffers from, or is afflicted by, any disease or condition as may be specified in accordance with sub-article (3), in any manner knowingly transmits, communicates or passes on such disease or condition to any other person not otherwise suffering from it or afflicted by it, shall, on conviction, be liable to imprisonment for a term from four year to nine years:

Provided that where the other person dies as a result of such disease or condition, the offender shall be liable to the punishment established in sub-article (1) of article 211.

(2) Where any such disease or condition as is referred to in sub-article (1) is transmitted, communicated or passed on through imprudence, carelessness or through non-observance of any regulation by the person who knew or should have known that he suffers there from or is afflicted thereby that person shall on conviction be liable to imprisonment for a term not exceeding six months or to a fine (*multa*) not exceeding one thousand liri;

Provided that where the other person dies as a result of such disease or condition, the offender shall be liable to the punishments established in article 225.

(3) The Minister responsible for justice shall, by notice in the Government Gazette, specify diseases or conditions to which this article applies.”.

45. For the heading immediately preceding article 245 of the principal law and which reads “Of Infanticide and of the Abandonment and Exposure of Children” there shall be substituted the following heading:

Substitution of heading immediately preceding article 245 of the principal law.

**“Of Infanticide and of the Abandonment, Exposure and Ill-treatment of Children”.**

46. In sub-article (1) of article 247 of the principal law, for the words “to be guilty of bodily harm,” there shall be substituted the words “to be guilty of wilful bodily harm,”.

Amendment of article 247 of the principal law.

47. Immediately after article 247 of the principal law there shall be added the following new article:

Addition of new article 247A to the principal law.

“Ill-treatment or neglect of child under twelve years.

“247A. (1) Whosoever, having the responsibility of any child under twelve years of age, by means of persistent acts of commission or omission ill-treats the child or causes or allows the ill-treatment by similar means of the child shall, unless the fact constitutes a more serious offence under any other provision of this Code, be liable on conviction to imprisonment for a term not exceeding two years.

(2) For the purposes of sub-article (1), ill-treatment includes neglecting the child’s need for adequate nutrition, clothing, shelter, and protection from harm, persistently offending the child’s dignity and self-esteem and persistently imposing upon the child age-inappropriate tasks or hard physical labour.



(3) The provisions of sub-article (4) of article 197 shall also apply in the case of an offence under this article, when the offence is committed by any ascendant or tutor.”.

Amendment of article 250 of the principal law.

**48.** Sub-article (1) of article 250 of the principal law shall be amended as follows:

(a) for the words “title or security,” there shall be substituted the words “title or security, or to do or omit from doing any thing,”; and

(b) for the words “or to defame another person as guilty of an offence or of a dishonourable act,” there shall be substituted the words “or to defame, that or another person,”.

Amendment of article 276A of the principal law.

**49.** In article 276A of the principal law, for the words “sixty-five years” there shall be substituted the words “sixty years”.

Amendment of article 293 of the principal law.

**50.** In article 293 of the principal law, for the words “for a term not exceeding nine months” there shall be substituted the words “for a term from three to eighteen months”.

Amendment of article 294 of the principal law.

**51.** In article 294 of the principal law, for the words “from five months to one year.” there shall be substituted the words “from seven months to two years.”.

Amendment of article 295 of the principal law.

**52.** In article 295 of the principal law, for the words “for a term from five months to one year” there shall be substituted the words “for a term from “seven months to two years” and for the words “from six to eighteen months” there shall be substituted the words “from nine months to three years”.

Amendment of article 296 of the principal law.

**53.** In sub-article (1) of article 296 of the principal law, for the words “for a term from five to eighteen months” there shall be substituted the words “for a term from five months to two years”.

Amendment of article 297 of the principal law.

**54.** In article 297 of the principal law, for the words “for a term from seven months to two years.” there shall be substituted the words “for a term from nine months to three years.”.

Addition of new article 298C to the principal law.

**55.** Immediately after article 298B of the principal law there shall be inserted the following new article:

“Usuary.

**298C.** (1) Whosoever receives from another person or obtains from another person a promise to give, to himself or to others, in consideration of a loan, interests or any other gain under any form whatsoever in excess of what is allowed

by law shall be liable to the punishment of imprisonment not exceeding one year and to the payment of a fine (*multa*) from one thousand liri to fifteen thousand liri.

(2) The same punishment laid down in sub-article (1) shall apply to whosoever receives from another person or obtains from another person a promise to give, to himself or to others, in consideration of a service consisting in any other benefit of any kind, interests or any other gain under any form whatsoever in excess of what is allowed by law or otherwise disproportionate to the service given.

(3) The same punishment laid down in sub-article (1) shall also apply to whosoever, not being an accomplice in the offence in the same sub-article, intervenes to procure for another person a sum of money or any other benefit by having a person give or promise to give, to himself or to others, in respect of the intervention, a disproportionate compensation.

(3) For the purposes of sub-articles (1), (2) and (3), in the determination of whether the interests are, or any gain or compensation is, disproportionate account shall be had of all the circumstances of the fact and of the average rates usually applicable to operations similar to the one in question.”.

**56.** In article 308 of the principal law for the words “from four months to one year.” there shall be substituted the words “from seven months to two years.” Amendment of article 308 of the principal law.

**57.** In article 309 of the principal law, for the words “from one month to three months” there shall be substituted the words “from one to six months” Amendment of article 309 of the principal law.

**58.** For paragraphs (a) and (b) of sub-article (1) of article 310 of the principal law there shall be substituted the following: Amendment of article 310 of the principal law

“(a) when the amount of the damage caused by the offender exceeds one thousand liri the punishment shall be that of imprisonment from thirteen months to seven years;

(b) when the amount of the damage caused by the offender exceeds one hundred liri but does not exceed one thousand liri, the punishment shall be that of imprisonment from five months to three years:

Provided that if the punishment laid down for the relevant offence in the preceding articles of this sub-title is higher than the punishment laid down in this paragraph the former punishment shall apply increased by one degree and in the case of the offence under article 294 the punishment so increased shall not be awarded in its minimum.”.

Amendment of article 313 of the principal law.

**59.** In article 313 of the principal law, for the words “Offenders Act” there shall be substituted the words “Offenders Act and of article 21 of this Code”.

Amendment of article 325 of the principal law.

**60.** Article 325 of the principal law shall be amended as follows:

(a) the present provision shall be renumbered as sub-article (1);

(b) immediately after sub-article (1) there shall be added the following new sub-article:

“(2) Where because of the geological, palaeontological, archeological, architechtonic, artistic or historical nature or importance of the property spoiled, damaged or injured it is not possible to estimate the damage according to the rule laid down, in article 335, the damage shall be deemed to exceed five hundred liri.”.

Amendment of article 330 of the principal law.

**61.** Paragraph (a) of article 330 of the principal law shall be amended as follows:

(a) for the words “was to commit a theft,” there shall be substituted the words “was to commit theft or damage to property or any offence against the person as defined in paragraph (d) of sub-article (1) of article 5,”; and

(b) for the words “previously convicted of theft” there shall be substituted the words “previously convicted of any such offence”.

Addition of new article 334A to the principal law.

**62.** Immediately after article 334 of the principal law there shall be added the following new article:

“Failure to inform about stolen etc. property.

**334A.** Whosoever, on becoming aware that any property in his possession is stolen property or property misapplied or obtained by means of any offence, fails to give notice thereof to the Executive Police within a week of becoming so aware, shall, on conviction, be liable to imprisonment for a term not exceeding three months or to a fine (*multa*).”.



**63.** For article 337 of the principal law there shall be substituted the following:

Substitution of article 337 of the principal law.

"Decrease of punishment.

337. (1) In cases of fraud, the prescribed punishment shall be diminished by one or two degrees if, previously to the commencement of any criminal proceedings against the offender, the damage caused by the offence shall have been fully made good.

(2) In cases of theft, whether simple or aggravated, as well as any offence of voluntary damage to property committed in the course of the execution of the offence of theft, the prescribed punishment shall be diminished by two degrees if, prior to his arraignment in court in connection with that theft:

(a) the offender discloses to the competent authority any person who may have received or purchased from him, or who may have taken part in the sale or disposal of, the stolen property and

(b) (i) either he delivers to the competent authority all the property stolen by him, making good to the injured party any damage that may have been caused to the property, or

(ii) where the property has not been recovered, he pays to the injured party the full value of the property so stolen; and

(c) fully makes good to the injured party any damage, to other moveable or immoveable property, caused by, or in the course of the execution of, the offence of theft.

(3) The prescribed punishment in the case of the offences mentioned in sub-article (2) may be diminished by one degree if the offender complies with the provisions of that subarticle after his arraignment in court as aforesaid.

(4) The provisions of sub-articles (2) and (3) shall not apply -

(a) in the case of theft aggravated by violence consisting in wilful homicide, attempted homicide, wilful bodily harm or confinement of the person;

(b) in the case of theft aggravated by violence directed against any of the persons mentioned in article 276A;

(c) in the case of theft in the course of the execution of which a death or bodily harm ensues as provided in article 226A.

(5) The circumstances mentioned in sub-articles (1) and (2) shall not be considered as special or exceptional reasons for the purpose of article 21.”.

Addition of new article 337A to the principal law.

**64.** Immediately after article 337 of the principal law there shall be added the following new article:

“Traffic in persons to enter or leave Malta illegally.

**337A.** Any person who with the intent to make any gain whatsoever aids, assists, counsels or procures any other person to enter or to attempt to enter or to leave or attempt to leave, Malta in contravention of the laws thereof or who, in Malta or outside Malta, conspires to that effect with any other person shall, without prejudice to any other punishment under this Code or under any other law, be liable to the punishment of imprisonment from six months to five years or to a fine (*multa*) of ten thousand liri and the provisions of articles 21 and 28A and those of the Probation of Offenders Act shall not apply:

Provided that where the persons aided, assisted, counselled, procured or the object of the conspiracy as aforesaid number more than three the punishment shall be increased by one to three degrees.”.

Amendment of article 338 of the principal law.

**65.** Article 338 of the principal law shall be amended as follows:

(a) for paragraph (z) there shall be substituted the following:

“(z) when so ordered by a court or so bound by contract fails to give to his or her spouse the sum fixed by that court or laid down in the contract as maintenance for the spouse and, or, the children, within fifteen days from the day on which, according to such order or contract, such sum should be paid;”;  
and

(b) in paragraph (ll) thereof, immediately after the words “by a court” there shall be inserted the words “or bound by contract”.

66. For articles 346 to 355, both inclusive, of the principal law there shall be substituted the following:

Substitution of  
articles 346 to 355  
of principal law.

### **“GENERAL**

Duties of the  
Police.

346. (1) It is the duty of the Police to preserve public order and peace, to prevent and to detect and investigate offences, to collect evidence, whether against or in favour of the person suspected of having committed that offence, and to bring the offenders, whether principals or accomplices, before the judicial authorities.

(2) Notwithstanding the generality of sub-article (1), where authorised by law and in the manner so provided, the Police may delay its immediate intervention for the prevention of the commission of an offence.

(3) The Police shall not institute criminal proceedings, except on the complaint of the injured party, in cases where the law does not allow criminal proceedings to be instituted without such complaint.

Lawful orders.

347. Any order given by a police officer in the execution of his duties and which is reasonably required in the circumstances of the case shall be deemed to be lawful unless the contrary is proved.

Tendering of  
assistance  
when  
required by  
head of  
household.

348. Where the head of any household requires an officer of the Police to proceed to such house in order to ascertain any offence which has been committed or to secure the evidence relating thereto, the officer shall proceed thither with all convenient speed taking with him witnesses where practicable.

Powers  
according to  
law.

349. (1) A police officer shall only have such powers as are vested in him by law and to the extent authorised by law and in this provision the word law has the same meaning assigned to it in article 124 of the Constitution.

Omission of  
precaution,  
formality or  
requirement  
not a bar to  
admissibility  
of evidence.

(2) The omission of any precaution, formality or requirement prescribed under this Title shall be no bar to proving, at the trial, in any manner allowed by law, the facts to which such precaution, formality or requirement relates.



Definitions.

350. (1) In this Title, and subject to the provisions of sub-article (2):

“appropriate consent” means-

(a) in relation to a person who has attained the age of 18 years, the consent of that person;

(b) in relation to a person who has not attained the age of 18 years but has attained the age of 14 years, the consent of that person and the consent of his parent or guardian;

(c) in relation to a person who has not attained the age of 14 years, the consent of his parent or guardian;

“designated police station” means a police station designated by the Minister responsible for the Police by a notice published in the Gazette;

“excluded material” means:

(a) personal records acquired or created by a person in the course of any trade, business, profession or other occupation, or for purposes of any paid or unpaid office and which he holds in confidence;

(b) human tissue or tissue fluid which has been taken for the purpose of diagnosis or medical treatment and which a person holds in confidence;

(c) journalistic material which a person holds in confidence;

“intimate sample” means a sample of blood, semen or any other tissue fluid, urine, saliva or pubic hair, and includes a swab taken from a person’s body orifice other than the mouth;

“intimate search” means a search which consists of the physical examination of a person’s body orifices other than the mouth;

“items subject to legal privilege” means any communication between a professional legal adviser and his client or any person representing his client and any document or record enclosed with or referred to in such communication and made in connection with the giving of legal advice or in connection with or in contemplation of legal proceedings and for the purposes of such proceedings, but the expression does not include items held with the intention of furthering a criminal purpose;

“journalistic material” means material in the possession of a person who acquired or created it for the purposes of journalism and a person who receives material from someone who intends that the recipient shall use it for the purposes of journalism is to be taken to have acquired it for those purposes;

“non-intimate sample” means -

- (a) a sample of hair other than pubic hair;
- (b) a sample taken from a nail or from under a nail;
- (c) a swab taken from any part of a person’s body including the mouth but not any other body orifice;
- (d) saliva;
- (e) a footprint or a similar impression of any part of a person’s body other than a part of his hand;

“personal records” means documentary and other records concerning an individual (whether living or dead) who can be identified from them and relating -

- (a) to his physical or mental health; or
- (b) to spiritual counselling or assistance given or to be given to him; or
- (c) to counselling or assistance given or to be given to him, for the purposes of his personal welfare, by any voluntary organisation or by any individual who by reason of his office or occupation has responsibilities for his personal welfare or by

reason of an order of a court has responsibilities for his supervision.

(2) For the purpose of this article:

(a) a person holds journalistic material in confidence if -

(i) he holds it subject to such an undertaking, restriction or obligation; and

(ii) it has been continuously held (by one or more persons) subject to such an undertaking, restriction or obligation since it was first acquired or created for the purposes of journalism.

(b) a person holds material other than journalistic material in confidence if he holds it subject -

(i) to an express or implied undertaking to hold it in confidence; or

(ii) to a restriction on disclosure or an obligation of secrecy contained in this Code or in any other law.

### *Sub-title I*

## **POWER TO STOP AND SEARCH**

Power to  
stop and  
search.

351. (L) A police officer may, in a public place, or in any place to which the public is admitted, even against payment of an entrance fee, search any person or vehicle, if he has a reasonable suspicion that the search will discover the possession of things, which are prohibited, stolen or acquired as the result of any offence whatsoever, or which may be used or may have been used in the commission of an offence or which may serve in the investigation of an offence.

(2) For the purposes of sub-article (1) of this article, the Police may stop a person or a vehicle until the search is performed and shall seize any thing discovered during the search and the possession of which is prohibited or which may be connected with an offence.

Warrant.

352. Where the search to be performed is required in an unattended vehicle and it is not possible to obtain the attendance of its registered owner, then a police officer may



only carry out the search if he has a warrant from a superior officer not below the rank of an inspector.

Limitation as to search, etc.

353. Except in urgent cases and when a person is apprehended *in flagrante delicto* nothing in this title authorises the search of a person by a police officer of the opposite sex, or that a search be conducted by a police officer not in uniform unless clearly identified by the production of a police identity card.

Report on search.

354. Anything seized as a result of a search under the preceding articles of this title shall be preserved and the Police carrying out the search shall draw up a report stating all the particulars of the search and including a detailed list of the things so seized.

### *Sub-title II*

## **ROAD CHECKS**

Conditions for road checks.

355. The Police may organise a road check where there are reasonable grounds for believing that a check on vehicles in or passing through a locality may lead to -

(a) the arrest of a person who has committed or is reasonably suspected of having committed or of being about to commit a serious crime, not being a crime punishable under the Press Act; or

(b) the discovery of anything the possession of which is prohibited or restricted by law or which is connected in any way whatsoever with the commission of a serious crime or which is evidence of any such crime; or

(c) the arrest of any person whose arrest has been ordered by a court or any other lawful authority or who is otherwise unlawfully at large; or

(d) the ascertainment that a person is not abiding by a condition lawfully imposed on him by a court; or

(e) the ascertainment of violations of any law regarding motor vehicles or traffic regulation:

Provided that for the purposes of this article "serious crime" means any crime liable to the punishment of imprisonment.

Exercise of  
road check.

355A. (1) For the duration of the road check the Police may stop all or any vehicles passing through or in the locality where the road check is being organised.

(2) Where a vehicle has been stopped in pursuance of the provisions of this sub-title that vehicle may be searched by the Police.

Authorisation.

355B. A road check under this sub-title may only be organised upon an authorisation in writing by a police officer not below the rank of Inspector unless the matter admits of no delay in which case such authorisation may be given orally and reduced to writing as soon as practicable.

Evidence of  
other  
offences.

355C. Notwithstanding anything contained in the preceding articles of this sub-title, where in the course of a road check, evidence is found of the commission of an offence other than that in respect of which the road check was organised, the Police shall also be entitled to investigate such offence and where appropriate to institute proceedings for that offence.

Saving of  
other laws.

355D. The provisions of this sub-title shall be without prejudice to any power vested in the Police by any other law to stop vehicles for purposes other than those mentioned in this sub-title.

---

### *Sub-title III*

## **POWERS OF ENTRY, SEARCH AND SEIZURE UNDER WARRANT**

Conditions  
for search of  
premises etc.

355E. (1) Saving the cases where the law provides otherwise, no police officer shall, without a warrant from a Magistrate, enter any premises, house, building or enclosure for the purpose of effecting any search therein or arresting any person who has committed or is reasonably suspected of having committed or of being about to commit any offence unless —

(a) the offence is a crime other than a crime punishable under the Press Act and there is imminent danger that the said person may escape or that the corpus dialect or the means of proving the offence will be suppressed; or

(b) the person is detected in the very act of committing a crime other than a crime punishable under the Press Act; or

(c) the intervention of the Police is necessary in order to prevent the commission of a crime other than a crime punishable under the Press Act; or

(d) the entry is necessary for the execution of any warrant or order issued by any other competent authority in the cases prescribed by law; or

(e) the arrest is for the purpose of apprehending a person who is unlawfully at large after escaping from lawful arrest or detention.

(2) The expression “enclosure” does not include any plot of land enclosed by rubble walls.

Subsidiary powers of Police in execution of warrants.

355F. In cases where a police officer is empowered to enter into any of the places mentioned in the last preceding article, it shall be lawful for such officer to open or break any door or window, if, after giving notice of his office and object, he cannot otherwise obtain entry.

Scope of search and of search warrant.

355G. (1) Any entry and search warrant issued under this Sub-title and any search or seizure made under the provisions of this Sub-title shall not extend to legal privilege or to any excluded material.

(2) An entry and search warrant issued under this Sub-title shall be deemed to have been granted to the police officer or officers executing it.

(3) Without prejudice to the right of obtaining a new warrant for the same purpose, an entry and search warrant may not be executed after the lapse of one month from the date of issue.

Times for execution of warrant.

355H. No warrant of entry and search may be executed between seven o'clock in the evening and seven o'clock in the morning unless the Magistrate has otherwise authorised in the warrant, or unless the executing Police officer has reasonable cause to believe that the purpose of the entry and search will be frustrated if the execution of the warrant is delayed.



Copy of  
warrant to  
person.

355I. The executing officer shall hand over a copy of the warrant to the person occupying and present at the place searched or to any other person who appears to the said officer to be in charge of the same place and who happens to be present during the search. If there is no person present who appears to the executing officer to be in charge of the premises the copy of the warrant shall be left in an easily visible place on the premises.

Limitation

355J. A search under a warrant may only be a search to the extent required for the purpose for which the warrant was issued:

Provided that if, in the course of the search, offences other than the offence or offences mentioned in the warrant are discovered, the search may extend to the extent required for the purposes of such other offences.

---

*Sub-title IV*

**POWERS OF ENTRY AND SEARCH WITHOUT WARRANT**

Cases  
admitting of  
no delay.

355K. Any police officer may enter and search without a warrant any premises, house, building or enclosure in the circumstances laid down in paragraphs (a) to (e) of sub-article (1) of article 355E. Entry and search after arrest.

Entry and  
search after  
arrest.

355L. (1) The Police have the power to enter and search any premises, house, building or enclosure used, occupied or controlled, even temporarily, by a person who is under arrest, if they have reasonable grounds for suspecting that there is evidence, other than items subject to legal privilege, that relates to the offence or a connected offence, and such search shall be limited to the extent that is reasonably necessary for discovering such evidence:

Provided that if offences other than the offence or offences for which the person was arrested are discovered in the course of the search then the search may extend to the extent required for the purposes of such other offences.

(2) Without prejudice to the provisions of Sub-title V, the Police may in the course of a search carried out in pursuance of the provisions of sub-article (1) seize and retain anything not subject to legal privilege and which constitutes

relevant evidence for the purpose of any offence mentioned in the same sub-article.

Limitation.

355M. (1) The powers mentioned in article 355L may be exercised by a police officer not below the rank of inspector or by officers of a lower rank if so authorised in writing by an officer not below the rank of inspector.

(2) Where the police officers on the scene are all below the rank of inspector and the matter admits of no delay and the person occupying or in control of the premises is present and his presence is necessary for the effective investigation of the offence, the said police officers may proceed to enter and search the premises without the authorisation in writing referred to in sub-article (1) of this article.

Report by officer.

355N. A police officer who has exercised any of the powers mentioned in articles 355K and 355L shall, as soon as practicable, draw up a report of the entry and search without warrant, stating the grounds for which it was exercised, and describing the results of the search.

Connection of offences.

355O. For the purposes of this Sub-title there is connection between offences when -

(a) the facts of the offences are substantially the same; or

(b) an offence has served as a means for the commission of another offence; or

(c) the proof of an offence or of a circumstance thereof has a bearing on the proof of another offence or of a circumstance thereof.

---

### *Sub-title V*

## **SEIZURE AND RETENTION**

General rules for seizure.

355P. The Police, when lawfully on any premises, may seize anything which is on the premises if they have reasonable grounds for believing that it has been obtained in consequence of the commission of an offence or that it is evidence in relation to an offence and that it is necessary to seize it to prevent it being concealed, lost, damaged, altered or destroyed.

Computer  
data.

355Q. The Police may, in addition to the power of seizing a computer machine, require any information which is contained in a computer to be delivered in a form in which it can be taken away and in which it is visible and legible.

Receipt for  
thing seized.

355R. The Police shall always issue to the person on the premises or in control of the thing seized a receipt for anything seized and on request by any such person, the Police shall, against payment and within a reasonable time, supply to him photographs, or a film, video recording or electronic image or copies of the thing seized, unless the investigating officer has reasonable grounds for believing that this would be prejudicial to the investigation or to any criminal proceedings that may be instituted as a result thereof.

Retention.

355S. (1) Anything which has been lawfully seized by the Police may be retained so long as is necessary in all the circumstances.

(2) Without prejudice to the generality of the aforesaid, anything lawfully seized by the Police under this Code may be retained for use as evidence at the trial or for forensic examination or any other aspect of the investigation, or in order to establish the thing's lawful owner.

(3) The Commissioner shall provide for the proper custody of anything seized.

Restitution to  
owner.

355T. A person who is the rightful owner of a thing seized and retained may, unless criminal proceedings in the course of which the thing seized has been exhibited or is to be exhibited are pending before any court, make an application to a Magistrate for its restitution, and the Magistrate may, after hearing the Police, by a decree order its release either unconditionally, or under such conditions as may be necessary to preserve the evidential aspects of the thing.

Photographs.

355U. Unless a thing is liable to forfeiture, nothing shall be retained if a photograph, film, video recording or electronic image or a copy of the thing would be sufficient:

Provided that before releasing the thing the Police may, where they deem so necessary, apply to a Magistrate for a *repertus* to be drawn up and the provisions of Title II of Part II of Book Second of this Code shall apply.



*Sub-title VI***POWERS OF ARREST AND DETENTION**

Arrest under  
warrant.

355V. Where there are lawful grounds for the arrest of a person, the Police may request a warrant of arrest from a Magistrate, unless in accordance with any provision of law the arrest in question may be made without a warrant.

Arrest by  
private  
persons.

355W. (1) Any person not being a police officer may arrest without warrant anyone who is in the act of committing or has just committed any crime concerning the peace and honour of families and morals, any crime of wilful homicide or bodily harm, or any crime of theft or of wilful unlawful entry or damage to property.

(2) The person making any arrest under sub-article (1) of this article shall without delay inform the Police of the fact of the arrest and shall exercise such power only until it is strictly necessary for the Police to take over the person arrested.

Arrest by  
police  
without  
warrant.

355X. (1) Any police officer may arrest without warrant anyone who is in the act of committing or has just committed a crime punishable with imprisonment, or whom he reasonably suspects to be about to commit or of having just committed such a crime.

(2) Any police officer may also proceed to the arrest of any person who knowingly, or after due warning, obstructs or disturbs him in the execution of his duties, or disobeys his lawful orders.

(3) The powers mentioned in sub-articles (1) and (2) hereof shall only be exercised until it is strictly necessary for the police officer to convey the person arrested to a police station and deliver him to a superior officer not below the rank of sergeant.

(4) The provisions of this article shall not apply to any crime punishable under the Press Act.

Arrest for  
minor  
offences.

355Y. (1) In the case of contraventions, or of crimes not subject to the punishment of imprisonment, excepting always the crimes punishable under the Press Act, it shall be lawful for the Police to proceed to the arrest of any person without a warrant, provided that -

(a) the person be detected in the very act of committing the offence; or

(b) the arrest be necessary to prevent the commission of an offence in respect of which the Police may institute criminal proceedings without the complaint of the injured party; and

(c) in either of the cases mentioned in (a) or (b) above one of the conditions mentioned in article 355Z is satisfied.

(2) A person shall be deemed to be detected in the very act of committing an offence, if he is caught, either in the act of committing the offence, or while being pursued by the injured party or by the public hue and cry.

General arrest  
conditions.

355Z. The general arrest conditions are -

(a) that the identity of the person is unknown or cannot be readily ascertained by the police officer; or

(b) there is a doubt whether the particulars furnished by the person are true; or

(c) that the person has not furnished a satisfactory address for service, or there are doubts about whether the address provided is satisfactory for service, or that at least some other person may according to law receive service on his behalf at the address given; or

(d) that the arrest is necessary to prevent the person -

(i) causing physical harm to himself or to any other person; or

(ii) suffering physical injury; or

(iii) causing loss or damage to property; or

(iv) committing an offence against public decency; or

(v) causing an unlawful obstruction on any public road; or



(e) that the police officer has reasonable grounds for believing that the arrest is necessary to protect a child or any other vulnerable person.

Conduct  
towards  
person  
arrested.

355AB. The officer or any other person authorised by law making an arrest shall not use any harshness, bond or other means of restraint unless indispensably required to secure, or rendered necessary by the insubordination of the person arrested.

Information  
to be given  
on arrest.

355AC. (1) When a person is arrested, the arrest is not lawful unless the person arrested is informed that he is under arrest, even though the arrest may be obvious.

(2) The arrest is not lawful unless the person arrested is informed at the time of his arrest or detention, in a language that he understands, of the reasons for his arrest or detention:

Provided that if an interpreter is necessary and is not readily available or if it is otherwise impracticable to comply with the provisions of this sub-article at the time of the person's arrest or detention, such provisions shall be complied with as soon as practicable:

Provided further that, in any case, where the arrest is made by a private person under the provisions of article 355V the giving of the information may be delayed until the person arrested is taken over by the Police.

Attendance  
at a police  
station or  
office.

355AD. (1) Where, in the course of an investigation, a person attends voluntarily at, or accompanies a police officer to, a police station or office, that person shall be free to leave at any time, unless and until he is informed that he is under arrest.

(2) Where an inspector of Police has a reasonable suspicion that the person who attended voluntarily at the police station or office may have committed an offence subject to imprisonment, he may arrest such person forthwith without warrant and inform him accordingly. The time of the arrest shall be immediately recorded and immediate notice thereof shall be given to a Magistrate.

(3) The Police may, orally or by a notice in writing, require any person to attend at the police station or other place indicated by them to give such information and to



produce such documents as the Police may require and if that person so attends at the police station or place indicated to him he shall be deemed to have attended that police station or other place voluntarily. The written notice referred to in this sub-article shall contain a warning of the consequences of failure to comply, as are mentioned in sub-article (5) of this article.

(4) Any person who is considered by the police to be in possession of any information or document relevant to any investigation has a legal obligation to comply with a request from the police to attend at a police station to give as required any such information or document:

Provided that no person is bound to supply any information or document which tends to incriminate him.

(5) A person who fails to comply with a notice in writing as is referred to in sub-article (3) of this article or who fails, upon being so requested, even if only orally, to accompany voluntarily a police officer to a police station or other place indicated by the police officer for any purpose mentioned in the said sub-article (3) shall be guilty of a contravention punishable with detention and shall be liable to be arrested immediately under warrant.

(6) The notice mentioned in sub-article (3) may be served with urgency in cases where the interests of justice so require.

(7) A person who attends voluntarily as mentioned in sub-article (3) may be kept apart from any other person, but shall not be kept in any place normally used for the detention of arrested persons.

Arrest  
outside police  
stations or  
offices.

355AE. (1) When a police officer arrests a person at a place other than a police station the arrested person shall be taken to the nearest police station and where the arresting officer is an officer below the rank of inspector he shall forthwith report the arrest to an officer not below the rank of inspector. In any case the inspector or officer in charge of that police station shall also be informed.

(2) Where there are grounds for the continuation of the arrest the person arrested shall be taken to a designated police station as soon as practicable and in no case later than six hours from the time of the arrest.

(3) The taking of an arrested person to a police station in accordance with the foregoing provisions of this article may be delayed if that person's presence is required elsewhere for the purpose of any investigation which may be necessary.

(4) Where a person is released following arrest the police officer ordering release shall record in writing the fact stating reasons.

Search on  
arrested  
person.

355AF. (1) A police officer may immediately search the person arrested:

(a) if the police officer has reasonable grounds for believing that the arrested person may present a danger to himself or others; or

(b) for anything which the arrested person might use to assist him to escape from custody; or

(c) for anything which might be evidence related to an offence.

(2) The provisions of article 353 of this Code shall apply to searches under this article.

---

### *Sub-title VII*

## **WARRANTS**

Police to  
execute  
warrants of  
arrest or  
search.

355AG. (1) Saving the provisions of article 666, it is the duty of the Police to execute any warrant or order of arrest or search that may, in the cases prescribed by law, be issued or given by any other competent authority.

(2) Any such warrant or order shall set forth the nature of the offence, the name of the person, if known, by whom the offence is alleged to have been committed and, in the case of a search warrant, it shall indicate the place where the search is to be carried out.

(3) Once a warrant or order of arrest or search has been issued any police officer may execute the warrant or order.

Procedure for  
warrants.

355AH. (1) Whenever according to law the carrying out of an act by the police requires the issue of a warrant by a Magistrate a police officer may apply in person to a Magistrate requesting the issue of the appropriate warrant stating the grounds for the request and giving the Magistrate all such information that will enable the Magistrate to decide on the request. Before deciding whether to issue the warrant the Magistrate may require the police officer to confirm on oath the information supplied by him and the warrant shall only be issued upon the Magistrate being satisfied that sufficient grounds for the issue of the warrant exist.

(2) In cases of urgency, the request for the issue of the warrant and the warrant may be communicated even by facsimile:

Provided that, as soon as practicable, the original warrant shall be delivered for record purposes.

(3) Any warrant issued by a Magistrate shall be issued in favour of the Commissioner of Police and may be executed by any police officer.

Copies of  
warrants.

355AI. Except in the case of a warrant transmitted by facsimile, any warrant shall be drawn upon in three signed copies one of which shall be retained by the Magistrate while the others shall be delivered to the police officer who shall retain one copy for his records and shall cause the other one to be served on the person entitled to be served with it:

Provided that where a police officer comes upon a person against whom a warrant of arrest has been issued and, although not in possession of a copy of the warrant, the police officer knows that the warrant has been so issued, the officer shall arrest that person and shall serve him with the copy of the warrant at the first opportunity.

Report of  
arrest.

355AJ. (1) Where any person is arrested, whether with or without a warrant, the arresting police officer or his superior shall, as soon as practicable and unless the person arrested has been released within six hours from arrest, inform a Magistrate, giving all details as to time and place where the person is being held.

(2) The Magistrate may order that the person arrested be transferred to another place with immediate effect.



(3) Any person arrested in pursuance of any provision of this Code and who has not been brought before a court within forty-eight hours of his arrest shall be released.

Immediate  
orders.

355AK. Any order of a competent authority touching on the rights of the individual arising from the provisions of this sub-title shall be carried out without delay, and for such purpose may be communicated even by facsimile or telephone, under such conditions as to guarantee its authenticity.

---

### *Sub-title VIII*

## **DETENTION**

Right to  
release.

355AL. (1) It shall be duty of the custody officer to order the immediate release from custody of any person in police detention in the circumstances mentioned in sub-article (3) of article 355AJ or where the custody officer becomes aware that the grounds for the detention of that person have ceased to apply and there are no other lawful grounds on which the continued detention of that person could be justified.

(2) A person who appears to the custody officer to have been unlawfully at large when he was arrested is not to be released under sub-article (1).

(3) A person whose release is ordered under the provisions of sub-article (1) shall be released unconditionally unless it appears to the custody officer —

(a) that there is need for further investigation of any matter in connection with which he was detained at any time during the period of his detention; or

(b) that proceedings may be taken against him in respect of such matter,

and if it so appears, he shall be released subject to the conditions, reduced to writing and signed by the person to be released, that he will not attempt or do anything to leave Malta without the authority of the investigating officer under whose authority he was arrested and that he will attend at such police

station at such time as the custody officer may appoint and, or that he will attend before the Court of Magistrates at such time and such place as the court may appoint.

(4) Where a custody officer has granted bail to a person subject to a duty not to attempt or do anything to leave Malta without authority or to appear at a police station, the custody officer may give notice in writing to that person that the condition not to attempt or do anything to leave Malta without authority no longer applied or that his attendance at the police station is not required.

(5) Any person who fails to comply with any condition imposed upon him upon his release as provided in sub-article (3) shall be guilty of a contravention.

(6) A police officer may arrest without a warrant any person who, having been conditionally released under sub-article (3) subject to a duty not to attempt or do anything to leave Malta without authority or to attend a police station or subject to a duty to appear before the Court of Magistrates, attempts or does anything to leave Malta without authority or fails to attend at that police station or before the Court of Magistrates at the time appointed for him to do so.

(7) For the purposes of this sub-title a person who returns to a police station to answer to bail or is arrested under sub-article (6)[C14] shall be treated as arrested for the offence under sub-article (5) and for the offence in connection with which he was granted bail and the provisions of this article shall apply to such person.

(8) Nothing in this Code shall prevent the re-arrest without warrant of a person released on bail subject to a duty to attend at a police station if new evidence justifying a further arrest has come to light since his release.

Requirement  
of custody  
officer.

355AM. (1) At every designated place of detention the Commissioner shall appoint one or more custody officers not below the rank of sergeant who, in matters of detention, shall comply with any orders of a Magistrate.

(2) Any officer of any rank may perform the functions of a custody officer at a designated place of detention if a custody officer is not readily available to perform them.

(3) Where the custody officer who is called upon to carry out any of his functions with respect to a person in police detention is, at the time when the function falls to be performed, involved in the investigation of an offence for which the person is in police detention such function shall be carried out by another custody officer or, if no such other custody officer is available, by the next most senior police officer who happens to be available at the time.

(4) In this article and elsewhere in this sub-title “designated place of detention” means such place designated by the Minister where a person may be detained for more than six hours.

Functions of  
custody  
officer.

355AN. The custody officer shall perform such functions as may be assigned to him by this Code or by any other law.

Functions of  
custody  
officer at a  
place other  
than a  
designated  
place of  
detention.

355AO. (1) Where an arrested person is taken to a police station which is not a designated place of detention the functions in relation to him which would otherwise fall to be performed by a custody officer shall be performed:

(a) by an officer not below the rank of sergeant who is not involved in the investigation of an offence for which the arrested person is in detention, if such an officer is readily available; and

(b) if no such officer is readily available, by the officer who took the arrested person to the police station or by the most senior police officer at the police station at the time.

Intimate  
searches of  
the person  
detained.

355AP. Where the arresting officer or the custody officer has a reasonable suspicion that the person arrested may have concealed on his person any drug the unlawful possession of which would constitute a criminal offence or any other item which a custody officer is authorised by this Code or by any other law to seize from the possession of an arrested person, the said officer may request a Magistrate to order an intimate search of the person arrested.

Experts to be  
appointed.

355AQ. (1) Upon a request for an order under article 355AP the Magistrate shall appoint an expert to carry out the search under such safeguards as he may consider necessary for the purpose of decency and to report to him on his findings.



A copy of the report shall be communicated without delay to the arresting or custody officer as the case may be.

(2) A person shall not be appointed an expert for the purpose of carrying out an intimate search on a person of the opposite sex unless the expert is a medical practitioner and the person to be searched consents thereto in writing.

Seizure. 355AR. Anything found as a result of an intimate search under the foregoing articles may be temporarily retained by the expert and may subsequently be seized by order of the Magistrate, and a receipt therefore shall be given to the detained person. The Magistrate may authorise the delivery against receipt of anything so seized to the police officer investigating the person intimately searched.

\_\_\_\_\_

*Sub-title IX*

**RIGHTS OF PERSONS DETAINED**

Right to inform friends and to medical assistance. 355AS. (1) It shall be the duty of the Police to inform without undue delay the person arrested or detained of his right to request that a relative or friend be informed of the fact of his arrest and of his whereabouts unless such relative or friend is reasonably suspected of being involved in the offence being investigated. If the person arrested avails himself of such right the relative or friend shall without undue delay be informed accordingly and a record as provided in sub-articles (2) and (3) shall be kept of the way the Police discharged their duty under this sub-article.

(2) In all cases the following information shall be entered in the detention record of the person detained:

(a) the day and time in which the detained person was informed of his right under this article;

(b) whether the detained person chose to avail himself of that right or not;

(c) if the detained person chose to avail himself of that right, the details of the relative or friend informed of the detained person's arrest and whereabouts together

with the day and time in which the information was given; if such relative or friend was not so informed the reasons for this.

(3) The arrested or detained person shall be requested to sign the record referred to in sub-article (2) and should he refuse to do so an entry shall be entered in the record to this effect.

(4) Notwithstanding the provisions of sub-article (1) above, the investigating officer may by application to a Magistrate request that he be authorised to delay informing a relative or friend of the detained person if there are reasonable grounds for suspecting that the giving of such information may be prejudicial to the investigation or to the recovery of things, or that it may alert other persons who are connected with the offence and are still not in Police custody. Such a delay shall not be later than six hours from the time when the arrest was effected.

(5) An arrested person shall, at his request, be allowed to consult a medical adviser of his choice provided that such medical adviser is readily available.

(6) The application referred to in sub-article (4) may be communicated to the Magistrate by facsimile:

Provided that, as soon as practicable, the original application shall be delivered for record purposes.

Right to legal  
advice.

355AT. (1) Subject to the provisions of sub-article (3), a person arrested and held in police custody at a police station or other authorised place of detention shall, if he so requests, be allowed as soon as practicable to consult privately with a lawyer or legal procurator, in person or by telephone, for a period not exceeding one hour. As early as practical before being questioned the person in custody shall be informed by the Police of his rights under this sub-article.

(2) A request made under sub-article (1) shall be recorded in the custody record together with the time that it was made unless the request is made at a time when the person who makes it is at court after being charged with an offence in which case the request need not be so recorded.

(3) Subject to the provisions of sub-article (7), compliance with a request under sub-article (1) may be delayed if the person making the request is in police detention for a crime and if an officer not below the rank of superintendent authorises such delay.

(4) An authorisation under sub-article (3) may be given orally or in writing but if it is given orally it shall be confirmed in writing as soon as it is practicable.

(5) An officer may only authorise delay where he has reasonable grounds for believing that the exercise of the right conferred by sub-article (1) at the time when the person detained desires to exercise it —

(a) will lead to interference with or harm to evidence connected with the offence being investigated or interference with or physical injury to other persons; or;

(b) will lead to the alerting of other persons suspected of having committed such an offence but not yet arrested for it; or

(c) will hinder the recovery of any property obtained as a result of such an offence; or

(d) in the case of a person detained for an offence of drug trafficking, bribery, or money laundering, will hinder the recovery of the value of that person's proceeds from the offence.

(6) Where delay has been authorised as provided in sub-article (5) the Police may immediately proceed to question the detained person.

(7) The delay mentioned in sub-article (3) shall in no case exceed thirty-six hours from the time of the arrest.

(8) Any police officer who tries to indicate to a person detained the advocate or legal procurator who should be engaged during the detention of such person, shall be guilty of an offence and shall be punishable with a fine (*ammenda*) and this without prejudice to any disciplinary proceedings that may be taken against him.



(9) Where the person detained chooses not to seek legal assistance the investigating officer shall record this fact in writing in the presence of two witnesses and thereupon questioning may proceed immediately.

Inferences  
from failure  
to mention  
facts.

355AU. (1) Where in any proceedings against a person for an offence, evidence is given that the accused —

(a) at any time before he was charged with the offence, on being questioned by the police trying to discover whether or by whom the offence had been committed, failed to mention any fact relied on in his defence in those proceedings; or

(b) on being charged with the offence or officially informed that he might be prosecuted for it, failed to mention any such fact,

being a fact which in the circumstances existing at the time the accused could reasonably have been expected to mention when so questioned, charged or informed, as the case may be, sub-article (2) shall apply if it is shown that the accused had received legal advice before being questioned, charged or informed as aforesaid.

(2) Where this sub-article applies —

(a) a Court of Magistrates as court of criminal inquiry in making a decision under sub-article (2) of article 401;

(b) the court or jury, in determining whether the person charged or accused is guilty of the offence charged,

may draw such inferences from the failure as appear proper, which inferences may not by themselves be considered as evidence of guilt but may be considered as amounting to corroboration of any evidence of guilt of the person charged or accused.

*Sub-title X*

**TAKING OF SAMPLES, FINGERPRINTING AND OTHER  
INVESTIGATIVE PROCEDURES**

Samples  
under  
authorisation.

355AV. The investigating officer may in person, by application or by facsimile, request a Magistrate to authorise the necessary procedure -

(a) where he has reasonable grounds to require the taking of intimate samples from the person arrested; or

(b) to take photographs, a film, video recording or electronic image of intimate parts of the body of the person arrested; or

(c) where the person arrested withholds his consent for any procedure which the investigating officer may carry out according to law with the consent of the person arrested:

Provided that where the request falls under paragraph (a) above, the provisions of article 355AW shall apply and, if the request falls under paragraph (b) above, the provisions of article 355AP shall mutatis mutandis apply.

Intimate  
samples by  
consent.

355AW. Subject to the provisions of articles 355AV and 355AX, an intimate sample may be taken from a person arrested only if his appropriate consent is given.

When  
consent for  
intimate  
sample is  
refused.

355AX. (1) Upon a request under paragraph (a) of article 355AV, the Magistrate shall obtain all such information from the investigating officer to enable him to decide on whether the request is justified or not.

(2) Where the Magistrate decides that the request is justified he shall visit the person arrested to request his consent and before asking for his consent he shall explain to him:

(a) the nature of the request and the reasons thereof;

(b) the consequences of giving his consent and of refusing consent as provided in article 355AZ; and

(c) that he is entitled to consult a lawyer or legal procurator before deciding whether or not to give his consent.

(3) Where the person arrested requests to consult a lawyer or legal procurator under sub-article (2) the magistrate shall make a record of the fact, date and time of the request and, subject to the provisions of sub-article (4) shall allow the person arrested to consult with a lawyer or legal procurator for such time as the magistrate may deem appropriate in the circumstances of the case.

(4) The magistrate may, on a justified objection by the Police, delay any communication with an advocate or legal procurator if the interests of justice so require or when any of the events mentioned in sub-article (5) of Article 355AT is likely to occur if such communication is allowed immediately:

Provided that where the person arrested has requested to consult a lawyer or legal procurator his consent can only be requested after such consultation has taken place.

Applicable  
procedure for  
samples.

355AY. Where an intimate sample is to be taken under these articles the provisions of articles 355AP shall apply.

Inferences  
from refusal.

355AZ. Where the appropriate consent to the taking of an intimate sample from a person was refused without a good cause, in any proceedings against the person for an offence, those who have to judge of the facts may draw such inferences from the refusal as appear proper and the refusal may, on the basis of such inferences, be treated as, or as capable of amounting to corroboration of any evidence against the person in relation to which the refusal is material.

Samples with  
the consent or  
at the request  
of person  
arrested.

355BA. (1) The investigating officer may, with the appropriate consent in writing of the person arrested, cause to be taken:

- (a) fingerprints, palm-prints from the person arrested;
- (b) photographs of the person arrested or of non-intimate parts of his body;
- (c) non-intimate samples from the person arrested.



(2) The person arrested may request in writing that:

- (a) his fingerprints, palm-prints or other prints,
- (b) photographs of his person or of non-intimate parts of his body,
- (c) non-intimate samples from his person,

be taken and any such request shall be complied with by the investigating officer with the assistance of any competent person as may be necessary.

(3) The person arrested may also request in writing the investigating officer to carry out any of the procedures mentioned in paragraphs (a) and (b) of article 355AV, and any such request shall be referred without delay to a Magistrate. The Magistrate shall authorise the procedure requested after verifying the request made by the person arrested and the provisions of article 355AP shall apply where appropriate.

Samples from persons other than arrested persons.

355BB. Samples from a person other than a person arrested may only be taken with that person's prior consent in writing:

Provided that for the taking of an intimate sample a Magistrate's authorisation must also be obtained upon application.

Samples at the request of persons other than arrested persons.

355CC. The provisions of article 355BA shall *mutatis mutandis* apply to any person, not being an arrested person, who makes a request for the carrying out in his respect of any procedure referred to in that article provided the request is made in writing and contains a declaration that the person making the request has reason to believe that there is the likelihood that the failure to carry out the requested procedure is likely to result in his being arrested or detained.”.

Insertion of new Sub-title in the principal law.

67. Immediately before article 356 of the principal law there shall be inserted the following Sub-title:

*“Sub-title XI***POWERS AND DUTIES OF THE POLICE IN RESPECT OF COURT PROCEEDINGS”.**

- 68.** Article 356 of the principal law shall be amended as follows: Amendment of article 356 of the principal law.

- (a) sub-article (2) thereof shall be re-numbered sub-article (3); and  
 (b) immediately after sub-article (1) thereof there shall be inserted the following sub-article:

“(2) It is the duty of police prosecuting officers to disclose to the defence such evidence which may appear to favour the person charged and which the police, for any reason, might not have the intention to produce before the court as evidence for the prosecution.”.

- 69.** For article 358 there shall be substituted the following: Substitution of article 358 of the principal law.

“Duties of the Police in respect of criminal proceedings.

358. (1) It is the duty of the Police to issue and to serve citations summoning persons to appear before the Court of Magistrates, in matters within the jurisdiction of such court.

(2) In summary proceedings for offences within the jurisdiction of the Court of Criminal Judicature, it shall not be the duty of the Police to serve on the person charged notice of the date of hearing apart from the first sitting of the proceedings.”.

- 70.** Immediately after article 360 of the principal law there shall be added the following new article: Addition of new article 360A to the principal law.

“Service of affidavits together with summons.

360A. (1) In summary proceedings for offences within the jurisdiction of the Court of Magistrates as a court of criminal judicature under sub-article (1) of article 370 the police may, together with the summons or at any time thereafter, serve upon the accused copies of any affidavits made by persons to be produced as a witness for the prosecution in those proceedings as well as any document to be produced in evidence in the same proceedings and if the accused desires to cross-examine any person whose affidavit has been served upon him as aforesaid he shall, not later than fifteen days before the first sitting following the service of the affidavit, give notice thereof to the Commissioner of Police by registered letter whereupon the person to be cross-

examined shall be summoned to give evidence in the proceedings:

Provided that for the purposes of this sub-article the word “document” shall have the same meaning assigned to it by sub-article (2) of article 558:

Provided further that where it results that it was not possible for the accused to give notice to the Commissioner of Police within the time provided aforesaid such notice of the desire to cross-examine may be given during the first sitting immediately after the service of the affidavit in which case the person to be cross-examined shall be summoned to give evidence in the following sitting.

(2) The person whose affidavit was served on the accused as provided in sub-article (1) shall not be summoned to testify in the proceedings if the accused fails to give notice of the intention to cross-examine that person as provided in that sub-article and the said affidavit shall be admissible in evidence as proof of its contents in those proceedings in the same way as if it had been testimony given viva voce in the presence of the accused.”.

Amendment of  
article 362 of the  
principal law.

**71.** Article 362 shall be amended as follows:

(a) the present provision shall be renumbered as sub-article (1); and

(b) immediately after sub-article (1) as renumbered there shall be inserted the following sub-articles:

“(2) The Minister responsible for justice after consulting with the Minister responsible for the police may make regulations providing for the service of the summons and any accompanying documents by post or in any other manner as may be provided in the regulations.

(3) Where the person to whom a summons is addressed in accordance with any regulations made under sub-article (2) refuses to receive it the court may by means of a decree upon an application by the Police and after examining the certificate of service declare that person to have been duly served with the summons and make an order for his arrest.



(4) Where any person, other than the person to whom a summons is addressed, refuses to receive the summons personally the court may, upon an application by the Police and after examining the certificate of service and satisfying itself that that person is a person in whose hands the summons may be lawfully served, sentence that person to a fine (*ammenda*):

Provided that the Court may, at any time, on just cause being shown, remit the fine (*ammenda*)."

**72.** For sub-article (2) of article 367 of the principal law there shall be substituted the following:

Amendment of article 367 of the principal law.

"Number of Courts of Magistrates.

(2) There shall be two Courts of Magistrates, one for the Island of Malta and one for the Islands of Gozo and Comino to be styled Court of Magistrates (Malta) and Court of Magistrates (Gozo) respectively."

**73.** Article 370 of the principal law shall be amended as follows:

Amendment of article 370 of the principal law.

(a) in sub-article (2) thereof, for the words "and punishments or of any previous conviction," there shall be substituted the words "and punishments, of any previous conviction or of the application of the provisions of article 18,";

(b) immediately after sub-article (4) thereof there shall be added the following new sub-articles:

"(5) The provisions of sub-article (2) shall apply, *mutatis mutandis*, to the crimes referred to in sub-articles (3) and (4).

(6) The court shall also be competent to pass sentence on the party accused in the circumstances and as provided in article 392A."

**74.** In article 373 of the principal law, for the words "As regards offences within the jurisdiction of the Court of Magistrates," there shall be substituted the words "As regards offences referred to in sub-article (1) of article 370,".

Amendment of article 373 of the principal law.

**75.** Sub-article (3) of article 377 of the principal law shall be amended as follows:

Amendment of article 377 of the principal law.

(4) The provisions of sub-article (2) of article 370 and of article 371 shall *mutatis mutandis* apply to proceedings under this article in respect of an offence to which sub-article (1) of this article applies.

(5) The provisions of article 453A shall apply *mutatis mutandis* before the accused replies to the question in paragraph (b) of sub-article (1) provided that for the purpose the Attorney General shall appear for the prosecution.”.

78. Immediately after sub-article (3) of article 401 of the principal law there shall be added the following new subarticle:

Addition of new article 409A to the principal law.

“(4) In deciding whether there are or not sufficient grounds for committing the accused for trial on indictment the court shall not consider any question of prescription or any plea as is mentioned in paragraph (d) of sub-article (1) of article 449.”.

79. Immediately after article 409 of the principal law there shall be added the following new article:

Amendment of article 401 of the principal law.

“Application by person in custody alleging unlawful detention.

409A. (1) Any person who alleges he is being unlawfully detained under the authority of the Police or of any other public authority not in connection with any offence with which he is charged or accused before a court may at any time apply to the Court of Magistrates as a court of criminal inquiry demanding his release from custody. Any such application shall be appointed for hearing with urgency and the application together with the date of the hearing shall be served on the same day of the application on the applicant and on the Commissioner of Police or on the public authority under whose authority the applicant is allegedly being unlawfully detained. The Commissioner of Police or public authority, as the case may be, may file a reply by not later than the day of the hearing.

(2) On the day appointed for the hearing of the application the court shall summarily hear the applicant and the respondents and any relevant evidence produced by them in support of their submissions and on the reasons and circumstances militating in favour or against the lawfulness of the continued detention of the applicant.

(3) If, having heard the evidence produced and the submissions made by the applicant and respondents, the court finds that the continued detention of the applicant is

not founded on any provision of this Code or of any other law which authorises the arrest and detention of the applicant it shall allow the application. Otherwise the court shall refuse the application.

(4) Where the court decides to allow the application the record of the proceedings including a copy of the court's decision shall be transmitted to the Attorney General by not later than the next working day and the Attorney General may, within two working days from the receipt of the record and if he is of the opinion that the arrest and continued detention of the person released from custody was founded on any provision of this Code or of any other law, apply to the Criminal Court to obtain the re-arrest and continued detention of the person so released from custody. The record of the proceedings and the court's decision transmitted to the Attorney General under the provisions of this sub-article shall be filed together with the application by the Attorney General to the Criminal Court."

Amendment of  
article 410 of the  
principal law.

**80.** Immediately after sub-article (3) of article 410 there shall be inserted the following new sub-articles:

"Injured party  
may be  
present in  
court during  
sittings.

(4) Without prejudice to the provisions of sub-article (3) and subject to the provisions of sub-article (6), any party injured having an interest in being present during any proceedings instituted by the Executive Police shall have the right to communicate that interest to the police giving his or her particulars and residential address whereupon that injured party shall be served with a notice of the date, place and time of the first hearing in those proceedings and shall have the right to be present in court during that and all subsequent hearings even if he is a witness.

(5) Without prejudice to the provisions of sub-article (3) and subject to the provisions of sub-article (6), any person not served with the notice referred to in sub-article (4) and claiming to be an injured party may apply to the court to be admitted into the proceedings as an injured party and if his claim that he is an injured party is allowed by the court that person shall thereupon have the right to be present at all subsequent hearings even if he is a witness.

(6) The failure to serve the injured party with the notice of the date of the first hearing after an attempt has been made to that effect or the absence for any reason of the injured party



at any sitting shall not preclude the court from proceeding with the trial or inquiry until its conclusion.”.

**81.** For sub-article (1) of article 412 of the principal law there shall be substituted the following sub-article:

Amendment of article 412 of the principal law.

“Days on which Court of Magistrates may hold sittings. Cap. 252.

(1) The Court of Magistrates shall hold its ordinary sittings every day, except Saturdays, public holidays as provided in the National Day and other Public Holidays Act, and Wednesday and Thursday of Holy Week.”.

**82.** Immediately after article 412 of the Criminal Code there shall be added the following new articles:

Addition of new articles 412A and 412B to the principal law.

“Conditions on person charged or accused not in custody.

**412A.** (1) When the person charged or accused brought before the Court of Magistrates, whether as a court of criminal judicature or as a court of criminal inquiry, is not in custody the Police may thereupon or at any stage of the proceedings thereafter request the court to impose conditions upon the person charged or accused in order to ensure the appearance of that person at the proceedings on the appointed time and place or to otherwise ensure that that person will not in any way unlawfully interfere in the correct administration of justice in those proceedings.

(2) The court may require the giving of sufficient security by the person charged or accused in order to ensure that he abides by the conditions imposed upon him by the court and the provisions of articles 576 and 577 shall apply to the amount and different modes of the security required by the court under this sub-article.

(3) The sum given by way of security shall be forfeited to the Government of Malta and a warrant of arrest shall be issued against the person charged or accused where that person fails to observe any of the conditions imposed by the court in pursuance of the provisions of this article and in any of the other circumstances mentioned in article 579 provided that the provisions of this sub-article shall not apply where the court considers that the infringement of the condition imposed by the court is not of serious consequence.

Application by person in custody pending criminal proceedings alleging unlawful detention.

**412B.** (1) Any person in custody for an offence for which he is charged or accused before the Court of Magistrates and who, at any stage other than that to which article 574A applies, alleges that his continued detention is not in accordance with the law may at any time apply to the court demanding his release from custody. Any such application

shall be appointed for hearing with urgency and together with the date of the hearing shall be served on the same day of the application on the Commissioner of Police or, as the case may be, on the Commissioner of Police and the Attorney General, who may file a reply thereto by not later than the day of the hearing.

(2) The provisions of sub-articles (2) and (3) of article 574A shall *mutatis mutandis* apply to an application under this article.

(3) Where the application is filed in connection with proceedings pending before the Court of Magistrates as a court of criminal inquiry before a bill of indictment has been filed and the record of the inquiry is with the Attorney General in connection with any act of the proceedings the application shall be filed in the Criminal Court and the foregoing provisions of this article shall *mutatis mutandis* apply thereto.

(4) The provisions of sub-article (4) of article 355A shall apply to a decision of the Court of Magistrates under this article.”.

Amendment of  
article 413 of the  
principal law.

**83.** Sub-articles (1) and (1A) of article 413 of the principal law shall be deleted and substituted by the following:

“(1) Any judgment of the Court of Magistrates may be appealed against -

(a) by the party convicted;

(b) in cases relating to summary proceedings for offences within the jurisdiction of the Court of Magistrates as a Court of Criminal Judicature under subarticle (1) of article 370, by the Attorney General, and, in the cases mentioned in article 373, by the complainant where:

(i) the inferior court rules that it has no jurisdiction to take cognizance of the offence;

(ii) the fact of which the party accused has been convicted is liable to a punishment exceeding the jurisdiction of that court as a court of criminal judicature;

(iii) the punishment awarded by the inferior court, is, by reason of its quality or quantity, different from

that prescribed by law for the offence for which the party convicted has been sentenced;

(iv) the accused or defendant is acquitted on the ground -

i) that the fact does not contain the ingredients of an offence,

ii) of extinguishment of action,

iii) of a previous conviction or acquittal;

(v) the defendant, in a case in which he has been allowed to prove the truth of the fact attributed to the complainant in accordance with the provisions of article 253, is declared to be exempt from punishment;

(vi) the Police, or, as the case may be, the complainant has not been allowed at the trial to produce, in support of the charge, some indispensable evidence which was admissible according to law;

(vii) the party accused was released from any of the obligations referred to in article 321 of the Code of Police Laws or in article 377 of this Code, or from the observance of any of the prohibitions made, or from the observance or execution of any of the prohibitions or orders made or given, by the Police or by any other public officer, under the Code of Police Laws or any other law;

(c) in all other cases by the Attorney General and in cases mentioned in article 373 by the complainant.

**84.** Article 414 of the principal law shall be amended as follows:

Amendment of article 414 of the principal law.

(a) in sub-article (1) thereof, for the words “on a demand in writing by the Police,” there shall be substituted the words “on a demand in writing by the Police or by the injured party served with the notice of first hearing or admitted into the proceedings as provided in sub-articles (4) and (5) of article 410,”; and

(b) in sub-article (2) thereof, for the words “by the court of Gozo and Comino,” there shall be substituted the words “by the Court of Magistrates (Gozo),”.



**85.** Article 416 of the principal law shall be amended as follows:

(a) immediately after sub-article (1) thereof shall be added the following new sub-article:

“(1A) Where the party convicted who is not in custody for the offence of which that party has been convicted is sentenced to imprisonment or detention and immediately prior to conviction that party was on bail as provided in Title IV of Part II of Book Second of this Code the conditions attaching to that bail, including the mode of security and the sum or equivalent pledge, if any, specified in the bail bond, shall continue to apply in addition to the security required under sub-article (1) upon obtaining a stay of execution of the judgment as provided in that subarticle either until the lapse of the time for the filing of the appeal if no appeal is filed or if otherwise until the determination of the appeal.”; and

(b) in the proviso to sub-article (2) thereof:

(i) for the words “equal to the amount of the penalty, but” there shall be substituted the words “equal to the amount of the penalty, and in such case the court may require that the security shall be either in the form of a deposit of a sum equal to the said amount or in the form of a bank guarantee, made out to its satisfaction, for the said amount; but”; and

(ii) for the words “of the party concerned” there shall be substituted the words “of the prosecution”.

**86.** Article 419 of the principal law shall be amended as follows:

(a) in sub-article (3) thereof, for the words “shall be delivered to the registrar of the court which shall have pronounced the judgment appealed from. The Registrar shall within two working days from the receipt of the application, transmit the same to the Registrar of the Superior Courts,” there shall be substituted the words “shall be filed in the registry of the court which shall have pronounced the judgment appealed from. The registrar shall, within two working days from the receipt of the application, transmit the same to the superior court,”; and

(b) in sub-article (4) thereof, for the words “the court of Gozo and Comino,” there shall be substituted the words “the Court of Magistrates (Gozo),”.

87. For article 420 of the principal law there shall be substituted the following: Substitution of article 420 of the principal law.

“420. The appellant as well as the respondent may be assisted by the Advocate for Legal Aid and the provisions of article 570 of this Code shall apply.”.

88. Article 421 of the principal law shall be amended as follows: Amendment of article 421 of the principal law.

(a) in sub-article (1) thereof:

(i) immediately after the words “to the parties” there shall be inserted the words “and to the injured party served with the notice of first hearing or admitted into the proceedings as provided in subarticle (4) and (5) of article 410”; and

(ii) for the words “by the Registrar of Courts.” there shall be substituted the words “by the Registrar of Courts:” and immediately thereafter there shall be inserted the following proviso:

“Provided that the failure to serve the injured party with the notice of the date of the first hearing after an attempt has been made to that effect or the absence of the injured party for any reason at any sitting shall not preclude the court from proceeding with the appeal until final judgment.”; and

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

“(3) The injured party served with the notice of first hearing or admitted into the proceedings as provided in subarticles (4) and (5) of article 410 may be present at any appeal hearing and may engage an advocate to assist him although he might not have been served with the notice referred to in subarticle (1) and although he may be a witness in the proceedings; any advocate engaged by the injured party may examine or cross-examine witnesses and make any other submission which the court may consider admissible.

(4) Notice in writing, as provided in sub-article (1), shall also be given to the party in whose absence the appeal shall have been put off.

(5) The period of prescription in respect of the offences dealt with in the judgment appealed from shall be suspended from the day of the filing of the appeal until the parties have been served with the said notice.”.

Amendment of  
article 422 of the  
principal law.

**89.** Article 422 of the principal law shall be amended as follows:

(a) in sub-article (1) thereof:

(i) for the words “on the day appointed for the hearing of the appeal,” there shall be substituted the words “on any day appointed for the hearing of the appeal,”; and

(ii) for the words “the provisions of the last preceding article shall apply.” there shall be substituted the words “the provisions of sub-articles (1) and (2) of the last preceding article shall apply.”; and

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

“(3) The application mentioned in sub-article (1) shall interrupt the period of prescription in respect of the offences dealt with in the judgment appealed from and if the court appoints another day for the hearing of the appeal the period of prescription shall thereupon be suspended until the parties have been served with the notice referred to in sub-article (1) of the last preceding article.

(4) Where the appellant was on bail as provided in sub-articles (1A) and (3) of article 416 prior to the abandonment of the appeal, his request for temporary release from custody may be made in the same application mentioned in sub-article (1) of this article.”.

Amendment of  
article of 425 of the  
principal law.

**90.** In article 425 of the principal law, for the words “in so far as applicable, shall apply.” there shall be substituted the words “in so far as applicable, shall apply. Unless the court orders otherwise, witnesses shall be summoned by the Police in the manner provided for in article 365.”.

Amendment of  
article 428 of the  
principal law.

**91.** Article 428 of the principal law shall be amended as follows:

(a) in sub-article (1) thereof, for the words “as court of criminal inquiry.” there shall be substituted the words “to proceed according to law.”;



(b) in sub-article (4) thereof, in the English text only, for the words “of the inferior court.” there shall be substituted the words “to the inferior court.”;

(c) in sub-article (8) thereof, for the words “to the Registrar of the Inferior Court,” there shall be substituted the words “to the inferior court”.

**92.** Article 429 of the principal law shall be amended as follows: Amendment of article 429 of the principal law.

(a) in sub-article (2) thereof, for the words “of costs, to the payment of a fine (*ammenda*).” there shall be substituted the words “of costs, where applicable, to the payment of a fine (*ammenda*) not exceeding one hundred liri.”;

(b) in sub-article (4) thereof, for the words “in cases of proceedings instituted on the complaint of the injured party,” there shall be substituted the words “in cases of proceedings where the prosecution lies with the injured party or with the persons mentioned in article 542, as provided in article 373,”.

**93.** In sub-article (1) of article 431 of the principal law, for the words “The functions of” there shall be substituted the words “Unless otherwise provided in this Code or in any other law, the functions of”. Amendment of article 431 of the principal law.

**94.** Immediately after article 435 of the principal law there shall be added the following:— Addition of new articles 435A to 435D, to the principal law.

“Special powers of investigation.” **435A.** (1) The provisions of article 4 of the Act shall apply *mutatis mutandis* where the Attorney General has reasonable cause to suspect that a person is guilty of a relevant offence and the provisions of the said article 4 shall apply to any investigation order or attachment order applied for or issued by virtue of this sub-article as if it were an investigation order or attachment order applied for or issued under the same article 4 of the Act and in particular, the provisions of sub-articles (12) and (13) of the said article 4 shall also apply to any investigation for a relevant offence by virtue of this sub-article.

(2) The provisions of article 5 of the Act shall apply *mutatis mutandis* where any person is charged with a relevant offence and the provisions of article 6 of the Act shall apply to any order issued by virtue of this sub-article as if it were an order issued under the said article 5.

(3) In this article the expression “relevant offence” has the same meaning assigned to it by subarticle (1) of article 23A of this Code.

Powers of investigation in connection with offences cognizable by courts outside Malta.

435B. (1) Where the Attorney General receives a request made by a judicial or prosecuting authority of any place outside Malta for investigations to take place in Malta in respect of a person (hereinafter in this article referred to as “the suspect” ) suspected by that authority of an act or omission which if committed in these Islands, or in corresponding circumstances, would constitute a relevant offence within the meaning of sub-article (1) of article 23A of this Code, the Attorney General may apply to the Criminal Court for an investigation order or an attachment order or for both and the provisions of article 24A of the Dangerous Drugs Ordinance, hereinafter in this title referred to as “the Ordinance”, shall *mutatis mutandis* apply to that application and to the suspect and to any investigation order or attachment order made by the court as a result of that application.

(2) The phrase “investigation order” in sub-articles (2) and (5) of the same article 24A of the Ordinance shall be read and construed as including an investigation order made under the provisions of this article.

(3) The phrase “attachment order” in sub-article (6A) of article 24A of the Ordinance shall be read and construed as including an attachment order under the provisions of this article.

Freezing of property of person accused with offences cognizable by courts outside Malta.

435C. (1) Where the Attorney General receives a request made by a judicial or prosecuting authority of any place outside Malta for the temporary seizure of all or any of the moneys or property, movable or immovable, of a person (hereinafter in this article referred to as “the accused”) charged or accused in proceedings before the courts of that place of an offence consisting in an act or omission which if committed in these Islands, or in corresponding circumstances, would constitute a relevant offence within the meaning of sub-article (1) of article 23A of this Code, the Attorney General may apply to the Criminal Court for an order (hereinafter in this title referred to as a “freezing order”) having the same effect as an order as is referred to in subarticle (1) of article 22A of the Ordinance, and the provision of the said article 22A shall, subject to the provisions of sub-article (2) of this article, apply *mutandis mutandis* to that order.

(2) The provisions of sub-articles (2) to (5) of article 24C of the Ordinance shall apply to an order made under this article as if it were an order made under the said article 24C.

(3) Article 22B of the Ordinance shall also apply to any person who acts in contravention of a freezing order under this article.

Enforcement of confiscation orders made by courts outside Malta following conviction for offences cognizable by those courts.

435D. (1) A confiscation order made by a court outside Malta providing or purporting to provide for the confiscation or forfeiture of any property of or in the possession or under the control of any person convicted of a relevant offence shall be enforceable in Malta in accordance with the provisions of sub-articles (2) to (11) of article 24D of the Ordinance.

(2) For the purposes of this article:

“confiscation order” includes any judgement, decision, declaration, or other order made by a court whether of criminal or civil jurisdiction providing or purporting to provide for the confiscation or forfeiture of property as is described in sub-article (1) of this article;

“relevant offence” means an offence consisting of any act or omission which if committed in these Islands, or in corresponding circumstances, would constitute a relevant offence within the meaning of sub-article (1) of article 23A of this Code.”.

95. In the proviso to sub-article (4) of article 438 of the principal law, for the words “by the witnesses” there shall be substituted the words “by the witnesses, documents or exhibits”.

Amendment of article 438 of the principal law.

96. In sub-article (3) of article 441 of the principal law, for the words “registrar of the Court of the Court of Magistrates (Gozo)”, wherever they occur, there shall be substituted the words “officer in charge of the Court of Magistrates (Gozo)”,.

Amendment of article 441 of the principal law.

97. In the second proviso of article 444 of the principal law for the words “to witnesses giving professional evidence” there shall be substituted the words “to witnesses giving professional or expert evidence”.

Amendment of article 444 of the principal law.



Amendment of  
article 446 of the  
principal law.

**98.** In sub-article (7) of article 446 of the principal law, for the words "abstain from sitting." there shall be substituted the words "abstain from sitting, except where the cause for objection or abstention becomes known after the reading of the said indictment."

Amendment of  
article 449 of the  
principal law.

**99.** Article 449 of the principal law shall be amended as follows:

(a) in paragraph (f) of sub-article (1) thereof, for the words "plea relating to any other point of fact" there shall be substituted the words "plea of insanity at the time of the offence or any plea relating to any other point of fact which excludes the imputability of the accused or";

(b) sub-article (2) thereof shall be deleted;

(c) in sub-article (3) thereof, for the words "mentioned in sub-articles (1) and (2) of this article" there shall be substituted the words "mentioned in sub-article (1) of this article".

Addition of new  
article 453A to the  
principal law.

**100.** Immediately after article 453 there shall be added the following new article:

"Sentence at  
the request  
of the  
parties.

**453A.** (1) Before the accused pleads to the general issue as provided in article 453, the accused and the Attorney General may request the court, in the eventuality of a plea of guilty, to apply a sanction or measure or, where provided for by law, a combination of sanctions or measures, of the kind and quantity agreed between them and to which the accused can be sentenced upon conviction for the offence or offences with which he is accused.

(2) If the court is satisfied that the sanction or measure, or combination of sanctions and measures, requested as provided in sub-article (1) is one which it would have been lawful for it to impose upon conviction for the offence to which the accused has pleaded guilty and does not have cause to order the trial of the cause to be proceeded with for a reason referred to in sub-article (2) of article 453 or for any other reason to reject the request, and after explaining to the accused in clear terms the consequences of his request, the court shall, upon a plea of guilty by the accused, proceed to pass the sentence indicated to it by the parties declaring in its judgement that the sentence being awarded is being so awarded at the request of the parties.

(3) Where the Attorney General and the accused agree that the sentence to be imposed shall consist of a period

of imprisonment which is to be suspended in accordance with the provisions of article 28A and the agreement is not rejected by the court as provided in sub-article (1) such agreement shall not in any way affect the court's power to make an order under article 28G or 28 H or both.

(4) Where the Attorney General and the accused agree that a measure provided for under the Probation of Offenders Act is to be applied and the agreement is not rejected by the court as provided in sub-article (1) such agreement shall not in any way affect the court's power to make an order under article 11 of the said Act.

(5) A sentence imposed at the request of the parties as provided in this article shall not affect any matter referred to in paragraphs (a) to (h) of sub-article (3) of article 12 of the Probation of Offenders Act."

**101.** Immediately after article 458 of the principal law there shall be substituted the following new article:

Addition of new article 458A to the principal law.

"Where prosecution is conducted by more than one counsel.

**458A.** The provisions of sub-article (2) of article 458 shall apply *mutatis mutandis* where the conduct of the prosecution is delegated by the Attorney General to more than one counsel."

**102.** Immediately after article 459 of the principal law there shall be added the following new article:

Addition of new article 459 to the principal law.

"Cross-examination as to bad character or previous convictions.

**459A.** (1) The accused who takes the stand to testify shall not be asked, and if asked shall not be required to answer, any question tending to show that he has committed or been convicted of or been charged with any offence other than the one with which he is accused, or is of bad character, unless—

(a) the proof that he has committed or been convicted of such other offence is admissible evidence to show that he is guilty of an offence with which he is accused; or

(b) he has personally or by his advocate asked questions of the witnesses for the prosecution with a view to establish his own good character, or has given evidence of his good character, or the nature or conduct of the defence is such as to involve imputations on the character of the prosecutor or the witnesses for the prosecution, or the deceased victim of the alleged crime; or

(c) he has given evidence against any other person accused in the same proceedings.

(2) In any of the circumstances mentioned in paragraphs (a) to (c) above any record showing any previous convictions of the person charged or accused may be produced in evidence.”.

Amendment of article 467 of the principal law.

**103.** Article 467 of the principal law, shall be amended as follows:

(a) in sub-article (2) thereof, for the words “that he was an accomplice,” there shall be substituted the words “that he was an accomplice or of being guilty of conspiracy to commit that offence,” and for the words “complicity in any such offence.” there shall be substituted the words “complicity in, or of conspiracy to commit, such offence; conversely, where a person is accused, in the indictment, of being an accomplice in an offence it shall be lawful for the jury to find him guilty of conspiracy to commit that offence or of being the principal, or one of the principals, in that offence and if he is accused of conspiracy to commit an offence he may be found guilty of being an accomplice in that offence or of being a principal, or one of the principals, in that offence, completed or attempted, if there is proof to that effect:

Provided that where a person accused in the indictment of conspiracy to commit an offence is found guilty as aforesaid of being a principal, or one of the principals, in the offence, completed or attempted, the punishment shall not be more severe than the punishment demanded in the bill of indictment.”.

Amendment of article 476 of the principal law.

**104.** Article 476 of the principal law shall be amended as follows:

(a) the present provision shall be renumbered as sub-article (1); and

(b) immediately after sub-article (1), as renumbered, there shall be added the following new sub-article:

“Verdict in the case of theft, misappropriation or receiving stolen property.

(2) If a person tried for the theft, whether simple or aggravated, of any object is found not guilty of that charge, it shall be lawful for the jury to find him guilty of misappropriation of that object or of the offence contemplated in article 334 with regard to that object, if there is proof to that effect; and, conversely, a person tried for misappropriation or for the offence contemplated in article 334 may be found



guilty of theft, whether simple or aggravated, of the object concerned if there is proof to that effect:

Provided that in no case shall the punishment be more severe than that demanded in the indictment.”

**105.** Immediately after sub-article (2) of article 490 there shall be inserted the following new sub-article:

Amendment of article 490 of the principal law.

“Submissions by injured party on sentence.

(3) An injured party may, by application, request the Criminal Court to be allowed, personally or through legal counsel, to make submissions on the appropriate sentence to be passed on the accused and if the court allows the application the injured party or his legal counsel shall be given the opportunity to make such submissions at the stage referred to in sub-article (1) of this article and before the court asks the accused if he has to say anything in regard to the applicability of the punishment demanded by the Attorney General:

Provided that the failure, for any reason, of the injured party to make submissions on sentence as aforesaid shall not preclude the court from proceeding with any hearing or from pronouncing judgment as provided in article 491.”.

**106.** In sub-article (4) of article 495, for the words “if the Attorney General dies” there shall be substituted the words “if the Attorney General or prosecuting counsel dies” and for the words “in articles 456 and 457” there shall be substituted the words “in articles 456, 457 and 464”.

Amendment of article 495 of the principal law.

**107.** Article 500 of the principal law shall be amended as follows:

Amendment of article 500 of the principal law.

(a) the present provision shall be renumbered as sub-article (1); and

(b) immediately after sub-article (1), as renumbered, there shall be added the following sub-article:

“Appeals by Attorney General against sentence.

(2) Notwithstanding the provisions of sub-article (2) of article 28I and of the Probation of Offenders Act, if it appears to him that the sentence was unduly lenient the Attorney General may also appeal from any judgment convicting a person for an offence liable to imprisonment for a term exceeding two years if the sentence has applied the provisions of article 21 or of articles 28A to 28H or the provisions of the Probation of Offenders Act.”.

Cap. 152.

Addition of new articles 500A and 500B to the principal law.

**108.** Immediately after article 500 of the principal law there shall be added the following new articles:

"Submissions by injured party to Court of Criminal Appeal on sentence.

**500A.** On any appeal against sentence an injured party may, by application, request the Court of Criminal Appeal to be allowed, personally or through legal counsel, to make submissions on the appropriate sentence to be passed on the accused and if the court allows the application the injured party or his legal counsel shall be given the opportunity to make such submissions after the court has heard the appellant's submissions in support of the appeal; the person convicted and the Attorney General shall be given the opportunity to respond to the submissions by the injured party or his legal counsel:

Provided that the failure, for any reason, of the injured party or his legal counsel to make submissions on sentence as aforesaid on the appointed day shall not preclude the court from proceeding with any hearing or from pronouncing judgment.

References by the Attorney General.

**500B.** (1) Where a person tried on indictment has been acquitted (whether in respect of the whole or part of the indictment) the Attorney General may, if he desires the opinion of the Court of Criminal Appeal on a point of law which has arisen in the case and within the time laid down in article 504, refer that point to the court, and the court shall, in accordance with this article, consider the point and give their opinion on it.

(2) For the purpose of their consideration of a point referred to them under this article the Court of Criminal Appeal shall hear argument -

(a) by the Attorney General; and

(b) either by counsel for the defence, if the acquitted person desires to present any argument to the court or, in default, by the Advocate for Legal Aid.

(3) A reference under this article shall not affect the trial in relation to which the reference is made or any acquittal in that trial.

(4) The Board referred to under sub-article (3) of article 516 may make rules to regulate the form and contents

of the reference by the Attorney General under this article and to provide for all other matters connected therewith or ancillary thereto.”.

**109.** Article 501 of the principal law shall be amended as follows: Amendment of article 501 of the principal law.

(a) in sub-article (1) thereof, for the words “On any appeal against conviction” there shall be substituted the words “On any appeal against conviction by the person convicted”;

(b) in sub-article (3) thereof, for the words “an appeal against sentence” there shall be substituted the words “an appeal against sentence by the person convicted,”; and

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

“(4) On an appeal against sentence by the Attorney General, the Court of Criminal Appeal shall, if it thinks that a sentence of greater severity should have been passed, quash the sentence passed at the trial and pass such sentence of greater severity warranted in law in substitution therefore as it thinks ought to have been passed, and in any other case shall dismiss the appeal.”.

**110.** Subject to the provisions of sub-article (1) of article 139 of this Act, sub-article (5) of article 509 of the principal law shall be deleted. Amendment of article 509 of the principal law.

**111.** In sub-article (2) of article 510 of the principal law, for the words “to the accused shall be construed as a reference to the appellant” there shall be substituted the words “to the accused shall be construed as including the person convicted on indictment who has appealed and any person appealing in terms of sub-article (1) of article 503,”. Amendment of article 510 of the principal law.

**112.** In sub-article (2) of article 511 of the principal law, for the words “If the Attorney General dies” there shall be substituted the words “If the Attorney General or counsel delegated by him dies”. Amendment of article 511 of the principal law.

**113.** In sub-article (1) of article 512 of the principal law, for the numbers “427, 442,” there shall be substituted the numbers “427, 441, 442,”. Amendment of article 512 of the principal law.

**114.** Article 517 of the principal law shall be amended as follows: Amendment of article 517 of the principal law.

(a) in sub-article (2) thereof, for the words “by the registrar of that court” there shall be substituted the words “by the registrar”;



(b) in sub-article (4) thereof, for the words “Court of Magistrates” there shall be substituted the words “to the Court of Magistrates (Malta) or the Court of Magistrates (Gozo), as court of criminal judicature,”; and

(c) in sub-article (6) thereof, for the words “a true copy of the indictment,” there shall be substituted the words “a true copy of the charge or of the indictment,”.

Amendment of  
article 518 of the  
principal law.

**115.** In article 518 of the principal law, for the words “Provided that a *proces-verbal*” there shall be substituted the words “Provided that a *proces-verbal* and any depositions and documents filed therewith”.

**116.** Article 525 of the principal law shall be amended as follows:

(a) for sub-article (2) thereof, there shall be substituted the following:

“(2) The provisions of articles 362, 363, 364, 383 to 387, inclusively, and of sub-article (5) of article 397 shall also apply to the Criminal Court and to the Court of Criminal Appeal; and the provisions of article 452 shall also apply to the Court of Criminal Appeal in the hearing of appeals from judgments of the Court of Magistrates.”;

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

“(2A) The provisions of sub-articles (1) and (2) of article 412B shall also apply *mutatis mutandis* to the Criminal Court with respect to a person in custody for an offence for which a bill of indictment has been filed as well as to the Court of Criminal Appeal with respect to a person in custody who is a party to appeal proceedings before that court:

Provided that with respect to the Criminal Court the relevant decision shall in all cases be taken by the Court sitting without a jury.”; and

(c) in sub-article (3) thereof, for the words “of article 623” there shall be substituted the words “of sub-article (5) of article 397 and of article 623”.

**117.** In sub-article (1) of article 531 of the principal law, for the words “the court, if it is the Criminal Court or Court of Criminal Appeal,” there shall be substituted the words “the court”.

Amendment of article 531 of the principal law.

**118.** In article 540 of the principal law, for the words “the Court of Magistrates,” there shall be substituted the words “the Court of Magistrates (Malta), or the Court of Magistrates (Gozo), or a magistrate, as the case may be,”.

Amendment of article 540 of the principal law.

**119.** Immediately after sub-article (2) of article 541 of the principal law there shall be inserted the following new sub-article:

Amendment of article 541 of the principal law.

“(3) Any decision of the Court of Magistrates allowing, in whole or in part, an application under sub-article (1) shall be served on the Attorney General within two working days from the date of the decision and the Attorney General may within three working days from the date of service make an application to the Criminal Court for the reversal or variation of the decision. The applicant may also make a similar application to the Criminal Court within three working days from the date of the decision of the Court of Magistrates disallowing, in whole or in part, the application. An application to the Criminal Court under this sub-article shall operate as a stay of execution of the decision of the Court of Magistrates.”.

**120.** Article 546 of the principal law shall be amended as follows:

Amendment of Article 546 of the principal law.

(a) in sub-article (1) thereof:

(i) for the words “in respect of which it shall be necessary to proceed to an inquiry,” there shall be substituted the words “liable to the punishment of imprisonment exceeding four years,”; and

(ii) for the words “an inquest on the spot shall be held.” there shall be substituted the words “an inquest on the spot shall be held:

Provided that where it results that the fact in respect of which an investigation was not held under this sub-article constituted an offence liable to the punishment mentioned in this sub-article the failure to hold an investigation under this sub-article shall not, for that reason alone, prejudice in any way whatsoever the institution or continuation of criminal proceedings for that offence or the admissibility of any evidence of that offence in those proceedings.”;

(b) in sub-article (2) thereof, for the words “or any amongst them:” there shall be substituted the words “or any amongst them, even if the fact is likely to constitute an offence liable to the punishment of imprisonment exceeding four years:”; and

(c) in sub-article (3) thereof, for the words from “Where the offence to be investigated is” to “the magistrate may” there shall be substituted the words “Where the offence to be investigated is theft, other than theft with violence against the person, the magistrate may”.

Amendment of  
article 547 of the  
principal law.

**121.** For sub-article (2) of article 547 of the principal law there shall be substituted the following:

“(2) Whenever the magistrate assigned to the Court of Magistrates (Gozo) is temporarily absent from Gozo with the permission of the Minister responsible for justice, or is, through a lawful impediment, precluded from performing his duties, the inquest and all proceedings connected therewith may, with the consent of the Attorney General, be held by the registrar who shall for such purpose have all the powers and duties conferred by this Title upon a magistrate.”.

Amendment of  
article 551 of the  
principal law.

**122.** Article 551 of the principal law shall be amended as follows:

(a) in sub-article (1) thereof:

(i) for the words “to the Court of Magistrates;” there shall be substituted the words “to a magistrate;”; and

(ii) for the words “stating his finding as to the cause of death;” there shall be substituted the words “stating his finding as to the cause of death.” and the words from “where, however, the inquest is to be held” to “shall not have the power to order the arrest of any person.”, both phrases included, shall be deleted.”; and

(b) immediately after sub-article (4) thereof there shall be added the following new sub-article:

“(5) The provisions of sub-article (2) of article 547 shall apply to inquests held for the purpose of this article.”.

Amendment of  
article 554 of the  
principal law.

**123.** Immediately after sub-article (2) of article 554 of the principal law there shall be added the following new sub-article:



“(3) In any proceedings under this Title the magistrate shall have the same powers and privileges of a magistrate presiding the Court of Magistrates as court of criminal inquiry.”.

**124.** Immediately after sub-article (4) of article 569 of the principal law there shall be added the following new sub-articles: Amendment of article 569 of the principal law.

“(5) Where in the *proces-verbal* the magistrate shall have ordered that a person be arraigned in court on any one or more charges, the magistrate shall order that a copy of the same *proces-verbal* shall be transmitted by the registrar to the Commissioner of Police who, saving the provisions of sub-article (6), shall proceed accordingly.

(6) Notwithstanding the provisions of sub-article (5), in case of doubt the Commissioner of Police may consult with the Attorney General who may direct that no proceedings are to be taken or that the proceedings to be taken are to be for a charge or for charges different from those specified by the magistrate in the *proces-verbal*, without prejudice to the right of the Attorney General to direct otherwise whenever fresh evidence becomes available:

Provided that where the Attorney General shall have directed that no proceedings are to be taken, he shall make a report to the President of Malta stating the reasons for his action.”.

**125.** For article 570 of the principal law there shall be substituted the following: Substitution of article 570 of the principal law.

“570. (1) The Advocate for Legal Aid shall gratuitously undertake the defence of any accused who has briefed no other advocate or who has been admitted to sue or defend with the benefit of legal aid in any court mentioned in this Code.

(2) The request for the assistance of the Advocate for Legal Aid or for the benefit of legal aid shall be made either by application or orally to the Advocate for Legal Aid.

(3) Sub-articles (4), (5) and (6) of article 911 of the Code of Organization and Civil Procedure shall *mutatis mutandis* apply to the Advocate for Legal Aid.

(4) Where any court is informed by the accused that he has been unable to brief any advocate or that he wishes to avail himself of the benefit of legal aid that court shall cause the declaration made by the accused to be registered in the records of the case and shall order that such declaration, together with the details of the accused, be served on the Advocate for Legal Aid who within two working days shall file a reply indicating if the request of the accused has been accepted and if so the name of the Advocate for Legal Aid who will be representing the accused:

Provided that in the case of summary proceedings before the Court of Magistrates acting as a Court of Criminal Judicature the Court shall appoint the advocate whose turn it is from the panel of advocates mentioned in article 91 of the Code of Organization and Civil Procedure to assist the accused in those proceedings as well as in any appeal from any decision given in those proceedings provided that before filing any such appeal he shall consult the Advocate for Legal Aid who may, at any time, decide to take over the appeal.

(5) The Advocate for Legal Aid may only decline his aid on any ground which, in the opinion of the court, *prima face* justifies the refusal of his aid. In such event the Court shall order that the accused be represented by another advocate, who is not himself excusable, to be appointed by the Court on the recommendation of the Advocate for Legal Aid from the panel of advocates mentioned in article 91 of the Code of Organization and Civil Procedure provided that the court may in exceptional circumstances to be stated in its decree order any other advocate to take up the defence of the accused.

(6) The advocate appointed by the court in the exceptional circumstances referred to in sub-article (5) of this article shall render his services gratuitously.”.

Amendment of  
article 571 of the  
principal law.

**126.** In sub-article (1) of article 571 of the principal law, the words from “In any such case” to “may desire to retain.” shall be deleted.

Amendment of  
article 572 of the  
principal law.

**127.** In article 572 of the principal law, for the words “the last preceding article” there shall be substituted the words “sub-article (4) of article 570”.

Amendment of  
article 574 of the  
principal law.

**128.** For sub-article (1) of article 574 there shall be substituted the following:

“(1) Any person charged or accused who is in custody for any crime or contravention may, on application or as provided in article 574A, be granted temporary release from custody, upon giving sufficient security to appear at the proceedings at the appointed time and place under such conditions as the court may consider proper to impose in the decree granting bail which decree shall in each case be served on the person charged or accused”.

**129.** Immediately after article 574 of the principal law there shall be added the following new article:

Addition of new article 574A to the principal law.

“Proceedings upon first appearance by person charged or accused before Court of Magistrates.

574A. (1) When the person charged or accused who is in custody is first brought before the Court of Magistrates, whether as a court of criminal judicature or as a court of criminal inquiry, the Court shall have the charges read out to the person charged or accused and, after examining the person charged as provided in article 392 as the proceedings may require, shall summarily hear the prosecuting or arraigning officer and any evidence produced by that officer on the reasons supporting the charges and on the reasons and circumstances, if any, militating against the release of the person charged or accused.

(2) After hearing the prosecuting or arraigning police officer and any evidence produced as provided in sub-article (1) the court shall inform the person charged or accused that he may be temporarily released from custody on bail by the court under conditions to be determined by it and shall ask him what he has to say with respect to his arrest and his continued detention and with respect to the reasons and the circumstances militating in favour of his release.

(3) Where any of the offences charged consists in any of the offences mentioned in sub-article (2) of article 575 the court shall, after hearing the person charged or accused as provided in sub-article (2) of this article, ask the prosecuting or arraigning officer whether he has any submissions to make on the question of temporary release from custody on bail of the person charged or accused and the latter shall be allowed to respond.

(4) Where none of the offences charged consists in any of the offences mentioned in sub-article (2) of article 575 the court shall, after hearing the person charged or accused as provided in sub-article (2) of this article, ask



the prosecuting or arraigning officer whether he and the Attorney General have any submissions, in writing or otherwise, to make on the question of the temporary release from custody of the person charged or accused and the latter shall be allowed to respond.

(5) At the end of submissions as provided in the preceding sub-articles of this article the court shall review the circumstances militating for or against detention.

(6) If the court finds that the continued detention of the person charged or accused is not founded on any provision of this Code or of any other law which authorises the arrest and detention of the person in custody it shall unconditionally release that person from custody.

(7) If the court does not find cause to release unconditionally the person charged or accused under the provisions of sub-article (6) of this article it may nevertheless, saving the provisions of sub-article (1) of article 575 of this Code and unless release is prohibited by any provision of law, release that person from custody on bail subject to such conditions as it may deem appropriate.

(8) If the court does not find cause to release unconditionally the person charged or accused and refuses to grant that person bail the court shall remand that person into custody and the provisions of sub-article (11) of article 575 shall apply.

(9) Where the court orders the release from custody of the person charged or accused, whether unconditionally or on bail subject to conditions, under any of the provisions of this article the decision of the court to that effect shall be served on the Attorney General by not later than the next working day and the Attorney General may apply to the Criminal Court to obtain the re-arrest and continued detention of the person so released or to amend the conditions, including the amount of bail, that may have been determined by the Court of Magistrates.”.

Amendment of  
article 575 of the  
principal law.

**130.** Article 575 of the principal law shall be amended as follows:

(a) sub-article (1) thereof shall be amended as follows:

(i) for the words “of the last preceding article” there shall be substituted the words “of article 574”; and

(ii) in paragraph (c) thereof, for the words “to impose in the bail bond;” there shall be substituted the words “to impose in its decree granting bail;”;

(b) sub-article (2) thereof shall be amended as follows:

(i) for the words “The demand for bail shall” there shall be substituted the words “At any stage other than that referred to in article 574A, the demand for bail or any demand for the variation of the conditions of bail after bail has been granted, shall”; and

(ii) in paragraph (c) thereof, for the words “with more than three years’ imprisonment, except in the cases referred to in articles 217, 218 and 219.” there shall be substituted the words “with more than three years’ imprisonment.”;

(c) immediately after sub-article (4) thereof there shall be inserted the following new sub-article:

“(4A) Where the Court of Magistrates, whether as a court of criminal judicature or as a court of criminal inquiry, grants bail to the person in custody or subsequently amends the bail conditions, the decision of the court to that effect shall be served on the Attorney General by not later than the next working day and the Attorney General may apply to the Criminal Court to obtain the re-arrest and continued detention of the person so released or to amend the conditions, including the amount of bail, that may have been determined by the Court of Magistrates.”;

(d) in sub-article (5) thereof, for the words “is brought before the said court,” there shall be substituted the words “is brought before the said court, or from the day on which he is arrested as provided in sub-article (5) of article 397,”;

(e) in paragraph (a) of sub-article (8) thereof, for the words “has been brought before the Court of Magistrates;” there shall be substituted the words “has been brought before the Court of Magistrates or from the day on which he has been arrested as provided in sub-article (5) of article 397;”;

(f) in sub-article (10) thereof, for the words “shall not apply” there shall be substituted the words “shall not apply if at the time the request for bail is made or within a week thereafter the indictment shall have been filed, or”; and

(g) immediately after sub-article (10) there shall be added the following new sub-article:

“Court to state reasons.

(11) In refusing to grant bail the court shall state the reasons for such refusal in its decree refusing bail which decree shall be served on the person accused.”.

Amendment of article 577 of the principal law.

**131.** In sub-article (3) of article 577 of the principal law, for the words “of the Court of Magistrates as court of criminal judicature,” there shall be substituted the words “of the Court of Magistrates as court of criminal judicature in terms of sub-article (1) of article 370 and sub-article (2) of article 371,”.

Amendment of article 579 of the principal law.

**132.** Article 579 of the principal law shall be amended as follows:

(a) for the words “or fails to observe any of the conditions therein imposed,” there shall be substituted the words “or fails to observe any of the conditions imposed by the court in its decree granting bail,”; and

(b) in the proviso thereto, for the words “infringement of the condition imposed in the bail bond” there shall be substituted the words “infringement of the condition imposed in the decree granting bail”.

Amendment of article 580 of the principal law.

**133.** For sub-article (4) of article 580 of the principal law there shall be substituted the following:

“before Court of Magistrates.

(4) Except as provided in sub-article (2) of article 575, the demand for bail before the Court of Magistrates shall be made orally.”.

Amendment of article 587 of the principal law.

**134.** In article 587 of the principal law, for the words “or leaves Malta” there shall be substituted the words “or leaves Malta, even temporarily,”.

Amendment of article 597 of the principal law.

**135.** In sub-article (5) of article 597 of the principal law, for the words “by the court of the Island of Malta and not by the court of the Islands of Gozo and Comino, or by the court of Gozo and Comino and not by the court of Malta.” there shall be substituted the words “by the Court of Magistrates (Malta) and not by the Court of Magistrates (Gozo)



or by the Court of Magistrates (Gozo) and not by the Court of Magistrates (Malta).”.

**136.** In article 602 of the principal law, for the words “order the discharge of the accused:” there shall be substituted the words “order the discharge of the accused, and the provisions of article 434 shall, *mutatis mutandis*, apply:”.

Amendment of  
article 602 of the  
principal law.

**137.** Article 604 of the principal law shall be amended as follows:

Amendment of  
article 604 of the  
principal law.

(a) in sub-article (1) thereof:

(i) for the words “the magistrates, the Registrar of Courts,” there shall be substituted the words “persons employed in the Attorney General’s office, magistrates, the registrar and persons employed in the service of the courts,”;

(ii) for the words “professors of the University,” there shall be substituted the words “professors and heads of departments of the University,”; and

(iii) for the words “the Principal Probation Officer and Probation Officers.” there shall be substituted the words “the Principal Probation Officer, Probation Officers, and other persons as may be prescribed by regulations made by the Minister responsible for justice.”.

**138.** Immediately after sub-article (3) of article 608 of the principal law there shall be inserted the following new sub-article:

Amendment of  
article 608 of the  
principal law.

“(4) Regulations made under sub-article (2) of article 362 for service by post shall also apply to the service of the writ referred to in sub-article (1) of this article and the provisions of sub-articles (3) and (4) of the said article 362 shall *mutatis mutandis* apply to the service of a writ under this article. A person served with the said writ as provided in the said regulations or as provided in this sub-article shall be deemed to have been summoned in the manner provided in this article.”.

**139.** Article 617 of the principal law shall be amended as follows:

Amendment of  
article 617 of the  
principal law.

(a) for sub-article (2) thereof and the marginal note thereto there shall be substituted the following:

“Communication  
with jurors.

(2) Whosoever shall, in any manner whatsoever, knowingly communicate or attempt to communicate with

any person whose name has been drawn to serve as a juror and published as provided in sub-article (5) of article 606 and in sub-article (4) of article 607, with intent to influence such person, whether in favour of or against the accused, shall be guilty of an offence and shall, on conviction, be liable to imprisonment for a term from three to nine months.”; and

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

“(3) The foregoing provisions of this article shall, *mutatis mutandis*, apply in relation to the members of the empanelled jury as they apply in relation to the persons summoned to serve as jurors or whose name has been published as mentioned in sub-article (2).”.

Addition of new article 634 of the principal law.

**140.** In the proviso to sub-article (1) of article 634 for the words “provided that” there shall be substituted the words “Provided that, saving the provisions of article 634A,”.

Amendment of article 634A to the principal law.

**141.** Immediately after article 634 of the principal law there shall be added the following new article:

“Effect of  
accuse’s  
silence at trial  
in certain  
circumstances.

634A. (1) At the trial of any person for an offence, sub-articles (2) and (3) apply unless –

(a) the accused’s guilt is not in issue; or

(b) it appears to the court that the physical or mental condition of the accused makes it undesirable for him to give evidence;

but sub-article (2) does not apply if, at the conclusion of the evidence for the prosecution, counsel for the accused informs the court that the accused will give evidence or, where the accused is not represented by counsel, the court ascertains from him that he will give evidence.

(2) Where this sub-article applies, the court shall, at the conclusion of the evidence for the prosecution, satisfy itself (when the court is sitting with a jury, in the presence of the jury) that the accused is aware that the stage has been reached at which evidence can be given for the defence and that he can, if he wished,

give evidence and that, if he chooses not to give evidence, or having been sworn, without good cause refuses to answer any question, it will be permissible for the court or jury to draw such inferences as appear proper from his failure to give evidence or his refusal, without good cause, to answer any question.

(3) Where this sub-article applies, the court or jury, in determining whether the accused is guilty of the offence charged or of any other offence of which the accused can lawfully be convicted on that charge, may draw such inferences as appear proper from the failure of the accused to give evidence or his refusal, without good cause, to answer any question.

(4) This article does not render the accused compellable to give evidence on his own behalf, and he shall accordingly not be guilty of contempt of court by reason of a failure to do so.

(5) For the purposes of this article a person who, having been sworn, refuses to answer any question shall be taken to do so without good cause unless –

(a) he is entitled to refuse to answer the question by virtue of any enactment, whenever passed or made, or on the ground of privilege; or

(b) the court in the exercise of any discretion vested in it by law excuses him from answering it.

(6) A person shall not be convicted of an offence solely on an inference drawn from such a failure or refusal as is mentioned in sub-article (3) of this article.”.

**142.** In article 645 of the principal law, for the words “shall also apply to the courts of criminal justice.” there shall be substituted the words “shall also apply to the courts of criminal justice and the said articles 570, 574, 583, 590, and 592 shall moreover apply to any proceedings under Title II of Part II of Book Second of this Code.”.

Amendment of  
article 645 of the  
principal law.

**143.** In sub-article (2) of article 647 of the principal law, for the words “the registrar of the Court of Magistrates Gozo” there shall be substituted the words “the registrar”.

Amendment of  
article 647 of the  
principal law.



**144.** For article 649 of the principal law there shall be substituted the following:

"Examination of witnesses and investigation in connection with offences cognizable by courts outside Malta.

649. (1) Where the Attorney General communicates to a magistrate a request made by the judicial or prosecuting authority of any place outside Malta for the examination of any witness present in Malta, or for any investigation, touching an offence cognizable by the courts of that place, the magistrate shall examine on oath the said witness on the interrogatories forwarded by the said authority or otherwise, and shall take down the testimony in writing, or shall conduct the requested investigation, as the case may be.

(2) The provisions of sub-article (1) shall only apply where the request by the foreign judicial or prosecuting authority is made pursuant to, and in accordance with, any treaty, convention, agreement or understanding between Malta and the country from which the request emanates or which applies to both such countries or to which both such countries are a party. A declaration made by or under the authority of the Attorney General confirming that the request is made pursuant to, and in accordance with, such treaty, convention, agreement or understanding shall be conclusive evidence of the matters contained in that certificate. In the absence of such treaty, convention, agreement or understanding the provisions of sub-article (3) shall be applicable.

(3) Where the Minister responsible for justice communicates to a magistrate a request made by the judicial authority of any place outside Malta for the examination of any witness present in Malta, touching an offence cognizable by the courts of that place, the magistrate shall examine on oath the said witness on the interrogatories forwarded by the said authority or otherwise, notwithstanding that the accused be not present, and shall take down such testimony in writing.

(4) The magistrate shall transmit the deposition so taken, or the result of the investigation conducted, to the Attorney General.

(5) For the purposes of sub-articles (1) and (3) the magistrate shall have the same powers, or as nearly as may be, as are by law vested in the Court of Magistrates as court of criminal inquiry, as well as the powers, or as nearly as may be, as are by law conferred upon him in connection with an inquiry relating to the “*in genere*”: provided that a magistrate may not arrest any person, for the purpose of giving effect to an order made or given under subarticle (2) of article 554, or upon reasonable suspicion that such person has committed an offence, unless the facts amounting to the offence which such person is accused or suspected to have committed amount also to an offence which may be prosecuted in Malta.”.

**145.** In sub-article (1) of article 662 of the principal law, for the words “held under the provisions of this Code,” there shall be substituted the words “held under the provisions of this Code (other than an inquest for the purpose of an inquiry relating to the “*in genere*”),”.

Amendment of article 662 of the principal law.

**146.** In sub-article (1) of article 663 of the principal law, for the words “in open court.” there shall be substituted the words “in open court: provided that a decision granting or refusing bail may be given *in camera*.”;

Amendment of article 663 of the principal law.

**147.** Articles 667 to 685 of the principal law, both inclusive, shall be deleted and substituted by the following:

Substitution of articles 667 to 685 of the principal law.

“ Property to be held by registrar.

667. Any property connected with criminal proceedings shall, subject to the following provisions of this Title, be held by the registrar until the conclusion of such proceedings including any proceedings of appeal.

Record of property.

668. (1) All property connected with criminal proceedings shall be delivered by the court to the registrar and shall, subject to the following provisions of this Title, remain in the custody of the registrar except when required by the court for the hearing of such proceedings.

(2) The Minister responsible for justice may make regulations providing for the registration and preservation of any property connected with criminal proceedings and for the manner in which a record is to be kept of the movements of any such property.

Preservation of property.

669. (1) The registrar shall ensure that all property delivered to him is properly catalogued, stored

and preserved and kept in a secure place to be determined by the registrar.

(2) For the purposes of this article, the registrar may, with the approval of the Minister responsible for justice, appoint other persons to hold property or classes of property on his behalf under such terms and conditions as the Minister may think fit provided that the names of such persons shall be published in the Gazette.

*Proces-verbal* to be drawn up when property is released.

670. (1) Any property which is to be released by the registrar to any person or which is to be destroyed or otherwise disposed of in accordance with the provisions of this Title shall only be released, destroyed or otherwise disposed of following the drawing up of a *proces-verbal* containing an accurate description of the property released, the quantity and quality thereof and any photographs, video recordings and computer images of such property as the magistrate or the registrar may deem fit should be taken.

(2) The *proces-verbal* shall be signed by the registrar and if the property is to be released, destroyed or disposed of during *in genere* proceedings or during the inquiry it shall also be signed by the magistrate. In every case where the property is to be released in favour of any person in the course of criminal proceedings which have not been finally determined that property shall only be so released after the person to whom the property is to be released gives an undertaking in writing to produce again such property on the order of a court.

(3) Notwithstanding any other provision of this Code or of any other law, any *process-verbal* drawn up in accordance with the provisions of this article including any photographs, video recordings and computer images shall be admissible in evidence in any criminal proceedings as if it were the property itself described in the *proces-verbal*.

(4) The provisions of this Title shall also *mutatis mutandis* apply to any property exhibited in the course of any proceedings under the provisions of Title II of Part II of Book Second of this Code even during such period that the relative *proces-verbal* is with the Attorney General.



(5) The provisions of this article shall *mutatis mutandis* apply to property disposed of in accordance with the provisions of articles 671, 672 and 673.

Prohibited property.

671. (1) Saving the provisions of sub-article (2), where the Comptroller of Customs certifies that any property in the custody of the registrar is property which may not be imported into Malta the registrar shall apply to the competent criminal court and request it to order the disposal of the said property. The court shall allow the application where it is satisfied that the property in question is in Malta in contravention of the law.

(2) Where the property certified by the Comptroller of Customs as provided in sub-article (1) is property which has been exhibited as evidence in the course of criminal proceedings which have not been finally determined, the application by the registrar shall be served on the party charged or accused and on the Attorney General or the Commissioner of Police as the case may be for their submissions and the court shall not allow the application unless it is satisfied that the property itself is not or is no longer necessary as evidence in the proceedings.

(3) Where the court has ordered the disposal of the property in accordance with the provisions of this article the registrar shall dispose of such property by destroying it provided that the Minister responsible for justice may order that the property is to be disposed of in any other manner whatsoever for special reasons to be expressly stated in the order.

Property exhibited  
in certain  
proceedings.

672. Notwithstanding any other provision of this Code or of any other law, where the property has been exhibited in court in the course of proceedings for an offence against the Customs Ordinance or against the Exchange Control Act and the property has been forfeited in favour of the Government by virtue of the operation of any provision of this Code or of any other law such property shall be released in favour of the Comptroller of Customs. In any other case the property exhibited as aforesaid shall not be released, except in execution of a final judgment of the competent civil court, if the Comptroller of Customs objects to such release.

Disposal of property  
connected with  
criminal  
proceedings.

673. (1) Notwithstanding the foregoing provisions of this Title and subject to the provisions of article 671 the court shall, on the application of the Attorney General made at any time of the proceedings or, where the author of the crime is absent or unknown, before any proceedings are commenced, order the registrar to dispose of any property connected with criminal proceedings or with a crime, whether such property is liable to forfeiture or not, in any of the following cases:

(a) where, owing to the nature, quantity or dimensions of such property, considerable space is necessary to keep it;

(b) where such property is subject to deterioration or depreciation or the cost of its upkeep is out of proportion to its value;

(c) where it is not practicable or convenient for any other reason to keep such property in custody;

(d) where, owing to the absence of the party accused, the trial is not concluded within two years from the day on which such property was first brought before the court;

(e) in any other case where the court deems it so proper.

(2) The application for an order as is referred to in sub-article (1) and in the same circumstances mentioned in that sub-article may also be made by the registrar in which case the application shall be served on the Attorney General for his reply within such time, being not less than two working days, as may be determined by the court and the application shall not be allowed where the Attorney General objects to the application.

(3) The provisions of sub-articles (1) and (2) shall apply notwithstanding that the property is attached by a garnishee order.

(4) Where the court allows an application made under this article the order of the court shall be served

on all the persons identified by the registrar to have an interest in the property, if their whereabouts are known, so however that the order of the court shall not be subject to revocation or modification except on the demand of the Attorney General.

(5) If the property is sold the proceeds shall be deposited in court and shall be disposed of on the conclusion of the proceedings in the same manner as if they were the property of which they are the proceeds.

(6) If the property is not sold the property may be disposed of as the registrar may deem fit subject to the payment of such indemnity as may be due to the owner of the property disposed of.

Release of property  
in the course of  
proceedings.

674. (1) Notwithstanding the foregoing provisions of this Title and subject to the provisions of article 671, the Court may, in the course of criminal proceedings, order the release of any property exhibited in court to the person to whom it belongs.

(2) The order referred to in sub-article (1) may be given by the Court either on its own motion or following an application by the person claiming the property. Where the Court acts upon its own motion it shall announce its intention to make such an order by means of a decree. Any such decree or any application made by the person claiming the property in terms of this sub-article shall be served on the Attorney General or on the Commissioner of Police, as the case may be, and on the person charged or accused, each of whom shall be allowed five working days for a reply.

(3) Subject to the provisions of sub-article (4), if the property belongs to the party charged or accused and is in no manner connected with the offence or in any way required for the purpose of any criminal proceedings the court shall, after hearing the Attorney General or the Commissioner of Police, as the case may be, restore the property to the person charged or accused to whom the property belongs or deliver it to the person appointed by him in that behalf or to his lawful representative.



(4) Notwithstanding the provisions of sub-article (3), the court may abstain from ordering the restoration of the property to the person charged or accused -

(a) when the value of the thing is considerable and the person charged or accused is poor or of dubious means; or

(b) when the person charged or accused is tried for forgery with intent to misappropriate the property of another person, or for theft, or for any other offence against property:

Provided that the provisions of this sub-article shall not apply where the accused shall give sufficient security.

Disposal of property  
on conclusion of  
proceedings.

675. (1) Saving the provisions of article 671 and of the following sub-articles of this article, where the court on the conclusion of any criminal proceedings has not provided how property exhibited during the proceedings is to be disposed of according to law, any property so exhibited shall be preserved by the registrar.

(2) Where the Court of Magistrates as court of criminal inquiry discharges the person charged as provided in sub-article (2) of article 401 and the Court decides how the property exhibited before it is to be disposed of such decision shall not be given effect to before the lapse of the period of one month referred to in sub-article (3) of article 433 and if the Attorney General, within that period, issues a warrant for the arrest of the person discharged the said decision shall remain without effect.

(3) Where the Court of Magistrates as court of criminal inquiry discharges the person charged but does not decide how the property exhibited in the proceedings is to be disposed of, and the Attorney General does not issue a warrant for the arrest of the person discharged, such property shall be preserved by the registrar and if within one year from the date of discharge no fresh proceedings are instituted as provided in article 434 and the property has not been released in accordance with the provisions of this title the registrar may apply to the court for an order authorising the return of the property

to the person to whom it belongs, if known, or declaring the property forfeited in favour of the Government of Malta where the person to whom the property belongs is not known.

(4) Where in any final judgment of any court of criminal jurisdiction no provision is made for the disposal of any property exhibited in the proceedings and no claim is made for the release of such property within one month from the date of such judgment such property, unless forfeited by virtue of the provisions of article 18 or any other provision of this Code or of any other law, shall be forfeited and the court shall, on the application of the registrar and subject to the provisions of sub-article (5), order the release of such property in favour of the Government of Malta.

(5) Any person who immediately before the forfeiture had a legal title to the property forfeited as aforesaid, or the lawful heirs thereof, shall be entitled to compensation for the property forfeited provided that where the property has been sold such compensation shall not exceed the amount realised by the Government from the sale of the property and provided also that compensation is demanded by an application to the competent court within six months from the date of the order mentioned in sub-article (2).

Forfeited property.

676. Any property forfeited in favour of the Government in terms of the provisions of this Code may be disposed of immediately by the registrar unless the property has been exhibited in the course of a criminal prosecution in which case that property shall not be disposed of before final judgment and not without the prior consent of the Commissioner of Police or of the Attorney General as the case may be.

When property is to be returned by order of the court in its final judgment.

677. (1) Any property which is to be returned to any person in pursuance of an order made by the court in its final judgment shall be retained by the registrar for a period of six months within which period it shall be incumbent on that person, or his lawful heirs, to claim from the registrar the said property. Within the same period the registrar shall be under an obligation to make all efforts to trace and notify with the court's order the person to whom the property is to be returned.

(2) Where the person to whom the property is to be returned, or his lawful heirs, either spontaneously or after being notified with the court's order, fails to claim the property within the period laid down in sub-article (1) of this article or where the registrar within the same period fails to trace that person, or his lawful heirs, and no claim as aforesaid is spontaneously made for the property, that property shall be forfeited in favour of the Government.

(3) In the event that the property is owned by co-owners the registrar shall be deemed to have complied with his obligations according to law if he delivers the property to any one of the owners.

(4) The registrar shall by application refer to the court which delivered judgment any dispute regarding the title to the property. The application shall be served on all the parties who shall be allowed a period of five working days within which to reply and after the lapse of the said period the court shall appoint the application for hearing and after hearing the parties shall decide on the disposal of the property. No appeal shall lie from the decision of the court.

(5) If the person to whom the property is to be returned, or his lawful heirs, claim the property within the period mentioned in sub-article (1) of this article such property shall, in the absence of a lawful obstacle, be returned by the registrar free of charge.

(6) If the property has been forfeited in terms of this article and was subsequently sold by auction following the publication of advertisements, the person to whom the property was to be returned in accordance with the order of the court, or his lawful heirs, may claim the amount realised from the sale after subtracting any costs and fees incurred by the registrar provided that such claim is made within two years of the property having been disposed of.

When owner is  
unknown.

678. (1) Where the court in its final judgment has ordered that any property is to be returned but does not name the person to whom the property is to be so returned and the identity of that person is unknown that property shall be retained by the registrar for a period of



six months within which period any person claiming to have a legal title to the property may come forward and claim the property.

(2) Where the person having a legal title to the property fails to claim the property within the period specified in sub-article (1), or where the claims made in that period have been rejected by the court, the property shall be forfeited in favour of the Government.

(3) Any claim under sub-article (1) shall be made by application to the court before which the property was exhibited and shall be served on the registrar and on the Commissioner of Police or on the Attorney General, as the case may be, who shall have ten working days within which to file a reply. On the lapse of the time for the filing of a reply the court shall give its decision on the application and no appeal shall lie from that decision.

(4) If the court allows the application the property shall be delivered to the claimant free of charge.

Rules to be  
observed in the  
disposal of forfeited  
property.

679. In disposing of property forfeited in favour of the Government in terms of this Code the registrar shall observe the following rules:

(a) property which is of no or of little value may be disposed of at the discretion of the registrar provided that proper record of such disposal is kept;

(b) firearms, ammunition, explosives or other dangerous substances shall be consigned to the proper authorities designated by the Minister responsible for justice for disposal by them;

(c) other property which is of value shall be sold by auction by the registrar following the publication of at least three advertisements in a daily newspaper and any moneys deriving therefrom shall accrue to the Government.”.

**148.** Article 687 of the principal law shall be amended as follows:

Amendment of  
article 687 of the  
principal law.

(a) the present article shall be renumbered as subarticle (1) thereof;

(b) immediately after subarticle (1) of article 687 as renumbered there shall be added the following new subarticle:

“(2) The period of prescription in respect of all criminal offences shall be suspended from the moment a charge and, or bill of indictment is served on the person charged or accused until such time as a final and definitive judgment is delivered in the proceedings which commenced as a result of such charge or bill of indictment.”.

Amendment of the  
Code of  
Organization and  
Civil Procedure,  
Cap. 12.

**149.** The Code of Organization and Civil Procedure shall be amended as follows:

(a) for sub-article (1) of article 89 thereof, there shall be substituted the following:

“(1) The Minister responsible for justice shall nominate such panels as he may deem fit, each panel consisting of such number as he may deem fit of advocates, legal procurators and other experts, to perform the duties of curators, advocates or legal procurators ex officio and experts in the Courts of Malta and Gozo as occasion may require under this Code.”;

(b) article 90 thereof shall be deleted;

(c) article 911 thereof shall be amended as follows:

(i) for sub-article (5) thereof there shall be substituted the following:

“(5) The Minister responsible for justice shall provide such facilities as are necessary for the proper administration of the benefit of legal aid.”; and

(ii) for sub-article (6) thereof there shall be substituted the following:

“(6) There shall be an Advocate for Legal Aid and the expression “Advocate for Legal Aid” in this Code or in any other law includes any other lawyer, officer or public officer designated by the Minister responsible for justice to perform, under the guidance of the Advocate

for Legal Aid, any function pertaining to the Advocate of Legal Aid or to the administration of the benefit of legal aid.”.

**150.** In sub-article (2C) of article 120A of the Medical and Kindred Professions Ordinance, immediately after the words “at any time before filing the bill of indictment,” there shall be inserted the words “or at any time after filing the bill of indictment before the jury is empanelled, and with the consent of the accused,”, and immediately after the words “as if no previous direction had been given.” there shall be added the words “Where the Attorney General has given such new direction after the filing of the bill of indictment, the registrar of the Criminal Court shall cause the record to be transmitted to the Court of Magistrates, and shall cause a copy of the Attorney General’s direction to be served on the Commissioner of Police.”.

Amendment of the  
Medical and  
Kindred Professions  
Ordinance, Cap. 31.

**151.** In article 31 of the Dangerous Drugs Ordinance, immediately after the words “at any time before the filing of the bill of indictment” there shall be inserted the words “or at any time after filing the bill of indictment before the jury is empanelled, and with the consent of the accused,” and immediately after the words “as if no previous direction had been given.” there shall be added the words “Where the Attorney General has given such new direction after the filing of the bill of indictment, the registrar of the Criminal Court shall cause the record to be transmitted to the Court of Magistrates, and shall cause a copy of the Attorney General’s direction to be served on the Commissioner of Police.”.

Amendment of the  
Dangerous Drugs  
Ordinance, Cap.  
101.

**152.** The Extradition Act shall be amended as follows and shall be read and construed accordingly:

Amendment of the  
Extradition Act  
Cap. 276.

(a) in article 12 thereof, for the words “to any country, or committed to or kept in custody for the purpose of such return,” there shall be substituted the words “to any country”;

(b) immediately after sub-article (3) of article 15 thereof the shall be added the following new sub-articles:

“(4) Where a person has been brought before a court of committal as provided in subarticle (1) of this article, the provisions of sub-article (1) of article 401 of the Criminal Code shall apply as if the words “one month” wherever they occur therein were substituted with the words “two months” and as if the words “three months” in the proviso thereto were substituted with the words “six months”.



(5) Where the person arrested declares before the court of committal that he is willing to be extradited, the said court upon being satisfied of the voluntariness of such declaration shall commit him to custody to await his return and all the provisions of this Act for his extradition shall be deemed to be satisfied and the Minister shall thereupon, notwithstanding any other provision of this Act but saving the provisions of subarticles (2) and (4) of article 21 thereof, by warrant order him to be returned to the requesting country. No appeal shall lie from the decision of the court committing the person to custody under the provisions of this subarticle.”;

(c) in article 16 thereof:

(i) for the words “and that he may appeal” there shall be substituted the words “and that, except in the case of a committal to custody to await return under the provisions of subarticle (5) of the said article 15, he may appeal”;

(ii) immediately after the words “of the Constitution of Malta” there shall be substituted the words “or of the European Convention Act”; and

(iii) for the words “of article 46 of the said Constitution” there shall be substituted the words “of article 46 of the Constitution or of the European Convention Act, as the case may be”;

(d) in subarticle (2) of article 21 thereof:

(i) in paragraph (b), for the words “the court’s order of committal, and there is established” there shall be substituted the words “the court’s order of committal, and the person committed has instituted such proceedings or, if there is established”; and

(ii) in the proviso to paragraph (c), for the words “withdrawn or abandoned.” there shall be substituted the words “withdrawn or abandoned;” and immediately thereafter there shall be added the following new paragraph:

“(d) if a the person committed to custody is accused or undergoing sentence as provided in article 12, until he has been discharged

whether by acquittal or on the expiration of his sentence or otherwise.”;

(e) immediately after article 31 thereof there shall be inserted the following new article:

“Other special  
extraditable  
offences.

32. (1) The offences referred to in articles 115 to 121B of the Criminal Code shall be deemed to have been included as extraditable offences in all extradition treaties made by Malta (or are applicable to Malta) with Convention countries and which extend to, and are binding on, Malta on the date of the coming into force for Malta of the Convention.

(2) Where this Act does not apply in the case of any state which is a party to the “Criminal Law Convention on Corruption” the provisions of sub-articles (2) and (3) of article 31 of this Act shall *mutatis mutandis* apply to any such country so however that the reference to “sub-article (1)” in the said sub-article (3) shall be read and construed as a reference to sub-article (1) of this article.

(3) In this article:

“Convention countries” means those countries which are contracting parties to the Convention;

“the Convention” means the “Criminal Law Convention on Corruption” done at Strasbourg on the 27th January 1999.”.

**153.** The Prevention of Money Laundering Act shall be amended as follows and shall be read and construed accordingly:

Amendment of the  
Prevention of  
Money Laundering  
Act, Cap. 373.

(a) for sub-article (3) of article 3 thereof there shall be substituted the following:

“(3) In proceedings for an offence of money laundering under this Act the provisions of paragraph (b) of sub-article (1C) of article 22 of the Dangerous Drugs Ordinance shall *mutatis mutandis* apply.

(4) Where the person found guilty of an offence of money laundering under this Act is an officer of a body

corporate as is referred to in article 121D of the Criminal Code or is a person having a power of representation or having such authority as is referred to in that article and the offence of which that person was found guilty was committed for the benefit, in part or in whole, of that body corporate, the said person shall for the purposes of this Act be deemed to be vested with the legal representation of the same body corporate which shall be liable to the payment of a fine (*multa*) of not less than 500 liri and not more than 500,000 liri.

(5) Without prejudice to the provisions of article 23 of the Criminal Code the court shall, in addition to any punishment to which the person convicted of an offence of money laundering under this Act may be sentenced and in addition to any penalty to which a body corporate may become liable under the provisions of sub-article (4) of this article, order the forfeiture in favour of the Government of the proceeds or of such property the value of which corresponds to the value of such proceeds whether such proceeds have been received by the person found guilty or by the body corporate referred to in the said sub-article (4) of this article and any property of or in the possession or under the control of any person found guilty as aforesaid or of a body corporate as mentioned in this sub-article shall, unless proved to the contrary, be deemed to be derived from the offence of money laundering and liable to confiscation or forfeiture by the court:

Provided that, for the purposes of this sub-article, "proceeds" means any economic advantage and any property derived from or obtained, directly or indirectly, through criminal activity and includes any income or other benefit derived from such property.

(6) Without prejudice to the provisions of article 5 of the Criminal Code, the Maltese courts shall also have jurisdiction over any offence of money laundering under this Act in the same circumstances as are mentioned in article 121C of the Criminal Code.";

(b) immediately after article 4 thereof there shall be added the following new article:

"Controlled  
delivery and  
purchase.

4A. The provisions of article 30B of the Dangerous Drugs Ordinance shall apply *mutatis mutandis* to proceeds within the meaning of sub-article (5) of article 3 of this Act."



**154.** In sub-paragraph (iv) of paragraph (a) of article 10 of the Private Guards and Local Wardens Act, immediately after the words "is a public officer" there shall be added the words "other than one who belongs to a grade or category as may be prescribed by the Minister".

Amendment of the  
Private Guards and  
Local Wardens Act,  
Cap. 389.

**155.** (1) The provisions of article 22 and of sub-article (5) of article 509 of the Criminal Code before the date of coming into force of this Act (hereafter in this article referred to as "the relevant date") shall continue to apply to any sentence passed before the relevant date in respect of any person or passed on or after the relevant date in respect of a person who on the relevant date is in prison to await trial for the offence or offences to which the sentence refers and the provisions of article 8 and of article 104 of this Act shall have no effect on any such sentence.

Transitional.

(2) The following provisions shall apply to property belonging to the person charged or accused or to other persons and connected with criminal proceedings where such property has already been exhibited in criminal proceedings before the relevant date: (a) property exhibited in proceedings which have not been determined by a final judgment shall be exclusively regulated by articles 667 to 679 of the principal law as substituted by article 147 of this Act;

(b) property exhibited in proceedings which have been determined by a final judgment shall:

(i) if the person to whom the property belongs is unknown to the registrar, be disposed of in the manner provided for in article 679 of the principal law as substituted by article 147 of this Act provided that the proceedings have been determined as aforesaid for a period of at least six months and the registrar draws up a *proces-verbal* to that effect prior to the disposal;

(ii) if the person presumed to be the person to whom the property belongs is known, the property shall be disposed of in accordance with the provisions of sub-paragraph (i) of this paragraph if after the registrar has written to such person giving him a period of one month to withdraw the property that person fails to do so; provided that the person to whom the property belongs may claim the proceeds realised by the registrar from the disposal of such property if that person makes his claim within two years from the date in which the property was disposed of and proves his title to the property claimed.

(3) Any appointments which are current and which may have been made in terms of articles 89 and 90 of the Code of Organization and Civil Procedure before the relevant date may be terminated by the Minister responsible for justice notwithstanding that such appointments were made for a fixed term provided that any cause which may have already been assigned to an advocate shall continue to be dealt with by that advocate.

---

### **Objects and Reasons**

The main objects of the Bill are to give the right to victims of crime to intervene in criminal proceedings, to make additional provision with respect to persons under arrest or in detention, to facilitate the filing of acts in the case of appeals from the courts of Gozo, and to make new provision for the conservation and disposal of property exhibited in criminal proceedings and for the benefit of legal aid, together with consequential amendments.