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MALTA

KAMRA TAD-DEPUTATI

HOUSE OF REPRESENTATIVES

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

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

ATT sabiex jipprovdi dwar Servizz ta' Sigurtà inklużi dispożizzjonijiet għall-hruġ ta' mandati u ta' awtorizzazzjonijiet li jagħtu lok għall-għemil ta' ċertu azzjonijiet u biex il-hruġ ta' dawk il-mandati u awtorizzazzjonijiet jibqgħu jġu segwiti; sabiex jistabbilixxi proċedura dwar l-investigazzjoni ta' ilmenti dwar is-Servizz ta' Sigurtà u jipprovdi għat-twaqqif ta' Kumitat ta' Sigurtà sabiex jiskrutinja dan is-Servizz; sabiex jipprojbixxi l-interċettazzjoni ta' komunikazzjonijiet u għal għanijiet anċillari.

AN ACT to make provision about the Security Service including provision for the issue of warrants and authorisations enabling certain actions to be taken and for the issue of such warrants and authorisations to be kept under review; to establish a procedure for the investigation of complaints about the Security Service and to make provision for the establishment of a Security Committee to scrutinise this Service; to prohibit the interception of communications and for connected purposes.

ABBOZZ TA' LIĠI msejjah

ATT sabiex jipprovdi dwar Servizz ta' Sigurtà inklużi dispożizzjonijiet għall-ħruġ ta' mandati u ta' awtorizzazzjonijiet li jagħtu lok għall-ghemil ta' ċertu azzjonijiet u biex il-ħruġ ta' dawk il-mandati u awtorizzazzjonijiet jibqgħu jiġu segwiti; sabiex jistabbilixxi proċedura dwar l-investigazzjoni ta' ilmenti dwar is-Servizz ta' Sigurtà u jipprovdi għat-twaqqif ta' Kumitat ta' Sigurtà sabiex jiskrutinja dan is-Servizz, sabiex jipprojbixxi l-interċettazzjoni ta' komunikazzjonijiet u għal għanijiet anċillari.

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) Dan l-Att jista' jissejjah l-Att ta' l-1995 dwar is-Servizz tas-Sigurtà.

Titolu fil-qosor,
bidu fis-sehh u
limitu.

(2) Dan l-Att għandu jibda jsehh f'dak il-jum li jista' jistabbilixxi l-Prim Ministru u jistgħu jiġu hekk stabbiliti granet differenti għal dispożizzjonijiet differenti jew għal għanijiet differenti.

2. (1) F'dan l-Att —

Tifsir.

“indirizz” tfisser kull indirizz postali jew ta' telekomunikazzjoni;

“interċettazzjoni”, għar-rigward ta’ ordni, tinkludi l-ksib, it-tfixkil, il-qirda, il-ftuh, l-interruzzjoni, is-soppressjoni, il-waqfien, il-qbid, it-tismigh, is-sorveljanza, ir-registrazzjoni, l-ikkupjar, is-smigh ta’ u li tara komunikazzjonijiet u l-ksib ta’ informazzjoni minn dawk il-komunikazzjonijiet;

“jum tax-xogħol” tfisser kull jum iehor li ma jkunx is-Sibt jew btala pubblika;

“komunikazzjoni esterna” tfisser komunikazzjoni mibghuta jew li tiġi riċevuta barra minn Malta;

“kopja”, dwar informazzjoni interċettata, tfisser xi waħda minn dan li ġej, sew f’għamla dokumentarja sew jekk f’għamla oħra —

(a) kull kopja, estratt jew sommarju ta’ l-informazzjoni; u

(b) kull dokumentazzjoni dwar l-identità tal-persuni li lilhom tkun intbagħtet jew li jkunu bagħtu l-informazzjoni,

u tifsiriet relatati għandhom jinftexmu skond dan;

“il-Kummissjunarju” tfisser il-Kummissjunarju li jkollu l-kariga skond l-artikolu 12 ta’ dan l-Att;

“Ministru” tfisser il-Ministru li minn żmien għal żmien jiġi speċifikat mill-Prim Ministru bħala responsabbli għas-Servizz ta’ Sigurtà;

“persuna” tinkludi kull korp ġuridiku mwaqqaf b’liġi;

Kap. 254.

“postali” tinkludi kull haġa li fil-kuntest ta’ l-Att dwar l-Uffiċċju tal-Posta tista’ titwassal bil-posta kif ukoll kull haġa li taqa’ taħt l-Ordinanza dwar is-Sigrieti Uffiċjali;

Kap. 50.

Kap. 49.

“telegrafija mingħajr fili” għandha l-istess tifsir bħalma hemm fl-Ordinanza dwar it-Telegrafija mingħajr Fili;

“telekomunikazzjoni” tfisser it-trasmissjoni ta’ messagġi jew ta’ hoss jew xbihat bil-mezz ta’ fil attivat bl-elettriku jew b’*radio waves* jew b’enerġija elettromanjetika oħra jew b’enerġija optika jew b’kombinazzjoni ta’ xi żewġ sistemi jew iktar bħal dawn u għandha tinkludi t-telegrafija u t-telefonija;

“uffiċjal tal-Gvern anzjan” hija referenza ghal Segretarju Permanenti u ghas-Segretarju tal-Kabinett.

(2) Għall-ghanijiet ta’ dan l-Att komunikazzjoni li tkun fil-kors tat-trasmissjoni tagħha b’mod iehor li ma jkunx wiehed ta’ sistema ta’ telegrafija minghajr fili jew ta’ telekomunikazzjoni għandha titqies li tkun fil-kors tat-trasmissjoni tagħha bil-mezz ta’ dik is-sistema jekk il-mod ta’ trasmissjoni tagħha ikun jidentifikaha bħala komunikazzjoni li —

(a) għandha tiġi jew tkun giet trasmessa bil-mezz ta’ dik is-sistema; u

(b) tkun intbagħtet minn, jew ikollha tintbagħat lejn, pajjiż jew territorju barra minn Malta.

(3) Għall-ghanijiet ta’ dan l-Att imġieba li tikkostitwixxi jew, jekk tkun saret ġewwa Malta, kienet tkun tikkostitwixxi reat wiehed jew iktar, għandha titqies bħala delitt gravi biss, u biss jekk —

(a) din tkun tinvolvi l-użu tal-vjolenza, tkun tirriżulta fi qligħ finanzjarju sostanzjali jew tkun twettqet minn għadd sostanzjali ta’ persuni li jkollhom għan wiehed; jew

(b) ir-reat jew wiehed mir-reati jkunu reat li dwaru persuna li tkun għalqet it-tmintax-il sena u li ma tkun qatt qabel instabet hatja ta’ xi reat tista’ jekk tinsab hatja tehel prigunerija għal żmien minimu ta’ mhux anqas minn tliet snin; jew

(ċ) ir-reat jew wiehed mir-reati jkun reat li jkun ġie hekk skedat mill-Prim Ministru b’avviż fil-Gazzetta.

3. (1) Għandu jkompli jkun hemm Servizz ta’ Sigurtà (f’dan l-Att imsemmi “is-servizz”) taht l-awtorità tal-Ministru. Is-Servizz ta’
Sigurtà

(2) Il-funzjoni tas-Servizz tkun li dan jaġixxi fl-interess tas-sigurtà nazzjonali u, b’mod partikolari, kontra l-kriminalità organizzata, spjunagg, terroriżmu u sabutaġġ, l-attivitajiet ta’ aġenti ta’ potenzi barranin u kontra l-azzjonijiet mahsuba biex iwaqqghu jew jissovvertu d-demokrazija parlamentari b’mezzi politiċi, industrijali jew vjolenti.

(3) Tkun ukoll il-funzjoni tas-Servizz li jaġixxi fl-interess —

(a) tal-benesseri ekonomiku ta’ Malta; u

(b) tas-sigurtà pubblika, in partikolari, il-prevenzjoni jew kxif ta’ delitti gravi.

4. (1) L-operazzjonijiet tas-Servizz ta' Sigurtà ghandu jibqa' taht il-kontroll ta' kap tas-Servizzi li jinhatar mill-Prim Ministru.

(2) Il-kap tas-Servizz ikun responsabbli ghall-effiċjenza tas-Servizz u jkollu d-dmir li jiżgura —

(a) li jkun hemm arrangamenti sabiex jiġi żgurat li ma jinkiseb ebda taghrif mis-Servizz hlief daqstant daqskemm ikun mehtieġ ghat-twettiq sew tal-funzjonijiet tieghu u li ma tiġi żvelata ebda informazzjoni mis-Servizz hlief meta din tkun mehtieġa ghal dak l-ghan jew bil-ghan li jsiru proċedimenti kriminali; u

(b) li s-Servizz ma jiehu ebda azzjoni sabiex iġib 'il quddiem l-interessi ta' xi partit politiku.

(3) L-arrangamenti msemmija fil-paragrafu (a) tas-subartikolu (2) ta' dan l-artikolu ghandhom ikunu tali li jiżguraw li informazzjoni li tkun fil-pussess tas-Servizz ma tiġix żvelata ghall-użu sabiex jiġi stabbilit jekk persuna ghandhiex tiġi impjegata, jew tkompli tiġi impjegata, minn xi persuna, jew f'xi kariga jew kapacità hlief skond provvedimenti f'dak ir-rigward li jiġu approvati mill-Ministru.

(4) Minghajr ebda preġudizzju ghall-generalità tal-paragrafu (a) tas-subartikolu (2) ta' dan l-artikolu, il-kxif ta' informazzjoni ghandu jitqies bhala mehtieġ ghat-twettiq sew tal-funzjonijiet tas-Servizz meta dan ikun jikkonsisti —

Kap. 339.

(a) fil-kxif ta' kull dokumentazzjoni bl-approvazzjoni tal-Ministru u skond l-Att dwar l-Arkivji Nazzjonali; jew

(b) fil-kxif, kif sugġett ghal u skond l-arrangamenti approvati mill-Ministru, ta' informazzjoni li tinghata lid-Direttur tal-Verifika personalment ghall-ghanijiet tal-funzjonijiet tieghu li jkollhom x'jaqsmu mas-Servizz.

(5) Il-kap tas-Servizz ta' Sigurtà ghandu jaghmel rapport ta' kull sena dwar ix-xoghol tas-Servizz lill-Prim Ministru u lill-Ministru u jista' f'kull żmien jirrapporta lil xi wiehed minnhom dwar xi haġa li jkollha x'taqsam max-xoghol tas-Servizz.

Membri tas-Servizz
ta' Sigurtà.

5. Il-membri tas-Servizz ghandhom jinhatru mill-kap tas-Servizz b'dawk il-patti u kondizzjonijiet li jistghu jiġu approvati mill-Ministru u inklużi maghhom hemm:

(a) uffiċjali pubbliċi;

(b) membri ta' u persuni ohra impjegati jew mahtura fi jew għall-ghanijiet tal-Forzi Armati ta' Malta;

(ċ) membri ta' u persuni ohra impjegati jew mahtura fi jew għall-ghanijiet tal-Korp tal-Pulizija ta' Malta kif ukoll ta' kull korp dixxiplinat iehor ta' l-Istat;

(d) persuni li, skond l-Att dwar is-Sigrieti Uffiċjali ikunu Kap. 50.
jew:

(i) membri jew impjegat ta' korp preskritt jew ta' korp ta' klassi preskritta, detenturi ta' kariga preskritta jew impjegati ta' detenturi bħal dawk; jew

(ii) kuntrattati mill-Gvern;

(e) diretturi ta' u persuni ohra impjegati jew mahtura fi jew għall-ghanijiet ta':

(i) korpi imwaqqfa permezz ta' xi liġi;

(ii) kumpanniji fejn il-maġġoranza tal-ishma partecipattivi tagħhom jkunu kontrollati mill-Gvern,

(iii) kumpanniji li jipprovdu servizzi postali, ta' telegrafija minghajr fili jew ta' telekomunikazzjoni;

għal dak iż-żmien li hekk ikun mehtieġ mill-Ministru bil-miktub wara li ssirlu talba mill-kap tas-Servizz sabiex is-Servizz ta' Sigurtà jiġi assistit minnhom fit-tweqqif tal-funzjonijiet tiegħu.

6. (1) Ebda dhul fi, jew interferenza ma' proprjetà ma tkun Mandati generali.
kontra l-liġi jekk dawn ikunu awtorizzati b'mandat mahruġ mill-Ministru bis-sahha ta' dan l-artikolu.

(2) Ebda interċettazzjoni ta' jew interferenza ma' komunikazzjonijiet fil-kors tat-trasmissjoni tagħhom bil-posta jew bil-mezz ta' sistema ta' telegrafija minghajr fili jew ta' telekomunikazzjoni jew b'kull mezz iehor ma għandu jkun kontra l-liġi jekk dan jiġi awtorizzat b'mandat mahruġ mill-Ministru bis-sahha ta' dan l-artikolu.

(3) Il-Ministru jista', wara li ssirlu talba mis-Servizz ta' Sigurtà, johroġ jew jibdel mandat bis-sahha ta' dan l-artikolu li jkun jawtorizza li tittiehed kull azzjoni bħalma jkun hemm speċifikat fil-mandat dwar dik il-proprjetà li tkun hekk speċifikata jew dwar kull komunikazzjoni hekk speċifikata jekk il-Ministru —

(a) i qis bhala li jkun mehtieg li l-azzjoni ikollha tittiehed ghar-raġuni li x'aktarx tkun ta' valur sostanzjali fl-assistenza li tinghata lis-Servizz fit-twettiq tal-funzjonijiet tiegħu skond dan l-Att; u

(b) ikun sodisfatt li dak li l-azzjoni tkun qeghda tfittex li tikseb ma jkunx jista' raġonevolment jinkiseb b'mezzi ohra; u

(c) ikun sodisfatt illi jkun hemm fis-sehh arrangamenti sodisfaċenti skond dan l-Att ghar-rigward tal-kxif ta' informazzjoni miksuba bis-sahha ta' dan l-artikolu u li kull informazzjoni miksuba bis-sahha tal-mandat tkun sugġetta għal dawk l-arrangamenti.

Mandati:
interċettazzjoni.

7. (1) Bla hsara għas-subartikolu (2) ta' dan l-artikolu, l-interċettazzjoni jew l-interferenza ta' komunikazzjoni mehtieġa b'mandat ikunu l-interċettazzjoni ta' jew l-interferenza ma' —

(a) dawk il-komunikazzjonijiet li jintbagħtu lil jew minn indirizz wiehed jew iktar indirizzi speċifikati fil-mandat, li jkun indirizz jew indirizzi li x'aktarx jintużaw għat-trasmissjoni ta' komunikazzjonijiet, lejn jew minn —

(i) persuna partikolari wahda speċifikata jew deskritta fil-mandat; jew

(ii) grupp singolu ta' fondi partikolari li jiġu hekk speċifikati jew deskritti; u

(b) dawk il-komunikazzjonijiet l-ohra (jekk ikun hemm) li jkunu mehtieġa li wiehed jinterċetta jew jinterferixxi magħhom sabiex ikun jista' jinterċetta jew jinterferixxi ma' komunikazzjonijiet li jinsabu fil-paragrafu (a) ta' dan is-subartikolu.

(2) Is-subartikolu (1) ta' dan l-artikolu ma japplikax għal mandat jekk —

(a) l-interċettazzjoni jew interferenza mehtieġa mill-mandat tkun l-interċettazzjoni jew l-interferenza, fil-kors tat-trasmissjoni tagħhom permezz ta' sistema ta' telegrafija mingħajr fili jew ta' telekomunikazzjoni, ta' —

(i) komunikazzjonijiet esterni li jkunu deskritti fil-mandat; u

(ii) dawk il-komunikazzjonijiet l-oħra (jekk ikun hemm) li jkunu mehtiegħa li wiehed jinterċetta jew jinterferixxi magħhom sabiex ikun jista' jinterċetta jew jinterferixxi ma' dawk il-komunikazzjonijiet esterni li jkunu hekk deskritti; u

(b) fiż-żmien meta jinhareg il-mandat, il-Ministru johrog ċertifikat li fih jiċċertifika d-deskrizzjonijiet ta' l-informazzjoni li jkun qed iqis l-eżami tagħha bħala wiehed mehtiegħ kif hemm imsemmi fil-paragrafu (a) tas-subartikolu (3) ta' l-artikolu 6 ta' dan l-Att.

8. (1) Mandat ma ghandux jinhareg jew jiġi mibdul hlief —

Mandati:
proċedura u għal
kemm żmien, eċċ.

(a) bil-miktub mill-Ministru; jew

(b) f'każ urgenti meta l-Ministru ikun espressament awtorizza l-hruġ tiegħu jew li jsir tibdil fih u dikjarazzjoni ta' dak il-fatt tiġi registrata fuqu, bil-miktub minn uffiċjal tal-Gvern anzjan.

(2) Kemm-il darba mandat ma jiġgeddidx skond ma hemm fis-subartikolu (3) ta' dan l-artikolu, dan ghandu jtemm milli jibqa' jsehh —

(a) jekk il-mandat kien inhareg bil-miktub mill-Ministru, meta jintemmu sitt xhur li jkunu bdew għaddejjin fil-jum meta l-mandat ikun inhareg; u

(b) f'kull każ ieħor, fi tmiem iż-żmien li jintemm mat-tieni jum tax-xogħol li jiġi wara dak il-jum.

(3) Mandat jista' jiġi mibdul f'kull hin.

(4) Jekk f'xi żmien li jiġi qabel il-jum li fih mandat itemm milli jkollu sehh il-Ministru iqis li jkun mehtiegħ li l-mandat ghandu jibqa' jsehh għal dak l-ghan li jkun inhareg dwaru, il-Ministru jista' johrog proroga bil-miktub li fiha jgedded dak il-mandat għal żmien sitt xhur oħra li jibdeu għaddejjin minn dak il-jum.

(5) Il-Ministru ghandu jhassar mandat jekk huwa jkun sodisfatt li dik l-azzjoni hekk awtorizzata b'dak il-mandat ma tkunx għadha mehtiegħa.

(6) Fid-dispożizzjonijiet ta' qabel ta' dan l-artikolu "mandat" tfisser mandat skond ma hemm fl-artikolu 6 ta' dan l-Att.

Awtorizzazzjoni
li tinghata dwar
atti li jsiru barra
minn Malta.

9. (1) Jekk, hlief ghal dak li hemm f'dan l-artikolu, persuna tkun responsabbli taht ligi eżistenti f'Malta ghal att li jkun sar barra minn Malta, dik il-persuna ma tkunx hekk responsabbli jekk dak l-att ikun wiehed awtorizzat li jsir bis-sahha ta' awtorizzazzjoni moghtija mill-Ministru bis-sahha ta' dan l-artikolu.

(2) Il-Ministru ma ghandux jaghti jew jibdel awtorizzazzjoni skond dan l-artikolu kemm-il darba ma jkunx sodisfatt —

(a) li atti li jistghu isiru bis-sahha ta' l-awtorizzazzjoni jew, skond il-każ, l-operazzjoni li matulha jistghu isiru l-atti tkun mehtieġa ghat-twettiq sew ta' funzjoni tas-Servizz ta' Sigurtà; u

(b) li jkun hemm isehhu arrangamenti sodisfaċenti sabiex jiġi żgurat li —

(i) xejn ma jkun sejjer isir bis-sahha ta' l-awtorizzazzjoni iktar minn dak li jkun mehtieġ ghat-twettiq sew ta' funzjoni tas-Servizz ta' Sigurtà; u

(ii) fil-limitu li jistghu isiru xi atti bis-sahha ta' l-awtorizzazzjoni, ix-xorta taghhom u l-konsegwenzi li probabbli johorgu minnhom ikun raġonevoli, meta wiehed iqis l-ghanijiet li jridu jitwettqu ghalihom; u

(ċ) li jkun hemm arrangamenti sodisfaċenti fis-sehh skond l-att dwar il-kxif ta' informazzjoni miksuba bis-sahha ta' dan l-artikolu u li kull informazzjoni miksuba bis-sahha ta' xi haga li ssir minhabba fl-awtorizzazzjoni tkun sugġetta ghal dawk l-arrangamenti.

(3) Minghajr preġudizzju għall-ġeneralità tas-setgħa li ghandu l-Ministru li jaghti awtorizzazzjoni taht dan l-artikolu, dik l-awtorizzazzjoni —

(a) tista' tirrelata ghal att jew attijiet partikolari, ghal attijiet ta' deskrizzjoni speċifikata fl-awtorizzazzjoni jew ghal attijiet imwettqa filwaqt li tkun qeghda ssir operazzjoni hekk speċifikata;

(b) tista' tkun limitata ghal persuna jew persuni partikolari ta' tali deskrizzjoni kif hekk speċifikati; u

(ċ) tista' tkun sugġetta ghal kundizzjonijiet hekk speċifikati.

(4) Ma ghandhiex tinghata jew tinbidel awtorizzazzjoni bis-sahha ta' dan l-artikolu hlief —

(a) jekk dan ma jsirx bil-miktub mill-Ministru; jew

(b) f'każ urġenti meta l-Ministru jkun espressament awtorizza l-ghoti tagħha jew li jsir tibdil fiha u dikjarazzjoni ta' dak il-fatt tiġi registrata fuqu, bil-miktub minn uffiċjal tal-Gvern anzjan.

(5) Kemm-il darba awtorizzazzjoni ma tkunx iġġeddedt skond ma hemm fis-subartikolu (6) ta' dan l-artikolu, din għandha ttemm milli tibqa' ssehh —

(a) jekk l-awtorizzazzjoni tkun inġhatat bil-miktub mill-Ministru, meta jintemmu sitt xhur li jkunu bdew għaddejjin fil-jum meta tkun inġhatat dik l-awtorizzazzjoni; u

(b) f'kull każ iehor, fi tmiem iż-żmien li jintemm mat-tieni jum tax-xogħol li jiġi wara l-jum meta tkun inġhatat dik l-awtorizzazzjoni.

(6) Awtorizzazzjoni li tinghata bis-sahha ta' dan l-artikolu tista' tinbidel f'kull hin.

(7) Jekk f'xi żmien li jiġi qabel il-jum meta l-awtorizzazzjoni ttemm milli tibqa' ssehh il-Ministru iqis li jkun mehtieg li l-awtorizzazzjoni għandha tibqa' ssehh għal dak l-ghan li tkun inġhatat dwaru, il-Ministru jista' johroġ proroga bil-miktub li fiha jġedded dik l-awtorizzazzjoni għal żmien sitt xhur ohra li jibdew għaddejjin minn dak il-jum.

(8) Il-Ministru għandu jhassar awtorizzazzjoni jekk huwa jkun sodisfatt li att li jkun ġie awtorizzat biha ma jkunx wiehed li jkun għadu mehtieg.

10. (1) Il-htigiet tal-paragrafi (ċ) tas-subartikolu (3) ta' l-artikolu 6 ikunu sodisfatti dwar kull informazzjoni jekk kull haġa minn dawn li ġejjin, jiġifieri — Tuteli.

(a) kemm mill-informazzjoni tiġi żvelata;

(b) l-għadd ta' persuni li lilhom tiġi żvelata l-informazzjoni;

(c) kemm mill-informazzjoni tkun ġiet ikkopjata; u

(d) l-għadd ta' kopji magħmula ta' dik l-informazzjoni,

tkun limitata għall-inqas ammont jew għadd mehtieg kif imsemmi fil-paragrafu (a) tas-subartikolu (3) ta' l-artikolu 6.

(2) Il-htigiet tal-paragrafu (ċ) tas-subartikolu (3) ta' l-artikolu 6 ikunu sodisfatti dwar kull informazzjoni interċettata jekk kull kopja li ssir ta' xi parti minn dik l-informazzjoni tiġi distrutta minnufih hekk kif dik il-kopja ma tenhtiegħ aktar li tibqa' tinzamm skond kif hemm fil-paragrafu (a) tas-subartikolu (3) ta' l-artikolu 6 ta' dan l-Att.

Setgħat tal-
Prim Ministru.

11. Meta l-Prim Ministru jkun jidhirli li jkun mehtieg li hekk jagħmel, huwa jista jwettaq kull setgħa minn dawk li għandu l-Ministru bis-sahha ta' dan l-Att u jkun sugġett għall-istess sħarriġ dwar it-twettiq ta' dawk is-setgħat bħalma jkun japplika għat-twettiq ta' dawk is-setgħat mill-Ministru.

Il-Kummissjunarju.

12. (1) Il-Prim Ministru għandu jahtar Kummissjunarju għall-għanijiet ta' dan l-Att li jkun persuna li jkollha jew kellha l-kariga ta' Mhalef tal-qrati superjuri jew li kellha l-kariga ta' Avukat Ġenerali:

Iżda jekk ma jigix hekk mahtur Kummissjunarju mill-Prim Ministru, l-Avukat Ġenerali għandu jassumi b'mod awtomatiku l-funzjonijiet ta' Kummissjunarju sa dak iż-żmien meta jinhatar Kummissjunarju kif dovut.

(2) Il-Kummissjunarju jibqa' f'dik il-kariga għal żmien skond ma jkollu stipulat fil-hatra tiegħu u, fil-każ ta' Kummissjunarju li ma jkunx Mhalef tal-qrati superjuri attwalment fil-kariga jew l-Avukat Ġenerali, huwa għandu jingħata mill-Ministru dawk l-*allowances* li jistgħu jigū hekk stabbiliti mill-Prim Ministru.

(3) (a) B'żieda mal-funzjonijiet lilu mogħtija bid-dispożizzjonijiet sussegwenti ta' dan l-Att, il-Kummissjunarju għandu jistħarreg il-mod kif il-Ministru jkun qed iwettaq is-setgħat li għandu bl-artikoli minn 6 sa 10 ta' dan l-Att.

(b) Fit-twettiq tal-funzjonijiet tiegħu skond dan l-Att, il-Kummissjunarju għandu jagħxi skond il-għidizzju individwali tiegħu u ma jkun sugġett għad-direzzjoni jew il-kontroll ta' ebda persuna jew awtorità oħra u ma jkunx sindakabbli minn ebda qorti.

(4) Ikun id-dmir ta' persuna li għaliha japplikaw id-deskrizzjonijiet li hemm fis-subartikolu (2) ta' l-artikolu 17 li tiżvela jew tagħti lill-Kummissjunarju dawk id-dokumenti jew dik l-informazzjoni li jista' jkun jehtieg bil-għan li jkun jista' jwettaq il-funzjonijiet tiegħu.

(5) Il-Kummissjunarju jista' f'kull żmien jagħmel rapport lill-Prim Ministru dwar kull haġa li jkollha x'taqsam mat-twettiq tal-funzjonijiet tiegħu skond dan l-Att.

(6) Il-Kummissjunarju għandu jagħmel rapport annwali fuq it-twettiq tal-funzjonijiet tiegħu.

(7) Il-Prim Ministru għandu jgħib quddiem il-Kumitat ta' Sigurtà kopja ta' kull rapport annwali magħmul mill-Kummissjunarju skond is-subartikolu (6) ta' dan l-artikolu flimkien ma' dikjarazzjoni dwar jekk tkunx għet imhollija barra xi haġa minn dik il-kopja skond ma hemm fis-subartikolu (8) ta' dan l-artikolu.

(8) Jekk il-Prim Ministru jidhirlu, wara li jikkonsulta lill-Kummissjunarju, li xi haġa tkun tinsab f'rapport tkun ta' preġudizzju għat-tkomplija tat-twettiq tal-funzjonijiet tas-Servizz ta' Sigurtà, il-Prim Ministru jista' jhalli barra dik il-haġa mill-kopja tar-rapport kif miġjub quddiem il-Kumitat ta' Sigurtà.

13. (1) Il-Kummissjunarju għandu wkoll jinvestiga ilmenti Investigazzjoni ta' ilmenti. dwar is-Servizz ta' Sigurtà bil-mod speċifikat fl-Iskeda 1 li tinsab ma' dan l-Att.

(2) Id-deċiżjonijiet tal-Kummissjunarju skond l-Iskeda 1 li tinsab ma' dan l-Att ma għandhom ikunu appellabbli jew sindakabbli minn ebda qorti.

14. (1) Għandu jkun hemm kumitat, li jkun magħruf bħala l-Kumitat ta' Sigurtà, sabiex jeżamina n-nefqa, l-amministrazzjoni u politika tas-Servizz ta' Sigurtà. Il-Kumitat ta' Sigurtà.

(2) Il-Kumitat ta' Sigurtà jintgħamel mill-Prim Ministru, mill-Ministru, mill-Ministru responsabbli għall-Affarijiet Barranin u mill-Kap ta' l-Oppożizzjoni.

(3) L-Iskeda 2 ta' dan l-Att għandu jkollha sehh għar-rigward tal-proċedura tal-Kumitat ta' Sigurtà u ta' hwejjeġ ohra li jirrigwardjaw lill-istess Kumitat.

(4) Il-Kumitat ta' Sigurtà għandu jagħmel rapport annwali dwar it-twettiq tal-funzjonijiet tiegħu.

(5) Il-Prim Ministru għandu jqieghed quddiem il-Kamra tad-Deputati kopja ta' kull rapport annwali li l-Kumitat ta' Sigurtà jagħmel skond is-subartikolu (4) ta' dan l-artikolu flimkien ma' dikjarazzjoni dwar jekk tkunx għet imhollija barra xi haġa minn dik il-kopja skond ma hemm fis-subartikolu (6) ta' dan l-artikolu.

(6) Jekk il-Prim Ministru jidhirli, wara li dan jiġi diskuss fil-Kumitat ta' Sigurtà, li l-pubblikazzjoni ta' xi haġa f'rapport tista' tkun ta' preġudizzju għat-tkomplija tat-twettiq tal-funzjonijiet tas-Servizz ta' Sigurtà, il-Prim Ministru jista' jhalli barra dik il-haġa mill-kopja tar-rapport li jitqiegħed quddiem il-Kamra tad-Deputati.

Projbizzjoni ta' interċettazzjoni.

15. (1) Bla hsara għad-dispożizzjonijiet li ġejjin ta' dan l-artikolu, kull min xjentement jinterċetta jew jinterferixxi ma' komunikazzjoni matul it-trasmissjoni tagħha bil-posta jew bil-mezz ta' sistema ta' telegrafija mingħajr fili jew ta' telekomunikazzjoni jew b'kull mezz ieħor ikun hati ta' reat u jista' jehel meta jinsab hati għar-rigward ta' kull reat priġunerija għal żmien mhux aktar minn sentejn jew multa ta' mhux iktar minn hamest elef lira jew dik il-priġunerija u multa flimkien.

(2) Persuna ma tkunx hatja ta' reat skond dan l-artikolu jekk —

(a) il-komunikazzjoni tiġi interċettata jew interferita skond mandat mahruġ mill-Ministru skond l-artikolu 6 ta' dan l-Att; jew

(b) dik il-persuna jkollha tassew għax taħseb li l-persuna li lilha, jew il-persuna li minnha, issir jew tintbagħat il-komunikazzjoni tkun tat il-kunsens tagħha għall-interċettazzjoni jew interferenza.

(3) Persuna ma tkunx hatja ta' reat skond dan l-artikolu jekk il-komunikazzjoni tiġi interċettata jew interferita għal għanijiet li jkollhom x'jaqsmu ma' l-ghoti ta' servizzi postali, ta' telegrafija mingħajr fili jew ta' telekomunikazzjonijiet jew bi twettiq ta' kull liġi li jkollha x'taqsam ma' l-użu ta' dawk is-servizzi.

Żvelar ta' messaggi eċċ.

16. (1) Persuna li tkun taħdem fl-ghoti ta' servizz postali, ta' telegrafija mingħajr fili jew ta' telekomunikazzjoni li xort'ohra milli fil-kors tat-twettiq ta' dmirijietha xjentement tiżvela lil xi persuna —

(a) il-kontenut ta' xi komunikazzjoni li tkun giet interċettata fil-kors tat-trasmissjoni tagħha permezz ta' dak is-servizz; jew

(b) kull informazzjoni li tirrigwarda l-użu magħmul minn servizzi postali, ta' telegrafija mingħajr fili jew ta' telekomunikazzjonijiet mogħtija lil kull persuna ohra permezz ta' dak is-servizz,

tkun hatja ta' reat.

ghal — (2) Is-subartikolu (1) ta' dan l-artikolu ma japplikax

(a) żvelar li jsir bil-ghan tal-prevenzjoni jew kxif ta' delitti jew għall-ghanijiet ta' proċedimenti kriminali,

(b) żvelar dwar xi haġa li taqa' taht il-paragrafu (a) tas-subartikolu (1) li ssir b'konsegwenza ta' mandat mahruġ mill-Ministru skond l-artikolu 6 ta' dan l-Att jew bi twestiq ta' hteġa imposta mill-Kummissjunarju skond is-subartikolu (2) ta' l-artikolu 12 ta' dan l-Att; jew

(ċ) żvelar dwar xi haġa li taqa' taht il-paragrafu (b) ta' dak is-subartikolu li ssir fl-interessi tas-sigurtà nazzjonali, il-benesseri ekonomiku ta' Malta jew is-sigurtà pubblika, jew bi twestiq ta' l-ordni ta' xi qorti.

(3) Għall-ghanijiet tal-paragrafu (ċ) tas-subartikolu (2) ta' dan l-artikolu ċertifikat li jinhareġ bil-firma tal-Ministru, jew ta' l-Avukat Ġenerali, li jkun jiċċertifika li tkun giet żvelata xi haġa fl-interessi tas-sigurtà nazzjonali, il-benesseri ekonomiku ta' Malta jew is-sigurtà pubblika, għandu jkun prova konklusiva ta' dak il-fatt; u dokument li jkun intiz bhala ċertifikat tali jkun jista' jingiebi bi prova u jitqies bhala ċertifikat tali kemm-il darba ma tingiebi prova kuntrarja.

(4) Kull min xjentement jiżvela l-kontenut ta' xi komunikazzjoni li tkun giet interċettata filwaqt li tkun qeghda tigi trasmessa bil-mezz ta' servizz tal-posta, telegrafija minghajr fili jew telekomunikazzjoni, fejn ikun jaf jew kellu raġonevolment ikun jaf li dak il-kontenut ikun inkiseb b'mod mhux legittimu, ikun hati ta' reat.

(5) Min jinsab hati ta' reat skond ma hemm f'dan l-artikolu jista' jehel għar-rigward ta' kull reat priġunerija għal żmien mhux iktar minn sena jew multa ta' mhux iktar minn hamest elef lira jew għal dik il-priġunerija u multa flimkien.

17. Ma għandha tinbeda ebda prosekuzzjoni għal reat li jkun sar kontra dan l-Att minghajr l-awtorizzazzjoni ta' l-Avukat Ġenerali.

Ma jinbdew ebda proċedimenti minghajr il-kunsens ta' l-Avukat Ġenerali.

18. (1) Fi proċedimenti li jsiru quddiem xi qorti jew tribunal, ma għandha tingiebi ebda prova u ma għandha ssir ebda mistoqsija waqt kontro-eżami li (f'kull każ) ittendi li tissuggerixxi —

Xieha li tithalla barra.

(a) li jkun sar jew ikun ser isir reat taht l-artikoli 15 jew 16 ta' dan l-Att minn xi persuna minn dawk imsemmija fis-subartikolu (2) ta' dan l-artikolu; jew

(b) li jkun inhareġ jew li jkun ser jinhareġ mandat lil xi hadd minn dawk il-persuni:

Iżda ebda haġa f'dan is-subartikolu ma ghandha titqies li tipprekludi l-kxif, filwaqt li tinghata xiehda, ta' informazzjoni li tkun tista' tinkixef skond dan l-Att jew taht kull dispożizzjoni ohra tieghu.

(2) Il-persuni msemmija fis-subartikolu (1) ta' dan l-artikolu huma —

(a) kull membru tas-Servizz ta' Sigurtà;

(b) kull uffiċjal pubbliku;

(ċ) kull persuna li hija involuta fin-negozju tal-provvediment ta' servizzi postali, ta' telegrafija minghajr fili jew ta' telekomunikazzjonijiet;

Kap. 50.

(d) kull min skond l-Att dwar is-Sigrieti Uffiċjali ikun jew:

(i) kuntrattat mill-Gvern; jew

(ii) membru jew impjegat ta' korp preskritt jew ta' korp ta' klassi preskritta, detentur ta' kariga preskritta jew impjegat ta' dak id-detentur ta' kariga.

(3) Is-subartikolu (1) ta' dan l-artikolu ma japplikax —

(a) dwar proċedimenti għal reat relevanti jew proċedimenti dwar ilmenti li jsiru quddiem il-Kummissjunarju; jew

(b) meta tingieb prova jew il-mistoqsija waqt kontro-eżami ssir bil-ghan li jiġi stabbilit kemm hu gust jew le li ssir tkeċċija minhabba f'reat taht l-artikolu 15 ta' dan l-Att jew minhabba f'imġieba li dak ir-reat jista' jingibed b'konkluzjoni minnha;

u l-paragrafu (a) ta' dak is-subartikolu ma jkunx japplika meta persuna tkun instabet hatja tar-reat taht dak l-artikolu.

(4) F'dan l-artikolu "reat relevanti" tfisser —

Kap. 250.

(a) reat taht l-artikoli 15 u 16 ta' dan l-Att jew taht l-artikoli 46 u 47 ta' l-Att dwar il-Korporazzjoni Telemalta jew taht l-artikoli 50, 51 u 55 ta' l-Att dwar l-Uffiċċju tal-Posta ;

Kap. 254.

(b) reat taht l-artikolu 3 ta' l-Att dwar is-Sigrieti Uffiċjali Kap. 50 ghar-rigward ta' xi skizz, pjanta, mudell, oġġett, nota, dokument jew taghrif li jkollu mnejn jissuġġerixxi dak li hemm imsemmi fis-subartikolu (1) ta' dan l-artikolu;

(ċ) reat taht l-artikolu 9 ta' l-Att dwar is-Sigrieti Uffiċjali Kap. 50 ghar-rigward ta' tali informazzjoni, dokument jew oġġett kif hemm imsemmija fis-subartikolu (3) ta' dak l-artikolu;

(d) spergur li jsir matul proċedimenti dwar reat rilevanti;

(e) dak ir-reat magħmul minn kull min jipprova jagħmel, jghin, iħajjar, jaghti parir jew ifittex li jiġi magħmul reat li jaqa' taht xi wiehed mill-paragrafi ta' qabel dan; u

(f) disprezz tal-qorti mwettaq fil-kors ta', jew dwar, proċedimenti għal reat rilevanti.

(5) Minkejja d-dispożizzjonijiet ta' kull liġi oħra, ebda mandat jew ordni ma għandu jinhareġ jew isir minn xi Qorti b'mod li jkun jirrestringi lil xi persuna jew awtorità mit-twettiq ta' xi setgha mogħtija b'dan l-Att.

19. (1) Il-Kodiċi Kriminali għandu jiġi emendat kif ġej:

Emenda ta' liġijiet oħra. Kap. 9.

(a) fl-artikolu 5 tiegħu:

(i) minflok il-paragrafu (e) tas-subartikolu (1) tiegħu għandhom jidhlu dawn il-paragrafi li ġejjin:

“(e) kontra kull min fiż-żmien li jkun f'Malta:

(i) ikun sar hati ta' reat imsemmi fis-subartikolu (2) ta' l-artikolu 87 jew fl-artikoli 198, 199, 211, 214 sa 218, 220, 249 sa 251, 311, 312, 316 jew 317 meta dan isir jew jiġi dirett fuq jew kontra l-persuna ta' persuna protetta jew bi preġudizzju jew feriment ta' dik il-persuna jew li x'aktarx jipperikola jew jikkaguna hsara gravi lill-proprjetà, lill-hajja jew lis-saħha ta' dik il-persuna, jew li jkollu x'jaqsam ma' xi attakk fuq lok rilevanti jew fuq xi vettura li soltu tintuża minn persuna protetta jew meta persuna protetta tkun qegħda f'dak il-lok jew dik il-vettura; jew

(ii) ikun ghamel xi ghemil li kieku dan ikun sar f' Malta kien jikkostitwixxi reat u dak l-ghemil kien jinvolvi l-użu ta' bomba, bomba splussiva li tintafa' bl-idejn, missila, arma tan-nar awtomatika, ittra bomba jew pakkett bomba li jipperikola lill-persuni;

minkejja li r-reati msemmija f'dan il-paragrafu jkunu saru barra minn Malta:

Iżda ghall-ghanijiet tas-subparagrafu (i) ta' dan il-paragrafu ma jkollu ebda importanza jekk min jikkommetti r-reat kienx jaf jew le li l-persuna kienet persuna protetta;

(f) kontra kull min:

(i) jaghamel xi reat f'xi lok jew bini barra minn Malta li jkun igawdi l-immunità diplomatika minhabba l-fatt illi jkun qed iservi bhala ambaxxata, residenza jew skop iehor simili in konnessjoni mas-servizz diplomatiku ta' Malta; jew

(ii) jaghamel reat f'xi post barra minn Malta meta dik il-persuna tkun tgawdi mill-immunità diplomatika minhabba dak is-servizz;

(g) kontra kull min fiż-żmien li jkun f' Malta, isir awtur jew kompliċi fid-delitt imsemmi fl-artikolu 86 fiċ-ċirkostanzi msemmija fit-tieni proviso li hemm ma' dak l-artikolu, jew f'xi wiehed mid-delitti msemmija fl-artikolu 139A jew 298, ghad li d-delitti jkunu saru barra minn Malta:";

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

“(3) Ghall-ghanijiet tal-paragrafu (e) tas-subartikolu (1) ta' dan l-artikolu:

“persuna protetta” tfisser, dwar reat allegat, persuna minn dawn li ġejjin:

(a) persuna li fil-waqt tar-reat allegat tkun Kap ta' Stat, membru ta' korp li jwettaq il-funzjonijiet ta' Kap ta' Stat skond il-kostituzzjoni ta' dak l-Istat, Kap ta' Gvern

jew Ministru għall-Affarijiet Barranin u li tkun barra mit-territorju ta' l-Istat fejn ikollha dik il-kariga;

(b) persuna li fil-waqt tar-reat allegat tkun rappreżentant jew uffiċjal ta' xi Stat jew uffiċjal jew aġent ta' xi organizzazzjoni internazzjonali ta' xorta inter-governamentali, ikollha jedd skond id-dritt internazzjonali għal protezzjoni speċjali minn kull attakk fuq il-persuna, il-libertà jew id-dinjità tagħha u li ma tkunx tinkwadra fil-paragrafu ta' qabel;

(ċ) persuna li fil-waqt tar-reat allegat tkun membru tal-familja ta' persuna ohra msemmija f' xi wiehed mill-paragrafi ta' qabel u —

(i) jekk il-persuna l-ohra hija msemmija fil-paragrafu (a) hawn aktar qabel, tkun qeghda takkumpanjaha,

(ii) jekk il-persuna l-ohra hija msemmija fil-paragrafu (b) hawn aktar qabel, tkun membru tal-familja tagħha;

“lok relevanti” tfisser lok li fih tkun tabita jew toqghod fih persuna protetta jew li persuna protetta tkun qeghda tuża bil-ghan li twettaq il-funzjonijiet tagħha bhala tali persuna; u

“vettura” tinkludi kull mezz ta' ġarr;

u jkun tqum il-kwistjoni matul xi proċedimenti jekk persuna tkunx jew kinitx persuna protetta, ċertifikat mahruġ mill-Ministru responsabbli għall-affarijiet barranin jew taht l-awtorità tiegħu u li jkun jiddikjara xi fatt li jkun u li jkollu x'jaqsam mal-kwistjoni, għandu jitqies bhala prova konkluziva ta' dak il-fatt.”;

(b) l-artikolu 87 tal-Kodiċi għandu jiġi emendat kif ġej:

(i) l-artikolu preżenti għandu jiġi enumerat mill-ġdid bhala s-subartikolu (1) tiegħu; u

(ii) minnufih wara s-subartikolu (1) tiegħu kif enumerat mill-ġdid għandu jidhol is-subartikolu li ġej:

“(2) Fejn persuna jagħmel ir-reat imsemmi fl-artikolu li jiġi minnufih qabel dan, jedded li joqtol, li jagħmel offiża fuq il-persuna jew li jkompli jżomm lil xi persuna oħra sabiex iġieghel lil xi stat, organizzazzjoni governamentali internazzjonali jew persuna li tagħmel jew tonqos milli tagħmel xi għemil, jehel, meta jinstab hati, prigunerija għal għomru.”; u

(ċ) l-artikoli 146 sa 149 u 258 sa 260 tal-Kodiċi għandhom jithassru.

Kap. 250.

(2) L-Att dwar il-Korporazzjoni Telemalta għandu jiġi emendat kif ġej:

(a) minnufih fi tmiem l-artikolu 40 tiegħu għandu jizdied dan il-proviso li ġej: “Iżda ma jistgħux jingħataw dawk l-eżenzjonijiet mid-dispożizzjonijiet ta’ l-artikoli 45, 46 u 47 ta’ dan l-Att.”; u

(b) fl-artikolu 45 tiegħu, minflok il-kliem “u ma għandha tagħti ebda tagħrif” għandhom jidhlu l-kliem “u ma għandha tagħti hlief għall-ghan li twettaq dmirietha fil-Korporazzjoni ebda tagħrif”.

Kap. 276.

(3) Minnufih wara l-artikolu 30 ta’ l-Att dwar l-Estradizzjoni għandu jizdied dan l-artikolu ġdid li ġej:

“Reati ta’
estradizzjoni
speċjali.
Kap. 9.

31. (1) Ir-reat msemija fil-paragrafi (e) u (g) tas-subartikolu (1) ta’ l-artikolu 5 tal-Kodiċi Kriminali għandhom jitqiesu li ġew inklużi bhala reati ta’ estradizzjoni fit-trattati ta’ estradizzjoni kollha magħmulin minn Malta (jew li japplikaw għal Malta) ma’ pajjiżi msehbin fil-Konvenzjonijiet u li jestendu għal, u jorbtu lil, Malta fid-data tal-bidu fis-sehħ ta’ l-Att ta’ l-1996 dwar Servizz ta’ Sigurtà.

(2) Meta dan l-Att ma jkunx japplika fil-każ ta’ xi Stat li jkun parti fil-Konvenzjoni dwar Persuni Protetti Internazzjonalment u fil-Konvenzjoni dwar it-Tehid ta’ Ostaġġi, il-Ministru jista’ b’ordni magħmul bis-sahha ta’ l-artikoli 4 u 7 ta’ dan l-Att, jispeċifika dak il-pajjiż bhala pajjiż tal-*Commonwealth* skond l-imsemmi artikolu 4 jew bhala pajjiż barrani skond l-artikolu 7, skond il-każ, u dak l-ordni għandu għall-ghanijiet ta’ l-imsemmi artikolu 7, jitqies li jkun arrangament kif inhu msemmi f’dak l-artikolu.

(3) Meta dan l-Att ikun japplika ghal xi stat bis-sahha biss ta' xi ordni magħmul skond is-subartikolu (2) ta' dan l-artikolu, ebda applikazzjoni ghal estradizzjoni minn dak l-istat ma ghandu jkollha x'taqsam ma' xi reat ta' estradizzjoni fil-kuntest tat-tifsir mogħti f'dan l-Att hlief għal reati li jitqiesu li huma inkluzi fil-lista ta' reati ta' estradizzjoni li jirriżultaw mis-subartikolu (1).

(4) Għall-ghanijiet ta' dan l-Att, kull għemil, isir fejn isir, li jkun reat imsemmi taħt dan l-Att u reat kontra l-ligi ta' stat f'liema każ dan l-Att ikun japplika b'ordni magħmul bis-sahha tas-subartikolu (2) ta' dan l-artikolu, għandu jitqies li jkun reat li jsir fil-limiti tal-ġurisdizzjoni ta' dak l-istat.

(5) F'dan l-artikolu:

“pajjiżi msehbin fil-Konvenzjonijiet” tfisser dawk il-pajjiżi li huma partijiet kontraenti fil-Konvenzjoni dwar is-Soppressjoni tat-Terroriżmu, fil-Konvenzjoni dwar Persuni Protetti Internazzjonalment, u fil-Konvenzjoni dwar it-Tehid ta' Ostagġi;

“Konvenzjoni dwar Persuni Protetti Internazzjonalment” tfisser il-konvenzjoni magħrufa bħala *Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons* adottata mill-Assemblea Ġenerali tan-Nazzjonijiet Uniti fl-1973;

“Konvenzjoni dwar is-Soppressjoni tat-Terroriżmu” tfisser il-konvenzjoni magħrufa bħala *European Convention on the Suppression of Terrorism* magħmula fi Strasbourg fis-27 ta' Jannar, 1977;

“Konvenzjoni dwar it-Tehid ta' Ostagġi” tfisser il-konvenzjoni magħrufa bħala *International Convention against the Taking of Hostages* li bdiet tiġi ffirmata fi New York fit-18 ta' Diċembru, 1979.

SKEDI

SKEDA 1

Artikolu 13

INVESTIGAZZJONI TA' ILMENTI

Prelimenari

1. Kull min ihoss ruhu aggravat b'xi ghemil li jahseb li s-Servizz ta' Sigurtà jkun ghamel ghar-rigward tieghu jew ta' xi proprjetà tieghu jista' jressaq ilment quddiem il-Kummissjunarju; u kemm-il darba l-Kummissjunarju ma jqisx li dak l-ilment ikun wiehed frivolu jew vessatorju, huwa ghandu jaghmel minnu skond ma jinsab f'din l-Iskeda.

Investigazzjonijiet mill-Kummissjunarju

2. Il-Kummissjunarju ghandu jinvestiga —

(a) jekk is-Servizz ta' Sigurtà jkunx kiseb jew ipprova informazzjoni jew wettaq xi attivitajiet ohra ghar-rigward ta' l-azzjonijiet jew intenzjonijiet ta' min ikun ressaq l-ilment; u

(b) jekk dan ikun gara, jekk is-Servizz ta' Sigurtà kellux raġunijiet suffiċjenti li jaġixxi bil-mod li jkun aġixxa bih.

Funzjonijiet tal-Kummissjunarju dwar l-ilmenti li jsirulu

3. (1) Il-Kummissjunarju ghandu jinvestiga, skond ma jkun jehtieg il-każ —

(a) jekk mandat ikunx inhareġ taht l-artikolu 6 ta' dan l-Att ghar-rigward tal-proprjetà jew tal-komunikazzjonijiet relattivi; jew

(b) jekk tkunx inghatat awtorizzazzjoni taht l-artikolu 9 ta' dan l-Att sabiex dak l-att ikun jista' jsir.

(2) Meta l-Kummissarju jirriżultalu li jkun inhareġ mandat jew tkun inghatat awtorizzazzjoni, huwa ghandu jistabbilixxi jekk il-Ministru kienx qiegħed jaġixxi sew fil-hruġ jew fit-tigdid tal-mandat jew, skond il-każ, fl-ghoti jew fit-tigdid ta' l-awtorizzazzjoni.

Rapport dwar il-konkluzjonijiet

4. (1) Meta l-Kummissjunarju jistabbilixxi skond il-paragrafi 2 u 3 ta' din l-Iskeda li s-Servizz ta' Sigurtà jew il-Ministru ma kellhomx raġunijiet suffiċjenti li jaġixxu bil-mod li jkunu aġixxew bih, huwa ghandu —

- (a) javża lil min jagħmel l-ilment li kellu riżultanzi favur tiegħu; u
- (b) jagħmel rapport dwar ir-riżultanzi tiegħu lill-Prim Ministru.

(2) Meta fil-każ ta' xi ilment il-Kummissjunarju ma jistabbilixxi xejn skond ma hemm imsemmi fis-subparagrafu (1) ta' dan il-paragrafu, huwa għandu javża lil min jagħmel l-ilment li ma jkun stabbilixxa xejn favur tiegħu fuq l-ilment tiegħu.

Referenzi speċjali

5. Jekk f'xi każ li jiġi investigat mill-Kummissjunarju —

(a) il-konklużjonijiet tiegħu fuq dawk is-suġġetti li huwa jkun mehtieg li jinvestiga ikun tali li huwa ma jkun jista' jistabbilixxi xejn favur min jagħmel l-ilment; iżda

(b) ikun jidhirlu mill-allegazzjonijiet magħmulin minn min ikun għamel l-ilment li jkun xieraq li ssir investigazzjoni dwar jekk is-Servizz ta' Sigurtà ikunx b'xi mod ieħor aġixxa b'mod mhux raġonevoli għar-rigward ta' min ikun għamel l-ilment jew il-proprjetà tiegħu,

huwa għandu jgħaddi biex jagħmel dik l-investigazzjoni u wara jagħmel rapport lill-Prim Ministru.

Rimedji

6. (1) Meta l-Kummissjunarju jagħti avviż lil min jagħmel l-ilment dwar dak li jkun stabbilixxa kif hemm fis-subparagrafu (1) tal-paragrafu 4 ta' din l-Iskeda, il-Kummissjunarju jista' jagħmel xi jew kull waħda minn dawn l-affarijiet li ġejjin, jiġifieri —

(a) jordna li l-ksib u l-ghoti ta' informazzjoni dwar min iressaq l-ilment jew, skond il-każ, it-tmexxija ta' attivitajiet oħra fir-rigward tiegħu jew ta' kull proprjetà tiegħu għandhom jintemmu u li kull dokumentazzjoni li tirrigwarda dik l-informazzjoni li tkun għet hekk miksuba jew mogħtija jew kull attività oħra bħal dik għandha tinqered;

(b) jirrevoka kull mandat jew awtorizzazzjoni li l-Kummissjunarju jirriżultalu li jkunu inhargu, iġġeddu, ingħataw jew ġew modifikati b'mod mhux sew u li huwa jqis li għandhom jitnehhew;

(ċ) jirrakkomanda lill-Prim Ministru li min ikun ressaq l-ilment għandu jingħata dak l-ammont b'kumpens li huwa jista' jistabbilixxi.

(2) Meta il-Prim Ministru jirċievi rapport skond il-paragrafu 5 ta' din l-Iskeda, huwa jista' jiehu kull azzjoni fid-dawl ta' dak ir-rapport kif ikun jidhirlu li jkun xieraq, inkluża kull azzjoni li l-Kummissjunarju għandu setgħa li jiehu jew li jordna bis-saħħa tad-dispożizzjonijiet ta' qabel ta' dan il-paragrafu.

Proċedura

7. (1) Bla hsara ghad-dispożizzjonijiet tas-subparagrafu (2) tal-paragrafu 8 ta' din l-Iskeda, il-Kummissjunarju ghandu jwettaq il-funzjonijiet tiegħu skond l-Att b'dak il-mod li jkun jiżgura li ebda dokument jew informazzjoni lilu żvelati jew mogħtija minn xi persuna ma ghandhom jiġu żvelati mingħajr il-kunsens ta' dik il-persuna lill-persuna li tkun ressqet l-ilment, jew lil xi persuna oħra; u għalhekk il-Kummissjunarju ma ghandu jagħti, hlief fir-rapporti li jsiru skond l-inċiż (b) tas-subparagrafu (1) tal-paragrafu 4 ta' din l-Iskeda, ebda raġuni għal dak li jkun stabbilixxa meta d-deċiżjoni tiġi notifikata lil min ikun għamel l-ilment.

(2) Bla hsara għas-subparagrafu (1) ta' dan il-paragrafu, il-Kummissjunarju jista' jistabbilixxi l-proċeduri li għandu juża.

Persunal u nfieq

8. (1) Il-Prim Ministru jista', wara li jikkonsulta lill-Ministru responsabbli għall-finanzi, jipprovdi lill-Kummissjunarju b'dak il-persunal u għandu johroġ dak l-infieq li jqis li jkun meħtieġ għat-twettiq sew tal-funzjonijiet tal-Kummissjunarju skond dan l-Att.

(2) Il-Kummissjunarju jista' jawtorizza lil kull membru tal-persunal provdut skond is-subparagrafu (1) ta' dan il-paragrafu li jikseb kull dokument jew informazzjoni f'ismu.

Referenzi

9. Kull referenza f'din l-Iskeda għall-proprjetà ta' min jagħmel l-ilment tinkludi —
- (a) referenza għal kull komunikazzjoni li tkun originat jew inkisbet jew li tkun maħsuba li tinkiseb minnu; u
 - (b) referenza għal kull post fejn min jagħmel l-ilment ikun joqghod jew jahdem.

Supplimentari

10. Dawk il-persuni li jistgħu iressqu ilment quddiem il-Kummissjunarju skond ma hemm f'din l-Iskeda jinkludu kull organizzazzjoni u assoċjazzjoni jew għaqdiet ta' persuni.

Transitorja

11. Kull min iħoss ruħu aggravat b'xi għemil li jahseb li s-Servizz ta' Sigurtà jkun għamel fir-rigward tiegħu jew ta' xi proprjetà tiegħu qabel il-bidu fis-seħh ta' dan l-Att għandu jressaq ilment quddiem il-Kummissjunarju fi żmien sitt xhur wara l-bidu fis-seħh ta' dan l-Att u l-Kummissjunarju jista', kemm-il darba ma jqisx l-ilment bħala wiehed frivolu jew vessatorju, jikkonċedi kull rimedju skond ma hemm fil-paragrafu 6 ta' din l-Iskeda bħallikieku dak l-għemil ikun sar mis-Servizz tas-Sigurtà wara li jkun inhareġ ordni mill-Ministru bis-saħħa ta' dan l-Att.

SKEDA 2

Artikolu 14(3)

IL-KUMITAT TA' SIGURTA

Proċedura

1. Bla hsara ghad-dispożizzjonijiet li ġejjin ta' din l-Iskeda, il-Kumitat jista' jistabbilixxi l-proċedura tiegħu stess.

2. (1) Il-Prim Ministru jippresjedi l-Kumitat.

(2) Jekk ikun hemm dwar xi kwistjoni voti ndaqs fost il-membri tal-Kumitat, il-president ikollu vot iehor deċiżiv.

(3) Il-president jista' jahtar lil wiehed mill-membri tal-Kumitat biex meta huwa jkun assenti jagħmilha ta' president minfloku f'laqgħa tal-Kumitat.

(4) Il-*quorum* tal-Kumitat ikun ta' żewġ membri.

Ksib ta' informazzjoni

3. (1) Jekk il-kap tas-Servizz ta' Sigurtà jintalab mill-Kumitat sabiex jiżvela xi informazzjoni, allura, dwar dik l-informazzjoni kollha jew parti minnha, huwa għandu jew —

(a) jara kif iwassalha lill-Kumitat ta' Sigurtà bla hsara ta' u skond dawk l-arrangamenti li jiġu hekk approvati mill-Prim Ministru; jew

(b) jgħarraf lill-Kumitat li dik l-informazzjoni ma tkunx tista' tiġi żvelata jew —

(i) għaliex tkun informazzjoni sensitiva (kif imfissra fil-paragrafu 4 ta' din l-Iskeda) li, fil-fehma tiegħu, ma għandhiex tingħata skond l-inċiż (a) ta' qabel dan; jew

(ii) għaliex il-Prim Ministru ikun stabbilixxa li dik l-informazzjoni ma għandhiex tiġi żvelata.

(2) Il-fatt li xi informazzjoni partikolari tkun informazzjoni sensitiva ma għandux iwaqqaf l-iżvelar tagħha skond l-inċiż (a) tas-subparagrafu (1) ta' dan il-paragrafu jekk il-kap tas-Servizz ta' Sigurtà iqis li ma jkunx hemm periklu jekk jiżvelaha.

(3) Dik l-informazzjoni li ma tkunx ġiet hekk żvelata lill-Kumitat ta' Sigurtà minhabba fir-raġuni speċifikata fis-subinċiż (i) tal-inċiż (b) tas-subparagrafu

(1) ta' dan il-paragrafu ghandha tigi żvelata lil dak il-Kumitat jekk il-Prim Ministru ikun tal-fehma li jkun fl-interess pubbliku li dan isir.

(4) Il-Prim Ministru ma ghandu jiddetermina xejn skond is-subinċiż (ii) ta' l-inċiż (b) tas-subparagrafu (1) ta' dan il-paragrafu dwar dik l-informazzjoni fuq il-bażi tas-sigurtà nazzjonali biss u, bla ħsara għal dak, huwa ma ghandux hekk jiddetermina kemm-il darba ma jkunx jidhirlu li l-informazzjoni tkun ta' natura li, li kieku kellhom jitolbuh iġibha quddiem Kumitat Magħżul tal-Kamra tad-Deputati, kien jikkonsidra li tkun haġa sew li ma jgibhiex.

(5) L-iżvelar ta' informazzjoni fil-Kumitat ta' Sigurtà skond id-dispożizzjonijiet ta' qabel ta' dan il-paragrafu ghandu jitqies għall-ghanijiet ta' dan l-Att bhala mehtieġ għat-twettiq sew tal-funzjonijiet tas-Servizz ta' Sigurtà.

Informazzjoni sensitiva

4. Din l-informazzjoni hija informazzjoni sensitiva għall-ghanijiet tal-paragrafu 3 ta' din l-Iskeda —

(a) informazzjoni li tista' twassal għall-identifikazzjoni ta', jew li tipprovdi dettalji ta', ghejjun ta' informazzjoni, għajnuna ohra jew metodi operattivi li s-Servizz ta' Sigurtà ikollu,

(b) informazzjoni dwar xi operazzjonijiet partikolari li jkunu saru, jew qegħdin isiru, jew qed jiġu proposti li jsiru bi twettiq ta' xi waħda mill-funzjonijiet tas-Servizz ta' Sigurtà; u

(ċ) informazzjoni provduta minn Gvern barrani, jew minn aġenzija ta' Gvern barrani, meta dak il-Gvern ma jkunx ta l-kunsens tiegħu għall-iżvelar ta' dik l-informazzjoni.

Ghanijiet u Raġunijiet

L-ghan ta' l-Abbozz hu li jipprovdi dwar is-Servizz ta' Sigurtà inklużi dispożizzjonijiet għall-hruġ ta' mandati u l-ghoti ta' awtorizzazzjonijiet li jagħtu lok għall-ghemil ta' ċertu azzjonijiet u biex il-hruġ ta' dawk il-mandati u l-ghoti ta' l-awtorizzazzjonijiet jibqgħu jiġu segwiti; sabiex jistabbilixxi proċedura dwar l-investigazzjoni ta' ilmenti dwar is-Servizz ta' Sigurtà u jipprovdi għat-twaqqif ta' Kumitat ta' Sigurtà sabiex jiskrutinja dan is-Servizz; sabiex jipprojbixxi l-interċettazzjoni ta' komunikazzjonijiet u għal ghanijiet anċillari.

A BILL
entitled

AN ACT to make provision about the Security Service including provision for the issue of warrants and authorisations enabling certain actions to be taken and for the issue of such warrants and authorisations to be kept under review; to establish a procedure for the investigation of complaints about the Security Service and to make provision for the establishment of a Security Committee to scrutinise this Service; to prohibit the interception of communications and for connected purposes.

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) This Act may be cited as the Security Service Act, 1995.

Short title,
commencement and
extent.

(2) This Act shall come into force on such day as the Prime Minister may appoint, and different days may be so appointed for different provisions or different purposes.

2. (1) In this Act —

Interpretation.

“address” means any postal or telecommunication address;

“the Commissioner” means the Commissioner who holds office in terms of section 12 of this Act;

“copy”, in relation to intercepted information, means any of the following, whether or not in documentary form —

(a) any copy, extract or summary of the information;
and

(b) any record of the identities of the persons to or by whom the information was sent,

and cognate expressions shall be construed accordingly;

“external communication” means a communication sent or received outside Malta;

“interception”, in relation to a warrant, includes the obtaining possession of, disrupting, destroying, opening, interrupting, suppressing, stopping, seizing, eavesdropping on, surveilling, recording, copying, listening to and viewing of communications and the extraction of information from such communications;

“the Minister” means the Minister from time to time designated by the Prime Minister as being responsible for the Security Service;

“person” includes a body corporate established by law;

Cap. 254.
Cap. 50.

“postal” includes anything which in terms of the Post Office Act is transmissible by post as well as anything which is covered by section 21 of the Official Secrets Act;

“senior Government official” is a reference to a Permanent Secretary and the Cabinet Secretary;

“telecommunication” means the transmission of messages or of sound or visual images by wire activated by electricity or by radio waves or by any other electromagnetic energy or by optical energy or by a combination of any two or more of such systems and shall include telegraphy and telephony;

Cap. 49.

“wireless telegraphy” has the same meaning as in the Wireless Telegraphy Ordinance;

“working day” means any day other than a Saturday or a public holiday.

(2) For the purposes of this Act a communication which is in the course of its transmission otherwise than by means of a wireless telegraphy or telecommunication system shall be deemed to be in the course of its transmission by means of such a system if its mode of transmission identifies it as a communication which —

(a) is to be or has been transmitted by means of such a system; and

(b) has been sent from, or is to be sent to, a country or territory outside Malta.

(3) For the purposes of this Act conduct which constitutes or, if it took place in Malta, would constitute one or more offences shall be regarded as serious crime if, and only if —

(a) it involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose; or

(b) the offence or one of the offences is an offence for which a person who has attained the age of eighteen and has no previous convictions would be liable on conviction to imprisonment for a minimum term of not less than three years; or

(c) the offence or one of the offences is an offence which has been scheduled as such by the Prime Minister by notice in the Gazette.

3. (1) There shall continue to be a Security Service (in this Act referred to as “the Service”) under the authority of the Minister. The Security Service.

(2) The function of the Service shall be to act in the interests of national security and, in particular, against organised crime, espionage, terrorism and sabotage, the activities of agents of foreign powers and against actions intended to overthrow or undermine parliamentary democracy by political, industrial or violent means.

(3) It shall also be the function of the Service to act in the interests of —

(a) the economic well-being of Malta; and

(b) public safety, in particular, the prevention or detection of serious crime.

The head of the Security Service.

4. (1) The operations of the Security Service shall continue to be under the control of a head of the Service appointed by the Prime Minister.

(2) The head of the Service shall be responsible for the efficiency of the Service and it shall be his duty to ensure —

(a) that there are arrangements for securing that no information is obtained by the Service except so far as necessary for the proper discharge of its functions and that no information is disclosed by it except so far as necessary for that purpose or for the purposes of any criminal proceedings; and

(b) that the Service does not take any action to further the interests of any political party.

(3) The arrangements mentioned in paragraph (a) of subsection (2) above shall be such as to ensure that information in the possession of the Service is not disclosed for use in determining whether a person should be employed, or continue to be employed, by any person, or in any office or capacity except in accordance with provisions in that behalf approved by the Minister.

(4) Without prejudice to the generality of paragraph (a) of subsection (2) above, the disclosure of information shall be regarded as necessary for the proper discharge of the functions of the Service if it consists of —

Cap. 339.

(a) the disclosure of records subject to the approval of the Minister and in accordance with the National Archives Act; or

(b) the disclosure, subject to and in accordance with arrangements approved by the Minister, of information to the Director of Audit personally for the purposes of his functions in relation to the Service.

(5) The head of the Security Service shall make an annual report on the work of the Service to the Prime Minister and the Minister and may at any time report to either of them on any matter relating to its work.

5. Members of the Service shall be appointed by the head of the Service under such terms and conditions as may be approved by the Minister and shall include:

- (a) any public officer;
- (b) any member of and any other person employed or appointed in or for the purposes of the Armed Forces of Malta;
- (c) any member of and any other person employed or appointed in or for the purposes of the Malta Police Force as well as of any other disciplined force of the State;
- (d) any person who, in terms of the Official Secrets Act is either:
 - (i) a member or employee of a prescribed body or a body of a prescribed class, a holder of a prescribed office or an employee of such a holder; or
 - (ii) a Government contractor;
- (e) any director of and any other person employed or appointed in or for the purposes of:
 - (i) any body set up by law;
 - (ii) any company where a majority of its voting shares are controlled by the Government;
 - (iii) any company providing postal, wireless telegraphy or telecommunication services;

for the time being required in writing by the Minister following a request by the head of the Service to assist the Security Service in carrying out its functions.

6. (1) No entry on or interference with property shall be unlawful if it is authorised by a warrant issued by the Minister under this section. Warrants: general.

(2) No interception of or interference with communications in the course of their transmission by post or by means of a wireless telegraphy or telecommunication system or by any other means shall be unlawful if it is authorised by a warrant issued by the Minister under this section.

(3) The Minister may, on an application made by the Security Service, issue or modify a warrant under this section authorising the taking of such action as is specified in the warrant in respect of any property so specified or in respect of any communications so specified if the Minister —

(a) thinks it necessary for the action to be taken on the ground that it is likely to be of substantial value in assisting the Service in carrying out any of its functions under this Act; and

(b) is satisfied that what the action seeks to achieve cannot reasonably be achieved by other means; and

(c) is satisfied that satisfactory arrangements are in force under this Act with respect to the disclosure of information obtained by virtue of this section and that any information obtained under the warrant will be subject to those arrangements.

Warrants:
interception.

7. (1) Subject to subsection (2) below, the interception or interference with communications required by a warrant shall be the interception of or interference with —

(a) such communications as are sent to or from one or more addresses specified in the warrant, being an address or addresses likely to be used for the transmission of communications, to or from —

(i) one particular person specified or described in the warrant; or

(ii) one particular set of premises so specified or described; and

(b) such other communications (if any) as it is necessary to intercept or interfere with in order to intercept or interfere with communications falling within paragraph (a) above.

(2) Subsection (1) above shall not apply to a warrant if —

(a) the interception or interference required by the warrant is the interception or interference, in the course of their transmission by means of a wireless telegraphy or telecommunication system, of —

(i) such external communications as are described in the warrant; and

(ii) such other communications (if any) as it is necessary to intercept or interfere with in order to intercept or interfere with such external communications as are so described; and

(b) at the time when the warrant is issued, the Minister issues a certificate certifying the descriptions of information the examination of which he considers necessary as mentioned in paragraph (a) of subsection (3) of section 6 above.

8. (1) A warrant shall not be issued or modified except —

Warrants:
procedure and
duration, etc.

(a) under the hand of the Minister; or

(b) in an urgent case where the Minister has expressly authorised its issue or modification and a statement of that fact is endorsed on it, under the hand of a senior Government official.

(2) A warrant shall, unless renewed under subsection (3) below, cease to have effect —

(a) if the warrant was under the hand of the Minister, at the end of the period of six months beginning with the day on which it was issued; and

(b) in any other case, at the end of the period ending with the second working day following that day.

(3) A warrant may at any time be modified.

(4) If at any time before the day on which a warrant would cease to have effect the Minister considers it necessary for the warrant to continue to have effect for the purpose for which it was issued, he may by an instrument under his hand renew it for a period of six months beginning with that day.

(5) The Minister shall cancel a warrant if he is satisfied that the action authorised by it is no longer necessary.

(6) In the preceding provisions of this section “warrant” means a warrant under section 6 above.

9. (1) If, apart from this section, a person would be liable under any law in Malta for any act done outside Malta, he shall not be so liable if the act is one which is authorised to be done by virtue of an authorisation given by the Minister under this section.

Authorisation of
acts
outside Malta.

(2) The Minister shall not give or modify an authorisation under this section unless he is satisfied —

(a) that any acts which may be done in reliance on the authorisation or, as the case may be, the operation in the course of which the acts may be done will be necessary for the proper discharge of a function of the Security Service; and

(b) that there are satisfactory arrangements in force to secure—

(i) that nothing will be done in reliance on the authorisation beyond what is necessary for the proper discharge of a function of the Security Service; and

(ii) that, in so far as any acts may be done in reliance on the authorisation, their nature and likely consequences will be reasonable, having regard to the purposes for which they are carried out; and

(c) that there are satisfactory arrangements in force under this Act with respect to the disclosure of information obtained by virtue of this section and that any information obtained by virtue of anything done in reliance on the authorisation will be subject to those arrangements.

(3) Without prejudice to the generality of the power of the Minister to give an authorisation under this section, such an authorisation —

(a) may relate to a particular act or acts, to acts of a description specified in the authorisation or to acts undertaken in the course of an operation so specified;

(b) may be limited to a particular person or persons of a description so specified; and

(c) may be subject to conditions so specified.

(4) An authorisation shall not be given or modified under this section except —

(a) under the hand of the Minister; or

(b) in an urgent case where the Minister has expressly authorised it to be given or modified and a statement of that fact is endorsed on it, under the hand of a senior Government official.

(5) An authorisation shall, unless renewed under subsection (6) below, cease to have effect —

(a) if the authorisation was given under the hand of the Minister, at the end of the period of six months beginning with the day on which it was given;

(b) in any other case, at the end of the period ending with the second working day following the day on which it was given.

(6) An authorisation given under this section may be modified at any time.

(7) If at any time before the day on which an authorisation would cease to have effect the Minister considers it necessary for the authorisation to continue to have effect for the purpose for which it was given, he may by an instrument under his hand renew it for a period of six months beginning with that day.

(8) The Minister shall cancel an authorisation if he is satisfied that any act authorised by it is no longer necessary.

10. (1) The requirements of paragraph (c) of subsection (3) of section 6 are satisfied in relation to any information if each of the following, namely — Safeguards.

(a) the extent to which the information is disclosed;

(b) the number of persons to whom any of the information is disclosed;

(c) the extent to which the information is copied; and

(d) the number of copies made of any of the information,

is limited to the minimum that is necessary as mentioned in paragraph (a) of subsection (3) of section 6.

(2) The requirements of paragraph (c) of subsection (3) of section 6 are satisfied in relation to any intercepted information if each copy made of any of that information is destroyed as soon as its

retention is no longer necessary as mentioned in paragraph (a) of subsection (3) of section 6 above.

Powers of the Prime Minister.

11. Where it appears to him to be necessary to do so, the Prime Minister may exercise any of the powers of the Minister under this Act subject to the same review of the exercise of those powers as would apply to the exercise of those powers by the Minister.

The Commissioner.

12. (1) The Prime Minister shall appoint as a Commissioner for the purposes of this Act a person who holds or has held the office of Judge of the superior courts or who has held the office of Attorney General:

Provided that if a Commissioner is not so appointed by the Prime Minister the Attorney General shall automatically assume the functions of Commissioner until such time as a Commissioner shall be so appointed.

(2) The Commissioner shall hold office in accordance with the terms of his appointment and, in the case of a Commissioner who is not a serving Judge of the superior courts or the Attorney General, there shall be paid to him by the Minister such allowances as the Prime Minister may determine.

(3) (a) In addition to his functions under the subsequent provisions of this Act, the Commissioner shall keep under review the exercise by the Minister of his powers under sections 6 to 10 above.

(b) In the discharge of his functions under the Act, the Commissioner shall act in his individual judgement and shall not be subject to the direction or control of any other person or authority and shall not be liable to be questioned by any court.

(4) It shall be the duty of any person falling under one of the descriptions contained in subsection (2) of section 17 to disclose or give to the Commissioner such documents or information as he may require for the purpose of enabling him to discharge his functions.

(5) The Commissioner may at any time report to the Prime Minister on any matter relating to the discharge of his functions under this Act.

(6) The Commissioner shall make an annual report on the discharge of his functions.

(7) The Prime Minister shall put before the Security Committee a copy of each annual report made by the Commissioner under subsection (4) above together with a statement as to whether any matter has been excluded from that copy in pursuance of subsection (8) below.

(8) If it appears to the Prime Minister, after consultation with the Commissioner, that any matter in a report would be prejudicial to the continued discharge of the functions of the Security Service, the Prime Minister may exclude that matter from the copy of the report as put before the Security Committee.

13. (1) The Commissioner shall also investigate complaints about the Security Service in the manner specified in Schedule 1 to this Act. Investigation of complaints.

(2) The decisions of the Commissioner under Schedule 1 to this Act shall not be subject to appeal or liable to be questioned in any court.

14. (1) There shall be a Committee, to be known as the Security Committee, to examine the expenditure, administration and policy of the Security Service. The Security Committee.

(2) The Security Committee shall consist of the Prime Minister, the Minister, the Minister responsible for Foreign Affairs and the Leader of the Opposition.

(3) Schedule 2 to this Act shall have effect with respect to the procedure of and other matters relating to the Security Committee.

(4) The Security Committee shall make an annual report of the discharge of their functions.

(5) The Prime Minister shall lay before the House of Representatives a copy of each annual report made by the Security Committee under subsection (4) above together with a statement as to whether any matter has been excluded from that copy in pursuance of subsection (6) below.

(6) If it appears to the Prime Minister, after discussion in the Security Committee, that the publication of any matter in a report would be prejudicial to the continued discharge of the functions of the Security Service, the Prime Minister may exclude that matter from the copy of the report as laid before the House of Representatives.

Prohibition of interception.

15. (1) Subject to the following provisions of this section, a person who intentionally intercepts or interferes with a communication in the course of its transmission by post or by means of a wireless telegraphy or telecommunication system or by any other means shall be guilty of an offence and shall be liable on conviction in respect of each offence to imprisonment for a term not exceeding two years or to a fine (*multa*) not exceeding five thousand liri or to both such imprisonment and fine.

(2) A person shall not be guilty of an offence under this section if —

(a) the communication is intercepted or interfered with in obedience to a warrant issued by the Minister under section 6 above; or

(b) that person has reasonable grounds for believing that the person to whom, or the person by whom, the communication is made or sent has consented to the interception or interference.

(3) A person shall not be guilty of an offence under this section if the communication is intercepted or interfered with for purposes connected with the provision of postal, wireless telegraphy or telecommunication services or with the enforcement of any enactment relating to the use of those services.

Disclosure of messages etc.

16. (1) A person engaged in the business of providing a postal, wireless telegraphy or telecommunication service who otherwise than in the course of his duty intentionally discloses to any person —

(a) the contents of any communication which has been intercepted in the course of its transmission by means of that service; or

(b) any information concerning the use made of postal, wireless telegraphy or telecommunication services provided for any other person by means of that service,

shall be guilty of an offence.

(2) Subsection (1) above does not apply to —

(a) any disclosure which is made for the prevention or detection of crime or for the purposes of any criminal proceedings;

(b) any disclosure of matter falling within paragraph (a) of that subsection which is made in obedience to a warrant issued by the Minister under section 6 of this Act or in pursuance of a requirement imposed by the Commissioner under subsection (2) of section 12 of this Act; or

(c) any disclosure of matter falling within paragraph (b) of that subsection which is made in the interests of national security, the economic well-being of Malta or public safety, or in pursuance of the order of a court.

(3) For the purposes of paragraph (c) of subsection (2) above a certificate signed by the Minister, or by the Attorney General, certifying that a disclosure was made in the interests of national security, the economic well-being of Malta or public safety shall be conclusive evidence of that fact; and a document purporting to be such a certificate shall be received in evidence and deemed to be such a certificate unless the contrary is proved.

(4) Any person who intentionally discloses the contents of any communication which has been intercepted in the course of its transmission by means of a postal, wireless telegraphy or telecommunication service, where he knows or reasonably ought to have known, that such contents have been unlawfully obtained, shall be guilty of an offence.

(5) A person guilty of an offence under this section shall be liable on conviction in respect of each offence to imprisonment for a term not exceeding one year or to a fine (*multa*) not exceeding five thousand liri or to both such imprisonment and fine.

17. No prosecution for any offence against this Act shall be instituted without the authority of the Attorney General.

No proceedings to be taken without sanction of the Attorney General.

18. (1) In any proceedings before any court or tribunal no evidence shall be adduced and no question in cross-examination shall be asked which (in either case) tends to suggest —

Exclusion of evidence.

(a) that an offence under sections 15 or 16 above has been or is to be committed by any of the persons mentioned in subsection (2) below; or

(b) that a warrant has been or is to be issued to any of those persons:

Provided that nothing in this subsection shall be deemed to preclude the disclosure in evidence of any information which may be disclosed in accordance with or under any other provision of this Act.

(2) The persons referred to in subsection (1) above are —

(a) any member of the Security Service;

(b) any public officer;

(c) any person engaged in the business of providing postal, wireless telegraphy or telecommunications services;

Cap. 50.

(d) any person who, in terms of the Official Secrets Act is either:

(i) a Government contractor; or

(ii) a member or employee of a prescribed body or a body of a prescribed class, a holder of a prescribed office or an employee of such a holder.

(3) Subsection (1) above does not apply -

(a) in relation to proceedings for a relevant offence or complaints proceedings before the Commissioner; or

(b) where the evidence is adduced or the question in cross-examination is asked for the purpose of establishing the fairness or unfairness of a dismissal on grounds of an offence under section 15 above or of conduct from which such an offence might be inferred;

and paragraph (a) of that subsection does not apply where a person has been convicted of the offence under that section.

(4) In this section “relevant offence” means -

Cap. 250.

Cap. 254.

(a) an offence under sections 15 and 16 above or under sections 46 and 47 of the Telemalta Corporation Act or sections 50, 51 and 55 of the Post Office Act;

Cap. 50.

(b) an offence under section 3 of the Official Secrets Act relating to any sketch, plan, model, article, note, document or information which tends to suggest as mentioned in subsection (1) above;

(c) an offence under section 9 of the Official Secrets Act relating to any such information, document or article as is mentioned in subsection (3) of that section; Cap. 50.

(d) perjury committed in the course of proceedings for a relevant offence;

(e) that offence committed by whosoever attempts, aids, abets, counsels or procures the commission of an offence falling within any of the preceding paragraphs; and

(f) contempt of court committed in the course of, or in relation to, proceedings for a relevant offence.

(5) Notwithstanding the provisions of any other law, no warrant or other order shall be issued or made by any Court restraining any person or authority from the exercise of any of the powers conferred by this Act.

19. (1) The Criminal Code shall be amended as follows:— Amendment of
other laws.
Cap. 9.

(a) in section 5 thereof:

(i) for paragraph (e) of subsection (1) thereof there shall be substituted the following paragraphs

“(e) against any person who being in Malta:

(i) shall have become guilty of any offence under subsection (2) of section 87 or sections 198, 199, 211, 214 to 218, 220, 249 to 251, 311, 312, 316 or 317 when committed or directed on or against the person of a protected person or to the prejudice or injury of such person or likely to endanger the life or to cause serious injury to the property, life or health of such a person, or in connection with an attack on any relevant premises or on any vehicle ordinarily used by a protected person or when a protected person is on or in the premises or vehicle; or

(ii) shall have committed any act which if committed in Malta would constitute an offence and such act involved the use of a bomb, grenade, rocket, automatic firearm, letter bomb or parcel bomb which endangered persons,

although the offences referred to in this paragraph shall have been committed outside Malta:

Provided that for the purposes of subparagraph (i) of this paragraph it shall be immaterial whether the offender knew that the person was a protected person;

(f) against any person who:

(i) commits any offence in premises or in a building outside Malta having diplomatic immunity due to the fact that it is being used as an embassy, a residence or for such other purpose connected with the diplomatic service of Malta; or

(ii) commits an offence in a place outside Malta when such person enjoys diplomatic immunity by virtue of such service;

(g) against any person who being in Malta, shall be a principal or an accomplice in the crime under section 86 in the circumstances referred to in the second proviso to that section, or in any of the crimes referred to in section 139a or 298, although the crimes shall have been committed outside Malta:";

(ii) immediately after subsection (2) thereof there shall be added the following new subsection:

“(3) For the purposes of paragraph (e) of subsection (i) of this section:

“a protected person” means, in relation to an alleged offence, any of the following:

(a) a person who at the time of the alleged offence is a Head of State, a member of a body which performs the functions of Head of State under the constitution of the State, a Head of Government or a Minister for Foreign Affairs and is outside the territory of the State in which he holds office;

(b) a person who at the time of the alleged offence is a representative or an

official of a State or an official or agent of an international organisation of an inter-governmental character, is entitled under international law to special protection from attack on his person, freedom or dignity and does not fall within the preceding paragraph;

(c) a person who at the time of the alleged offence is a member of the family of another person mentioned in either of the preceding paragraphs and —

(i) if the other person is mentioned in paragraph (a) above, is accompanying him,

(ii) if the other person is mentioned in paragraph (b) above, is a member of his household;

“relevant premises” means premises at which a protected person resides or is staying or which a protected person uses for the purpose of carrying out his functions as such a person; and

“vehicle” includes any means of conveyance;

and if in any proceedings a question arises as to whether a person is or was a protected person, a certificate issued by or under the authority of the Minister responsible for foreign affairs and stating any fact relating to the question shall be conclusive evidence of that fact.”;

(b) section 87 thereof shall be amended as follows:

(i) the present section shall be renumbered as subsection (1) thereof; and

(ii) immediately after subsection (1) thereof as renumbered there shall be added the following subsection:

“(2) Where a person who commits the crime referred to in the last preceding section threatens to kill, to injure or to continue to detain or confine the person arrested, detained or confined, with the object of compelling a state, an international governmental organisation or person to do or to abstain from doing an

act he shall be liable to the punishment of imprisonment for life.”; and

(c) sections 146 to 149 and 258 to 260 thereof shall be deleted.

Cap. 250.

(2) The Telemalta Corporation Act shall be amended as follows:—

(a) immediately at the end of section 40 thereof there shall be added following proviso: “Provided that such exemptions may not be given from the provisions of sections 45, 46 and 47 of this Act”; and

(b) in section 45 thereof, for the words “and shall not give any information” there shall be substituted the words “and shall not except for the purpose of performing his duties in the Corporation give any information”.

Cap. 276.

(3) Immediately after section 30 of the Extradition Act there shall be added the following new section:

“Special
extraditable
offences.
Cap. 9.

31. (1) The offences referred to in paragraphs (e) and (g) of subsection (1) of section 5 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 of the Security Service Act, 1996.

(2) Where this Act does not apply in the case of any state which is a party to the “Internationally Protected Persons Convention” and the “Taking of Hostages Convention”, the Minister may by order under sections 4 and 7 of this Act designate such country as a Commonwealth country under the said section 4 or as a foreign country under section 7, as the case may be and such order shall for the purposes of the said section 7 be deemed to be an arrangement as is mentioned in that section.

(3) When this Act applies to any state by virtue only of an order made under subsection (2) hereof no application for extradition by that state shall relate to any extradition crimes within the meaning of this Act except offences deemed to be included in the list of extradition crimes pursuant to subsection (1).

(4) For the purposes of this Act, any act, wherever committed, which is an offence mentioned under this Act and an offence against the law of any state in the case of which that Act is applied by an order under subsection (2) of this section shall be deemed to be an offence committed within the jurisdiction of that state.

(5) In this section:

“Convention countries” means those countries which are contracting parties to the “Suppression of Terrorism Convention”, the “Internationally Protected Persons Convention” and to the “Taking of Hostages Convention”;

“Internationally Protected Persons Convention” means the “Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons adopted by the United Nations General Assembly in 1973”;

“Suppression of Terrorism Convention” means the “European Convention on the Suppression of Terrorism done at Strasbourg on the 27th January, 1977”;

“Taking of Hostages Convention” means the “International Convention against the Taking of Hostages opened for signature at New York on the 18th December, 1979”. ”.

SCHEDULES

SCHEDULE 1

Section 13

INVESTIGATION OF COMPLAINTS

Preliminary

1. Any person may complain to the Commissioner if he is aggrieved by anything which he believes the Security Service has done in relation to him or to any property of his; and unless the Commissioner considers that the complaint is frivolous or vexatious he shall deal with it in accordance with this Schedule.

Investigations by the Commissioner

2. The Commissioner shall investigate —

(a) whether the Security Service has obtained or provided information or performed any other tasks in relation to the actions or intentions of the complainant; and

(b) if so, whether the Security Service had reasonable grounds for doing what it did.

Functions of the Commissioner in relation to complaints

3. (1) The Commissioner shall investigate, as the case may require, —

(a) whether a warrant was issued under section 6 of this Act in relation to the property or communications concerned; or

(b) whether an authorisation was given under section 9 of this Act to the doing of the act in question.

(2) If the Commissioner finds that a warrant was issued or an authorisation was given, he shall determine whether the Minister was acting properly in issuing, modifying or renewing the warrant or, as the case may be, in giving, modifying or renewing the authorisation.

Report of conclusions

4. (1) Where the Commissioner determines under paragraphs 2 or 3 above that the Security Service or the Minister did not have reasonable grounds for doing what it or he did, he shall —

(a) give notice to the complainant that he has made a determination in his favour; and

(b) make a report of his findings to the Prime Minister.

(2) Where in the case of any complaint no such determination as is mentioned in sub-paragraph (1) above is made by the Commissioner, he shall give notice to the complainant that no determination in his favour has been made on his complaint.

Special references

5. If in any case investigated by the Commissioner —

(a) his conclusions on the matters which he is required to investigate are such that no determination is made by him in favour of the complainant; but

(b) it appears to him from the allegations made by the complainant that it is appropriate for there to be an investigation into whether the Security Service has in any other respect acted unreasonably in relation to the complainant or his property,

he shall so investigate and report to the Prime Minister.

Remedies

6. (1) Where the Commissioner gives a complainant notice of such a determination as is mentioned in sub-paragraph (1) of paragraph 4 above, the Commissioner may do one or more of the following, namely —

(a) direct that the obtaining and provision of information in relation to the complainant or, as the case may be, the conduct of other activities in relation to him or to any property of his shall cease and that any records relating to such information so obtained or provided or such other activities shall be destroyed;

(b) quash any warrant or authorisation which the Commissioner has found to have been improperly issued, renewed, given or modified and which he considers should be quashed;

(c) recommend to the Prime Minister that the complainant be paid such sum by way of compensation as may be specified by him.

(2) Where the Prime Minister receives a report under paragraph 5 above, he may take such action in the light of the report as he thinks fit, including any action which the Commissioner has power to take or direct under the preceding provisions of this paragraph.

Procedure

7. (1) Subject to sub-paragraph (2) of paragraph 8 below, the Commissioner shall carry out his functions under this Act in such a way as to secure that no document or information disclosed or given to him by any person is disclosed without his consent to any complainant, or to any other person; and accordingly the Commissioner shall not, except in reports under item (b) of sub-paragraph (1) of paragraph 4 of this Schedule, give any reasons for a determination notified by him to a complainant.

(2) Subject to sub-paragraph (1) above, the Commissioner may determine his own procedure.

Staff and expenses

8. (1) The Prime Minister may, after consultation with the Minister responsible for Finance, provide the Commissioner with such staff and shall defray such expenses as he thinks necessary for the proper discharge of his functions under this Act.

(2) The Commissioner may authorise any member of staff provided in terms of sub-paragraph (1) above, to obtain any documents or information on his behalf.

References

9. Any reference in this Schedule to a complainant's property includes —

(a) a reference to any communication originated or received or intended to be received by him; and

(b) a reference to any place where the complainant resides or works.

Supplementary

10. The persons who may complain to the Commissioner under this Schedule include any organisation and any association or combination of persons.

Transitory

11. Any person who feels aggrieved by anything which he believes the Security Service has done in relation to him or to any property of his before the coming into force of this Act shall complain to the Commissioner within six months after the coming into force of this Act and the Commissioner may unless he considers that the complaint is frivolous or vexatious grant any remedy in accordance with paragraph 6 above as if such thing shall have been done by the Security Service pursuant to a warrant by the Minister under this Act.

SCHEDULE 2

Section 14(3)

THE SECURITY COMMITTEE

Procedure

1. Subject to the following provisions of this Schedule, the Committee may determine their own procedure.

2. (1) The Committee shall be chaired by the Prime Minister.

(2) If on any matter there is an equality of voting among the members of the Committee, the Chairman shall have a second or casting vote.

(3) The Chairman may appoint one of the members of the Committee to act, in his absence, as chairman at any meeting of the Committee.

(4) The quorum of the Committee shall be two.

Access to information

3. (1) If the head of the Security Service is asked by the Committee to disclose any information, then, as to the whole or any part of the information which is sought, he shall either —

(a) arrange for it to be made available to the Security Committee subject to and in accordance with arrangements approved by the Prime Minister; or

(b) inform the Committee that it cannot be disclosed either —

(i) because it is sensitive information (as defined in paragraph 4 below) which, in his opinion, should not be made available under item (a) above; or

(ii) because the Prime Minister has determined that it should not be disclosed.

(2) The fact that any particular information is sensitive information shall not prevent its disclosure under item (a) of sub-paragraph (1) above if the head of the Security Service considers it safe to disclose it.

(3) Information which has not been disclosed to the Security Committee on the ground specified in sub-item (i) of item (b) of sub-paragraph (1) above shall be disclosed to them if the Prime Minister considers it desirable in the public interest.

(4) The Prime Minister shall not make a determination under sub-item (ii) of item (b) of sub-paragraph (1) above with respect to any information on the grounds of national security alone and, subject to that, he shall not make such a determination unless the information appears to him to be of such a nature that, if he were requested to produce it before a Select Committee of the House of Representatives, he would think it proper not to do so.

(5) The disclosure of information to the Security Committee in accordance with the preceding provisions of this paragraph shall be regarded for the purposes of this Act as necessary for the proper discharge of the functions of the Security Service.

Sensitive Information

4. The following information is sensitive information for the purposes of paragraph 3 above —

(a) information which might lead to the identification of, or provide details of, sources of information, other assistance or operational methods available to the Security Service;

(b) information about particular operations which have been, are being or are proposed to be undertaken in pursuance of any of the functions of the Security Service; and

(c) information provided by, or by an agency of, a foreign Government where that Government does not consent to the disclosure of the information.

Objects and Reasons

The object of the Bill is to make provision about the Security Service including provision for the issue of warrants and authorisations enabling certain actions to be taken and for the issue of such warrants and authorisations to be kept under review; to establish a procedure for the investigation of complaints about the Security Service to make provision for the establishment of a Security Committee to scrutinise this Service; to prohibit the interception of communications and for connected purposes.