

Nru. 142

19. 9. 95

MALTA

KAMRA TAD-DEPUTATI

ABBOZZ ta' Ligi mressaq mill-Onorevoli Eddie Fenech Adami, M.P., Prim Ministru u moqri ghall-Ewwel Darba fis-Seduta ta' 1-24 ta' Lulju, 1995.

ATT biex jemenda l-Att dwar l-Istampa, Kap. 248.

RICHARD J. CAUCHI
Skrivan tal-Kamra tad-Deputati

HOUSE OF REPRESENTATIVES

A BILL introduced by the Honourable Eddie Fenech Adami, M.P., Prime Minister and read for the First Time at the Sitting of the 24th July, 1995.

AN ACT to amend the Press Act, Cap. 248.

RICHARD J. CAUCHI
Clerk of the House of Representatives

ABBOZZ TA' LIĠI msejjah

ATT biex jemenda l-Att dwar l-Istampa, Kap. 248.

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 l-Istampa, u għandu jinqara u jiftiehem haġa waħda ma' l-Att dwar l-Istampa, hawnhekk iżjed 'il quddiem imsejjah "il-liġi prinċipali". Titolu fil-qosor.

2. Fl-artikolu 2 tal-liġi prinċipali:

Emenda ta'
l-artikolu 2 tal-liġi
prinċipali.

(a) fit-tifsira ta' "editur", minflok il-kelma "gazzetta" għandhom jidhlu l-kliem "gazzetta jew servizz ta' xandir";

(b) wara t-tifsira ta' "Reġistratur" għandha tizzied din it-tifsira ġdida li ġejja:

" "responsabbli għall-pubblikazzjoni" tfisser persuna li tkun sidt ta' impriża għall-pubblikazzjoni ta' gazzetta jew li jkollha liċenza għax-xandir u tinkludi kull persuna li jkollha faċilitajiet għall-produzzjoni jew riproduzzjoni ta' kull stampat;";

(ċ) it-tifsira ta' "stampatur" għandha tithassar; u

(d) minflok it-tifsira ta' "xandir" għandu jidhol dan li ġej:

“ “xandir” tfisser it-trasmissjoni permezz ta’ fili jew minn gewwa l-arja, inkluża wkoll permezz ta’ satellita, f’ghamla kodifikata jew mhijiex; ta’ kliem jew immaġini vizivi, sew jekk dawk il-kliem jew immaġini jkunu fil-fatt riċevuti minn xi persuna sew jekk le;”.

Emenda ta’
l-artikoli 5 u 6
tal-liġi prinċipali.

3. (a) L-artikoli 5 u 6 tal-liġi prinċipali għandhom jiġu enumerati mill-ġdid bħala s-subartikolu (1) u (2) ta’ l-artikolu 5 rispettivament.

(b) Minnufih wara s-subartikolu (2) ta’ l-artikolu 5 kif emendat għandu jidhol dan l-artikolu 6 ġdid li ġej:

“Razzizmu u
reati simili.

5. Kull min, b’xi mezz imsemmi fl-artikolu 3 ta’ dan l-Att, jhedded, jinsulta, jew jesponi għal mibeghda, persekuzzjoni jew disprezz, lil xi persuna jew grupp ta’ persuni minhabba fir-razza, twemmin, kulur, nazzjonalità, jew oriġini nazzjonali jew etnika jehel meta jinsab hati prigunerija għal żmien ta’ mhux iżjed minn tliet xhur u multa.”.

Emenda ta’
l-artikolu 8 tal-liġi
prinċipali.

4. Fl-artikolu 8 tal-liġi prinċipali l-kliem “ta’ mhux iżjed minn mitejn lira” għandhom jithassru.

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

5. Fil-paragrafu (a) ta’ l-artikolu 11 tal-liġi prinċipali, il-kliem “ta’ mhux iżjed minn mitejn lira” għandhom jithassru.

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

6. Fl-artikolu 14 tal-liġi prinċipali:

(i) fil-paragrafu (a) tiegħu l-kliem “ta’ mhux iżjed minn tliet mitt lira” għandhom jithassru; u

(ii) fil-paragrafu (b) tiegħu l-kliem “ta’ mhux iżjed minn mitejn lira” għandhom jithassru.

Emenda ta’
l-artikolu 20 tal-liġi
prinċipali.

7. Fis-subartikolu (2) ta’ l-artikolu 20 tal-liġi prinċipali minflok il-kliem “ta’ mhux iżjed minn mitejn lira” għandhom jidhlu l-kliem “ta’ mhux iżjed minn hames mitt lira”.

Emenda ta’
l-artikolu 21 tal-liġi
prinċipali.

8. L-artikolu 21 tal-liġi prinċipali għandu jiġi emendat kif ġej:

(i) minflok in-nota marginali għal dak l-artikolu għandhom jidhlu l-kliem “Dritt ta’ risposta”;

(ii) fis-subartikolu (1) tiegħu:

(a) wara l-kliem “ġew imfissra hażin” fl-ewwel paragrafu għandhom jidhru l-kliem “jew li tiġi esposta għal

attakk fuq l-unur, id-dinjità jew ir-reputazzjoni taghha, jew għal indhila fil-hajja privata taghha permezz ta' jew"; u

(b) minflok il-kliem "bħala kontradizzjoni jew spjegazzjoni:" għandhom jidhlu l-kliem "bħala kontradizzjoni jew spjegazzjoni jew sabiex tgharraf il-fehmiet taghha fuq dawk il-fatti jew taghrif li jkunu ġew ippubblikati:";

(iii) minflok is-subartikolu (2) tiegħu għandu jidhol dan li ġej:

"(2) Fil-każ ta' gazzetta, risposta skond ma hemm fis-subartikolu (1) ta' dan l-artikolu għandha tiġi ppubblikata bħala artikolu separat u mingħajr ma jintgħamli dwaru xi kummenti jew jidher xi materjal ieħor li ma jkunx jagħmel parti mir-risposta, u dan bi prominenza ugwali għall-pubblikazzjoni li dwarha tkun qed issir ir-risposta u hadd ma jkun jista' jgħassar jew jikkorreġi r-risposta b'mod li jippreġudika t-tweqqif effettiv tad-dritt ta' risposta skond dan l-artikolu. Dik id-dikjarazzjoni għandha tiġi ppubblikata mhux iktar tard mit-tieni harġa tal-gazzetta wara li tiġi riċevuta t-talba:

Izda meta jintgħamel użu mid-dritt ta' risposta għar-rigward ta' publikazzjoni f'gazzetta li tohroġ f'intervalli ta' mill-anqas għimgha, dik id-dikjarazzjoni għandha tiġi ppubblikata fil-harġa li tiġi minnufih wara li tiġi riċevuta t-talba jekk dik it-talba tiġi riċevuta mill-inqas erbat ijiem qabel il-pubblikazzjoni ta' dik il-harġa u mhux iktar tard mit-tieni harġa li tiġi wara li tkun ġiet riċevuta t-talba fil-każijiet l-oħra kollha.";

(iv) fis-subartikolu (3) tiegħu minflok il-kliem "dikjarazzjoni bħala kontradizzjoni jew spjegazzjoni" għandhom jidhlu l-kliem "dikjarazzjoni skond is-subartikolu (1) ta' dan l-artikolu";

(v) fis-subartikolu (4) tiegħu minflok il-kliem "tehel multa meta tinstab hatja" għandhom jidhlu l-kliem "tehel multa meta tinstab hatja ta' mhux inqas minn mitejn lira u fil-każ li tinstab hekk hatja l-qorti tista' fis-sentenza taghha tohroġ dawk l-ordnijiet fuq il-persuna li tinstab hatja hekk kif tqis li jkun xieraq sabiex tassigura li jkun hemm rispett lejn id-dritt ta' risposta mogħti b'dan l-artikolu. Fin-nuqqas ta' tharis ta' xi ordni bħal dik il-persuna li tinstab hatja jkollha thallas lill-kwerelant penali li ma tkunx ta' iktar minn hames mitt lira u li tkun esegwibbli mill-istess qorti";

(vi) minflok is-subartikolu (6) tieghu ghandu jidhol dan li ġej:

“(6) Dan l-artikolu ma japplikax għal pubblikazzjoni msemija fl-artikolu 33 ta’ dan l-Att f’kazijiet meta ma tkun tista’ tittiehed ebda azzjoni taht dak l-artikolu dwar dik il-pubblikazzjoni.”; u

(vii) wara s-subartikolu (6) tieghu ghandu jidhol dan is-subartikolu (7) ġdid li ġej:

“(7) Id-dritt ta’ risposta skond dan l-artikolu jiskadi jekk min ikun qiegħed jitlob dan il-jedd ma jkunx għamel it-talba tieghu fi żmien xahar mid-data tal-pubblikazzjoni tal-gazzetta jew mix-xandira li dwarhom ikun jista’ jitwettaq dak id-dritt.”.

Emenda ta’
l-artikolu 22 tal-liġi
prinċipali.

9. Fl-artikolu 22 tal-liġi prinċipali minflok il-kliem minn “dik il-liġi l-oħra;” sa “minn mitejn lira.” għandhom jidhlu l-kliem “dik il-liġi l-oħra.”.

Emenda ta’
l-artikolu 23 tal-liġi
prinċipali.

10. Minflok l-artikolu 23 tal-liġi prinċipali ghandu jidhol dan li ġej:–

Persuni li
kontra
tagħhom
tista’
titmexxa
azzjoni
kriminali.

23. L-azzjoni kriminali għal xi reat taht it-Taqsima II ta’ dan l-Att tista’ tittiehed kontra kull wahda minn dawn il-persuni li ġejjin:

(a) l-awtur tal-kitba, jekk huwa jkun kitibha sabiex tiġi ppubblikata, jew jekk ikun ta l-kunsens tieghu għal hekk;

(b) l-EDITOR;

jew, jekk daww il-persuni ma jkunux jistgħu jiġu identifikati,

(ċ) ir-responsabbli għall-pubblikazzjoni.”.

Emenda ta’
l-artikolu 25 tal-liġi
prinċipali.

11. Fis-subartikolu (2) ta’ l-artikolu 25 tal-liġi prinċipali:

(a) minflok il-kliem minn “u l-istampatur” sal-kliem “li ssir bih,” għandhom jidhlu l-kliem “u, meta jkun japplika, ir-responsabbli għall-pubblikazzjoni”; u

(b) minflok il-kliem “x’kien fiha f’xi żmien” għandhom jidhlu l-kliem “x’kien fihom il-gazzetta, ix-xandira jew kull stampat iehor, skond il-każ, f’xi żmien”.

12. Fl-artikolu 26 tal-liġi prinċipali minflok il-kliem minn “L-
 editur jew l-istampatur ta’ gazzetta” sal-kliem “li bih tkun saret,”
 għandhom jidhlu l-kliem “Il-persuni msemmija fl-artikolu 23 ta’ dan l-
 Att,”.

Emenda ta’
 l-artikolu 26 tal-liġi
 prinċipali.

13. Fl-artikolu 28 tal-liġi prinċipali, fis-subartikolu (1) tiegħu,
 minflok il-kliem “elfejn lira” għandhom jidhlu l-kliem “hamest elef
 lira”.

Emenda ta’
 l-artikolu 28 tal-liġi
 prinċipali.

14. Fl-artikolu 29 tal-liġi prinċipali minflok il-kliem “elfejn lira”
 għandhom jidhlu l-kliem “hamest elef lira”.

Emenda ta’
 l-artikolu 29 tal-liġi
 prinċipali.

15. Fl-artikolu 30 tal-liġi prinċipali minflok il-kliem “elfejn lira”
 għandhom jidhlu l-kliem “hamest elef lira”.

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

16. Wara s-subartikolu (2) ta’ l-artikolu 31 tal-liġi prinċipali
 għandu jidhol dan il-proviso li ġej:

Emenda ta’
 l-artikolu 31 tal-liġi
 prinċipali.

“Izda d-dispożizzjonijiet tal-paragrafu (d) ta’ l-artikolu 374
 tal-Kodiċi Kriminali ma għandhomx ikunu japplikaw għar-rigward
 ta’ proċedimenti kriminali mibdija skond id-dispożizzjonijiet ta’
 qabel ta’ dan l-artikolu wara li l-kwerelant ikun ikkonferma l-
 kwerela tiegħu bil-ġurament quddiem il-Qorti u jekk il-kwerelant
 jonqos milli jidher fil-qorti f’xi stadju tal-proċedimenti dan ma
 għandux jitqies bħala xi deserzjoni tal-proċedimenti jew xi ċessjoni
 tal-kwerela jekk dak in-nuqqas jiġi wara li l-kwerelant ikun
 ikkonferma bil-ġurament il-kwerela tiegħu qabel imsemmija.”.

17. L-artikolu 33 tal-liġi prinċipali għandu jiġi emendat kif ġej:—

Emenda ta’
 l-artikolu 33 tal-liġi
 prinċipali.

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

“(b) pubblikazzjonijiet li jikkonsistu f’komunikazzjo-
 nijiet bejn uffiċjali pubbliċi, jew bejn uffiċjali u kuntratturi
 bħal dawk tas-servizz pubbliku jew uffiċjali ta’ korporazzjo-
 nijiet pubbliċi, rapporti ta’ inkjesti magħmula skond kull liġi,
 jew dikjarazzjonijiet ta’ uffiċjali pubbliċi magħmula *in bona*
fide fl-interess tas-sigurtà nazzjonali, integrità territorjali,
 inkolumità pubblika, biex jiġi evitat id-dizordni jew l-ghemil
 ta’ delitti, jew għall-harsien tas-saħħa jew morali;” u

(b) il-paragrafu (ċ) tiegħu għandu jithassar u l-paragrafi (d)
 u (e) għandhom jiġu enumerati mill-ġdid bħala l-paragrafi (ċ) u
 (d) rispettivament.

18. Fl-artikolu 34 tal-liġi prinċipali l-kliem “jew stampatur”
 għandhom jithassru.

Emenda ta’
 l-artikolu 34 tal-liġi
 prinċipali.

Emenda ta' l-artikolu 35 tal-liġi prinċipali.

19. Is-subartikolu (1) ta' l-artikolu 35 tal-liġi prinċipali għandu jiġi emendat kif ġej:

(a) minflok il-kliem "l-istampatur" u "stampatur" kull fejn jinsabu għandhom jidhlu l-kliem "responsabbli għall-pubblikazzjoni";

(b) fis-subparagrafu (i) tal-paragrafu (a), wara l-kliem "ismu u kunjomu," għandhom jidhlu l-kliem "numru tal-Karta ta' l-Identità,";

(ċ) minflok is-subparagrafu (i) tal-paragrafu (b) għandu jidhol dan li ġej:

"(i) jekk ir-responsabbli għall-pubblikazzjoni jkun individwu, ismu u kunjomu, l-età, il-post tar-residenza tiegħu u numru tal-Karta ta' l-Identità;

(ii) jekk ir-responsabbli għall-pubblikazzjoni tkun kumpannija jew xi assoċjazzjoni oħra ta' persuni, isimha, l-indirizz tagħha, il-partikolaritajiet imsemmija fis-subparagrafu (i) dwar ir-rappreżentant ġuridiku tagħha, u, meta dan ikun japplika, in-numru ta' reġistrazzjoni tagħha bhala kumpannija jew soċjetà"; u

(d) is-subparagrafi (ii) u (iii) tal-paragrafu (b) għandhom jiġu enumerati mill-ġdid bhala s-subparagrafi (iii) u (iv) rispettivament.

Emenda ta' l-artikolu 37 tal-liġi prinċipali.

20. Fl-artikolu 37 tal-liġi prinċipali minflok il-kliem "hamsa u għoxrin ċenteżmu" għandha tidhol il-kelma "lira".

Thassir ta' l-artikolu 38 tal-liġi prinċipali.

21. L-artikolu 38 tal-liġi prinċipali għandu jithassar.

Sostituzzjoni ta' l-artikolu 41 tal-liġi prinċipali.

22. Minflok l-artikolu 41 tal-liġi prinċipali għandu jidhol dan li ġej:-

"41. Id-dispożizzjonijiet ta' din it-Taqsima ma għandhomx japplikaw għall-pubblikazzjonijiet perjodiċi ppubblikati minn, jew b'ordni jew permess ta' jew għall-użu ta', il-Gvern ta' Malta jew kull Ministeru jew Dipartiment tiegħu jew il-Kamra tad-Deputati."

Sostituzzjoni tat-Taqsima IV A tal-liġi prinċipali.

23. Minflok it-Taqsima IV A tal-liġi prinċipali għandu jidhol dan li ġej:

“TAQSIMA V
SERVIZZI TA' XANDIR

Edituri ta' servizzi ta' xandir.

42. Kull detentur ta' liċenza tax-xandir f' Malta għandu jahtar persuna li jkollha l-kwalifiki elenkati fl-artikolu 34 sabiex tagħmilha ta' editur ta', u tkun editorjalment responsabbli għas-servizz ta' xandir provdut skond dik il-liċenza.

Applikabilità ta' l-artikoli 35, 36, 38, 39 u 40.

43. Id-dispożizzjonijiet ta' l-artikoli 35, 36, 38 39 u 40 ta' dan l-Att għandhom *mutatis mutandis* japplikaw għall-edituri ta' servizzi ta' xandir u għal detenturi ta' liċenzi tax-xandir hekk kif japplikaw għall-edituri ta' gazzetti u għall-gazzetti rispettivament.

Dmirijiet ta' l-edituri.

44. L-edituri tas-servizzi tax-xandir għandu jkollhom l-istess dmirijiet u obbligi taht dan l-Att skond ma għandhom bl-istess Att l-edituri tal-gazzetti.

Tifsiriet.

45. Għall-għanijiet ta' din it-Taqsima l-frazi “liċenza tax-xandir” għandu jkollha l-istess tifsira bhal dik mogħtija lilha fl-Att ta' l-1991 dwar ix-Xandir.”.

24. It-TAQSIMA V tal-liġi prinċipali għandha tithassar u minflokha jidhol dan li ġej:-

Sostituzzjoni tat-Taqsima V tal-liġi prinċipali.

“TAQSIMA VI
LIBERTAJIET ĠURNALISTIĊI

Konfidenzjalità ta' sorsi.

46. Ebda Qorti ma għandha tehtieg li persuna msemija fl-artikolu 23 ta' dan l-Att tikxef, anqas ma għandha dik il-persuna tkun hatja ta' disprezz lejn l-awtorità tal-qorti talli ma tkunx trid tikxef, is-sorsi ta' informazzjoni li tkun tinsab f' gazzetta jew xandira li hija tkun responsabbli għaliha kemm-il darba ma jiġix stabbilit għas-sodisfazzjon tal-Qorti:

(a) li dak il-kxif ikun mehtieg fl-interess tas-sigurtà nazzjonali, integrità territorjali jew inkolumità pubblika, jew għat-tharis minn diżordni jew kriminalità, jew għall-harsien ta' l-interessi tal-ġustizzja; u

(b) li fiċ-ċirkostanzi partikolari tal-każ il-htiega li l-Qorti tagħmel investigazzjoni tkun ikbar mill-htiega tal-*media* li jipproteġu l-ghejjun ta' informazzjoni tagħhom, wara li jitqies sew ir-rwol tal-*media* f' soċjetà demokratika:

Iżda ebda haġa f' dan l-artikolu ma għandha tiffisser bħala li teżenta lil xi persuna msemmija fl-artikolu 23 ta' dan l-Att milli ġġib prova dwar il-verità ta' xi fatti lilha attribwiti skond ma hemm fl-artikolu 12 ta' dan l-Att.

Access għal tagħrif li jkollu l-Gvern.

47. (1) Il-Gvern ta' Malta għandu jistabbilixxi proceduri sabiex jagħti lir-rappreżentanti ta' l-istampa dak it-tagħrif li jgħinhom iwettqu d-dmirijiet pubbliċi tagħhom.

(2) Is-subartikolu (1) ta' dan l-artikolu ma għandux jibqa' japplika f'dawn il-każijiet li ġejjin:

(a) meta dak it-tagħrif jista' jhawwad, iwaqqaf, idewwem jew jipperikola l-proċess xieraq ta' procedimenti legali pendenti jew meta l-Gvern jew awtorità pubblika oħra jkollhom il-jedd legali li jirrifjutaw milli jagħtu dak it-tagħrif f'qorti jew quddiem xi tribunal iehor imwaqqaf b'liġi;

(b) meta l-ghoti ta' dak it-tagħrif jinvolvi l-kxif ta' tagħrif riċevut mill-Gvern b'mod konfidenzjali;

(c) meta dak it-tagħrif ikun jikser xi interess pubbliku li jirbah fuq kolloxx jew xi interess privat li jkun jehtieg harsien;

(d) meta t-tagħrif ikun jirrigwarda hwejjeġ li jkollhom x'jaqsmu mas-sigurtà nazzjonali jew inkolumità pubblika;

(e) meta l-qies tat-tagħrif mehtieg ma jkunx raġonevoli.

(3) Il-Gvern ma jistax johroġ struzzjonijiet generali li jipprojbixxu l-ghoti ta' tagħrif lil xi gazzetta jew servizz ta' xandir liċenzjat li jkollhom xi fehma partikolari jew lil xi gazzetta jew servizz ta' xandir liċenzjat speċifiċi.”.

Enumerazzjoni mill-ġdid ta' l-artikoli 50, 51 u 52 tal-liġi prinċipali.

25. L-artikoli 50, 51 u 52 tal-liġi prinċipali għandhom jiġu enumerati mill-ġdid bħala l-artikoli 48, 49 u 50 rispettivament.

Enumerazzjoni mill-ġdid tat-Taqsima VI tal-liġi prinċipali.

26. It-Taqsima VI tal-liġi prinċipali għandha tiġi enumerata mill-ġdid bħala t-Taqsima VII.

Sostituzzjoni ta' l-artikolu 53 tal-liġi prinċipali.

27. L-artikolu 53 tal-liġi prinċipali għandu jithassar u minfloku għandu jidhol dan li ġej:

“Obbligazzjonijiet ta’ trasparenza.

51. (1) Kull gazzetta li tiġi ppubblikata f’Malta għandha turi isem ir-responsabbli għall-pubblikazzjoni tagħha, u d-data meta tkun giet stampata.

(2) Ir-Registratur jista’ skond il-liġi jitlob u jikseb informazzjoni mingħand xi persuna dwar min ikun is-sid ta’ gazzetta li tiġi ppubblikata f’Malta jew ta’ kumpannija li tkun, jew assoċjazzjoni oħra ta’ persuni li jkunu, jew li kienu f’xi żmien, b’mod dirett jew indirett, is-sid ta’ dik il-gazzetta jew rigward it-trasferiment ta’ ishma jew il-kontroll ta’ xi kumpannija bħala dik.

(3) L-informazzjoni mitluba mir-Registratur skond is-subartikolu (2) ta’ dan l-artikolu għandha tingħata fi żmien għaxart ijiem minn meta l-persuna mehtieġa li tagħti l-informazzjoni tasliha t-talba għal dik l-informazzjoni, u din għandha tiddaħhal mir-Registratur fir-registru tal-gazzetti.

(4) Kull min jikser id-dispożizzjonijiet ta’ dan l-artikolu jehel meta jinsaġ ħati multa.”

28. Wara l-artikolu 51 ġdid tal-liġi prinċipali għandu jiżdied dan l-artikolu ġdid li ġej:

Żieda ta’ l-artikolu 52 ġdid mal-liġi prinċipali.

“Dispożizzjoni transitorja.

52. Id-dispożizzjonijiet ta’ l-Att dwar l-Istampa kif fis-sehh qabel ma sar liġi l-Att ta’ l-1995 li jemenda l-Att dwar l-Istampa, għandhom jibqgħu japplikaw, mingħajr preġudizzju għat-taris tal-konfidenzjalità ta’ sorsi kif stipulat fl-artikolu 46, għar-rigward ta’ kull azzjoni ċivili jew kriminali, jedd għal azzjoni, jedd jew obbligu li għandhom x’jaqsmu ma’ jew li jitnisslu minn xi publikazzjoni magħmula qabel ma jkun sar liġi l-Att ta’ l-1995 li jemenda l-Att dwar l-Istampa.”

Għanijiet u Raġunijiet

L-għan ta’ dan l-Abbozz hu li jsaħħah il-funzjoni tal-*media*, li jħares il-libertajiet gurnalistiċi sabiex iħaffef iktar it-twettieq tal-jedd għal-libertà ta’ espressjoni, it-tnehhija tal-kontroll mill-Pulizija fuq l-istamperiji, u biex iwettaq miżuri li jwasslu għall-protezzjoni tal-pubbliku kontra loġhob u tbaġħbis fl-informazzjoni u biex isaħħah id-demokrazija mgħarrfa.

**A BILL
entitled**

AN ACT to amend the Press Act, Cap. 248

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:—

Short title.

1. This Act may be cited as the Press (Amendment) Act, 1995, and shall be read and construed as one with the Press Act, hereinafter referred to as “the principal law”.

Amendment of section 2 of the principal law.

2. In section 2 of the principal law:

(a) the definition of “broadcast” shall be deleted and substituted by the following:

“ “broadcast” means the transmission by wire or over the air, including that be satellite, in encoded or unencoded form of words or of visual images, whether or not such words or images are in fact received by any person;”;

(b) in the definition of “editor”, the word “newspaper” shall be replaced by the words “newspaper or broadcasting service”;

(c) the definition of “printer” shall be deleted; and

(d) after the definition of “printed matter” there shall be added the following new definition:

“ “publisher” means a person who owns an enterprise publishing a newspaper or who holds a broadcasting licence and includes any person who owns facilities for the production or reproduction of any printed matter;”.

3. (a) Sections 5 and 6 of the principal law shall be renumbered as subsections (1) and (2) of section 5 respectively. Amendment of sections 5 and 6 of the principal law.

(b) Immediately after subsection (2) of section 5 as amended there shall be inserted the following new section 6:

“Racism and similar offences:.”

6. Whosoever, by any means mentioned in section 3 of this Act, shall threaten, insult, or expose to hatred, persecution or contempt, a person or group of persons because of their race, creed, colour, nationality, or national or ethnic origin shall be liable on conviction to imprisonment for a term not exceeding three months and to a fine (*multa*).”.

4. In section 8 of the principal law the words “not exceeding two hundred liri” shall be deleted. Amendment of section 8 of the principal law.

5. In paragraph (a) of section 11 of the principal law, the words “not exceeding two hundred liri” shall be deleted. Amendment of section 11 of the principal law.

6. In section 14 of the principal law: Amendment of section 14 of the principal law.

(i) in paragraph (a) thereof the words “not exceeding three hundred liri” shall be deleted; and

(ii) in paragraph (b) thereof the words “not exceeding two hundred liri” shall be deleted.

7. In subsection (2) of section 20 of the principal law for the words “two hundred liri” there shall be substituted the words “five hundred liri”. Amendment of section 20 of the principal law.

8. Section 21 of the principal law shall be amended as follows: Amends section 21 of the principal law.

(i) the marginal note to the said section shall be substituted by the words “Right of reply”;

(ii) in subsection (1) of the said section:

(a) after the word “misrepresented” in the first paragraph thereof there shall be added the words “or who has been subjected to an attack on his honour, dignity or

reputation, or to an intrusion into his private life by means of or”; and

(b) the words “by way of contradiction or explanation:” shall be substituted by the words “by way of contradiction or explanation or in order to make known his views on the facts or information published.”;

(iii) subsection (2) of the said section shall be substituted by the following:

“(2) In the case of a newspaper, a reply in terms of subsection (1) of this section shall be published as a separate article and without being interpolated with any comments or other material that does not form part of the reply, with equal prominence as the publication in respect of which the right of reply is exercised and it shall not be lawful to shorten or edit the reply in such a manner as to prejudice the effective exercise of the right of reply under this section. The said statement shall be published not later than the second issue of the newspaper following the receipt of the request:

Provided that when the right of reply is availed of in respect of a publication in a newspaper published at intervals of at least one week, the said statement shall be published in the issue immediately following the receipt of the request if such request is received at least four days before the publication of the said issue and not later than the second issue following the receipt of the request in all other cases.”;

(iv) in subsection (3) of the said section for the words “a statement by way of contradiction or explanation” there shall be substituted the words “a statement in terms of subsection (1) of this section”;

(v) in subsection (4) of the said section for the words “fine (*multa*)” there shall be substituted the words “fine (*multa*) of a minimum of two hundred liri and in the case of such conviction the court shall in its judgement make such orders upon the party convicted as it deems appropriate as to ensure respect of the right of reply granted by this section. In default of compliance with any such order the party convicted shall be liable to pay the complainant a penalty not exceeding five hundred liri which shall be enforceable by the same court”;

(vi) subsection (6) of the said section shall be substituted by the following:

“(6) This section shall not apply to any publication mentioned in section 33 of this Act in cases where no action lies under that section in respect of such publication.”; and

(vii) after subsection (6) of the said section there shall be added the following new subsection (7):

“(7) The right of reply under this section shall lapse if the person demanding such right shall not have claimed it within one month from the date of the publication of the newspaper or of the broadcast in respect of which the said right may be exercised.”.

9. In section 22 of the principal law the words from “shall apply;” until the end of the section shall be substituted by the words “shall apply”. Amendment of section 22 of the principal law.

10. Section 23 of the principal law shall be substituted by the following: Amendment of section 23 of the principal law.

“Persons against whom criminal proceedings may be instituted

23. Criminal proceedings for any offence under Part II of this Act may be instituted against each of the following persons:

(a) the author, if he shall have composed the work for the purpose of its being published, or if he shall have consented thereto;

(b) the editor;

or, if the said persons cannot be identified,

(c) the publisher.”

11. In subsection (2) of section 25 of the principal law:

Amendment of section 25 of the principal law.

(a) the words from “and the printer” to the words “from which it is made,” shall be substituted by the words “and, where applicable, the publisher”; and

(b) the words “contents thereof” shall be substituted by the words “contents of the newspaper, broadcast or other printed matter, as the case may be,”.

Amendment of section 26 of the principal law.

12. In section 26 of the principal law for the words from “The editor or printer of a newspaper” until the words “from which it is made,”, inclusive, there shall be substituted the words “The persons mentioned in section 23 of this Act,”.

Amendment of section 28 of the principal law.

13. In section 28 of the principal law, in subsection (1) thereof, for the words “two thousand liri” there shall be substituted the words “five thousand liri”.

Amendment of section 29 of the principal law.

14. In section 29 of the principal law for the words “two thousand liri” there shall be substituted the words “five thousand liri”.

Amendment of section 30 of the principal law.

15. In section 30 of the principal law for the words “two thousand liri” there shall be substituted the words “five thousand liri”.

Amendment of section 31 of the principal law.

16. After subsection (2) of section 31 of the principal law there shall be added the following proviso:

“Provided that the provisions of paragraph (d) of section 374 of the Criminal Code shall not apply in respect of criminal proceedings instituted in terms of the foregoing provisions of this section after the complainant has confirmed his complaint on oath before the Court and the absence of the complainant from the court at any stage of the proceedings shall not be deemed to constitute the abandonment of the proceedings or the withdrawal of the complaint if the said absence is subsequent to the said confirmation of the complaint on oath by the complainant.”.

Amendment of section 33 of the principal law.

17. Section 33 of the principal law shall be amended as follows:

(a) paragraph (b) thereof shall be substituted by the following:

“(b) publications consisting of communications between public officers, or between such officers and contractors of the public service or officials of public corporations, reports of inquiries held in terms of any law, or statements by public officers that are made in good faith in the interests of national security, territorial integrity, public safety, for the prevention of disorder or crime or for the protection of health or morals;” and

(b) paragraph (c) thereof shall be deleted and paragraphs (d) and (e) shall be re-numbered as paragraphs (c) and (d) respectively.

18. In section 34 of the principal law the words “or print” shall be deleted. Amendment of section 34 of the principal law.

19. Subsection (1) of section 35 of the principal law shall be amended as follows: Amendment of section 35 of the principal law.

(a) the word “printer” shall be replaced by the word “publisher” wherever it appears in the text;

(b) in subparagraph (i) of paragraph (a) thereof after the words “name and surname” there shall be inserted the words “Identity Card number,”;

(c) subparagraph (i) of paragraph (b) shall be substituted by the following:

“(i) if the publisher is an individual, his name, surname, age, place of residence and Identity Card number;

(ii) if the publisher is a company or other association of persons, its name, address, the particulars mentioned in subparagraph (i) in respect of its judicial representative, and, where applicable, its company or partnership registration number;” and

(d) subparagraphs (ii) and (iii) of paragraph (b) shall be renumbered as subparagraphs (iii) and (iv) respectively.

20. In section 37 of the principal law for the words “twenty five cents” there shall be substituted the words “one lira”. Amendment of section 37 of the principal law.

21. Section 38 of the principal law shall be deleted. Deletion of section 38 of the principal law.

22. Section 41 of the principal law shall be substituted by the following: Substitution of section 41 of the principal law.

“41. The provisions of this Part shall not apply to any periodical publication published by, or by order or leave of or for the use of, the Government of Malta or any of its Ministries or Departments or the House of Representatives.”.

23. PART IV A of the principal law shall be substituted by the following: Substitution of PART IV A of the principal law.

**“PART V
BROADCASTING SERVICES**

Editors of broadcasting services. 42. Every holder of a broadcasting licence in Malta shall appoint a person having the qualifications listed in section 34 to be the editor of, and be editorially responsible for, the broadcasting service provided in terms of the said licence.

Applicability of sections 35, 36, 38, 39 and 40. 43. The provisions of sections 35, 36, 38, 39 and 40 of this Act shall *mutatis mutandis* apply to editors of broadcasting services and to broadcasting licencees as they apply to editors of newspapers and to newspapers respectively.

Duties of editors. 44. Editors of broadcasting services shall have the same duties and obligations under this Act as are by the same imposed on editors of newspapers.

Interpretations. Act XII of 1991. 45. For the purpose of this Part the term “broadcasting licence” shall have the same meaning as is attributed to it in the Broadcasting Act, 1991.”.

Substitution of PART V of the principal law.

24. PART V of the principal law shall be deleted and substituted by the following:

**“PART VI
JOURNALISTIC FREEDOMS**

Confidentiality of sources. 46. No Court shall require any person mentioned in section 23 of this Act to disclose, nor shall such person be guilty of contempt of court for refusing to disclose, the source of information contained in a newspaper or broadcast for which he is responsible unless it is established to the satisfaction of the Court:

(a) that such disclosure is necessary in the interests of national security, territorial integrity or public safety, or for the prevention of disorder or crime or for the protection of the interests of justice; and

(b) that in the particular circumstances of the case the need for investigation by the Court outweighs the need of the media to protect its sources, due regard being taken of the importance of the role of the media in a democratic society.

Provided that nothing in this section shall be interpreted as exempting any person mentioned in section 23 of this Act from proving the truth of any facts attributed by him in terms of section 12 of this Act.

Access to
information
held by
Government.

47. (1) The Government shall establish procedures to give representatives of the press the information which helps them fulfil their public tasks.

(2) Subsection (1) of this section shall not apply in the following cases:

(a) where such information could foil, impede, delay or jeopardise the appropriate process of pending legal proceedings or where Government or another public authority would be legally entitled to refuse to grant such information in a court or other tribunal established by law;

(b) where the granting of such information would entail the disclosure of information received by Government in confidence;

(c) where such information would violate an overriding public interest or a private interest warranting protection;

(d) where the information concerns matters related to national security or public safety;

(e) where the extent of the information requested is unreasonable.

(3) It shall not be lawful for Government to issue general instructions that prohibit the giving of information to any newspaper or licensed broadcasting service holding a particular view or to any specified newspaper or licensed broadcasting service.”.

25. Sections 50, 51 and 52 of the principal law shall be renumbered as sections 48, 49 and 50 respectively.

Renumbering of sections 50, 51 and 52 of the principal law.

26. PART VI of the principal law shall be renumbered as PART VII.

Renumbering of PART VI of the principal law.

Substitution of section 53 of the principal law.

27. Section 53 of the principal law shall be deleted and substituted by the following:

“Transparency obligations

51. (1) Every newspaper published in Malta shall publish the name of its publisher and the date on which it was printed.

(2) It shall be lawful for the Registrar to demand and obtain information from any person concerning the ownership of a newspaper published in Malta or of a company or other association of persons that is or at any time was, directly or indirectly, the owner of such a newspaper or with regard to the transfer of shares or control of any such company.

(3) Information demanded by the Registrar in terms of subsection (2) of this section shall be given within ten days of communication of the demand to the person from whom the information is required, and shall be included by the Registrar in the register of newspapers.

(4) Whosoever shall contravene the provisions of this section shall on conviction be liable to a fine (*multa*).”.

Addition of new section 52 to the principal law.

28. After the new section 51 of the principal law there shall be added the following new section:

“Transitory provision.

52. The provisions of the Press Act as in force prior to the enactment of the Press (Amendment) Act, 1995 shall, without prejudice to the protection of the confidentiality of sources as stipulated in section 46, continue to apply in respect of any civil or criminal action, right of action, right or obligation relating to or arising out of any publication made prior to the enactment of the Press (Amendment) Act, 1995.”.

Objects and Reasons

The objects and reasons of this Bill are the strengthening of the role of the media, the protection of journalistic freedoms in order to further facilitate the implementation of the right to freedom of expression, the abolition of Police control over printing presses, the implementation of measures that are conducive to the protection of the public against manipulation of information, and the strengthening of informed democracy.