

Suppliment tal-Gazzetta tal-Gvern ta' Malta, Nru. 20,750, 14 ta' Diċembru, 2021
Taqsim A

MALTA

ATT Nru LXIV tal-2021

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

ATT li jemenda l-Kodiċi Kriminali, Kap. 9 u liġijiet oħra dwar reati sesswali u affarijiet oħra li jirrigwardaw persuni minorenni.

ACT No. LXIV of 2021

AN ACT enacted by the Parliament of Malta.

AN ACT to amend the Criminal Code, Cap. 9 and other laws on sexual offences and other matters relating to minors.

Nagħti l-kunsens tiegħi.

(L.S.)

GEORGE VELLA
President

14 ta' Diċembru, 2021

ATT Nru LXIV tal-2021

ATT li jemenda l-Kodiċi Kriminali, Kap. 9 u liġijiet oħra dwar reati sesswali u affarijiet oħra li jirrigwardaw persuni minorenni.

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

1. It-titolu fil-qosor ta' dan l-Att hu l-Att tal-2021 li jemenda Titolu fil-qosor. Liġijiet Varji dwar Reati Sesswali u Affarijiet li jirrigwardaw Persuni Minorenni.

TAQSIMA I
Emendi għall-Kodiċi Kriminali

2. Din it-Taqsima temenda l-Kodiċi Kriminali u għandha tinqara Emendi għall-Kodiċi Kriminali. Kap. 9. u tinftiehem haġa waħda mal-Kodiċi Kriminali, hawn iżjed 'il quddiem f'din it-Taqsima msejjaħ "il-Kodiċi".

3. Fis-subartikolu (1) tal-artikolu 87 tal-Kodiċi l-kliem "minn tleTTax-il xahar sa tliet snin f'kull wieħed mill-każijiet li ġejjin:" għandhom jiġu sostitwiti bil-kliem "minn tleTTax (13)-il xahar sa sitt (6) snin fil-każ li tirriżulta waħda jew iżjed miċ-ċirkostanzi li ġejjin:" Emenda tal-artikolu 87 tal-Kodiċi.

4. Minnufih wara l-artikolu 89 tal-Kodiċi għandu jiżded l- Żieda ta' artikolu ġdid mal-Kodiċi.

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artikolu ġdid li ġejj:

"Rimozzjoni minn Malta ta' minuri bi ksur ta' ordni ta' xi awtorità.

Kap. 602.

89A. (1) Kull min jirrimwovi minn Malta jew iżomm minuri ta' età ta' anqas minn sittax (16)-il sena barra minn Malta bi ksur ta' ordni ta' ħarsien maħruġa minn awtorità kompetenti skont id-dispożizzjonijiet tal-Att dwar il-Protezzjoni tal-Minuri (Ħarsien Alternattiv) jeħel, meta jinstab ħati, il-piena ta' prigunerija minn tlettax (13)-il xahar sa tliet (3) snin.

(2) Għall-finijiet ta' dan l-artikolu:

(a) "jirrimwovi minn Malta" tfisser it-tneħħija minn Malta, anke jekk b'qerq jew ingann, ta' minuri wkoll jekk minn persuna li jkollha awtorità ta' ġenitur fuq il-minuri liema tneħħija tkun tikser ordni mogħtija minn qorti jew ordni ta' ħarsien kif imsemmi fis-subartikolu (1);

(b) "iżomm" tfisser iż-żamma barra minn Malta għal żmien ta' aktar minn tlett (3) ijiem, anke jekk b'qerq jew ingann, ta' minuri wkoll jekk minn persuna li jkollha awtorità ta' ġenitur fuq il-minuri liema żamma tkun tikser ordni mogħtija minn qorti jew ordni ta' ħarsien kif imsemmi fis-subartikolu (1)."

Emenda tal-artikolu 198 tal-Kodiċi.

5. L-artikolu 198 tal-Kodiċi għandu jiġi emendat kif ġejj:

(a) is-subartikolu (1) tiegħu għandu jiġi sostitwit bis-subartikolu ġdid li ġejj:

"(1) Kull min, mingħajr kunsens, jikkommetti kongungiment karnali, jiġifieri penetrazzjoni vaġinali, anali jew orali b'organu sesswali, ta' ġisem ta' persuna oħra, jeħel, meta jinstab ħati, il-piena ta' prigunerija minn sitt (6) snin sa tnax (12)-il sena:

Iżda kull min, mingħajr kunsens, jikkommetti penetrazzjoni vaġinali, anali jew orali b'xi parti oħra tal-ġisem mhux imsemmija fis-subartikolu (1) fuq il-ġisem ta' persuna oħra, jeħel, meta jinstab ħati, il-piena minn tlieta (3) sa disa' (9) snin:

Iżda wkoll penetrazzjoni bi kwalunkwe parti tal-ġisem għandha titqies kompluta hekk kif jinbeda l-kongungiment karnali, u ma jkunx meħtieġ li jingiebu

provi ta' atti ulterjuri.";

(b) minnufih wara s-subartikolu (1) tiegħu għandu jżidded is-subartikolu ġdid li ġej:

"(1A) Kull min, mingħajr kunsens, jikkommetti penetrazzjoni vaġinali, anali jew orali b'oġġett kemm jekk l-oġġett ikun wiehed intiż għall-attivitajiet ta' natura sesswali jew xort' oħra, jeħel, meta jinstab ħati, il-piena ta' priġunerija minn tlieta (3) sa tnax (12)-il sena:

Izda l-penetrazzjoni b'oġġett għandha titqies kompluta hekk kif tinbeda l-penetrazzjoni b'dak l-oġġett, u ma jkunx meħtieġ li jingiebu provi ta' atti ulterjuri.";

(ċ) fis-subartikolu (2) tiegħu l-kliem "msemija fis-subartikolu preċedenti ma' kwalunkwe persuna oħra jeħel, meta jinstab ħati, il-piena ta' priġunerija minn sitt snin sa tnax-il sena." għandhom jiġu sostitwiti bil-kliem "msemija fis-subartikoli preċedenti ma' kwalunkwe persuna oħra jeħel, meta jinstab ħati, il-pieni msemija fl-istess subartikoli."; u

(d) fis-subartikolu (3) tiegħu l-kliem "L-atti msemija fis-subartikolu (1)" għandhom jiġu sostitwiti bil-kliem "L-atti msemija fis-subartikoli (1) u (1A)".

6. L-artikolu 202 tal-Kodiċi għandu jiġi emendat kif ġej:

Emenda tal-artikolu 202 tal-Kodiċi.

(a) il-kliem "żewġ gradi f'kull wiehed mill-każijiet li ġejjin" għandhom jiġu sostitwiti bil-kliem "żewġ gradi fil-każ li tirriżulta waħda jew iżjed miċ-ċirkostanzi li ġejjin";

(b) il-paragrafu (g) tiegħu għandu jiġi sostitwit bil-paragrafu ġdid li ġej:

"(g) meta d-delitt isir fuq persuna li tkun minuri;"

(ċ) il-paragrafu (h) tiegħu għandu jiġi emendat kif ġej:

(i) is-subparagrafu (v) tiegħu għandu jiġi sostitwit bis-subparagrafu ġdid li ġej:

"(v) xi persuna oħra li tkun qiegħda tgħix fl-istess dar bħall-ħati jew li kienet tgħix mal-ħati qabel ma twettaq ir-reat;" u

(ii) is-subparagrafu (vi) tiegħu għandu jiġi sostitwit bis-subparagrafu ġdid li ġej:

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"(vi) persuna oħra li tkun jew kienet f'relazżjoni mal-ħati kemm bil-ħsieb li tizzewweġ u kemm jekk le;"

Emenda tal-artikolu 203 tal-Kodiċi.

7. L-artikolu 203 tal-Kodiċi għandu jiġi emendat kif ġej:

(a) is-subartikolu (1) tiegħu għandu jiġi emendat kif ġej:

(i) fin-nota marginali tiegħu l-kelma "l-età" għandha tiġi sostitwita bil-kliem "taħt is-sittax (16)-il sena";

(ii) fil-proviso tiegħu l-kliem "f'kull wieħed mill-każijiet li ġejjin" għandhom jiġu sostitwiti bil-kliem "fil-każ li tirriżulta waħda jew iżjed miċ-ċirkostanzi li ġejjin"; u

(b) minnufih wara s-subartikolu (1) tiegħu għandu jiżdied is-subartikolu ġdid li ġej:

"(1A) Meta l-għemil ikun kunsenswali bejn il-pari, li jkunu qrib fl-età u fil-livell ta' żvilupp u sa fejn l-atti ma jkunux jinvolvu abbuż fiżiku u, jew psikoloġiku, il-piena għandha titnaqqas bi grad jew żewġ gradi.";

(c) is-subartikolu (2) tiegħu għandu jiġi emendat kif ġej:

(i) fin-nota marginali tiegħu l-kliem "197(4)" għandhom jiġu sostitwiti bil-kliem "197(5)"; u

(ii) il-kliem "197(4)" għandhom jiġu sostitwiti bil-kliem "197(5)"; u

(d) fis-subartikolu (3) tiegħu l-kliem "minuri involuti" għandhom jiġu sostitwiti bil-kliem "persuna ta' taħt is-sittax (16)-il sena involuta".

Emenda tal-artikolu 203A tal-Kodiċi.

8. Fil-proviso għall-artikolu 203A tal-Kodiċi l-kliem "għall-artikolu 203(1)." għandu jiġi sostitwit bil-kliem "għall-artikolu 203(1):" u minnufih wara għandu jiżdied il-proviso ġdid li ġej:

"Iżda wkoll meta l-għemil ikun kunsenswali bejn il-pari, li jkunu qrib fl-età u fil-livell ta' żvilupp u sa fejn l-atti ma jkunux jinvolvu abbuż fiżiku u, jew psikoloġiku, il-piena għandha titnaqqas bi grad jew żewġ gradi.".

- 9.** L-artikolu 204 tal-Kodiċi għandu jiġi emendat kif ġej:
- (a) fil-proviso għas-subartikolu (1) tiegħu l-kliem "f'kull wiehed mill-każijiet li ġejjin" għandhom jiġu sostitwiti bil-kliem "fil-każ li tirriżulta waħda jew iżjed miċ-ċirkostanzi li ġejjin"; u
- (b) fis-subartikolu (2) tiegħu l-kliem "197(4)" għandhom jiġu sostitwiti bil-kliem "197(5)".
- 10.** Fis-subartikolu (2) tal-artikolu 204A tal-Kodiċi l-kliem "għandha tiżdied bi grad, bir-rekluzjoni jew mingħajrha, f'kull wiehed minn dawn il-każijiet li ġejjin:" għandhom jiġu sostitwiti bil-kliem "għandha tiżdied bi grad jew żewġ gradi, bir-rekluzjoni jew mingħajrha, fil-każ li tirriżulta waħda jew iżjed miċ-ċirkostanzi li ġejjin:".
- 11.** Fis-subartikolu (2) tal-artikolu 204B tal-Kodiċi l-kliem "f'kull wiehed minn dawn il-każijiet li ġejjin" għandhom jiġu sostitwiti bil-kliem "fil-każ li tirriżulta waħda jew iżjed miċ-ċirkostanzi li ġejjin".
- 12.** L-artikolu 204Ċ tal-Kodiċi għandu jiġi emendat kif ġej:
- (a) fis-subartikolu (2) tiegħu l-kliem "f'kull wiehed minn dawn il-każijiet li ġejjin" għandhom jiġu sostitwiti bil-kliem "fil-każ li tirriżulta waħda jew iżjed miċ-ċirkostanzi li ġejjin"; u
- (b) minnufih wara s-subartikolu (2) tiegħu għandu jiżdied is-subartikolu ġdid li ġej:
- "(3) Meta l-għemil ikun kunsenswali bejn il-pari, li jkun qrib fl-età u fil-livell ta' żvilupp u sa fejn l-atti ma jkunux jinvolvu abbuż fiżiku u, jew psikoloġiku, il-piena għandha titnaqqas bi grad jew żewġ gradi."
- 13.** Fis-subartikolu (2) tal-artikolu 204D tal-Kodiċi l-kliem "f'kull wiehed mill-każijiet li ġejjin" għandhom jiġu sostitwiti bil-kliem "fil-każ li tirriżulta waħda jew iżjed miċ-ċirkostanzi li ġejjin".
- 14.** Fis-subartikolu (1) tal-artikolu 208A tal-Kodiċi minnufih wara l-kliem "materjal indeċenti" għandhom jiżdiedu l-kliem "li jkun jinvolvi jew juri persuni ta' taħt l-età".
- 15.** L-artikolu 208AA tal-Kodiċi għandu jiġi emendat kif ġej:
- (a) is-subartikolu (1) tiegħu għandu jiġi sostitwit bis-

Emenda tal-artikolu 204 tal-Kodiċi.

Emenda tal-artikolu 204A tal-Kodiċi.

Emenda tal-artikolu 204B tal-Kodiċi.

Emenda tal-artikolu 204Ċ tal-Kodiċi.

Emenda tal-artikolu 204D tal-Kodiċi.

Emenda tal-artikolu 208A tal-Kodiċi.

Emenda tal-artikolu 208AA tal-Kodiċi.

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subartikolu ġdid li ġejj:

"Laqgħa ma' tifel wara preparazzjoni sesswali eċċ.

(1) Kull persuna ta' tmintax (18)-il sena jew aktar li tkun iltaqgħet jew ikkomunikat ma' persuna ta' taħt l-età ta' sittax (16)-il sena f'okkażjoni waħda jew iżjed, li intenzjonalment tiltaqa' jew b'kull mezz tipproponi li tiltaqa' jew tirranga biex tiltaqa' mal-imsemmija persuna ta' taħt l-età ta' sittax (16)-il sena li hija ma tkunx temmen raġjonevolment illi hija ta' età ta' iżjed minn sittax (16)-il sena, bil-ħsieb li tagħmel xi haġa lil jew dwar l-imsemmija persuna ta' età ta' taħt is-sittax (16)-il sena waqt jew wara l-imsemmija laqgħa li jekk issir tkun tinvolvi t-twettiq ta' xi wieħed mir-reati fl-artikoli 204, 204A sa 204D, it-tnejn inklużi, jew 208A, tehel meta tinstab hatja l-piena ta' prigunerija għal żmien ta' mhux iżjed minn sitt (6) snin.";

(b) is-subartikolu (2) tiegħu għandu jiġi emendat kif ġejj:

(i) il-kliem "f'kull wieħed mill-kazijiet li ġejjin" għandhom jiġu sostitwiti bil-kliem "fil-kaz li tirriżulta waħda jew iżjed miċ-ċirkostanzi li ġejjin";

(ii) fil-paragrafu (a) tiegħu l-kliem "persuna ta' taħt l-età" għandhom jiġu sostitwiti bil-kliem "persuna ta' taħt l-età ta' sittax (16)-il sena"; u

(iii) fil-paragrafu (d) tiegħu l-kliem "persuna ta' taħt l-età" għandhom jiġu sostitwiti bil-kliem "persuna ta' taħt l-età ta' sittax (16)-il sena".

Emenda tal-artikolu 208AB tal-Kodiċi.

16. Is-subartikolu (2) tal-artikolu 208AB tal-Kodiċi għandu jiġi emendat kif ġejj:

(a) il-kliem "f'kull wieħed mill-kazijiet li ġejjin" għandhom jiġu sostitwiti bil-kliem "fil-kaz li tirriżulta waħda jew iżjed miċ-ċirkostanzi li ġejjin";

(b) fil-paragrafu (a) tiegħu l-kliem "ta' taħt l-età" għandhom jiġu mħassra; u

(ċ) fil-paragrafu (d) tiegħu l-kliem "fuq persuna taħt l-età" għandhom jiġu sostitwiti bil-kliem "fuq il-persuna".

- 17.** Is-subartikolu (1) tal-artikolu 208AĊ tal-Kodiċi għandu jiġi emendat kif ġej:
- Emenda tal-artikolu 208AĊ tal-Kodiċi.
- (a) il-kliem "f'kull każ minn dawn li ġejjin" għandhom jiġu sostitwiti bil-kliem "fil-każ li tirriżulta waħda jew iżjed miċ-ċirkostanzi li ġejjin"; u
- (b) fil-paragrafu (a) tiegħu l-kliem "ta' taht l-età" għandhom jiġu mħassra.
- 18.** L-artikolu 208B tal-Kodiċi għandu jiġi emendat kif ġej:
- Emenda tal-artikolu 208B tal-Kodiċi.
- (a) fin-nota marginali tiegħu minnufih wara l-kelma "artikoli" għandha tiżdied il-kelma "198,";
- (b) fis-subartikolu (1) tiegħu l-kelma "l-artikolu" għandha tiġi sostitwita bil-kliem "l-artikoli 198,"; u
- (c) fis-subartikolu (6) tiegħu l-kliem "mill-ġurnata meta l-vittma tkun tal-età" għandhom jiġu sostitwiti bil-kliem "mill-ġurnata meta l-vittma tilhaq l-età ta' tlieta u għoxrin (23) sena".
- 19.** L-artikolu 209A tal-Kodiċi għandu jiġi mħassar.
- Thassir tal-artikolu 209A tal-Kodiċi.
- 20.** Xejn f'din it-Taqsima ma għandu jiġi interpretat bħala li jerga' jdahhal fis-sehħ xi perjodu ta' preskrizzjoni li jkun skada mad-dhul fis-sehħ ta' dan l-Att.
- Dispożizzjoni tranżitorja.

TAQSIMA II

Emendi għall-Att dwar il-Qorti tal-Minorenni

- 21.** Din it-Taqsima temenda l-Att dwar il-Qorti tal-Minorenni u għandha tinqara u tinftiehem haġa waħda mal-Att dwar il-Qorti tal-Minorenni, hawn iżjed 'il quddiem f'din it-Taqsima msejjaħ "l-Att prinċipali".
- Emendi għall-Att dwar il-Qorti tal-Minorenni. Kap. 287.
- 22.** Fl-artikolu 2 tal-Att prinċipali, fit-tifsira "tifel jew zaġżuġh", il-kliem "l-età ta' sittax il-sena" għandhom jiġu sostitwiti bil-kliem "l-età ta' tmintax (18)-il sena".
- Emenda tal-artikolu 2 tal-Att prinċipali.
- 23.** L-artikolu 6 tal-Att prinċipali għandu jiġi emendat kif ġej:
- Emenda tal-artikolu 6 tal-Att prinċipali.
- (a) fis-subartikolu (1) tiegħu l-kliem "laħqet l-età ta' sittax il-sena" għandhom jiġu sostitwiti bil-kliem "laħqet l-età ta' tmintax (18)-il sena";
- (b) fis-subartikolu (2) tiegħu l-kliem "tkun taht l-età ta' sittax il-sena" għandhom jiġu sostitwiti bil-kliem "tkun taht l-età

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ta' tmintax (18)-il sena"; u

(ċ) is-subartikolu (3) tiegħu għandu jiġi mhassar u minnufih wara s-subartikolu (2) għandhom jiżdedu s-subartikoli godda li ġejjin:

"Meta tifel jew żagħżuġh ikun akkużat flimkien ma' persuna tal-età.

(3) Minkejja d-dispożizzjonijiet tal-artikolu 3 u tas-subartikoli (1) u (2), ikun skont il-liġi li tifel jew żagħżuġh jiġi akkużat quddiem qorti li ma tkunx il-Qorti tal-Minorenni meta tifel jew żagħżuġh ikun akkużat flimkien ma' persuna oħra li ma tkunx tifel jew żagħżuġh.

Trasferiment ta' ġuriżdizzjoni.

(4) Meta tifel jew żagħżuġh jiġi akkużat quddiem qorti li ma tkunx il-Qorti tal-Minorenni flimkien ma' persuna oħra li ma tkunx tifel jew żagħżuġh dik il-qorti għandha tinnotifika lill-Qorti tal-Minorenni bl-akkużi u l-Qorti tal-Minorenni għandha, wara li tagħti opportunità lill-partijiet fil-każ jagħmlu sottomissjonijiet dwar jekk hija għandhiex tisma' l-każ kontra t-tifel jew żagħżuġh separatament jew jekk għandhiex tittrasferixxi l-ġuriżdizzjoni tagħha lill-qorti li quddiemha jkunu saru l-akkużi sabiex tippermetti lil dik il-qorti biex tipproċedi bis-smiġh tal-każ, tiddeċiedi jekk tittrasferixxi l-ġuriżdizzjoni tagħha dwar it-tifel jew żagħżuġh lill-qorti li quddiemha t-tifel jew żagħżuġh ikun jinsab akkużat.

(5) Fil-każ li l-Qorti tal-Minorenni tiddeċiedi li ma għandux isir trasferiment ta' ġuriżdizzjoni lill-qorti li quddiemha jkunu saru l-akkużi, il-qorti li quddiemha jkunu saru l-akkużi għandha tordna s-separazzjoni tal-proċeduri kontra t-tifel jew żagħżuġh mill-kumpliment tal-proċeduri u għandha tibgħat il-kawża kontra t-tifel jew żagħżuġh biex tinstema' separatament quddiem il-Qorti tal-Minorenni. F'dak il-każ il-prosekuzzjoni għandha twettaq dak kollu li jkun meħtieġ għal dak l-għan.

(6) Meta l-Qorti tal-Minorenni tittrasferixxi jew tiċhad li tittrasferixxi l-ġuriżdizzjoni tagħha skont is-subartikolu (4):

(a) ma jista' jsir ebda appell mid-deċiżjoni li l-ġuriżdizzjoni tiġi jew ma tiġix trasferita jew minn xi deċiżjoni li timplimenta xi trasferiment hekk ordnat; u

(b) meta t-trasferiment tal-ġurizdizzjoni jsir, id-dispożizzjonijiet tal-artikolu 8 għandhom japplikaw *mutatis mutandis* għall-qorti li lilha tkun ġiet trasferita l-ġurizdizzjoni dwar il-proċeduri sa fejn dawn ikunu dwar it-tifel jew żagħżuġ daqslikieku kull referenza f'dak l-artikolu għall-Qorti tal-Minorenni kienet referenza għall-qorti li lilha tkun ġiet trasferita l-ġurizdizzjoni."

24. Fl-artikolu 10 tal-Att prinċipali l-kliem "Ebda tifel jew żagħżuġ li ma jkunx ma'" għandhom jiġu sostitwiti bil-kliem "Ebda persuna taħt l-età ta' sittax (16)-il sena li ma jkunx ma'" u l-kliem "u kull tifel jew żagħżuġ li jkun preżenti fil-qorti" għandhom jiġu sostitwiti bil-kliem "u kull persuna taħt l-età ta' sittax (16)-il sena li jkun preżenti fil-qorti".

Emenda tal-artikolu 10 tal-Att prinċipali.

25. Xejn f'din it-Taqsima ma għandu jkollu effett fuq il-validità jew fuq it-komplija ta' kull proċeduri mibdija qabel id-dhul fis-seħh ta' din it-Taqsima ta' dan l-Att skont l-Att dwar il-Qorti tal-Minorenni kif fis-seħh fiż-żmien meta jkunu nb dew dawk il-proċeduri.

Dispożizzjoni tranżitorja.

Kap. 287.

TAQSIMA III

Emenda għall-Att dwar it-Trattament Xieraq tal-Animali

26. Din it-Taqsima temenda l-Att dwar it-Trattament Xieraq tal-Animali u għandha tinqara u tintfiehmed haġa waħda mal-Att dwar it-Trattament Xieraq tal-Animali, hawn iżjed 'il quddiem f'din it-Taqsima msejjaħ "l-Att prinċipali".

Emenda għall-Att dwar it-Trattament Xieraq tal-Animali. Kap. 439.

27. Is-subartikolu (2) tal-artikolu 8 tal-Att prinċipali għandu jiġi sostitwit bis-subartikolu ġdid li ġej:

Emenda tal-artikolu 8 tal-Att prinċipali.

"(2) L-ebda animal ma għandu jiġi mgiegħel isofri uġiġh, tbatija jew dwejjaq mingħajr bżonn jew jiġi soġġett għal attivitajiet li ma jkunux fin-natura tiegħu. L-ebda animal ma jista' jiġi abbandunat:

Iżda għall-fini ta' dan is-subartikolu, il-kliem "attivitajiet li ma jkunux fin-natura tiegħu" jinkludu attivitajiet ta' natura sesswali bejn persuna u animal sew jekk b'xi parti tal-ġisem sew jekk b'xi oġġett."

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TAQSIMA IV
Emenda għall-Att dwar is-Saħha

Emenda għall-
Att dwar is-
Saħha.
Kap. 528.

28. Din it-Taqsima temenda l-Att dwar is-Saħha u għandha tinqara u tinftiehem haġa waħda mal-Att dwar is-Saħha, hawn iżjed 'il quddiem f'din it-Taqsima msejjaħ "l-Att prinċipali".

Emenda tal-
artikolu 27 tal-
Att prinċipali.

29. Minnufih wara s-subartikolu (3) tal-artikolu 27 tal-Att prinċipali għandu jiżdied is-subartikolu ġdid li ġej:

"(4) Kull referenza f'dan l-artikolu għal trattament għandha titqies li tinkludi referenza għal trattament psikjatriku u għall-*counselling*".

Mgħoddi mill-Kamra tad-Deputati fis-Seduta Nru 529 tas-7 ta' Diċembru, 2021.

ANĠLU FARRUGIA
Speaker

RAYMOND SCICLUNA
Skrivan tal-Kamra tad-Deputati

I assent.

(L.S.)

GEORGE VELLA
President

14th December, 2021

ACT No. LXIV of 2021

AN ACT to amend the Criminal Code, Cap. 9 and other laws on sexual offences and other matters relating to minors.

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 Various Laws relating to Sexual Offences and Matters relating to Minors (Amendment) Act, 2021. Short title.

PART I
Amendments to the Criminal Code

2. This Part amends the Criminal Code and it shall be read and construed as one with the Criminal Code, hereinafter in this Part referred to as "the Code". Amendments to the Criminal Code. Cap. 9.

3. In sub-article (1) of article 87 of the Code, the words "from thirteen months to three years in each of the following cases:" shall be substituted by the words "from thirteen (13) months to six (6) years if any one or more of the following circumstances results:". Amendment of article 87 of the Code.

4. Immediately after article 89 of the Code there shall be added Addition of new article to the Code.

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the following new article:

"Removal from Malta of a minor in breach of an order of any authority. Cap. 602.

89A. (1) Whosoever removes from Malta or retains a minor under the age of sixteen (16) years abroad in breach of an order given by the Maltese court or in breach of a care order issued by a competent authority in accordance with the Minor Protection (Alternative Care) Act shall, on conviction, be liable to imprisonment from thirteen (13) months to three (3) years.

(2) For the purposes of this article:

(a) "removes from Malta" means the removal from Malta of a minor, even if by deceit or fraud and even if by a person having parental authority over the minor in breach of a court order or of a care order as referred to in sub-article (1);

(b) "retain" means the retention outside Malta for a period of more than three (3) days of a minor, even if by deceit or fraud and even if by a person having parental authority over the minor in breach of a court order or of a care order as referred to in sub-article (1)."

Amendment of article 198 of the Code.

5. Article 198 of the Code shall be amended as follows:

(a) sub-article (1) thereof shall be substituted by the following new sub-article:

"(1) Whosoever shall engage in non-consensual carnal connection, that is to say, vaginal, anal or oral penetration with any sexual organ of the body of another person, shall, on conviction, be liable to imprisonment for a term from six (6) to twelve (12) years:

Provided that whosoever shall engage in non-consensual vaginal, anal, or oral penetration with any other part of the body not mentioned in sub-article (1) on the body of another person, shall, on conviction, be liable to imprisonment for a term from three (3) to nine (9) years:

Provided further that penetration with any bodily part shall be deemed to be complete by its commencement, and it shall not be necessary to prove any further acts.";

(b) immediately after sub-article (1) thereof there shall be added the following new sub-article:

"(1A) Whosoever shall engage in non-consensual vaginal, anal or oral penetration of a sexual nature with an object, whether the object is intended for activities of a sexual nature or otherwise, shall, on conviction, be liable to imprisonment for a term from three (3) to twelve (12) years:

Provided that penetration with an object shall be deemed to be complete by the commencement of the penetration with that object, and it shall not be necessary to prove any further acts.";

(c) in sub-article (2) thereof the words "in the preceding sub-article with any person shall, on conviction, be liable to imprisonment for a term from six to twelve years." shall be substituted by the words "in the preceding sub-articles with any person shall, on conviction, be liable to the punishment mentioned in the same sub-articles."; and

(d) in sub-article (3) thereof the words "The acts referred to in sub-article (1)" shall be substituted by the words "The acts referred to in sub-articles (1) and (1A)".

6. Article 202 of the Code shall be amended as follows:

Amendment of article 202 of the Code.

(a) the words "two degrees in each of the following cases" shall be substituted by the words "two degrees if any one or more of the following circumstances results";

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

"(g) when the offence is committed on a minor";

(c) paragraph (h) thereof shall be amended as follows:

(i) sub-paragraph (v) thereof shall be substituted by the following new sub-paragraph:

"(v) another person living in the same household as the offender or who had lived with the offender before the offence was committed."; and

(ii) sub-paragraph (vi) thereof shall be substituted by the following new sub-paragraph:

"(vi) another person who is or was in a relationship with the offender whether with the

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intention of marriage or not;".

Amendment of
article 203 of
the Code.

7. Article 203 of the Code shall be amended as follows:

(a) sub-article (1) thereof shall be amended as follows:

(i) in the marginal note of sub-article (1) thereof the word "minors" shall be substituted by the words "persons under sixteen (16) years of age";

(ii) in the proviso thereof the words "in each of the following cases" shall be substituted by the words "where any one or more of the circumstances results";

(b) immediately after sub-article (1) thereof there shall be added the following new sub-article:

"(1A) When the act is consensual between peers who are close in age and in the level of development and provided that the acts do not involve physical and, or psychological abuse, the punishment shall be decreased by one or two degrees.";

(c) sub-article (2) thereof shall be amended as follows:

(i) in the marginal note thereof the word "197 (4)" shall be substituted by the word "197(5)"; and

(ii) the word "197(4)" shall be substituted by the word "197(5)"; and

(d) in sub-article (3) thereof the words "minors involved" shall be substituted by the words "person under the age of sixteen (16) involved".

Amendment of
article 203A of
the Code.

8. In the proviso to article 203A of the Code the words "to article 203(1)." shall be substituted by the words "to article 203(1):" and immediately thereafter there shall be added the following new proviso:

"Provided further that when the act is consensual between peers who are close in age and in the level of development and provided that the acts do not involve physical and, or psychological abuse, the punishment shall be decreased by one or two degrees.".

Amendment of
article 204 of
the Code.

9. Article 204 of the Code shall be amended as follows:

(a) in the proviso to sub-article (1) thereof the words "in each of the following cases" shall be substituted by the words "if

any one or more of the following circumstances results"; and

(b) in sub-article (2) thereof the word "197(4)" shall be substituted by the word "197(5)".

10. In sub-article (2) of article 204A of the Code the words "increased by one degree, with or without solitary confinement, in each of the following cases:" shall be substituted by the words "increased by one or two degrees, with or without solitary confinement, if any one or more of the following circumstances results:". Amendment of article 204A of the Code.

11. In sub-article (2) of article 204B of the Code the words "in each of the following cases" shall be substituted by the words "if any one or more of the following circumstances results". Amendment of article 204B of the Code.

12. Article 204C of the Code shall be amended as follows: Amendment of article 204C of the Code.

(a) in sub-article (2) thereof the words "in each of the following cases" shall be substituted by the words "if any one or more of the following circumstances results"; and

(b) immediately after sub-article (2) thereof there shall be added the following new sub-article:

"(3) When the act is consensual between peers who are close in age and in the level of development and provided that the acts do not involve physical and, or psychological abuse, the punishment shall be decreased by one or two degrees."

13. In sub-article (2) of article 204D of the Code the words "in each of the following cases" shall be substituted by the words "if any one or more of the following circumstances results". Amendment of article 204D of the Code.

14. In sub-article (1) of article 208A of the Code immediately after the words "indecent material" there shall be added the words "involving or showing persons under age". Amendment of article 208A of the Code.

15. Article 208AA of the Code shall be amended as follows: Amendment of article 208AA of the Code.

(a) sub-article (1) thereof shall be substituted by the

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following new sub-article:

"Meeting a child following sexual grooming etc.

(1) Whosoever being a person aged eighteen (18) years or over who has met or communicated with a person under the age of sixteen (16) years on one or more occasions intentionally meets or by any means proposes to meet or arranges to meet the said person under the age of sixteen (16) years, who he does not reasonably believe to be over the age of sixteen (16) years, intending to do anything to or in respect of the said person under the age of sixteen (16) years during or after the said meeting which if done would involve the commission of any of the offences in articles 204, 204A to 204D, both included, or 208A, shall be liable on conviction to the punishment of imprisonment not exceeding six (6) years.";

(b) sub-article (2) thereof shall be amended as follows:

(i) the words "in each of the following cases" shall be substituted by the words "if any one or more of the following circumstances results";

(ii) in paragraph (a) thereof the words "under age" shall be substituted by the words "under the age of sixteen (16) years"; and

(iii) in paragraph (d) thereof the words "person under age" shall be substituted by the words "the person under the age of sixteen (16) years".

Amendment of article 208AB of the Code.

16. Sub-article (2) of article 208AB of the Code shall be amended as follows:

(a) the words "in each of the following cases" shall be substituted by the words "if any one or more of the following circumstances results";

(b) in paragraph (a) thereof the words "under age" shall be deleted; and

(c) in paragraph (d) thereof the words "over the person under age" shall be substituted by the words "over the person".

Amendment of article 208AC of the Code.

17. Sub-article (1) of article 208AC of the Code shall be amended as follows:

(a) the words "in each of the following cases" shall be substituted by the words "where any one or more of the following circumstances results"; and

(b) in paragraph (a) thereof the words "under age" shall be deleted.

18. Article 208B of the Code shall be amended as follows:

Amendment of article 208B of the Code.

(a) in the marginal note thereof immediately after the word "articles" there shall be added the word "198,";

(b) in sub-article (1) thereof immediately after the word "articles" there shall be added the word "198,"; and

(c) in sub-article (6) thereof the words "from the day on which the victim attains the age of majority" shall be substituted by the words "from the day on which the victim attains the age of twenty-three (23) years".

19. Article 209A of the Code shall be deleted.

Deletion of article 209A of the Code.

20. Nothing in this Part shall be interpreted as reviving any period of prescription which had lapsed at the time when this Act came into force.

Transitory provision.

PART II

Amendments to the Juvenile Court Act

21. This Part amends the Juvenile Court Act and it shall be read and construed as one with the Juvenile Court Act, hereinafter in this Part referred to as "the principal Act".

Amendments to the Juvenile Court Act. Cap. 287.

22. In article 2 of the principal Act, in the definition "child or young person", the words "sixteen years" shall be substituted by the words "eighteen (18) years".

Amendment of article 2 of the principal Act.

23. Article 6 of the principal Act shall be amended as follows:

Amendment of article 6 of the principal Act.

(a) in sub-article (1) thereof the words "has attained the age of sixteen years" shall be substituted by the words "has attained the age of eighteen (18) years";

(b) in sub-article (2) thereof the words "is under the age of sixteen years" shall be substituted by the words "is under the age of eighteen (18) years"; and

(c) sub-article (3) thereof shall be deleted and immediately

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after sub-article (2) there shall be added the following new sub-articles:

"Child or young person charged jointly with other person of age.

(3) Notwithstanding the provisions of article 3 and of sub-articles (1) and (2), it shall be lawful to charge a child or young person before a court other than the Juvenile Court when the child or young person is charged jointly with another person who is not a child or young person.

Transfer of jurisdiction.

(4) Where a child or young person is charged before a court other than the Juvenile Court jointly with any other person not being a child or young person that court shall notify the Juvenile Court of the charges and the Juvenile Court shall, after granting an opportunity to the parties to the case to make their submissions on whether it should hear the case against the child or young person separately or whether it should transfer its jurisdiction to the court before which the charges were made in order to allow that court to proceed with the hearing of the case, decide whether to transfer its jurisdiction in respect of the child or young person to the court before which the child or young person stands so charged.

(5) Where the Juvenile Court decides that a transfer of jurisdiction to the court before which the charges were made should not take place, the court before which the charges were made shall order the separation of the proceedings against the child or young person from the rest of the proceedings and it shall send the case against the child or young person to be heard separately before the Juvenile Court. In such a case the prosecution shall do all that is necessary for that purpose.

(6) Where the Juvenile Court transfers or declines to transfer its jurisdiction in terms of sub-article (4):

(a) no appeal shall lie from the decision to transfer or to decline to transfer jurisdiction or from any decision which implements any transfer so ordered; and

(b) where the transfer of jurisdiction is made the provisions of article 8 shall *mutatis mutandis* apply to the court to which jurisdiction is transferred in respect of the proceedings insofar as they concern the child or young person as if any reference in that article to the Juvenile Court were a reference to the court to which jurisdiction was transferred."

24. In article 10 of the principal Act the words "No child or young person who is not accompanied" shall be substituted by the words "No person under the age of sixteen (16) years who is not accompanied" and the words "any child or young person present in court" shall be substituted by the words "any person under the age of sixteen (16) years present in court".

Amendment of article 10 of the principal Act.

25. Nothing in this Part shall affect the validity or the continuation of any proceedings commenced before the coming into force of this Act in accordance with the Juvenile Court Act as in force at the time of the commencement of the said proceedings.

Transitory provision.

Cap. 287.

PART III

Amendment to the Animal Welfare Act

26. This Part amends the Animal Welfare Act and it shall be read and construed as one with the Animal Welfare Act, hereinafter in this Part referred to as "the principal Act".

Amendment to the Animal Welfare Act. Cap. 439.

27. Sub-article (2) of article 8 of the principal Act shall be substituted by the following new sub-article:

Amendment of article 8 of the principal Act.

"(2) Animals shall not be caused any unnecessary pain, suffering or distress or be subjected to activities which are not in their nature. No animal shall be abandoned:

Provided that for the purposes of this sub-article, the words "activities which are not in their nature" include activities of a sexual nature between a person and an animal whether by any part of the body or by any object."

PART IV

Amendment to the Health Act

28. This Part amends the Health Act and it shall be read and construed as one with the Health Act, hereinafter in this Part referred to as "the principal Act".

Amendment to the Health Act. Cap. 528.

29. Immediately after sub-article (3) of article 27 of the principal Act there shall be added the following new sub-article:

Amendment of article 27 of the principal Act.

"(4) In this article any reference to treatment shall be deemed to include a reference to psychiatric treatment and to counselling."

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Passed by the House of Representatives at Sitting No. 529 of the 7th
December, 2021.

ANĠLU FARRUGIA
Speaker

RAYMOND SCICLUNA
Clerk of the House of Representatives

