

## **Nru. 195**

18. 2. 2021

### **MALTA**

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#### **KAMRA TAD-DEPUTATI**

#### **HOUSE OF REPRESENTATIVES**

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ABBOZZ ta' Liġi mressaq mill-Onorevoli Carmelo Abela, M.P., Ministru fl-Uffiċċju tal-Prim Ministru, f'isem il-Ministru għall-Ġustizzja, l-Ugwaljanza u l-Governanza, u moqri għall-Ewwel darba fis-Seduta tas-16 ta' Frar 2021.

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A BILL introduced by the Honourable Carmelo Abela, M.P., Minister within the Office of the Prime Minister, on behalf of the Minister for Justice, Equality and Governance, and read the First time at the Sitting of the 16th February 2021.

**ATT sabiex ikompli jemenda l-Kodiċi Kriminali, Kap. 9.**

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

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RAYMOND SCICLUNA  
*Skrivan tal-Kamra tad-Deputati*

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RAYMOND SCICLUNA  
*Clerk of the House of Representatives*



**ABBOZZ TA' LIĠI**  
**msejjah**

*ATT sabiex ikompli jemenda l-Kodiċi Kriminali, Kap. 9.*

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

1. It-titolu fil-qosor ta' dan l-Att hu l-Att tal-2021 li jemenda l-Kodiċi Kriminali (Emenda Nru 3) u dan l-Att għandu jinqara u jinftiehem ħaġa waħda mal-Kodiċi Kriminali, hawn iżjed 'il quddiem imsejjah "il-Kodiċi".

Titolu fil-qosor.  
Kap. 9.

2. Fis-subartikolu (2) tal-artikolu 30 tal-Kodiċi, minnufih wara l-kliem "wara li tisma' lill-" għandhom jiżdiedu l-kliem "Avukat Ġenerali jew".

Emenda tal-artikolu 30 tal-Kodiċi.

3. Fit-Titolu I tat-Tieni Ktieb tal-Kodiċi, minnufih wara l-kliem "u d-dmirijiet tal-" għandhom jiżdiedu l-kliem "Avukat Ġenerali u tal-".

Emenda tat-Titolu I tat-Tieni Ktieb tal-Kodiċi.

4. Minnufih wara l-artikolu 347 tal-Kodiċi għandu jiżdied l-artikolu ġdid li ġej:

Żieda ta' artikolu ġdid mal-Kodiċi.

"Setgħat tal-Avukat Ġenerali.

347A. Bla ħsara għad-dispożizzjonijiet taż-żewġ artikoli li jiġu minnufih qabel, l-Avukat Ġenerali għandu jkollu l-funzjonijiet u s-setgħat li ġejjin:

(a) li jiddelega lill-Kummissarju tal-Pulizija s-setgħat ta' prosekuzzjoni vestiti fl-Avukat Ġenerali; u

(b) minkejja dak provdut f'xi liġi oħra, u fid-diskrezzjoni tiegħu, imexxi prosekuzzjoni waħdu jew mal-Pulizija Eżekuttiva jew ma' xi awtorità oħra li jkollha s-setgħa li tmexxi prosekuzzjoni."

C 5208

Emenda tal-artikolu 350 tal-Kodiċi.

**5.** Fis-subartikolu (1) tal-artikolu 350 tal-Kodiċi, minnufih qabel it-tifsira "kampjun intimu" għandha tiżdied it-tifsira ġdida li ġejja:

Kap. 90. " "Avukat Ġenerali" għandu jkollha l-istess tifsira kif mogħtija lilha fl-artikolu 2 tal-Ordinanza dwar l-Avukat Ġenerali u tinkludi lid-Deputat Ġenerali u uffiċjali oħra tal-Avukat Ġenerali."

Jissostitwixxi l-artikolu 375 tal-Kodiċi.

**6.** L-artikolu 375 tal-Kodiċi għandu jiġi sostitwit bl-artikolu ġdid li ġej:

"Tmexxija mill-Avukat Ġenerali u mill-Pulizija Eżekuttiva *ex officio*.

375. Meta l-azzjoni hija mmexxija mill-Avukat Ġenerali jew mill-Pulizija Eżekuttiva, għandhom japplikaw id-dispożizzjonijiet li ġejjin:

(a) l-imputat għandu jidher huwa nnifsu. Huwa jista', madankollu, ikun assistit minn avukat jew prokuratur legali;

(b) fil-każ ta' kontravvenzjoni, id-dispożizzjonijiet tal-paragrafu (b) tal-artikolu li jiġi minnufih qabel dan għandhom japplikaw fir-rigward tal-imputat;

(ċ) l-Avukat Ġenerali jew l-uffiċjal tal-Pulizija Eżekuttiva li jkun qiegħed imexxi l-prosekuzzjoni u l-imputat jew l-avukat jew il-prokuratur legali tiegħu għandhom jinstemgħu fl-ordni stabbilita fil-paragrafu (i) tal-artikolu li jiġi minnufih qabel dan;

(d) il-qorti tista' teħtieġ li l-akkużi jinqraw mill-Avukat Ġenerali jew mill-uffiċjal tal-Pulizija Eżekuttiva u li r-rapportjiġi kkonfermat bil-gurament mill-uffiċjali tal-Pulizija Eżekuttiva;

(e) l-imputat jista' jagħmel kontro-eżami lill-imsemmi uffiċjal tal-Pulizija."

Emenda tal-artikolu 390 tal-Kodiċi.

**7.** Is-subartikolu (1) tal-artikolu 390 tal-Kodiċi għandu jiġi sostitwit bis-subartikolu ġdid li ġej:

"(1) Il-qorti għandha tisma' l-akkużi moqrija mill-Avukat Ġenerali jew mill-uffiċjal tal-Pulizija Eżekuttiva u r-rapport bil-gurament tal-uffiċjal tal-Pulizija, għandha teżamina, bla gurament lill-imputat, u għandha tisma' l-provi li jingiebu biex isaħħu l-akkużi moqrija. Kollox għandu jitniżżel bil-miktub."

Emenda tal-artikolu 397 tal-Kodiċi.

**8.** Fis-subartikolu (3) tal-artikolu 397 tal-Kodiċi, minnufih wara l-kliem "fuq talba tal-" għandhom jiżdiedu l-kliem "Avukat Ġenerali jew".

- 9.** Is-subartikolu (5) tal-artikolu 405 tal-Kodiċi għandu jiġi sostitwit bis-subartikolu ġdid li ġej:
- Emenda tal-artikolu 405 tal-Kodiċi.
- "(5) Id-dispożizzjonijiet tas-subartikoli li jiġu minnufih qabel ta' dan l-artikolu għandhom japplikaw ukoll meta l-imputat ikun jixtieq li jeżamina jew li jerga' jeżamina. F'dan il-każ, it-talba għandha tiġi komunikata lill-Avukat Ġenerali li, mhux aktar tard mill-jum ta' wara, għandu jibgħat lill-qorti l-atti tal-kompilazzjoni. Il-qorti għandha mbagħad tordna li l-Avukat Ġenerali jew il-Kummissarju tal-Pulizija jiġu nnotifikati bil-ġurnata li fiha għandhom jinstemgħu x-xhieda, sabiex huma jew ufficjal ieħor tagħhom, ikunu jistgħu, jekk iridu, jidhru u jagħmlu kontro-eżami lix-xhieda."
- 10.** Fis-subartikolu (1) tal-artikolu 410 tal-Kodiċi, minnufih wara l-kliem "li fihom" għandhom jiżdiedu l-kliem "l-Avukat Ġenerali jew".
- Emenda tal-artikolu 410 tal-Kodiċi.
- 11.** Fis-subartikolu (1) tal-artikolu 412A tal-Kodiċi, minnufih wara l-kliem "ma jkunx taħt arrest" għandhom jiżdiedu l-kliem "l-Avukat Ġenerali jew".
- Emenda tal-artikolu 412A tal-Kodiċi.
- 12.** Is-subartikolu (1) tal-artikolu 430 tal-Kodiċi għandu jiġi sostitwit bis-subartikolu ġdid li ġej:
- Emenda tal-artikolu 430 tal-Kodiċi.
- "(1) L-Avukat Ġenerali, jista', flimkien mal-Pulizija Eżekuttiva, jipprosekwixxi quddiem il-Qorti tal-Magistrati u huwa l-prosekutur quddiem il-Qorti Kriminali."
- 13.** Fis-subartikolu (3) tal-artikolu 517 tal-Kodiċi, minnufih wara l-kliem "Meta l-" għandhom jiżdiedu l-kliem "Avukat Ġenerali jew il-"
- Emenda tal-artikolu 517 tal-Kodiċi.
- 14.** Fis-subartikolu (1) tal-artikolu 533 tal-Kodiċi, minnufih wara l-kliem "l-kawża ssir mill-" għandhom jiżdiedu l-kliem "Avukat Ġenerali jew mill-".
- Emenda tal-artikolu 533 tal-Kodiċi.
- 15.** Fis-subartikolu (2) tal-artikolu 550 tal-Kodiċi, minnufih wara l-kliem "fl-artikolu 401(2)," għandhom jiżdiedu l-kliem "l-Avukat Ġenerali jew".
- Emenda tal-artikolu 550 tal-Kodiċi.
- 16.** Fis-subartikolu (4) tal-artikolu 597 tal-Kodiċi, il-kliem "tar-rapport tal-ufficjal tal-Pulizija jew tal-" għandhom jiġu sostitwiti bil-kliem "tal-qari tal-akkużi".
- Emenda tal-artikolu 597 tal-Kodiċi.

C 5210

**Għanijiet u Raġunijiet**

L-għanijiet u r-raġunijiet ta' dan l-Abbozz ta' Liġi huma sabiex jipprovdu għall-bidliet meħtieġa wara li l-Avukat Ġenerali ħa l-prosekuzzjonijiet ta' reati serji.

**A BILL  
entitled**

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

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

1. The short title of this Act is the Criminal Code (Amendment No. 3) Act, 2021 and this Act shall be read and construed as one with the Criminal Code, hereinafter referred to as "the Code". Short title.  
Cap. 9.
  2. In sub-article (2) of article 30 of the Code, immediately after the words "after hearing the" there shall be added the words "Attorney General or". Amendment of article 30 of the Code.
  3. In Title I of Book Second of the Code, immediately after the words "and duties of the" there shall be added the words "Attorney General and the". Amendment of Title I of Book Second of the Code.
  4. Immediately after article 347 of the Code there shall be added the following new article: Addition of new article to the Code.
- "Powers of the Attorney General. 347A. Without prejudice to the two preceding articles, the Attorney General shall have the following functions and powers:
- (a) to delegate to the Commission of Police prosecutorial functions vested in the Attorney General; and
  - (b) notwithstanding anything provided in any other law, and in his discretion, to prosecute any offence, alone or together with the Executive Police or together with any other authority having prosecution powers."

C 5212

Amendment of article 350 of the Code.

**5.** In sub-article (1) of article 350 of the Code, immediately after the definition "appropriate consent" there shall be added the following new definition:

Cap. 90. " "Attorney General" shall have the same meaning as assigned to it in article 2 of the Attorney General Ordinance and includes the Deputy Attorney General and other officers of the Attorney General."

Substitution of article 375 of the Code.

**6.** Article 375 of the Code shall be substituted by the following new article:

"Proceedings by the Attorney General or the Executive Police *ex officio*. 375. In proceedings instituted by the Attorney General or the Executive Police, the following provisions shall apply:

(a) the accused shall appear personally. He may, however, be assisted by advocates or legal procurators;

(b) in the case of contraventions, the provisions of paragraph (b) of the last preceding article shall apply as regards the accused;

(c) the Attorney General or the officer of the Executive Police in charge of the prosecution and the accused or his advocate or legal procurator shall be heard in the order set out in paragraph (i) of the last preceding article;

(d) it shall be lawful for the court to require that the charges be read out by the Attorney General or the officer of the Executive Police and the report is confirmed on oath by the officer of the Executive Police;

(e) the accused may cross-examine the said officer."

Amendment of article 390 of the Code.

**7.** Sub-article (1) of article 390 of the Code shall be substituted by the following new sub-article:

"(1) The court shall hear the charges read by the Attorney General or the officer of the Executive Police and the report of the Police officer on oath, shall examine, without oath the party accused and shall hear the evidence in support of the charges read. Everything shall be reduced to writing."

Amendment of article 397 of the Code.

**8.** In sub-article (3) of article 397 of the Code, immediately after the words "at the request of" there shall be added the words "the Attorney General or".



**9.** Sub-article (5) of article 405 of the Code shall be substituted by the following new sub-article: Amendment of article 405 of the Code.

"(5) The provisions of the preceding sub-articles of this article shall apply in the case of witnesses whom the accused may wish to examine or re-examine. In such case, the demand shall be communicated to the Attorney General who, not later than the day following, shall forward to the court the record of inquiry. The court shall then cause the Attorney General or the Commissioner of Police to be notified of the day appointed for the hearing of the witnesses in order that they or any other officer under their charge may if they so desire, appear and cross-examine the witnesses."

**10.** In sub-article (1) of article 410 of the Code, immediately after the words "instituted by the" there shall be added the words "Attorney General or by the". Amendment of article 410 of the Code.

**11.** In sub-article (1) of article 412A of the Code, immediately after the words "is not in custody" there shall be added the words "the Attorney General or the". Amendment of article 412A of the Code.

**12.** Sub-article (1) of article 430 of the Code shall be substituted by the following new sub-article: Amendment of article 430 of the Code.

"(1) The Attorney General may, along with the Executive Police, prosecute before the Court of Magistrates, and shall be the prosecutor before the Criminal Court."

**13.** In sub-article (3) of article 517 of the Code, immediately after the words "If the" there shall be added the words "Attorney General or the". Amendment of article 517 of the Code.

**14.** In sub-article (1) of article 533 of the Code, immediately after the words "proceedings instituted by" there shall be added the words "the Attorney General or by the". Amendment of article 533 of the Code.

**15.** In sub-article (2) of article 550 of the Code, immediately after the words "shall be lawful for the" there shall be added the words "Attorney General or the". Amendment of article 550 of the Code.

**16.** In sub-article (4) of article 574 of the Code, the words "the report of the Police officer or of" shall be substituted by the words "the charges being read, the". Amendment of article 574 of the Code.

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C 5214

**Objects and Reasons**

The objects and reasons of this Bill are to provide the necessary changes following the taking over of prosecutions of serious offences by the Attorney General.



