

**MALTA**

**ATT Nru. I ta' l-1993**

**ATT mahruġ b'ligi mill-Parlament ta' Malta.**

**ATT biex jemenda l-Att dwar il-*Probation* ta' Hatjin, Kap. 152.**

**ACT No. I of 1993**

**AN ACT enacted by the Parliament of Malta.**

**AN ACT to amend the Probation of Offenders Act, Cap. 152.**

Naghti l-kunsens tiegħi.

(L.S.)

ĊENSU TABONE  
President

26 ta' Jannar, 1993

**ATT Nru. I ta' l-1993**

*ATT biex jemenda l-Att dwar il-Probation ta' Hatjin, Kap. 152.*

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-1993 li jemenda l-Att dwar il-Probation ta' Hatjin, u għandu jinqara u jftiehem haġa wahda ma' l-Att dwar il-Probation ta' Hatjin, hawnhekk iżjed 'il quddiem imsejjah "l-Att prinċipali".

Titolu fil-qosor.

Kap. 152.

2. L-artikolu 2 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

Emenda ta'  
l-artikolu 2 ta'  
l-Att prinċipali.

(a) fit-test Malti tiegħu —

(i) minnufih wara l-kliem "t-tifsir tal-kelma ma jfissirx xort'ohra —" għandhom jidhlu l-kliem "dikjarata hatja ta' reat" tinkludi dikjarazzjoni ta' htija mill-Qorti ta' l-Appell Kriminali u l-konferma mill-imsemmija qorti ta' dikjarazzjoni ta' htija mill-qorti ta' l-ewwel grad jew ta' sejbien ta' htija mill-ġuri;" u

(ii) il-kliem minn "il-Qorti Kriminali" għandha titqies li tinkludi" sa "dikjarazzjoni ta' htija mill-Qorti ta' l-Appell Kriminali;" għandhom jithassru; u

(b) fit-test Inġliż tiegħu, minflok il-kliem "the Criminal Court" shall be deemed to include the Court of Criminal Appeal and any reference to a conviction by or before the Criminal Court shall be deemed to include a conviction or the affirmation of a conviction by the Court of Criminal Appeal;" għandhom jidhlu l-kliem "convicted of an offence" includes conviction by the Court of Criminal Appeal and the affirmation by the said court of a conviction by the court of first instance or of a finding of guilt by a jury;".

Emenda ta' l-artikolu 4 ta' l-Att prinċipali.

**3. Is-subartikolu (1) ta' l-artikolu 4 ta' l-Att prinċipali għandu jiġi emendat kif ġej:**

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

“(ċ) li jirrapporta mill-anqas darba kull sitt xhur lill-qorti dwar l-imġieba, dwar il-mod ta' għixien u b'mod ġenerali dwar il-progress, jekk ikun hemm, tal-persuna taht *probation*,” u

(b) fil-paragrafu (d) tiegħu minflok il-kliem “jgħib ruhu ta' habib ma' dik il-persuna,” għandhom jidhlu l-kliem “jgħib ruhu ta' habib ma' dik il-persuna taht *probation*,”.

Emenda ta' l-artikolu 5 ta' l-Att prinċipali.

**4. L-artikolu 5 ta' l-Att prinċipali għandu jiġi emendat kif ġej:**

(a) fis-subartikolu (1) tiegħu, minflok il-kliem “li ma jkunx reat li” għandhom jidhlu l-kliem “li ma jkunx reat li għalih hemm biss piena ta' multa jew ta' ammenda u li ma jkunx reat li,”; u

(b) fis-subartikolu (2) tiegħu, minflok il-kliem “jew eghmil ta' reati oħra,” għandhom jidhlu l-kliem “jew eghmil ta' reati oħra, u l-qorti tista' wkoll tagħti lill-uffiċjal tal-*probation* dawk id-direttivi li tista' tqis li jkun mehtieġa sabiex jitwettqu dawn l-għanijiet.”; u

(ċ) fis-subartikolu (4) tiegħu —

(i) minflok il-kliem “tnax-il xahar” għandhom jidhlu l-kliem “sitta u ghoxrin xahar”; u

(ii) minflok il-kliem “it-tmexxija ta' tabib” għandhom jidhlu l-kliem “it-tmexxija ta' tabib jew ta' persuna oħra li għandha l-kwalifiki mehtieġa”; u

(iii) minflok il-kliem “taht id-direzzjoni ta' dak it-tabib” għandhom jidhlu l-kliem “taht id-direzzjoni ta' dak it-tabib jew dik il-persuna oħra li għandha l-kwalifiki mehtieġa”; u

(iv) minflok il-kliem “rikors magħmul mit-tabib” għandhom jidhlu l-kliem “rikors magħmul mit-tabib jew persuna oħra li għandha l-kwalifiki mehtieġa”.

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

**5. Minflok is-subartikolu (2) ta' l-artikolu 6 ta' l-Att prinċipali għandu jidhol dan is-subartikolu li ġej:**

“(2) Il-qorti ma għandhiex tahtar l-uffiċjal prinċipali tal-*probation* biex jissorvelja hati, u, meta ċ-ċirkostanzi jkun jippermettu, għandha tahtar uffiċjal tal-*probation* espert fit-trattament tat-tfal jew zghażaġh biex jissorvelja hati li jkollu anqas minn sittax-il sena.”.

6. Fis-subartikolu (2) ta' l-artikolu 7 ta' l-Att prinċipali, minflok il-kliem "wara applikazzjoni maghmula" għandhom jidhlu l-kliem "wara li tirċievi rapport mill-uffiċjal tal-*probation* jew wara applikazzjoni maghmula".

Emenda ta' l-artikolu 7 ta' l-Att prinċipali.

7. L-artikolu 8 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

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

(a) fis-subartikolu (1) tiegħu —

(i) minflok il-kliem "Izda ebda taħrika" għandhom jidhlu l-kliem "Izda, hlief meta n-nuqqas allegat jingiebb għall-konjizzjoni tal-qorti f'rapport magħmul mill-uffiċjal tal-*probation*, ebda taħrika"; u

(ii) minflok il-kliem "mill-Qorti Kriminali" għandhom jidhlu l-kliem "mill-Qorti Kriminali jew mill-Qorti ta' l-Appell Kriminali,"; u

(iii) minflok il-kliem "minn qorti tal-Pulizija ġudizzjarja," għandhom jidhlu l-kliem "mill-Qorti tal-Maġistrati (Malta), mill-Qorti tal-Maġistrati (Għawdex), jew mill-Qorti tal-Minorenni,"; u

(b) fis-subartikolu (2) tiegħu, minflok il-kliem "għaxar liri," għandhom jidhlu l-kliem "ħamsin lira Maltija,".

8. Fis-subartikolu (1) ta' l-artikolu 9 ta' l-Att prinċipali, minflok il-kliem "li ma jkunx reat li," għandhom jidhlu l-kliem "li ma jkunx reat li għalih hemm biss piena ta' multa jew ta' ammenda u li ma jkunx reat li,".

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

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

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

(a) id-dispożizzjoni li hemm għandha tiġi enumerata mill-ġdid bhala s-subartikolu (1) tiegħu; u

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

"(2) Bla ħsara għad-dispożizzjonijiet tas-subartikolu (3), meta persuna tiġi trattata għar-reat li għalih tkun tqegħdet taht *probation* jew li dwaru tkun ġiet liberata taht kondizzjoni, il-qorti ma tistax tqieghdha taht *probation* jew tagħmel ordni dwarha kif provdut fis-subartikolu (1) ta' l-artikolu 9 ta' dan l-Att dwar dak ir-reat.

(3) Is-subartikolu (2) ma għandux japplika meta r-reat, magħmul matul il-perijodu ta' *probation* jew matul il-perijodu tal-liberazzjoni taht kondizzjoni u li dwaru l-persuna sussegwentement tinsab hatja, ikun kontravvenzjoni jew ikun reat li jsir b'nuqqas ta' ħsieb jew bi traskuraġni, jew b'nuqqas ta' hila fl-eżerċizzju ta' xi arti jew professjoni, jew b'nuqqas ta' tharis ta' regolamenti.

(4) Għall-finijiet tas-subartikolu (1) —

(a) il-Qorti tal-Maġistrati (Malta), il-Qorti tal-Maġistrati (Għawdex) u l-Qorti tal-Minorenni għandhom jitqiesu li huma l-istess qorti;

(b) il-Qorti ta' l-Appell Kriminali fid-deċiżjoni ta' appelli minn sentenzi tal-Qorti tal-Magistrati (Malta), tal-Qorti tal-Magistrati (Għawdex) u tal-Qorti tal-Minorenni għandha titqies li tkun qorti differenti mill-Qorti ta' l-Appell Kriminali fid-deċiżjoni ta' appelli minn deċiżjonijiet tal-Qorti Kriminali.”.

Emenda ta' l-artikolu 11 ta' l-Att prinċipali. **10.** Fis-subartikolu (1) ta' l-artikolu 11 ta' l-Att prinċipali, minflok il-kliem “mitejn lira.” għandhom jidhlu l-kliem “hames mitt lira Maltija.”.

Emenda ta' l-artikolu 12 ta' l-Att prinċipali. **11.** Is-subartikolu (3) ta' l-artikolu 12 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

(a) minflok il-kliem “Id-dispożizzjonijiet hawn fuq imsemmija ta' dan l-artikolu” għandhom jidhlu l-kliem “Id-dispożizzjonijiet tas-subartikolu (1) ta' l-artikolu 5, tas-subartikolu (1) ta' l-artikolu 9 u tas-subartikoli (1) u (2) ta' dan l-artikolu”;

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

Kap. 9. “(ċ) il-ħdim ta' l-artikolu 23 tal-Kodiċi Kriminali u ta' kull dispożizzjoni oħra ta' dak il-Kodiċi jew ta' xi liġi oħra dwar il-konfiska ta' xi proprjetà, jew ta' xi dritt fi jew fuq xi proprjetà, kemm jekk mobbli jew immobbli, jew it-tiżmim ta' xi proprjetà mir-reġistratur ta' kull qorti jew minn uffiċjal iehor awtorizzat mil-liġi li jaqbad jew li jżomm xi proprjetà li jkollha x'taqsam ma' proċeduri kriminali;” u

(ċ) minflok il-paragrafu (g) tiegħu, għandu jidhol dan il-paragrafu li ġej:

“(g) il-ħdim tas-subartikoli (3), (5) u (6) ta' l-artikolu 35 tal-Kodiċi Kriminali;”.

Emenda ta' l-artikolu 13 ta' l-Att prinċipali. **12.** Minnufih wara s-subartikolu (3) ta' l-artikolu 13 ta' l-Att prinċipali għandu jidied dan is-subartikolu li ġej:

“(4) Id-dispożizzjonijiet tas-subartikoli ta' hawn qabel għandhom japplikaw, *mutatis mutandis*, għal proċeduri quddiem il-Qorti ta' l-Appell Kriminali.”.

Mghoddi mill-Kamra tad-Deputati fis-Seduta Nru. 96 ta' l-20 ta' Jannar, 1993.

LAWRENCE GONZI  
*Speaker*

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

I assent.

(L.S.)

ĊENSU TABONE  
President

26th January, 1993

**ACT No. I of 1993***AN ACT to amend the probation of Offenders Act, Cap. 152.*

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Probation of Offenders (Amendment) Act, 1993, and shall be read and construed as one with the Probation of Offenders Act, hereinafter referred to as “the principal Act”.

Short title.

Cap. 152.

2. Section 2 of the principal Act shall be amended as follows:

Amendment  
of section 2  
of the  
principal  
Act.

(a) in the Maltese text thereof —

(i) immediately after the words “t-tifsir tal-kelma ma jfissirx xort’ohra —” there shall be inserted the words ““dikjarata hatja ta’ reat” tinkludi dikjarazzjoni ta’ htija mill-Qorti ta’ l-Appell Kriminali u l-konferma mill-imsemmija qorti ta’ dikjarazzjoni ta’ htija mill-qorti ta’ l-ewwel grad jew ta’ sejbien ta’ htija mill-guri;”; and

(ii) the words from ““il-Qorti Kriminali” għandha titqies li tinkludi” to “dikjarazzjoni ta’ htija mill-Qorti ta’ l-Appell Kriminali;” shall be deleted; and

(b) in the English text thereof, for the words ““the Criminal Court” shall be deemed to include the Court of Criminal Appeal and any reference to a conviction by or before the Criminal Court shall be deemed to include a conviction or the affirmation of a conviction by the Court of Criminal Appeal;” there shall be substituted the words ““convicted of an offence” includes conviction by the Court of Criminal Appeal and the affirmation by the said court of a conviction by the court of first instance or of a finding of guilt by a jury;”.

Amendment  
of section 4  
of the  
principal  
Act.

3. Subsection (1) of section 4 of the principal Act shall be amended as follows:

(a) for paragraph (c) thereof there shall be substituted the following paragraph:

“(c) to report at least once every six months to the court as to the behaviour, mode of life and generally upon the progress, if any, of the probationer;” and

(b) in paragraph (d) thereof for the words “befriend him,” there shall be substituted the words “befriend the probationer,”.

Amendment  
of section 5  
of the  
principal  
Act.

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

(a) in subsection (1) thereof, for the words “not being an offence which,” there shall be substituted the words “not being an offence punishable only with a fine (*multa* or *ammenda*) and not being an offence which;” and

(b) in subsection (2) thereof, for the words “the commission of other offences:” there shall be substituted the words “the commission of other offences, and the court may also give to the probation officer such directions as it may deem necessary for securing these purposes:” and

(c) in subsection (4) thereof —

(i) for the words “twelve months” there shall be substituted the words “twenty six months”; and

(ii) for the words “direction of a medical practitioner” there shall be substituted the words “direction of a medical practitioner or other suitably qualified person”; and

(iii) for the words “under the direction of such medical practitioner” there shall be substituted the words “under the direction of such medical practitioner or other suitably qualified person”; and

(iv) for the words “application made by the medical practitioner” there shall be substituted the words “application made by the medical practitioner or other suitably qualified person”.

Amendment  
of section 6  
of the  
principal  
Act.

5. For subsection (2) of section 6 of the principal Act there shall be substituted the following subsection:

“(2) The court shall not appoint the principal probation officer to supervise an offender, and, where the circumstances permit, shall appoint a probation officer experienced in dealing with children or young persons to supervise an offender who is under the age of sixteen years.”.

Amendment  
of section 7  
of the  
principal  
Act.

6. In subsection (2) of section 7 of the principal Act, for the words “upon application made” there shall be substituted the words “upon receipt of a report from the probation officer or upon application made”.

7. Section 8 of the principal Act shall be amended as follows:

(a) in subsection (1) thereof —

(i) for the words “Provided that no such summons” there shall be substituted the words “Provided that, except where the alleged failure is brought to the attention of the court in a report by the probation officer, no such summons”; and

(ii) for the words “by the Criminal Court,” there shall be substituted the words “by the Criminal Court or by the Court of Criminal Appeal,”; and

(iii) for the words “by a court of judicial Police,” there shall be substituted the words “by the Court of Magistrates (Malta), by the Court of Magistrates (Gozo) or by the Juvenile Court,”; and

(b) in subsection (2) thereof, for the words “ten liri,” there shall be substituted the words “fifty Maltese liri,”.

Amendment  
of section 8  
of the  
principal  
Act.

8. In subsection (1) of section 9 of the principal Act, for the words “not being an offence which,” there shall be substituted the words “not being an offence punishable only with a fine (*multa* or *ammenda*) and not being an offence which,”.

Amendment  
of section 9  
of the  
principal  
Act.

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

(a) the present provision shall be renumbered as subsection (1) thereof; and

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

“(2) Subject to the provisions of subsection (3), where a person is dealt with for the offence for which he was placed on probation or conditionally discharged, it shall not be lawful for the court to place him on probation or to make an order as provided in subsection (1) of section 9 of this Act in respect of that offence.

(3) Subsection (2) shall not apply where the offence, committed during the probation period or during the period of conditional discharge and for which the person is subsequently convicted, is a contravention or is a crime committed through imprudence or carelessness, or through unskilfulness in the exercise of any art or profession, or through non-observance of regulations.

(4) For the purposes of subsection (1) —

(a) the Court of Magistrates (Malta), the Court of Magistrates (Gozo) and the Juvenile Court shall be deemed to be the same court;

(b) the Court of Criminal Appeal in the determination of appeals from judgements of the Court of Magistrates (Malta), the Court of Magistrates (Gozo) and the Juvenile Court shall be deemed to be a different court from the Court of Criminal Appeal in the determination of appeals from decisions of the Criminal Court.”.

Amendment  
of section 10  
of the  
principal  
Act.

Amendment  
of section 11  
of the  
principal  
Act.

**10.** In subsection (1) of section 11 of the principal Act, for the words "two hundred liri." there shall be substituted the words "five hundred Maltese liri."

Amendment  
of section 12  
of the  
principal  
Act.

**11.** Subsection (3) of section 12 of the principal Act shall be amended as follows:

(a) for the words "The foregoing provisions of this section" there shall be substituted the words "The provisions of subsection (1) of section 5, of subsection (1) of section 9 and of subsections (1) and (2) of this section";

(b) for paragraph (c) thereof, there shall be substituted the following paragraph:

Cap. 9. "(c) the operation of section 23 of the Criminal Code and of any other provision of that Code or of any other law relating to the forfeiture of any property, and of any right in or over any property, whether movable or immovable, or the retention of any property by the registrar of any court or by any other officer authorised by law to seize or to retain any property connected with criminal proceedings;"; and

(c) for paragraph (g) thereof, there shall be substituted the following paragraph:

"(g) the operation of subsections (3), (5) and (6) of section 35 of the Criminal Code;".

Amendment  
of section 13  
of the  
principal  
Act.

**12.** Immediately after subsection (3) of section 13 of the principal Act there shall be added the following subsection:

"(4) The provisions of the foregoing subsections shall apply, *mutatis mutandis*, to proceedings before the Court of Criminal Appeal."

---

Passed by the House of Representatives at Sitting No. 96 of the 20th January, 1993.

LAWRENCE GONZI  
*Speaker*

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

