

Suppliment tal-Gazzetta tal-Gvern ta' Malta, Nru. 20,639, 4 ta' Ġunju, 2021

Taqsim A

MALTA

ATT Nru XXVIII tal-2021

ATT maħruġ b'liġi mill-Parlament ta' Malta.

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

ACT No. XXVIII of 2021

AN ACT enacted by the Parliament of Malta.

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

Nagħti l-kunsens tiegħi.

(L.S.)

GEORGE VELLA
President

4 ta' Ġunju, 2021

ATT Nru XXVIII tal-2021

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'ligi dan li ġej:-

1. It-titolu fil-qosor ta' dan l-Att hu l-Att tal-2021 li jemenda l-Kodiċi Kriminali (Emenda Nru 5) u dan l-Att għandu jinqara u jinftiehem ħaġa waħda mal-Kodiċi Kriminali, hawn iżjed 'il quddiem imsejjaħ "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

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

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 Avukat Ġenerali u uffiċjali oħra tal-Avukat Ġenerali."

Sostituzzjoni tal-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 avukati jew prokuraturi 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-rapport jiġi kkonfermat bil-ġurament 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-ġurament 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."

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

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 jerġa' 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-gurnata li fiha għandhom jinstemgħu x-xhieda sabiex huma jew uffiċjal 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-Maġistrati 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-uffiċjal tal-Pulizija" għandhom jiġu sostitwiti bil-kliem "tal-qari tal-akkużi". Emenda tal-artikolu 597 tal-Kodiċi.

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Mgħoddi mill-Kamra tad-Deputati fis-Seduta Nru 467 tal-31 ta' Meju, 2021.

ANĠLU FARRUGIA
Speaker

RAYMOND SCICLUNA
Skrivan tal-Kamra tad-Deputati

I assent.

(L.S.)

GEORGE VELLA
President

4th June, 2021

ACT No. XXVIII of 2021

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. 5) 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

Addition of new article to the Code.

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the following new article:

"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 Commissioner 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."

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."

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

"(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."

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". Amendment of article 397 of the Code.

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.

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Amendment of
article 533 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 550 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 597 of
the Code.

16. In sub-article (4) of article 597 of the Code, the words "the report of the Police officer" shall be substituted by the words "the charges being read".

Passed by the House of Representatives at Sitting No. 467 of the 31st May, 2021.

ANĠLU FARRUGIA
Speaker

RAYMOND SCICLUNA
Clerk of the House of Representatives

