

Nru. 106

16. 9. 94

MALTA

KAMRA TAD-DEPUTATI

ABBOZZ ta' Ligi mressaq mill-Onorevoli Joseph Fenech, M.P., Ministru tal-Ġustizzja, u moqri għall-Ewwel darba fis-Seduta tat-8 ta' Ġunju, 1994.

ATT biex jemenda l-Att dwar il-Kummissarji għall-Ġustizzja, Kap. 291.

RICHARD J. CAUCHI
Skrivan tal-Kamra tad-Deputati

HOUSE OF REPRESENTATIVES

A **BILL** introduced by the Honourable Joseph Fenech, M.P., Minister of Justice, and read the First time at the Sitting of the 8th June, 1994.

AN ACT to amend the Commissioners for Justice Act, Cap. 291.

RICHARD J. CAUCHI
Clerk to the House of Representatives

ABBOZZ TA' LIĠI

imsejjah

ATT biex jemenda l-Att dwar il-Kummissarji għall-Ġustizzja, Kap. 291.

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. Dan l-Att jista' jissejjah l-Att ta' l-1994 li jemenda l-Att dwar il-Kummissarji għall-Ġustizzja, u għandu jinqara u jiftiehem haġa waħda ma' l-Att dwar il-Kummissarji għall-Ġustizzja, hawnhekk iżjed 'il quddiem imsejjah "l-Att prinċipali". Titolu fil-qosor.
2. Fl-artikolu 2 ta' l-Att prinċipali, fit-tifsira ta' "Qorti tal-Maġistrati", minflok il-kliem "il-Qorti tal-Maġistrati tal-Pulizija Ġudizzjarja bħala Qorti ta' Ġudikatura Kriminali;" għandhom jidhlu l-kliem "il-Qorti tal-Maġistrati (Malta) jew il-Qorti tal-Maġistrati (Għawdex), skond il-każ, bħala Qorti ta' Ġudikatura Kriminali;" Emenda ta' l-artikolu 2 ta' l-Att prinċipali.
3. Fis-subartikolu (10) ta' l-artikolu 4 ta' l-Att prinċipali, minflok il-kliem "li soltu r-registru tal-Qrati Superjuri jkun magħluq." għandhom jidhlu l-kliem "li soltu r-registri tal-qrati jkunu magħluqin." Emenda ta' l-artikolu 4 ta' l-Att prinċipali.
4. L-artikolu 5 ta' l-Att prinċipali għandu jiġi emendat kif ġej: Emenda ta' l-artikolu 5 ta' l-Att prinċipali.
 - (a) fis-subartikolu (3) tiegħu minflok il-kliem "Fit-taħrika għandha titniżżel ukoll twissija li, fin-nuqqas li tidher, il-persuna hekk imħarrka tiġi arrestata b'mandat ta' Kummissarju u migjuba f'dak il-jum li jissemma' fil-mandat, u tista' tehel penali ta' mhux inqas minn lira u mhux iżjed minn hames liri." għandhom jidhlu l-kliem "Fit-taħrika għandha titniżżel ukoll twissija li fin-nuqqas li tidher il-persuna hekk imħarrka hija għandha titqies li tkun ammettiet l-akkuża."; u

(b) minnufih fi tmiem is-subartikolu (4) tiegħu għandu jżied dan li ġej: “F’dak il-każ dik il-persuna ma tkunx tenhtieg li tidher quddiem il-Kummissarju u ma għandhiex titqies li tkun ammettiet l-akkuża.”.

Emenda ta’
l-artikolu 6 ta’
l-Att prinċipali.

5. L-artikolu 6 ta’ l-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (2) tiegħu minflok il-kliem “minn uffiċjali ta’ l-uffiċċju tal-posta,” għandhom jidhlu l-kliem “bil-mezz ta’ ittra registrata minn uffiċjali ta’ l-uffiċċju tal-posta.”; u

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

“(3) Meta n-notifika ssir bil-posta l-persuna mharrka titqies li tkun notifikata kif imiss bit-tahrifa jekk il-prosekutur iġib prova li t-tahrifa tkun intbagħtet b’ittra registrata indirizzata fl-indirizz l-aħhar magħruf tal-persuna akkużata u jekk jirriżulta, mir-riferta li tkun ġiet riċevuta mogħtija mill-awtoritajiet postali (li għandha tiġi esibita, flimkien ma’ l-original tat-tahrifa, quddiem il-Kummissarju) li l-imsemmija ittra registrata tkun ġiet konsenjata f’dak l-indirizz; u d-data tan-notifika għandha titqies li hi d-data tal-konsenja ta’ l-ittra registrata.”.

Sostituzzjoni ta’
l-artikolu 7 ta’
l-Att prinċipali.

6. Minflok l-artikolu 7 ta’ l-Att prinċipali għandu jidhol dan li ġej:

“Nuqqas ta’ persuna li tidher meta tkun imharrka.
Kap. 9.

7. Bla hsara għad-dispożizzjonijiet tas-subartikolu (4) ta’ l-artikolu 5 ta’ dan l-Att, jekk xi persuna li tiġi notifikata kif imiss b’tahrifa tonqos li tidher quddiem il-Kummissarju, hija għandha titqies bħala li tkun ammettiet l-akkuża, u, minkejja kull haġa li tinsab fil-Kodiċi Kriminali, il-Kummissarju għandu ma’ dan jgħaddi biex jordna li jsir il-hlas tal-piena kif provdut fis-subartikolu (2) ta’ l-artikolu 10 ta’ dan l-Att fin-nuqqas tal-persuna akkużata.”.

Emenda ta’
l-artikolu 8 ta’
l-Att prinċipali.

7. Fl-artikolu 8 ta’ l-Att prinċipali minflok il-kliem “għall-Qorti tal-Pulizija Ġudizzjarja” għandhom jidhlu l-kliem “għal dik il-qorti”.

Emenda ta’
l-artikolu 9 ta’
l-Att prinċipali.

8. Fl-artikolu 9 ta’ l-Att prinċipali il-kliem “tal-Pulizija Ġudizzjarja” għandhom jithassru.

Emenda ta’
l-artikolu 10 ta’
l-Att prinċipali.

9. Fis-subartikolu (2) ta’ l-artikolu 10 ta’ l-Att prinċipali minflok il-kliem “preskritta bil-liġi għar-reat.” għandhom jidhlu l-kliem “preskritta bil-liġi għar-reat:” u minnufih wara għandu jidhol dan il-proviso li ġej:—

“Iżda l-Kummissarju jista’ jekk jikkunsidra li d-difiża ta’ persuna tkun frivola jew vessatorja, jordna lil dik il-persuna thallas b’zieda mal-penali dik il-penali ohra li ma tkunx iktar mill-massimu ta’ l-istess multa jew ammenda lilu mogħtija;

Iżda wkoll meta ma tiġi indikata ebda multa jew ammenda minima, jew meta multa jew ammenda minima jew massima tiġi

stabbilita bil-liġi bhala anqas minn hames liri, dik il-piena minima jew massima għall-finijiet ta' dan l-Att għandha tkun ta' għaxar liri.”.

10. L-artikolu 11 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

Emenda ta' l-artikolu 11 ta' l-Att prinċipali.

(a) minflok il-kliem “Qorti tal-Pulizija Ġudizzjarja” kull fejn jinsabu għandhom jidhlu l-kliem “Qorti tal-Maġistrati”; u

(b) minflok is-subartikolu (4) tiegħu għandu jidhol dan is-subartikolu li ġej:

“(4) Id-dispożizzjonijiet tas-subartikoli (3), (5) u (6) ta' l-artikolu 10 għandhom jgħoddu għal kull deċiżjoni tal-Qorti tal-Maġistrati li tikkonferma jew tvarja deċiżjoni tal-Kummissarju, inkluż kull ordni magħmula taht is-subartikolu (3) ta' dan l-artikolu.”.

11. Minflok l-artikolu 13 ta' l-Att prinċipali għandu jidhol dan li ġej:

Sostituzzjoni ta' l-artikolu 13 ta' l-Att prinċipali.

“Setgħa għall-għemil ta' regolamenti. 13. (1) Il-Ministru jista' jagħmel regolamenti:

(a) li jkollhom x'jaqsmu mal-proċedura li għandha tithares mill-Kummissarji;

(b) li jemendaw l-Iskeda li tinsab ma' dan l-Att billi jzidu magħha jew inaqqsulha reati; iżda ma jista' jidied ebda reat ma' l-Iskeda permezz ta' regolamenti li jinħarġu bis-saħħa ta' dan l-artikolu jekk il-piena għal dak ir-reat tkun iktar mill-pieni stabbiliti għall-kontravvenzjonijiet; u

(ċ) b'mod ġeneriku dwar kull haġa li tista' tiġi minnu stabbilita, ordnata, diretta jew preskritta skond id-dispożizzjonijiet ta' dan l-Att u kull haġa oħra li tista' tkun spedita sabiex jinghata effett aħjar lil dan l-Att.

(2) Mingħajr ebda preġudizzju għad-dispożizzjonijiet ta' l-artikolu 11 ta' l-Att dwar l-interpretazzjoni, kull emenda għall-Iskeda li tinsab ma' dan l-Att magħmula b'regolamenti bis-saħħa tas-subartikolu ta' qabel dan ta' dan is-subartikolu ma għandhomx jibdeu isehhu hlief wara li jgħaddu tletin jum mid-data tal-pubblikazzjoni ta' dawk ir-regolamenti fil-Gazzetta.”.

Kap. 249.

12. L-Iskeda li tinsab ma' l-Att prinċipali għandha tiġi emendata kif ġej:

Emenda għall-Iskeda li tinsab ma' l-Att prinċipali.

(a) fil-partita 1 tagħha, minflok in-numri “3, 12.” għandu jidhol in-numru “3.”;

(b) fil-partita 2 tagħha:

- (i) in-numru "25," ghandu jithassar;
- (ii) minflok in-numri "35J, 57," ghandhom jidhlu n-numri "35J, 42, 47, 48, 49, 55, 57,";
- (iii) minnufih wara n-numru "66" ghandu jidhol in-numru "66A";
- (iv) minflok in-numri "93, 99," ghandhom jidhlu n-numri "93, 94, 95, 99,"; u
- (v) minflok in-numru "103." ghandhom jidhlu n-numri "103, 105, 113A, 123 sa 125, 132, 143A, 167, 169, 199.";
- (ċ) fil-partita 3, minflok il-kliem "Artikolu 202." ghandhom jidhlu dawn il-kliem li ġejjin:
- "Artikolu 38(1) (a) (b) (c) (d) (i) (j) (k), 40(b), 49, 51 sa 60, 73, 77, 82, 86, 87, 89."; u
- (d) minnufih wara l-partita 7 tagħha ghandha tiżdied din il-partita ġdida li ġejja:
- "8. Ordinanza dwar l-Assigurazzjoni ta' Vetturi tal-Mutur ghar-Riskji ta' Terzi Persuni (Kap. 104) Artikolu 8(1)."

Emenda ta' l-Ordinanza dwar ir-Regolament tat-Traffiku, Kap. 65.

13. Minnufih wara l-artikolu 18 ta' l-Ordinanza dwar ir-Regolament tat-Traffiku, ghandu jżied dan l-artikolu ġdid li ġejj—

"Il-liċenza tal-vettura ma tiġġeddid kemm-il darba ma tithallasx il-multa, ammenda jew piena.
Kap. 291.

18A. Meta tingħata multa jew ammenda minn qorti ta' ġurisdizzjoni kriminali, jew meta Kummissarju għall-Gustizzja jkun għamel ordni għall-ħlas ta' penali bis-saħħa tad-dispożizzjonijiet ta' l-Att dwar il-Kummissarji għall-Gustizzja, li jkollha x'taqsam ma' reat li jikser id-dispożizzjonijiet ta' din l-Ordinanza li jsir bl-użu ta' xi vettura bil-mutur, u dik il-multa, ammenda jew piena, skond il-każ, ma tkunx thallset, il-Kummissarju tal-Pulizija jew l-Awtorità dwar it-Trasport Pubbliku, skond il-każ, ghandhom jieqfu milli jgeddu l-liċenza ta' dik il-vettura bil-mutur meta din tiskadi sa dak iż-żmien meta jsir il-ħlas tal-multa, ammenda jew penali."

Dispożizzjoni transitorja.

14. Minkejja d-dispożizzjonijiet tas-subartikoli (2) u (3) ta' l-Att prinċipali, il-Qorti tal-Maġistrati (Malta) u l-Qorti tal-Maġistrati (Għawdex) ghandu jkollhom ġurisdizzjoni esklużiva li jipproċessaw dawk ir-reati li jsiru reati imnizzla fl-iskeda bis-saħħa ta' dan l-Att, u li jkunu twettqu qabel il-bidu fis-seħħ ta' dan l-Att.

Għanijiet u Raġunijiet

L-għan ta' l-Abbozz huwa sabiex jiddepenalizza iktar reati li jistghu jiġu proċessati minn Kummissarji għall-Gustizzja, sabiex jagħmel iktar sempliċi l-proċeduri li għandhom x'jaqsmu mas-smieġh ta' dawk il-kawżi, u sabiex jassigura li jkun hemm ġbir aħjar tal-penali inflitti. Għal dan il-għan l-Abbozz jemenda wkoll l-Ordinanza dwar ir-Regolament tat-Traffiku.

A BILL

entitled

AN ACT to amend the Commissioners for Justice Act, Cap. 291.

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. This Act may be cited as the Commissioners for Justice (Amendment) Act, 1994, and shall be read and construed as one with the Commissioners for Justice Act, hereinafter referred to as “the principal Act”.

Short title.
2. In section 2 of the principal Act, in the definition of “Court of Magistrates”, for the words “the Court of Magistrates of Judicial Police as Court of Criminal Judicature;” there shall be substituted the words “the Court of Magistrates (Malta) or the Court of Magistrates (Gozo), as the case may be, as a Court of Criminal Judicature;”.

Amendment of section 2 of the principal Act.
3. In subsection (10) of section 4 of the principal Act, for the words “when the registry of the Superior Courts is considered closed.” there shall be substituted the words “when the registries of the courts are considered closed.”.

Amendment of section 4 of the principal Act.
4. Section 5 of the principal Act shall be amended as follows:

 - (a) in subsection (3) thereof for the words “It shall also contain an intimation that, in default of appearance, the person summoned shall be arrested by a warrant of a Commissioner and arraigned on such day as may be stated in the warrant, and shall become liable to a penalty of not less than one lira and not more than five liri.” there shall be substituted the words “The summons shall also contain an intimation that in default of appearance the person summoned shall be deemed to have admitted the charge.”; and

Amendment of section 5 of the principal Act.

(b) immediately at the end of subsection (4) thereof there shall be added the following: "In such a case such person need not appear before the Commissioner and shall not be deemed to have admitted the charges."

Amendment of section 6 of the principal Act.

5. Section 6 of the principal Act shall be amended as follows:

(a) in subsection (2) thereof for the words "by officers of the post office," there shall be substituted the words "by registered letter by officers of the post office,"; and

(b) for subsection (3) thereof there shall be substituted the following subsection:

"(3) Where service is effected by post the person summoned shall be presumed to be duly served with the summons if the prosecuting officer proves that the said summons was sent by registered letter addressed at the last known address of the person charged and if it results, from the advice of receipt delivered by the postal authorities (which must be exhibited, together with the original of the summons, before the Commissioner) that the said registered letter was delivered at that address; and the date of service shall be presumed to be the date of the delivery of the registered letter."

Substitution of section 7 of the principal Act.

6. For section 7 of the principal Act there shall be substituted the following:

7. Saving the provisions of subsection (4) of section 5 of this Act, if a person duly served with a summons fails to appear before a Commissioner he shall be deemed to have admitted the charge, and, notwithstanding anything contained in the Criminal Code, the Commissioner shall thereupon proceed to order the payment of the penalty as provided in subsection (2) of section 10 of this Act in the absence of the person charged."

"Failure to appear when summoned.

Cap. 9.

Amendment of section 8 of the principal Act.

7. In section 8 of the principal Act for the words "to the Court of Judicial Police" there shall be substituted the words "to that court".

Amendment of section 9 of the principal Act.

8. In section 9 of the principal Act the words "of Judicial Police" shall be deleted.

Amendment of section 10 of the principal Act.

9. In subsection (2) of section 10 of the principal Act for the words "prescribed by law for the offence." there shall be substituted the words "prescribed by law for the offence:" and immediately thereafter there shall be added the following proviso:

"Provided that a Commissioner may, if he considers that the person's defence is frivolous or vexatious, order that person to pay in addition to the penalty another penalty not exceeding the maximum of the same fine (*multa* or *ammenda*) to him awarded:

Provided further that where no minimum fine is indicated, or where a minimum fine or a maximum fine are prescribed by law as being less than five liri, such minimum or maximum penalty for the purposes of this Act shall be of ten liri.”.

10. Section 11 of the principal Act shall be amended as follows:

Amendment of section 11 of the principal Act.

(a) for the words “Court of Judicial Police”, wherever they occur, there shall be substituted the words “Court of Magistrates”; and

(b) for subsection (4) thereof there shall be substituted the following subsection:

“(4) The provisions of subsections (3), (5) and (6) of section 10 shall apply to the decision of the Court of Magistrates confirming or varying a decision of the Commissioner, including an order made under subsection (3) of this section.”.

11. For section 13 of the principal Act there shall be substituted the following:

Substitution of section 13 of the principal Act.

“Power to make regulations.

13. (1) The Minister may make regulations:

(a) prescribing, or relating to, the procedure to be followed by the Commissioners;

(b) amending the Schedule to this Act by adding or removing therefrom offences; provided that no offence may be added to the Schedule by regulations under this section if the punishment for that offence exceeds the punishments established for contraventions; and

(c) generally with regard to any thing that may be by him determined, ordered, directed or prescribed in accordance with the provisions of this Act and any other matter that may be expedient for the better carrying into effect of this Act.

Cap. 249. (2) Without prejudice to the provisions of section 11 of the Interpretation Act, any amendment to the Schedule of this Act made by regulations under the provisions of the foregoing subsection shall not come into effect except after the lapse of thirty days from the date of publication of the said regulations in the Gazette.”.

12. The Schedule to the principal Act shall be amended as follows:

Amendment of the Schedule to the principal Act.

(a) in item 1 thereof, for the numbers “3, 12.” there shall be substituted the number “3.”;

(b) in item 2 thereof:

(i) the number “25,” shall be deleted;

(ii) for the numbers “35J, 57,” there shall be substituted the numbers “35J, 42, 47, 48, 49, 55, 57,”;

(iii) immediately after the number “66” there shall be inserted the number “66A”;

(iv) for the numbers “93, 99,” there shall be substituted the numbers “93, 94, 95, 99,”; and

(v) for the number “103,” there shall be substituted the numbers “103, 105, 113A, 123 to 125, 132, 143A, 167, 169, 199.”;

(c) in item 3, for the words “Section 202.” there shall be substituted the following words:

“Section 38(1) (a) (b) (c) (d) (i) (j) (k), 40(b), 49, 51 to 60, 73, 77, 82, 86, 87, 89.”; and

(d) immediately after item 7 thereof there shall be added the following new item:

“8. Motor Vehicles Insurance (Third-Party Risks) Ordinance (Cap. 104) Section 8(1).”.

Amendment of
the Traffic
Regulation
Ordinance,
Cap. 65.

13. Immediately after section 18 of the Traffic Regulation Ordinance, there shall be added the following new section:—

“Non-renewal of road licence pending settlement of fine or penalty.
Cap. 291.

18A. Where any fine (*multa* or *ammenda*) is awarded by a court of criminal jurisdiction, or where a Commissioner for Justice has made an order for the payment of a penalty under the provisions of the Commissioners for Justice Act, in connection with any offence under this Ordinance committed by the use of any motor vehicle, and such fine or penalty, as the case may be, has not been paid, the Commissioner of Police or the Public Transport Authority, as the case may be, shall withhold from renewing that motor vehicle’s road licence on the expiry thereof until such time as the payment of the fine or the penalty is effected.”.

Transitory
provision.

14. Notwithstanding the provisions of subsections (2) and (3) of the principal Act, the Court of Magistrates (Malta) and the Court of Magistrates (Gozo) shall have exclusive jurisdiction to try those offences, which become scheduled offences by virtue of this Act, committed before the coming into force of this Act.

Objects and Reasons

The object of the Bill is to depenalize further offences which become triable by Commissioners for Justice, to simplify the procedures relating to the hearing of such cases, and to ensure that a better collection of the relative penalties is effected. For this purpose the Bill also amends the Traffic Regulation Ordinance.