

Naghti l-kunsens tieghi.

(L.S.)

EDWARD FENECH ADAMI
President

29 ta' Lulju, 2008

ATT Nru VIII ta' l-2008

ATT biex jemenda l-Ordinanza dwar l-Esplozivi, Kap. 33.

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

1. It-titolu fil-qosor ta' dan l-Att huwa l-Att ta' l-2008 li jemenda l-Ordinanza dwar l-Esplozivi, u dan l-Att għandu jinqara u jinftiehem haga wahda ma' l-Ordinanza dwar l-Esplozivi minn hawn 'il quddiem imsejja "il-ligi principali".

Titolu fil-qosor.

Kap. 33.

2. Fl-artikolu 2 tal-ligi principali minnufih wara t-tifsira "esplozivi" għandha tidhol it-tifsira gdida li gejja:

Emenda ta' l-artikolu 2 tal-ligi principali

"fabbrica" t'fisser kull bini jew lok jew kull parti minnhom fejn jigu manifatturati esplozivi jew fejn jitwettaq xi process ta' dik il-manifattura;"

3. Is-subartikolu (2) ta' l-artikolu 3 tal-ligi principali għandu jigi emendat kif gej:

Emenda ta' l-artikolu 3 tal-ligi principali

(a) fil-proviso tieghu, minflok il-kliem "għal bejgh." għandhom jidhlu l-kliem "għal bejgh:"; u

(b) minnufih wara l-proviso tieghu kif emendat ghandu jizdied il-proviso gdid li gej:

“Izda wkoll jekk ikun hemm suspett ragonevoli li jkun sar ksur serju tad-disposizzjonijiet ta’ din l-Ordinanza, il-Kummissarju tal-Pulizija jkollu d-dritt jaghlaq il-fabbrika tal-porvli ta’ l-isparar jew xi fabbrica ohra bhalha ghal zmien li ma jkunx aktar minn gimghatejn, hekk izda li jekk f’xi zmien jinbdew proceduri kriminali rigward dik il-fabbrika ghall-ksur ta’ xi disposizzjoni ta’ din l-Ordinanza, il-Qorti tista’, waqt li daww il-proceduri jkunu ghadhom pendenti, fuq decizjoni taghha stess jew fuq talba tal-prosekuzzjoni, tordna li dik il-fabbrika tibqa’ maghluqa sat-tmiem tal-proceduri b’sentenza finali.”.

Zieda ta’ artikoli godda fil-ligi principali.

4. Minnufih wara l-artikolu 26 tal-ligi principali ghandhom jizdiedu l-artikoli godda li gej:

“Arrest minghajr mandat.

26A. Kull ufficjal tal-pulizija jista’ jarresta minghajr mandat kull persuna li tkun ghamlet, jew li tkun wettqet attentat, jew li l-ufficjal ikollu suspett ragonevoli li tkun ghamlet, jew li tkun wettqet attentat biex isir reat kontra d-disposizzjonijiet ta’ din l-Ordinanza jew ta’ xi regolamenti maghmulin tahtha, jekk ikollu raguni bizzejjed biex jemmen li dik il-persuna tista’ tahrab jekk ma tigix arrestata jew jekk ma jkunx jaf l-isem u l-indirizz ta’ dik il-persuna u ma jistax isir jafhom.

Sospensjoni ta’ licenza.

26B. Il-Kummissarju tal-Pulizija jista’, minghajr hsara ghad-disposizzjonijiet ta’ kull ligi ohra ezistenti, jissospendi kull licenza fil-kors ta’ proceduri ghal reat kontra d-disposizzjonijiet ta’ din l-Ordinanza.”.

Emenda ta’ l-artikolu 27 tal-ligi principali.

5. Fl-artikolu 27 tal-ligi principali minflok il-kliem “jehel, meta jinsab hati, il-piena tal-prigunerija ghal zmien ta’ mhux izjed minn sitt xhur jew multa ta’ mhux anqas minn sitta u erbghin euro u disgha u hamsin centezmu (46.59) u mhux izjed minn erba’ mija u hamsa u sittin euro u sebgha u tmenin centezmu (465.87),” ghandhom jidhlu l-kliem “jehel, meta jinsab hati, il-piena tal-prigunerija ghal zmien ta’ bejn sentejn u hames snin jew multa ta’ mhux anqas minn hamest elef euro (€5,000) u mhux izjed minn hamsa w ghoxrin elf euro (€25,000),”.

Emenda ta’ l-artikolu 29 tal-ligi principali.

6. L-artikolu 29 tal-ligi principali ghandu jigi emendat kif gej:

(a) id-disposizzjoni tieghu prezenti ghandha tigi enumerata mill-gdid bhala s-subartikolu (1) ta' dak l-artikolu u minflok il-kliem "jehel, meta jinsab hati, il-piena tal-prigunerija ghal zmien ta' mhux izjed minn sitt xhur jew multa ta' mhux anqas minn sitta u erbghin euro u disgha u hamsin centezmu (46.59) u mhux izjed minn erba' mija u hamsa u sittin euro u sebgha u tmenin centezmu (465.87)," ghandhom jidhlu l-kliem "jehel, meta jinsab hati, il-piena tal-prigunerija ghal zmien ta' bejn sitt xhur u sentejn jew multa ta' mhux anqas minn hmistax-il elf euro (€15,000) u mhux izjed minn hamsin elf euro (€50,000),";

(b) minnufih wara s-subartikolu (1) tieghu kif enumerat mill-gdid ghandu jidhol dan li gej:

“(2) Meta porvli ta' l-isparar jew xi sustanza ohra kif imfisser fis-subartikolu (1) u li huma mizmuma, ippreparati, mibjugha, offruti ghall-bejgh jew ikkunsinnati kif previst fis-subartikolu (1) jikkawzaw spluzjoni li b'konsegwenza taghha tigi kagunata mewt ta' persuna ohra jew offiza gravi fuq persuna ohra, il-persuna li zammet, ippreparat, bieghet, offriet ghall-bejgh jew ikkunsinnat dawk l-istess porvli ta' l-isparar jew sustanza ohra, tista' tehel, meta tinsab hatja, kif gej:

(a) meta tkun giet ikkagunata l-mewt ta' persuna ohra, il-piena ta' prigunerija ghal zmien ta' mhux izjed minn erba' snin;

(b) fejn titwettaq offiza gravi fuq il-persuna liema offiza tipproduci xi wiehed mill-effetti msemmija fl-artikolu 218 tal-Kodici Kriminali, il-piena ta' prigunerija ghal zmien ta' mhux izjed minn sentejn jew multa ta' mhux inqas minn tmint elf euro (€8,000) izda mhux izjed minn tmenin elf euro (€80,000) jew ghal dik il-multa u prigunerija flimkien;

(c) fejn titwettaq offiza gravi fuq il-persuna liema offiza ma tipproducix xi wiehed mill-effetti msemmija fl-artikolu 218 tal-Kodici Kriminali, il-piena ta' prigunerija ghal zmien ta' mhux izjed minn sena jew multa ta' mhux inqas minn elfejn u hames mitt euro (€2,500) izda mhux izjed minn ghoxrin elf euro (€20,000) jew ghal dik il-multa u prigunerija flimkien.”.

Emenda ta' l-artikolu 30 tal-ligi principali.

7. Fl-**ar**ikolu 30 tal-ligi principali minflok il-kliem “jehel, meta jinsab hati, il-piena tal-prigunerija ghal zmien mhux izjed minn xahar jew multa ta’ mhux anqas minn tlieta u ghoxrin euro u disgha u ghoxrin centezmu (23.29) u mhux izjed minn mija u sittax-il euro u sebgha u erbghin centezmu (116.47),”, ghandhom jidhlu l-kliem “jehel, meta jinsab hati, il-piena tal-prigunerija ghal zmien minn tliet xhur sa sena jew multa ta’ mhux anqas minn elfejn euro (€2,000) u mhux izjed minn ghoxrin elf euro (€20,000),”.

Emenda ta' l-artikolu 32 tal-ligi principali.

8. Fl-artikolu 32 tal-ligi principali:

(a) minflok il-kliem “fl-artikolu 23(2)” ghandhom jidhlu l-kliem “fl-artikoli 8 and 23(2)”;

(b) minflok il-kliem “f’ dak l-artikolu” ghandhom jidhlu l-kliem “f’ dawk l-artikoli”; u

(c) minflok il-kliem “jehel, meta jinsab hati, il-piena ta’ l-ammenda jew tal-prigunerija ghal mhux izjed minn xahar.” ghandhom jidhlu l-kliem “jehel, meta jinsab hati, il-piena ta’ multa ta’ mhux izjed minn elf euro (€1,000) jew prigunerija ghal zmien mhux izjed minn sitt xhur, jew dik il-multa u l-prigunerija flimkien.”.

Emenda ta' l-artikolu 33 tal-ligi principali.

9. Fis-subartikolu (2) ta’ l-artikolu 33 tal-ligi principali:

(a) minflok il-kliem “mhux anqas minn hamsin centezmu,” ghandhom jidhlu l-kliem “mhux anqas minn mija u hamsin euro (€150),” u

(b) minflok il-kliem “tlitt ijiem” ghandhom jidhlu l-kliem “xahar”.

Thassir ta' l-artikolu 39 tal-ligi principali

10. L-artikolu 39 tal-ligi principali ghandu jigi mhassar.

Zieda ta' artikoli godda fil-ligi principali.

11. Minnufih wara l-artikolu 40 tal-ligi principali ghandhom

jizdiedu l-artikoli godda li gejjin:

“Thassir ta’ licenza. 40A. Meta persuna tinstab hatja ta’ reat taht din l-Ordinanza, il-qorti tista’, fuq talba tal-prosekuzzjoni jew b’decizjoni taghha stess, thassar kull licenza li jkollu min jaghmel ir-reat ghar-rigward ta’ kull fabbrica, hanut, jew lok iehor fejn jew fil-vicinanze ta’ liema lok twettaq ir-reat, u, fil-kaz ta’ reat li jitwettaq permezz ta’ l-uzu ta’ vettura, kemm il-licenza tas-sewqan ta’ min iwettaq ir-reat kif ukoll kull licenza li dik il-persuna jkollha rigward il-vettura li ghaliha jirreferi r-reat:

Izda xejn f’dan l-artikolu ma ghandu jinftiehem li jaffettwa xi setghat tal-Kummissarju tal-Pulizija taht xi ligi ohra biex ihassar jew jissospendi xi licenza.

Applikabilità ta’ l-Att dwar il-*Probation*. Kap. 446.

40B. Id-disposizzjonijiet ta’ l-artikolu 24 ta’ l-Att dwar il-*Probation* li jirrigwardaw is-setgha tal-qorti biex tordna li l-hati jhallas id-danni ghandhom, *mutatis mutandis*, japplikaw ukoll kull meta persuna tigi misjuba hatja ta’ reat kontra d-disposizzjonijiet ta’ din l-Ordinanza.”

12. Fl-artikolu 42 tal-ligi principali minflok il-kliem “Hlief fil-kaz tar-reat imsemmi fl-artikolu 26, kull procediment ghal reat taht din l-Ordinanza jew xi regolamenti maghmulin bis-sahha taghha, ghandu jingiebu ’il quddiem” ghandhom jidhlu l-kliem “Proceduri ghal reat kontra xi regolament maghmul taht din l-Ordinanza, sa fejn dawn ma jkollhomx maghhom proceduri ghal reat kontra din l-Ordinanza, ghandom jingiebu ’il quddiem.”

Emenda ta’ l-*artikolu 42* tal-ligi principali.

13. Minnufih wara l-artikolu 42 tal-ligi principali ghandu jizdied l-artikolu gdid li gej:

Zieda ta’ *artikolu gdid* fil-ligi principali.

“Tnaqqis tal-piena. 43A. Fejn, rigward persuna li tinsab hatja ta’ reat kontra din l-Ordinanza, il-prosekuzzjoni tiddikjara fl-atti tal-proceduri li dik il-persuna tkun ghenet lill-Pulizija biex tinqabad il-persuna jew jinqabdu l-persuni li jkunu pprovdew lill-persuna misjuba hatja l-esplozivi, jew il-persuna misjuba hatja kif qabel imsemmi taghti prova ghas-sodisfazzjon tal-qorti li tkun hekk ghenet lill-Pulizija, il-piena ghandha titnaqqas, rigward il-prigunerija bi grad wiehed jew tnejn u rigward kull piena pekunarja, b’terz jew binofs rispettivament.”

14. L-artikolu 44 tal-ligi principali ghandu jigi sostitwit b’dan

Sostituzzjoni ta’ l-*artikolu 44* tal-ligi principali.

l-artikolu gdid li gej:

“Piena fil-kaz ta’
recidiva.

44. Meta persuna li tkun giet misjuba hatja ta’ reat kontra d-disposizzjonijiet ta’ din l-Ordinanza, jew ta’ xi regolament maghmul tahtha, twettaq it-tieni reat simili, tehel meta tinsab hatja, il-piena ta’ dak ir-reat, mizjud b’zewg gradi, u fuq it-tielet kundanna jew ohrajn warajha, tizzied il-piena bi tliet gradi.”.

Zieda ta’
artikoli godda
fil-ligi
principali.

15. Minnufh wara l-artikolu 45 tal-ligi principali ghandhom jizdiedu l-artikoli godda li gejjin:

“Konfiska ta’
proprjeta’.

45A. (1) Meta jsir reat kontra d-disposizzjonijiet ta’ din l-Ordinanza, il-qorti ghandha, b’zieda ma’ kull piena ohra, fis-sentenza taghha, jew f’xi zmien wara, fuq talba tal-prosekuzzjoni:

(a) meta tkun giet uzata xi proprjeta’ immobbli ghall-manifattura, bejgh, wiri ghall-bejgh, jew hazna ta’ esplozivi kif imfisser fl-att ta’ l-akkuza jew fl-akkuza, tordna l-konfiska favur il-Gvern ta’ kull titolu fuq il-proprjeta’ li l-persuna li tinsab hatja jkollha fuq dik il-proprjeta’ immobbli;

(b) meta l-persuna li tinsab hatja ma tkunx is-sid assolut izda jkollha titolu iehor fuq il-proprjeta’ immobbli, jew ikollha titolu, li ma jkunx titolu fuq il-proprjeta’, li bis-sahha tieghu jkollha l-kontroll fuq, jew dritt ta’ access ghal, dik il-proprjeta’, il-qorti ghandha tordna li l-persuna li tinsab hatja thallas multa ta’ mhux anqas minn ghaxart elef euro (€10,000) izda mhux izjed min sittin elf euro (€60,000) kif tistabilixxi l-qorti wara li tqis il-valur tal-proprjeta’ immobbli u l-valur tat-titolu fuq il-proprjeta’, jekk ikun hemm, li jkun gie konfiskat kif imsemmi qabel;

Kap. 9.

(c) bla hsara ghad-disposizzjonijiet tal-Kodici Kriminali, taghmel ordni li bih id-disposizzjonijiet tal-paragrafi (a) u (b) ghandhom japplikaw, *mutatis mutandis*, ghal jew fir-rigward ta’ kull bastiment jew vettura, uzati ghaz-zamma, il-hazna jew il-kunsinna ta’, jew ghall-bejgh jew trattar fi, esplozivi; u

(d) tordna l-konfiska favur il-Gvern tal-proprjeta’ immobbli uzata ghall-manifattura, il-bejgh, il-wiri ghall-bejgh, jew il-hazna ta’ l-esplozivi, tal-persuna hekk misjuba hatja ukoll jekk il-proprjeta’ immobbli, ghaddiet f’idejn terzi persuni, minn meta l-persuna giet akkuzata bir-reat.

Kap. 12.

(2) Kull decizjoni, kif imsemmi fis-subartikolu (1), li tordna l-konfiska tal-proprjetà immobbli jew ta' xi titolu fuq dik il-proprjetà ghandha titiqies u ghandha tkun ezegwita bhala sentenza fil-qasam civili li tittrasferixxi dak it-titolu fuq il-proprjetà favur il-Gvern, u l-Avukat Generali ghandu, ghall-finijiet ta' l-artikolu 239 tal-Kodici ta' Organizzazzjoni u Procedura Civili, jigi kunsidrat bhala l-parti interessata li tista' tiskeb ir-registrazzjoni ta' dak it-trasferiment.

Ordni ta' sospensjoni.

45B. (1) Meta persuna tigi akkuzata taht din l-Ordinanza jew taht regolamenti maghmulin tahtha, u dik il-persuna jkollha l-pussess ta' licenza, permess jew awtorità mahruga lilha minn awtorità kompetenti dwar jew f'konnessjoni ma' l-ezercizzju ta' xi arti, sengha, professjoni jew xi xoghol iehor u r-reat jitwettaq f'post licenzjat taht din l-Ordinanza jew taht xi ligi ohra, il-qorti tista' tohrog ordni, hawnhekk izjed 'il quddiem imsejja "ordni ta' sospensjoni", li tissospendi dik il-licenza, permess jew awtorità.

(2) L-ordni ta' sospensjoni ghandha tibqa fis-sehh sakemm jibqghu ghaddejjin il-proceduri sas-sentenza finali.

(3) Kull persuna li taghmel xi haga li ghall-ghemil taghha hija mehtiega licenza, permess jew awtorità taht xi ligi u meta dik il-haga ssir meta dik il-licenza, permess jew awtorità tkun giet sospiza bis-sahha ta' ordni ta' sospensjoni, titqies li tkun agixxiet minghajr il-licenza, permess jew awtorità mehtiega.

Nuqqas ta' applikabilità.
Kap. 9.
Kap. 446.

45C. Salv dak provdut fl-artikolu 40B, id-disposizzjonijiet ta' l-artikoli 21 u 28A tal-Kodici Kriminali u d-disposizzjonijiet ta' l-Att dwar il-*Probation* ma ghandhomx japplikaw fir-rigward ta' persuna li tinsab hatja ta' reat taht din l-Ordinanza.

Kumpens.

45D. Meta persuna tinsab hatja ta' reat taht id-disposizzjonijiet ta' din l-Ordinanza jew ta' xi regolament maghmul tahtha, il-qorti tista' tordna lill-persuna li tinsab hatja biex thallas lil kull parti li ssofri xi telf dik is-somma flus li tista' tigi determinata mill-qorti f'dik id-direzzjoni bhala kumpens ghal dak it-telfien kif imsemmi qabel jew ghal kull dannu jew hsara ohra kkawzata lil dik il-parti b'dak jew permezz ta' dak ir-reat.”.

16. Fl-artikolu 46 tal-ligi principali minflok il-kliem “ta' mhux izjed minn erba' euro u sitta u sittin centezmu (4.66)” ghandhom jidhlu l-kliem “ta' mhux inqas minn hamsa w ghoxrin euro (€25) u mhux izjed minn mitt euro (€100)”.

Emenda ta' l-artikolu 46 tal-ligi principali.

Żjieda ta'
artikolu ġdid fil-
Kodici
Kriminali.
Kap. 9.

17. Minnufh wara l-artikolu 226A tal-Kodici Kriminali għandu jizdied l-artikolu ġdid li gej:

“Fluwidu esploziv
jew sustanza
esploziva.

226B. Meta xi wiehed mir-reati msemmija fl-artikoli 225, 226 u 226A jitwettaq permezz ta' fluwidu esploziv jew sustanza esploziva, il-piena stabbilita għar-reat għandha tizdied b'zewg gradi jew tlieta.”.

Mgħoddi mill-Kamra tad-Deputati fis-Seduta Nru. 34 tas-16 ta' Lulju, 2008.

LOUIS GALEA
Speaker

PAULINE ABELA
Aġent Skrivani tal-Kamra tad-Deputati

I assent.

(L.S.)

EDWARD FENECH ADAMI
President

29th July, 2008

ACT No. VIII of 2008

AN ACT to amend the Explosives Ordinance, Cap. 33.

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 Explosives Ordinance (Amendment) Act, 2008 and this Act shall be read and construed as one with the Explosives Ordinance, hereinafter referred to as “the principal law”.

Short title.

Cap. 33.

2. In article 2 of the principal law immediately after the definition of “explosive” there shall be inserted the following new definition:

Amendment of article 2 of the principal law.

“factory” means any building or premises or any part thereof wherein explosives are manufactured or wherein any process of such manufacture is carried out;”.

3. Sub-article (2) of article 3 of the principal law shall be amended as follows:

Amendment of article 3 of the principal law.

(a) in the proviso thereto, for the words “for sale.”, there shall be substituted the words “for sale:”; and

(b) immediately after the proviso thereto as amended, there shall be added the following new proviso:

“Provided further that upon a reasonable suspicion that a serious breach of the provisions of this Ordinance has occurred, the Commissioner of Police shall have the right to close a gunpowder factory or any other similar factory for a period not exceeding two weeks, so however that if at any time criminal proceedings are commenced relating to such factory for the breach of any provision of this Ordinance, the court may, pending the proceedings, of its own motion or at the request of the prosecution, order such factory to be closed until the termination of the proceedings by a final judgment.”.

Addition of new articles to the principal law.

4. Immediately after article 26 of the principal law there shall be added the following new articles:

“Arrest without warrant.

26A. Any police officer may arrest without warrant any person who has committed, or attempted to commit, or is reasonably suspected by the officer of having committed or attempted to commit, an offence against the provisions of this Ordinance, or of any regulations made thereunder, if he has reasonable ground for believing that that person will abscond unless arrested, or if the name and address of that person are unknown to and cannot be ascertained by him.

Suspension of licence.

26B. The Commissioner of Police may, saving the provisions of any other existing law, suspend any licence in the course of any proceedings for an offence against the provisions of this Ordinance.”.

Amendment of article 27 of the principal law.

5. In article 27 of the principal law for the words “be liable to imprisonment for a term not exceeding six months or to a fine (*multa*) of not less than forty-six euros and fifty-nine cents (46.59) and not more than four hundred and sixty-five euros and eighty-seven cents (465.87),” there shall be substituted the words “be liable to imprisonment for a term from two to five years or to a fine (*multa*) of not less than five thousand euro (€5,000) and not more than twenty-five thousand euro (€25,000),”.

Amendment of article 29 of the principal law.

6. Article 29 of the principal law shall be amended as follows:

(a) the present provision thereof shall be numbered as sub-article (1) thereof and for the words therein “be liable to imprisonment for a term not exceeding six months or to a fine

(*multa*) of not less than forty-six euros and fifty-nine cents (46.59) and not more than four hundred and sixty-five euros and eighty-seven cents (465.87)”, there shall be substituted the words “be liable to imprisonment for a term from six months to two years or to a fine (*multa*) of not less than fifteen thousand euro (€15,000) and not more than fifty thousand euro (€50,000),”;

(b) immediately after sub-article (1) thereof as renumbered there shall be inserted the following:

“(2) Where gunpowder or any other substance as referred to in sub-article (1) and which are kept, prepared, sold, offered for sale or delivered as provided in sub-article (1) cause an explosion in consequence whereof the death of an other person or bodily harm to another person ensues, the person who kept, prepared, sold, offered for sale or delivered the same gunpowder or other substance shall, upon conviction, be liable as follows:

(a) where the death of another person has ensued, to the punishment of imprisonment not exceeding four years;

(b) where a bodily harm which produces any of the effects mentioned in article 218 of the Criminal Code has ensued, to the punishment of imprisonment not exceeding two years or to a fine (*multa*) of not less than eight thousand euro (€8,000) but not exceeding eighty thousand euro (€80,000) or to both such fine and imprisonment;

(c) where a bodily harm which does not produce any of the effects mentioned in article 218 of the Criminal Code has ensued, to the punishment of imprisonment not exceeding one year or to a fine (*multa*) of not less than two thousand five hundred euro (€2,500) but not exceeding twenty thousand euro (€20,000) or to both such fine and imprisonment.”.

7. In article 30 of the principal law for the words “be liable to imprisonment for a term not exceeding one month or to a fine (*multa*) of not less than twenty-three euros and twenty-nine cents (23.29) and not more than one hundred and sixteen euros and forty-seven cents (116.47),” there shall be substituted the words “be liable to imprisonment for a term from three months to one year or to a fine

Amendment of article 30 of the principal law.

(*multa*) of not less than two thousand euro (€2,000) and not more than twenty thousand euro (€20,000),”.

Amendment of article 32 of the principal law.

8. In article 32 of the principal law:

(a) for the words “in article 23(2)” there shall be substituted the words “in articles 8 and 23(2)”;

(b) for the words “in that article” there shall be substituted the words “in those articles”; and

(c) for the words “be liable to a fine (*ammenda*) or to imprisonment for a term not exceeding one month.” there shall be substituted the words “be liable to a fine (*multa*) not exceeding one thousand euro (€1,000) or to imprisonment not exceeding six months, or to both such fine and imprisonment.”.

Amendment of article 33 of the principal law.

9. In sub-article (2) of article 33 of the principal law:

(a) for the words “not less than fifty cents,” there shall be substituted the words “not less than one hundred and fifty euro (€150),” and

(b) for the words “three days” there shall be substituted the words “one month”.

Deletion of article 39 of the principal law.

10. Article 39 of the principal law shall be deleted.

Addition of new articles to the principal law.

11. Immediately after article 40 of the principal law there shall be added the following new articles:

“Cancellation of licence.

40A. On conviction for an offence under this Ordinance, the court may, at the request of the prosecution or on its own motion, cancel any licence held by the offender in respect of any factory, shop or other premises wherein or within the precincts whereof the offence was committed, and, in the case of an offence committed through the use of a vehicle, both the offender’s driving licence and any licence held by him in respect of the vehicle to which the offence relates:

Provided that nothing in this article shall be deemed to affect any powers of the Commissioner of Police under any other law to cancel or suspend any licence.

Applicability of the
Probation Act.
Cap. 446.

40B. The provisions of article 24 of the Probation Act concerning the power of the court to order the offender to pay damages shall, *mutatis mutandis*, also apply whenever a person is sentenced upon conviction for an offence against the provisions of this Ordinance.”.

12. In article 42 of the principal law for the words “Except in the case of the offence referred to in article 26, any proceedings for an offence against this Ordinance or any regulations made thereunder, shall be instituted” there shall be substituted the words “Proceedings for an offence against any regulations made under this Ordinance, in so far as they are not accompanied by an offence against this Ordinance, shall be instituted”.

Amendment of
article 42 of the
principal law.

13. Immediately after article 43 of the principal law, there shall be added the following new article:

Addition of new
article to the
principal law.

“Reduction of
punishment.

43A. Where, in respect of a person found guilty of an offence against this Ordinance, the prosecution declares in the records of the proceedings that such person has helped the Police to apprehend the person or persons who supplied him with the explosives, or the person found guilty as aforesaid proves to the satisfaction of the court that he has so helped the Police, the punishment shall be diminished, as regards imprisonment by one or two degrees, and as regards any pecuniary penalty by one-third and one-half respectively.”.

14. Article 44 of the principal law shall be substituted by the following new article:

Amendment of
article 44 of the
principal law.

“Punishment in the
case of a second
offence.

44. Where a person, who has been convicted of an offence against the provisions of this Ordinance, or of any regulations made thereunder, commits a second like offence, he shall be liable, on conviction, to the punishment for the offence increased by two degrees, and on a third or subsequent conviction, by three degrees.”.

15. Immediately after article 45 of the principal law there shall be inserted the following new articles:

Addition of new
articles to the
principal law.

“Forfeiture of
property.

45A. (1) Where an offence has been committed against the provisions of this Ordinance, the court shall, in addition to any other punishment, in its sentence or at any time thereafter, at the request of the prosecution:

(a) where any immovable property has been used for the manufacture, sale, exposition for sale, or storage of explosives as described in the bill of indictment or in the charge, order the forfeiture in favour of the Government of any real title which the offender holds on such immovable property;

(b) where the offender is not the absolute owner but holds any other real title on the immovable property, or has a title, other than a real title, in virtue of which he has the control of or a right of access to such property, the court shall order the offender to pay a fine (*multa*) of not less than ten thousand euro (€10,000) but not exceeding sixty thousand euro (€60,000) as the court shall determine after taking into account the value of the immovable property and the value of the real title thereon, if any, forfeited as aforesaid;

Cap. 9.

(c) saving the provisions of the Criminal Code, make an order whereby the provisions of paragraphs (a) and (b) shall be applied, *mutatis mutandis*, to or in respect of any vessel or vehicle, used for the keeping, storing or conveyance of, or for the selling or dealing in, explosives; and

(d) order the forfeiture in favour of the Government of the immovable property used for the manufacture, sale, exposition for sale, or storage of explosives, of the person so found guilty even if the immovable property has, since the offender was charged, passed into the hands of third parties.

(2) Any decision as is mentioned in sub-article (1) ordering the forfeiture of immovable property or of any title to such property shall be deemed to be and shall be enforceable as a civil judgment transferring that title in favour of the Government, and the Attorney General shall, for the purposes of article 239 of the Code of Organization and Civil Procedure, be considered as the interested party that may obtain the registration of such transfer.

Suspension order.

45B. (1) Where a person is charged under this Ordinance or under regulations made thereunder, and such person is a person in possession of a licence, permit or authority issued to him by a competent authority in or in connection with the exercise of any art, trade, calling or other occupation and the offence is committed in a place licenced under this Ordinance, or under any other law, the court may make an order, hereinafter referred to as a “suspension order”, suspending such licence, permit or authority.

(2) The suspension order shall remain in force for the whole duration of the proceedings until final judgment.

(3) Any person who does any act for the doing of which a licence, permit or authority is required under any law and such act is done when that licence, permit or authority had been suspended by virtue of a suspension order shall be deemed to have so acted without the required licence, permit or authority.

Non-applicability.

Cap. 9.

Cap. 446.

45C. Saving what is provided in article 40B, the provisions of articles 21 and 28A of the Criminal Code and the provisions of the Probation Act shall not be applicable in respect of any person convicted of an offence under this Ordinance.

Compensation.

45D. On conviction for an offence under the provisions of this Ordinance or of any regulations made thereunder, the court may order the offender to pay to any injured party such sum of money that may be determined by the court in that direction as compensation for any such loss as aforesaid or for any damages or other injury or harm caused to such party by or through the offence.”.

16. In article 46 of the principal law for the words “not exceeding four euros and sixty-six cents (4.66)” there shall be substituted the words “of not less than twenty-five euro (€25) and not more than one hundred euro (€100).”.

Amendment of article 46 of the principal law.

17. Immediately after article 226A of the Criminal Code there shall be added the following new article:

Addition of new article to the Criminal Code, Cap.9

“Explosive fluid or substance.

226B. Where any of the offences in articles 225, 226 and 226A has been committed by any explosive fluid or substance, the punishment laid down for the offence shall be increased by two to three degrees.”.

A 244

Passed by the House of Representatives at Sitting No. 34 of the
16th July, 2008.

LOUIS GALEA
Speaker

PAULINE ABELA
Acting Clerk to the House of Representatives