

Nru. 141

1. 7. 86

MALTA

KAMRA TAD-DEPUTATI

HOUSE OF REPRESENTATIVES

ABBOZZ ta' Liġi mressaq mill-Onorevoli Joseph Cassar, M.P., Deputat Prim Ministru Anzjan u Ministru tal-Gustizzja u Affarijiet tal-Parlament u moqri għall-Ewwel darba fis-Seduta ta' l-14 ta' April, 1986.

A BILL introduced by the Honourable Joseph Cassar, M.P., Senior Deputy Prime Minister and Minister of Justice and Parliamentary Affairs and read the First time at the Sitting of the 14th April, 1986.

ATT biex ikompli jemenda l-Ordinanza dwar l-Armi, Kap. 106.

AN ACT further to amend the Arms Ordinance, Cap. 106.

C. MIFSUD

Skrivan tal-Kamra tad-Deputati

C. MIFSUD

Clerk to the House of Representatives

ABBOZZ TA' LIĠI

msejjah

ATT biex ikompli jemenda l-Ordinanza dwar l-Armi, Kap. 106.

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

1. Dan l-Att jista' jissejjah l-Att ta' l-1986 li jemenda l-Ordinanza dwar l-Armi u għandu jinqara u jiftihem haġa waħda ma' l-Ordinanza dwar l-Armi, hawnhekk iżjed 'il quddiem imsejha "il-liġi prinċipali".

Titolu fil-qosor.

2. L-artikolu 3 tal-liġi prinċipali għandu jiġi emendat kif ġej:

Jemenda
l-artikolu 3
tal-liġi
prinċipali.

(a) minflok is-subartikolu (1) tiegħu għandu jidhol dan li ġej:

“(1) Kull min, mingħajr liċenza tal-Kummissarju tal-Pulizija, iżomm f'xi fond arma tan-nar jew munizzjon jeħel, meta jinsab ħati, il-piena ta' prigunerija għal żmien ta' minn tliet xhur sa tliet snin:

Iżda meta wara li tkun ġiet ikkunsidrata il-kwantità jew il-kwalità ta' dawk l-armi tan-nar jew munizzjon, il-Qorti tkun tal-fehma illi dawn ma kienux qed jinżammu sabiex isir bejgħ jew traffikar ieħor kontra l-liġi b'dawk l-armi tan-nar jew munizzjon, il-ħati jeħel il-piena ta' multa ta' mhux inqas minn tletin lira Maltija jew prigunerija għal żmien ta' mhux iżjed minn tliet xhur, jew dik il-multa u prigunerija flimkien.”;

(b) minnufih wara s-subartikolu (1) tiegħu għandu jidhol dan is-subartikolu ġdid:

“(1A) Kull min, mingħajr liċenza tal-Kummissarju tal-Pulizija, ikollu fil-pussess jew kontroll tiegħu, jew ikollu f'idejha jew fuqu, xi arma tan-nar jew munizzjon barra minn fond jew post li jagħmel miegħu, jeħel, meta jinsab ħati, il-piena ta' prigunerija għal żmien ta' minn xahrejn sa sentejn;

Iżda meta wieħed jikser id-dispożizzjonijiet ta' dan is-subartikolu minhabba fil-bżonn attwali tad-difiża legittima tiegħu innifsu jew ta' haddieħor, huwa ma jehel ebda piena,"; u

(ċ) fis-subartikolu (2) tiegħu, minflok il-kliem "F'din il-liċenza" għandhom jidhlu l-kliem "F'xi liċenza bhal din".

Sostituzzjoni
tal-artikolu
4 tal- liġi
prinċipali.

Kap. 60

3. Minflok l-artikolu 4 tal-liġi prinċipali għandu jidhlo dan li ġej:

"4. (1) Bla preġudizzju għad-dispożizzjonijiet ta' l-Ordinanza tad-Dwana jew ta' xi liġi oħra, kull min, minoħajr liċenza tal-Kummissariju tal-Pulizija, jimporta jew idahħal f'Malta, jew jesporta minn Malta xi arma tan-nar jew munizzjon, u kull min iġieġhel li tiġi mportata, imdahħla f'Malta, jew esportata minn Malta, jew xjentement jehin jew jassisti fi kwalunkwe mod fl-importazzjoni jew dħul, jew fl-esportazzjoni minn Malta ta' xi arma tan-nar jew munizzjon, jehel, meta jinsab ħati, il-piena ta' prigunerija għal żmien minn tliet xhur sa ħames snin.

(2) Kull min ibieġh jew b'xi mod ieħor iittraffika f'xi arma tan-nar jew munizzjon jew iżomm jew jesponi għall-beieġh jew għal xi traffikar ieħor xi arma tan-nar jew xi munizzjon minoħajr ma jkollu liċenza, jew awtorizzazzjoni minn qabel bil-miktub, mill-Kummissariju tal-Pulizija, jehel, meta jinsab ħati, il-piena ta' prigunerija għal żmien minn tliet xhur sa ħames snin.

(3) Kull min iittraffika f'armi regolari, li ma humiex armi tan-nar, jew iżomm jew jesponi għall-beieġh l-imsemmija armi regolari minoħajr ma jkollu liċenza mill-Kummissariju tal-Pulizija, jehel, meta jinsab ħati, il-piena ta' multa ta' mhux inqas minn għoxrin lira Maltija jew prigunerija għal żmien ta' mhux iżjed minn sitt xhur, jew dik il-multa u prigunerija flimkien."

Jemenda
l-artikolu 5
tal-liġi
prinċipali.

4. Fl-artikolu 5 tal-liġi prinċipali, minflok il-kliem "tal-multa" għandhom jidhlu l-kliem "ta' multa ta' mhux inqas minn mitt lira Maltija".

Jemenda
l-artikolu 9
tal-liġi
prinċipali.

5. Fis-subartikolu (3) ta' l-artikolu 9 tal-liġi prinċipali, minflok il-kliem "tal-multa" għandhom jidhlu l-kliem "ta' multa ta' mhux inqas minn tletin lira Maltija".

Jemenda
l-artikolu 12
tal-liġi
prinċipali.

6. Fis-subartikolu (1) ta' l-artikolu 12 tal-liġi prinċipali, minflok il-kliem "Il-persuni fis-servizz navali, militari jew ta' l-airu tal-Maestà Tiegħu r-Re jew fil-Korp tal-Pulizija" għandhom jidhlu l-kliem "Persuni fil-Forzi Armati ta' Malta jew fil-Korp tal-Pulizija ta' Malta".

Jemenda
l-artikolu 18
tal-liġi
prinċipali.

7. Fl-artikolu 18 tal-liġi prinċipali, minnufih wara l-kliem "liċenza maħruġa" għandhom jidhlu l-kliem "jew awtorizzazzjoni bil-miktub mogħtija".

Jemenda
l-artikolu 19
tal-liġi
prinċipali.

8. Fl-artikolu 19 tal-liġi prinċipali, minnufih wara l-kelma "arma tan-nar" għandha tidhlo il-kelma "munizzjon".

Jemenda
l-artikolu 20
tal-liġi
prinċipali.

9. L-artikolu 20 tal-liġi prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu —

(i) minnufih wara l-kliem "arma tan-nar" għandha tidhlo il-kelma "munizzjon";

(ii) minflok il-kliem "din l-arma tkun tinsab" għandhom jidhlu l-kliem "din l-arma jew munizzjon ikunu jinsabu"; u

(b) fis-subartikolu (2) tiegħu, minnufih wara l-kelma "arma tan-nar" għandha tidhol il-kelma "munizzjon".

10. Fl-artikolu 21 tal-liġi prinċipali minnufih wara l-kliem "arma tan-nar" għandha tidhol il-kelma "munizzjon".

Jemenda
l-artikolu 21
tal-liġi
prinċipali.

11. Minnufih wara l-artikolu 22 tal-liġi prinċipali għandha tidhol din il-proviso ġdida:

Jemenda
l-artikolu 22
tal-liġi
prinċipali.

"Izda meta dawn l-armi jkunu jikkonsistu f'armi tan-nar li jkunu għadhom jiffunzjonaw, kull min jiġi f'pussess ta' xi arma bħal din għandu, fi żmien tletin jum, jirreġistra dawn l-armi tan-nar għand il-Kummissarju tal-Pulizija, u fin-nuqqas li jagħmel dan, jehel, meta jinsab haati, multa."

12. Fl-artikolu 19, fil-paragrafu (ċ) tas-subartikolu (1) ta' l-artikolu 25 u fis-subartikolu (2) ta' l-artikolu 25 tal-liġi prinċipali fit-test Malti, minflok il-kliem "ponn tal-hadid" għandhom jidhlu l-kliem "ponn tal-hadid jew ta' metall ieħor".

Jemenda
t-test Malti
tal-artikoli
19 u 25 (1) (c)
(2) tal-liġi
prinċipali.

13. Minflok l-artikolu 27 tal-liġi prinċipali għandu jidhol dan li ġej:

Sostituzzjoni
tal-artikolu 27
tal-liġi prinċipali.

"Ma jappli-
kawx l-Att
ta'
l-1957
dwar il-
Probation
ta'
Haatin, u
l-artikolu
23A tal-
Kodiċi
Kriminali.

27. Id-dispożizzjonijiet ta' l-Att ta' l-1957 dwar il-*Probation* ta' Haatin u ta' l-artikolu 23A tal-Kodiċi Kriminali ma japplikaw għal ebda reat kontra d-dispożizzjonijiet ta' din l-Ordinanza."

14. Minnufih wara l-artikolu 27 tal-liġi prinċipali għandhom jizdiedu dawn l-artikoli ġodda:

Żieda ta'
artikoli ġodda
mal-liġi
prinċipali.

"Ir-reati
jinqiebu
quddiem
il-Qorti
tal-
Pulizija
Gudizzjarja
bħala
Qorti
ta'
Gudikatura
Kriminali.

28. Minkejja d-dispożizzjonijiet ta' l-artikolu 382 tal-Kodiċi Kriminali, huma ta' kompetenza tal-Qorti tal-Maġistrati tal-Pulizija Gudizzjarja r-reati kollha kontra din l-Ordinanza.

Proċedimenti
dwar reati.

29. Bla ħsara għad-dispożizzjonijiet ta' l-artikolu 28, il-proċedimenti kontra kull persuna għal xi reat kontra d-dispożizzjonijiet ta' din l-Ordinanza għandhom isiru quddiem il-Qorti tal-Maġistrati tal-Pulizija Gudizzjarja bħala Qorti ta' Gudikatura Kriminali skond id-dispożizzjonijiet tal-Kodiċi Kriminali.

Izda, minkejja d-dispożizzjonijiet ta' l-artikolu 388(1) (b) tal-Kodiċi Kriminali, il-Qorti għandha, fuq talba tal-prosekuzzjoni jew ta' l-akkuzat, tniżżel ix-xieħda mogħtija mix-xieħda bil-mod provdut jew fl-artikolu 403(6) ta' l-istess Kodiċi jew f'xi liġi oħra li tkun isseħħ f'dak iż-żmien.

Jedd għal appell. 30. Minkejja d-dispożizzjonijiet tal-Kodiċi Kriminali, l-Avukat Ġenerali jkollu dejjem jedd għal appell lill-Qorti ta' l-Appell Kriminali minn kull deċiżjoni mogħtija mill-Qorti tal-Maġistrati tal-Pulizija Ġudizzjarja dwar proċedimenti li jinqalghu mid-dispożizzjonijiet ta' din l-Ordinanza.”

Dispożizzjonijiet transitorji.

15. (1) Ebda dispożizzjoni ta' dan l-Att m'għandha tiftihem li tolgot xi proċedimenti, li jkunu pendenti quddiem xi Qorti ta' Ġustizzja Kriminali fid-data tas-sehħ ta' dan l-Att.

(2) Meta fil-ġurnata li fiha dan l-Att jibda jsehħ, persuna jkollha ġa l-pussess ta' arma tan-nar imsemmija fl-artikolu 22 tal-liġi prinċipali, iż-żmien ta' tletin jum indikat fil-proviso ta' dak l-artikolu jibda għaddej mill-ġurnata li fih dan l-Att jibda jsehħ.

Għanijiet u Raġunijiet

L-Għan ta' dan l-Abbozz huwa prinċipalment li jżid il-piena għar-rigward ta' ċerti reati li għandhom x'jaqsmu mal-pussess illegali ta' armi tan-nar, u biex jiddistingwi bejn l-impportazzjoni u t-traffikar fl-armi tan-nar u f'armi regolari oħra. L-Abbozz jipprovdi wkoll li r-reati kollha li jaqgħu taħt l-Ordinanza dwar l-Armi għandhom jiġu proċessati mill-Qorti tal-Maġistrati tal-Pulizija Ġudizzjarja bhala Qorti ta' Ġudikatura Kriminali, kif ukoll illi ma jkunx japplika l-artikolu 23A tal-Kodiċi Kriminali, u li l-Avukat Ġenerali jkollu jedd li jagħmel appell għar-rigward ta' proċeduri li jkunu qed isiru skond id-dispożizzjonijiet ta' l-istess Ordinanza.

A BILL

entitled

AN ACT further to amend the Arms Ordinance, Cap. 106.

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 Arms Ordinance (Amendment) Act, 1986, and shall be read and construed as one with the Arms Ordinance, hereinafter referred to as "the principal law".

Short title.

2. Section 3 of the principal law shall be amended as follows:

Amendment of section 3 of the principal law.

(a) for subsection (1) thereof there shall be substituted the following:

"(1) Whosoever shall, without a licence from the Commissioner of Police, keep in any premises any firearm or ammunition shall, on conviction, be liable to imprisonment for a term from three months to three years:

Provided that where, having regard to the quantity or quality of those firearms or that ammunition, the Court is satisfied that they were not so kept for the purpose of sale or other dealing in the said firearms or ammunition contrary to law, the offender shall be liable to a fine (*multa*) of not less than thirty Maltese liri or to imprisonment for a term not exceeding three months or to both such fine and imprisonment.":

(b) immediately after subsection (1) thereof there shall be inserted the following new subsection:

"(1A) Whosoever shall, without a licence from the Commissioner of Police, have in his possession or under his control, or carry, any firearm or ammunition outside any premises or appurtenances thereof shall, on conviction, be liable to imprisonment for a term from two months to two years:

Provided that where a person contravenes the provisions of this subsection because of the actual necessity of lawful self-defence or of the lawful defence of another person, he shall not be liable to punishment.”; and

(c) in subsection (2) thereof, for the words “Such licence” there shall be substituted the words “Any such licence”.

Substitution of section 4 of the principal law.

Cap. 60

3. For section 4 of the principal law there shall be substituted the following:

“4. (1) Without prejudice to the provisions of the Customs Ordinance or of any other law, whosoever shall, without a licence from the Commissioner of Police, import or bring into, or export from, Malta any firearm or ammunition, and whosoever shall cause to be imported, brought into, or exported from Malta, or shall knowingly aid or assist in any manner whatsoever in the importation or entry into, or exportation from, Malta of any such firearm or ammunition, shall, on conviction, be liable to imprisonment for a term from three months to five years.

(2) Whosoever shall sell or otherwise deal in any firearm or ammunition or keep or expose for sale or other dealing in any such firearm or ammunition without a licence, or prior authorisation in writing, from the Commissioner of Police, shall, on conviction, be liable to imprisonment for a term from three months to five years.

(3) Whosoever shall deal in arms proper, other than firearms, or shall keep or expose for sale any such arms proper without a licence from the Commissioner of Police, shall, on conviction, be liable to a fine (*multa*) of not less than twenty Maltese liri or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.”.

Amendment of section 5 of the principal law.

4. In section 5 of the principal law, immediately after the words “fine (*multa*)” there shall be inserted the words “of not less than one hundred Maltese liri”.

Amendment of section 9 of the principal law.

5. In subsection (3) of section 9 of the principal law, immediately after the words “fine (*multa*)” there shall be inserted the words “of not less than thirty Maltese liri”.

Amendment of section 12 of the principal law.

6. In subsection (1) of section 12 of the principal law, for the words “Persons in the naval, military or air service of His Majesty or in the Police Force” there shall be substituted the words “Persons in the Armed Forces of Malta or in the Malta Police Force”.

Amendment of section 18 of the principal law.

7. In section 18 of the principal law, immediately after the words “licence issued” there shall be inserted the words “or authorisation in writing given”.

Amendment of section 19 of the principal law.

8. In section 19 of the principal law, immediately after the word “firearm” there shall be inserted the word “ammunition”.

Amendment of section 20 of the principal law.

9. Section 20 of the principal law shall be amended as follows:

(a) in subsection (1) thereof —

(i) immediately after the word “firearm” there shall be inserted the word “ammunition”;

(ii) for the words "arm is found" there shall be substituted the words "arm or ammunition is found"; and

(b) in subsection (2) thereof, immediately after the word "firearm" there shall be inserted the word "ammunition".

10. In section 21 of the principal law immediately after the word "firearm" there shall be inserted the word "ammunition".

Amendment of section 21 of the principal law.

11. Immediately after section 22 of the principal law there shall be inserted the following new proviso:

Amendment of section 22 of the principal law.

"Provided that where such arms consist of firearms in working condition, any person coming into possession thereof shall, within thirty days, register the said firearms with the Commissioner of Police, in default whereof such person shall, on conviction, be liable to a fine (*multa*)."

12. In section 19, in paragraph (c) of subsection (1) of section 25 and in subsection (2) of section 25 of the principal law, in the Maltese text, for the words "ponn tal-ħadid" there shall be substituted the words "ponn tal-ħadid jew ta' metal ieħor".

Amendment to the Maltese text of sections 19 and 25 (1) (c) (2) of the principal law.

13. For section 27 of the principal law there shall be substituted the following:

Substitution of section 27 of the principal law.

27. The provisions of the Probation of Offenders Act, 1957 and of section 23A of the Criminal Code shall not be applicable for any offence against any of the provisions of this Ordinance."

"Non-applicability of Probation of Offenders Act, 1957 and of section 23A of the Criminal Code.

14. Immediately after section 27 of the principal law there shall be added the following new sections:

Addition of new sections to the principal law.

28. Notwithstanding the provisions of section 382 of the Criminal Code, the Court of Magistrates of Judicial Police shall be competent to try all offences against this Ordinance.

"Offences cognizable by Court of Judicial Police as Court of Criminal Judicature.

29. Subject to the provisions of section 28, proceedings against any person for any offence against any of the provisions of this Ordinance shall be taken before the Court of Magistrates of Judicial Police as a Court of Criminal Judicature in accordance with the provisions of the Criminal Code.

Proceedings for offences.

Provided that, notwithstanding the provisions of section 388(1) (b) of the Criminal Code, the Court shall, at the request of the prosecution or of the accused, take down the evidence given by the witnesses in the manner provided for either in

section 403(6) of the said Code or in any law for the time being in force.

Right of appeal. 30. Notwithstanding the provisions of the Criminal Code, the Attorney General shall always have a right of appeal to the Court of Criminal Appeal from any judgement given by the Court of Magistrates of Judicial Police in respect of proceedings arising out of the provisions of this Ordinance."

Transitory provisions.

15. (1) Nothing in this Act shall be construed as affecting any proceedings pending before any Court of Criminal Justice on the date of the coming into force of this Act.

(2) Where a person is already in possession of a firearm mentioned in section 22 of the principal law on the coming into force of this Act, the period of thirty days laid down in the proviso to that section shall commence to run from the day of the coming into force of this Act.

Objects and Reasons

The Object of this Bill is mainly to increase the punishment in respect of certain offences connected with the illegal possession of firearms and to distinguish between importation and trafficking in firearms and importation and trafficking in other arms proper. The Bill provides also that all offences under the Arms Ordinance are to be tried by the Court of Magistrates of Judicial Police as a Court of Criminal Judicature and further provides for the non-applicability of section 23A of the Criminal Code and for the Attorney General to have a right of appeal in respect of proceedings arising out of the provisions of the Arms Ordinance.