

ABBOZZ TA' LIĠI msejjaħ

ATT biex 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 ta' l-istess, hareġ b'liġi dan li ġejj:-

1. (1) It-titolu ta' dan l-Att hu Att ta' l-2005 li jemenda l-Kodiċi Kriminali, u dan l-Att għandu jinqara u jiftiehem haġa wahda mal-Kodiċi Kriminali, hawnhekk iżjed 'il quddiem imsejjaħ "il-Kodiċi".

Titolu fil-qosor u bidu fis-seħħ.

(2) Dan l-Att għandu jibda jseħħ f'dik id-data li l-Ministru responsabbli għall-ġustizzja jista' jstabilixxi b'avviż fil-Gazzetta, u jistgħu jiġu appuntati dati differenti għal disposizzjonijiet differenti jew għal għanijiet differenti ta' dan l-Att.

2. Id-disposizzjoni preżenti ta' l-artikolu 222A tal-Kodiċi għandha tiġi enumerata mill-ġdid bhala s-subartikolu (1) tiegħu u minnufh wara dan għandhom jiżdiedu dawn is-subartikoli ġodda li ġejjin:

Emenda ta' l-artikolu 222A tal-Kodiċi.

“(2) Il-pieni stabbiliti fid-disposizzjonijiet ta' qabel ta' dan is- sub-titolu għandhom ukoll jiżdiedu minn grad sa żewġ gradi meta r-reat ikun aggravat għal raġunijiet li għandhom x'jaqsmu ma' razza jew reliġjon fi hdan it-tifsira mogħtija f'dawn is-subartikoli li ġejjin.

(3) Reat ikun agravat għal raġunijiet li għandhom x'jaqsmu ma' razza jew reliġjon meta:

(a) fil-waqt li fih isir ir-reat, jew minnufih qabel l-għemil tar-reat, il-hati juri lejn il-vittma tar-reat ostilità li tkun ibbażata fuq il-fatt li l-vittma tkun tappartjeni (jew prezunta li tappartjeni) għal grupp razzjali jew reliġjuż; jew

(b) ir-reat ikun motivat, għalkollox jew b'mod parzjali, minn ostilità lejn membri ta' grupp razzjali ibbażata fuq il-fatt li dawn ikunu jappartjenu għal dak il-grupp.

(4) Fil-paragrafu (a) tas-subartikolu (3):

“jappartjeni għal”, għar-rigward ta' grupp razzjali jew reliġjuż, tinkludi assoċjazzjoni ma' membri ta' dak il-grupp;

“prezunta” tfisser prezunta mill-hati.

(5) Għall-finijiet tal-paragrafu (a) jew (b) tas-subartikolu (3) m'għandu jiġi tenut ebda kont dwar jekk l-ostilità tal-hati tkun jew ma tkunx ibbażata, f'xi limitu jew iehor, fuq xi fattur iehor li m'huwiex imsemmi f'dak il-paragrafu.

(6) F'dan l-artikolu:

“grupp razzjali” tfisser grupp ta' persuni definit b'riferenza għal razza, kulur, nazzjonalità (inkluża ċittadinanza) jew l-oriġini etnika jew nazzjonali;

“grupp reliġjuż” tfisser grupp ta' persuni definit b'riferenza għal twemmin reliġjuż jew nuqqas ta' twemmin reliġjuż.”.

Żjieda ta' l-artikolu 251D ġdid mal-Kodiċi.

3. Minnufih wara l-artikolu 251C tal-Kodiċi għandu jizzied dan l-artikolu 251D ġdid li ġej:

“Żjieda fil-piena f'ċerti każijiet.

251D. Il-pieni stabbiliti fid-disposizzjonijiet ta' qabel ta' dan is-sub-titolu għandhom jizziedu minn grad sa żewġ gradi meta r-reat ikun aggravat għal raġunijiet li għandhom x'jaqsmu ma' razza jew reliġjon fi hdan it-tifsira mogħtija fis-subartikoli (3) sa (6), it-tnejn inklużi, ta' l-artikolu 222A.”.

Żjieda ta' l-artikolu 325A ġdid mal-Kodiċi.

4. Minnufih wara l-artikolu 325 tal-Kodiċi għandu jidhol dan l-artikolu ġdid li ġej:

“Żjieda ta’
piena
f’ċerti
każijiet.

325A. (1) Il-pieni stabbiliti fid-disposizzjonijiet ta’ qabel ta’ dan is-sub-titolu ghar-rigward ta’ reat rilevanti ghandhom jiżdiedu minn grad sa żewġ gradi meta r-reat ikun aggravat ghal raġunijiet li ghandhom x’jaqsmu ma’ razza jew reliġjon fi hdan it-tifsira moghtija fis-subartikoli (3) sa (6), it-tnejn inklużi, ta’ l-artikolu 222A.

(2) Ghall-finijiet ta’ dan l-artikolu “reat rilevanti” tffisser kull wiehed mir-reati taht l-artikoli 311, 312, 314A, 316, 317 sa 320, it-tnejn inklużi, u 325.”.

5. Minnufih wara s-subartikolu (2) ta’ l-artikolu 391 tal-Kodiċi ghandu jiżdied dan is-subartikolu ġdid li ġej:

Emenda ta’ l-
artikolu
391 tal-Kodiċi.

“(3) Meta x-xhud ikun minuri ta’ taht is-sittax-il sena, ix-xhud ghandu jiġi eżaminat u kontro-eżaminat f’seduta wahda u x-xiehda tiegħu ghandha tiġi reġistrata b’mezzi awdjo-viżivi. Ir-reġistrazzjoni awdjo-viżiva ghandha tkun tagħmel parti mill-inkartament f’dawk il-proċeduri.”.

6. Minnufih wara s-subartikolu (3) ta’ l-artikolu 401 tal-Kodiċi ghandu jiżdied dan li ġej:

Emenda ta’
l-artikolu 401
tal-Kodiċi.

“(3A) Meta l-qorti tqieghed lill-imputat taht att ta’ akkuża quddiem il-Qorti Kriminali, il-qorti ghandha, minbarra li tagħti l-ordni msemmija fis-subartikolu (3), taggorna l-każ ghal data ohra, li tkun data mhux aktar kmieni minn xahar iżda mhux aktar tard minn sitt ġimgħat mid-data ta’ l-aġġornament.”.

7. Minnufih wara l-artikolu 532 tal-Kodiċi Kriminali ghandhom jiżdiedu dawn l-artikoli ġodda li ġejjin:

Żjieda ta’ l-artikoli
532A u 532B
ġodda mal-Kodiċi.

“Ordnijiet
ghall-hlas
ta’ danni
meta tinghata
s-sentenza.

532A. Id-disposizzjonijiet ta’ l-artikolu 24 ta’ l-Att dwar il-*Probation* ghar-rigward tas-setgħa li ghandha l-qorti li tordna lill-hati jhallas id-danni ghandhom ukoll *mutatis mutandis* japplikaw kull meta jiġri li persuna tinghata sentenza wara li tkun insabet hatja ta’ delitt.

Hlas ta’
spejjeż.

532B. Meta persuna tinsab hatja ta’ delitt punibbli bi priġunerija huwa jkollu jhallas dawk l-ammonti ghar-rigward ta’ spejjeż skond ma l-Ministru jista’ jistabbilixxi permezz ta’ regolamenti. Dawk ir-regolamenti jistgħu jispeċifikaw id-delitti u, jew il-proċedimenti li dwarhom ikunu japplikaw ir-regolamenti.”.

Emenda ta' l-artikolu 546 tal-Kodiċi.

8. Minnufih wara l-artikolu 546(4) tal-Kodiċi għandu jiżdied dan is-subartikolu ġdid li ġej:

“(4A) Meta r-rapport, id-denunzja jew il-kwerela isiru lil Maġistrat taht dan l-artikolu minn xi persuna li ma tkunx l-Avukat Ġenerali jew ufficjal tal-pulizija, il-Maġistrat għandu jagħmel l-aċċess biss wara li huwa jkun kiseb l-awtorizzazzjoni tal-Prim Imhalled li jagħti l-awtorizzazzjoni tiegħu wara li jkun stabbilixxa li l-prerekwiżiti mehtieġa biex isir dak l-aċċess ikunu jeżistu.”.

Emenda ta' l-artikolu 550 tal-Kodiċi.

9. L-artikolu 550 tal-Kodiċi għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1), minflok il-kliem “minghajr ma jkun jinhtieġ li jinsemgħu” għandha tidhol il-kelma “u” u minflok il-kliem “fl-aċċess” għandhom jidhlu l-kliem “fl-aċċess ma jistgħux jinġiebu biex jagħtu xiehda fl-inkjesta quddiem il-Qorti tal-Maġistrati bhala qorti istrutturja.”;

(b) minflok is-subartikolu (2) għandu jidhol dan li ġej:

“(2) Madankollu il-Pulizija tkun tista' ġġib lil kull wahda mill-persuni msemmija fis-subartikolu (1) biex tagħti xiehda fl-inkjesta quddiem il-Qorti tal-Maġistrati bhala qorti istrutturja fuq materji speċifiċi u biex l-Avukat Ġenerali jġib lil kull min irid minn dawk l-persuni skond id-disposizzjonijiet ta' l-artikolu 405. Il-persuna mixlija tkun tista' wkoll iġġib lil kull minn trid minn dawk il-persuni bil-għan li jsirilha kontro-eżami.”.

Emenda ta' l-artikolu 550A tal-Kodiċi.

10. Minnufih wara s-subartikolu (2) ta' l-artikolu 550A tal-Kodiċi għandu jiżdied dan is-subartikolu ġdid li ġej:

“(3) Wara li jiskadu s-sittin ġurnata msemmija fis-subartikolu (1) kull min ikollu interess jista' jagħmel rikors fejn jitlob lill-maġistrat li huwa jinstema' bhala xhud, jew li jinstemgħu bhala xhieda il-persuni indikati fir-rikors. Ir-rikors għandu jiġi notifikat lill-Avukat Ġenerali li jkollu erbat ijiem żmien biex jirrispondi.”.

Żjieda ta' l-artikolu 575A mal-Kodiċi.

11. Minnufih wara l-artikolu 575 tal-Kodiċi għandu jiżdied dan l-artikolu ġdid li ġej:

“575A. (1) Minkejja kull disposizzjoni ohra ta' dan it-Titolu, meta persuna li tkun qegħda tagħmel rikors għal helsien mill-arrest taht dan it-Titolu:

(a) tiġi akkużata b'reat skedat; u

(b) fi żmien għaxar snin minnufih qabel id-data ta' l-għemil tar-reat li bih tiġi akkużata, jintwera għas-sodisfazzjon tal-Qorti li hija insabet hatja ta' reat skedat,

dik il-persuna ma tistax, qabel ma jiskadu tliet xhur minn meta titressaq quddiem il-qorti, tiġi mehlusa mill-arrest taht garanzija hlief fiċ-ċirkostanzi li hemm provdut dwarhom fis-subartikolu (2).

(2) Matul il-perjodu ta' tliet xhur imsemmi fis-subartikolu (1), l-akkużat ikun jista' jiġi mehlus mill-arrest taht garanzija wara li jagħmel rikors quddiem il-Qorti Kriminali li għandha biss tilqa' r-rikors jekk tkun sodisfatta li jkun hem raġunijiet gravi u eċċezzjonali li jkunu jiggarrantixxu l-helsien tal-persuna. Il-Qorti għandha fid-deċiżjoni tagħha tistabbilixxi l-motivi għaliex tkun ċaħdet jew laqgħet dak ir-rikors.

(3) Ebda haġa f'dan l-artikolu ma għandha tipprekludi lill-Qorti milli tiċhad mill tagħti l-helsien mill-arrest taht garanzija wara li jiskadu tliet xhur mid-data minn meta persuna titressaq quddiem il-qorti jekk jirriżultalha li jkun hemm raġunijiet biżżejjed għaliex għandha tagħmel dan.

(4) Għall-finijiet ta' dan l-artikolu "reat skedat" tfisser reat minn dawk elenkati fi Skeda D li tinsab ma' dan il-Kodiċi".

12. Fis-subartikolu (1) ta' l-artikolu 604 tal-Kodiċi, minflok il-kliem "l-Uffiċjali tal-*Probation*" għandhom jidhlu l-kliem "l-Uffiċjali tal-*Probation* u kull persuna ohra ta' kull xorta skond ma l-Ministru responsabbli għall-ġustizzja jista', minn żmien għal żmien, jistabbilixxi b'Ordni fil-Gazzetta".

Emenda ta' l-artikolu 604 tal-Kodiċi.

13. Fis-subartikolu (1) ta' l-artikolu 605 tal-Kodiċi, minflok il-kliem minn "Il-Kummissarju tal-Pulizija" sa "mill-aħjar li jafu" għandhom jidhlu l-kliem "Il-Kummissarju tal-Pulizija jew ir-rappreżentant tiegħu, Maġistrat, l-Avukat Ġenerali jew ir-rappreżentant tiegħu, il-President tal-Kamra ta' l-Avukati u l-President tal-Kamra tal-Prokuraturi Legali għandhom, darbtejn fis-sena, jagħmlu, mill-aħjar li jafu".

Emenda ta' l-artikolu 605 tal-Kodiċi.

14. Fis-subartikolu (1) ta' l-artikolu 606 tal-Kodiċi, minflok il-kliem "l-ismijiet tal-ġurati ordinarji." għandhom jidhlu l-kliem "l-ismijiet tal-ġurati ordinarji:" u minnufih wara dan għandu jizdied dan il-proviso ġdid li ġej:

Emenda ta' l-artikolu 606 tal-Kodiċi.

“Iżda l-Ministru responsabbli għall-ġustizzja jista', b'Ordni fil-Gazzetta, jistabbilixxi metodi ta' għażla differenti li jkunu ibbażati fuq mekkaniżmu komputerrizzat.”.

Emenda ta' l-artikolu 611 tal-Kodiċi.

15. Fis-subartikolu (2) ta' l-artikolu 611, minflok il-kliem “u l-persuna approvata.” għandhom jidhlu l-kliem “u l-persuna approvata.” u minnufih wara dan għandu jiżdied dan il-proviso ġdid li ġej:

“Iżda bil-ghan li ssir ir-rikuża ta' ġurat għal raġuni l-Avukat Ġenerali jew l-akkużat jistgħu jitolbu li l-ġurat jissejjah biex iwieġeb bil-ġurament għall-mistoqsijiet li jsiru lill-ġurat biex tiġi stabbilita r-raġuni għar-rikuża.”.

Emenda ta' l-artikolu 639 tal-Kodiċi.

16. Minflok is-subartikolu (3) ta' l-artikolu 639 għandu jidhlo dan li ġej:

“(3) Meta l-uniku xhud kontra l-akkużat dwar xi reat fi proċess li jinstama' quddiem il-ġurati tkun persuna kompliċi, ikun fid-diskrezzjoni tal-Qorti, wara li tqis il-karattru u l-atteġġament tax-xhud, ix-xorta tar-reat u ċ-ċirkostanzi tiegħu u kull motiv mhux xieraq li x-xhud jista' jkollu u li jista' jwasslu biex ma jgħidx is-sewwa, jekk għandhiex tordna lill-ġurati li jiżnu x-xieħda li dak ix-xhud jagħti b'kawtela qabel ma jserrħu fuqha u jaslu biex isibu hati lill-akkużat.”.

Emenda ta' l-artikolu 646 tal-Kodiċi.

17. Fis-subartikolu (2) ta' l-artikolu 646 tal-Kodiċi, minflok il-kliem “tas-subartikolu (8).” għandhom jidhlu l-kliem “tas-subartikolu (8):” u minnufih wara għandu jiżdied dan il-proviso ġdid li ġej:

“Iżda wkoll meta x-xhud ikun minuri taħt is-sittax-il sena u tingieb bi prova reġistrazzjoni bl-awdjo u bil-video tax-xieħda tal-minuri, il-minuri ma għandux jingieb biex jiġi eżaminat *viva voce* kemm-il darba l-Qorti ma tordnax li jsir xort'ohra għal xi raġuni li toriġina wara d-data meta dak il-minuri jkun ta x-xieħda tiegħu u l-Qorti tqis li dan ikun fl-interess ta' l-amministrazzjoni tal-ġustizzja u l-kxif tas-sewwa.”.

Emenda ta' l-artikolu 764 tal-Kodiċi.

18. Minflok is-subartikoli (1) u (2) ta' l-artikolu 674 għandu jidhlo dan li ġej:

“(1) Minkejja kull disposizzjoni ohra ta' dan il-Kodiċi jew ta' kull liġi ohra iżda bla ħsara għad-disposizzjonijiet ta' l-artikolu 671, meta xi proprjetà li tkun esibita l-qorti matul il-proċedimenti, tkun tappartjeni lil xi persuna li ma tkunx involuta bħala persuna prinċipali, kompliċi jew assoċjata fir-reat kriminali li jkun jiffirma l-materja ta' dawk il-proċeduri, dik il-persuna, wara li għib prova

b'mod sodisfaċenti dwar it-titolu li jkollha għal dik il-proprjetà u tissodisfa lill-qorti li ma kienx għad hemm il-bżonn li dik il-proprjetà tibqa' materjalment esibita fl-inkartament tal-proċeduri, għandu jkollha jedd għar-rilaxx ta' dik il-proprjetà favur tagħha b'ordni tal-Qorti taht dawk il-pattijiet u kundizzjonijiet li l-Qorti tista' tqis li jkunu adatti, salv, wara dak ir-rilaxx, kull dritt li jista' jkollu l-imputat jew l-akkużat jew kull persuna oħra skond il-liġi.

(2) L-ordni msemmija fis-subartikolu (1) tista' tingħata jew b'inizjattiva tal-Qorti nnifisha jew wara li jsir rikors minn min ikun qiegħed jitlob li jingħata l-proprjetà. Meta l-Qorti taġixxi b'inizjattiva tagħha nnifisha hija għandha tħabbar il-ħsieb li jkollha li tohroġ ordni bħal dik permezz ta' digriet. Digriet bħal dak jew rikors li jsir minn min ikun qiegħed jitlob li jingħata l-proprjetà skond ma jgħid dan is-subartikolu għandu jiġi notifikat lill-Avukat Ġenerali jew lill-Kummissarju tal-Pulizija skond il-każ, u lill-imputat, jew l-akkużat, li kull wieħed minnhom ikollu hamest ijiem tax-xogħol għar-risposta tiegħu.”.

19. Minnufih wara l-artikolu 697 tal-Kodiċi għandu jizdied dan l-artikolu ġdid li ġej:

Żjieda ta' l-artikolu 698 ġdid mal-Kodiċi.

“Kumpens li jingħata lil vittmi ta' xi delitt.

698. (1) Il-Ministru jista' jagħmel regolamenti sabiex jistabbilixxi skema ta' kumpens għall-vittmi ta' xi delitt taht dawk il-kundizzjonijiet u restrizzjonijiet u bla ħsara għal konsiderazzjonijiet u kwalifiki bħal dawk hekk kif il-Ministru jista' jipprovdi dwarhom u sabiex jistabbilixxi fond biex jiffinanzja skema bħal dik.

(2) Mingħajr preġudizzju għall-ġeneralità tas-subartikolu (1), kull skema stabbilita taht dan l-artikolu:

(a) jista' jkollha applikazzjoni ġenerali li tkun testendi għad-delitti kollha jew li tista' tkun limitata għal dawk id-delitti li jistgħu jkunu speċifikati fir-regolamenti;

(b) tista' tkun tipprovdi li kumpens li jingħata mill-Gvern lill-vittma għandu jithallas biss meta l-vittma tkun eżawriet kull rimedju li jkollha disponibbli kontra l-hati għall-ħlas ta' danni li l-vittma tkun ġarrbet;

(ċ) tista' tkun tipprovdi dwar l-ogħla ammont tas-somma li tista' tithallas lil xi vittma individwali jew lil grupp ta' vittmi bħala kumpens taht l-iskema.

(3) Il-Gvern ghandu jiġi surrogat fid-drittijiet tal-vittma kontra l-hati għall-hlas ta' kull somma li l-vittma tirċievi minghand il-Gvern skond kull skema stabbilita b'regolamenti taht dan l-artikolu.”.

Żjieda ta' skeda ġdida mal-Kodiċi.

20. Minnufih wara Skeda Ċ tal-Kodiċi ghandha tizdied din l-iskeda ġdida li ġejja:

“Skeda D

(Artikolu 575A)

(a) kull delitt li dwaru hemm piena ta' żmien massimu ta' prigunerija ta' disa' snin jew aktar;

(b) id-delitti ikkontemplati fl-artikoli 198 sa 207, 216 (1) (a) (b) (c) u (e), 217, 262(1) (a) u (b), u 263 ta' dan il-Kodiċi (minbarra l-użu illeġittimu jew il-konsum ta' servizz);

(ċ) kull serq li jsir kontra persuna taht l-età ta' tnax-il sena jew li jkollha iżjed minn sittin sena minbarra s-serq ta' vetturi.”.

Emenda ta' l-Ordinanza dwar il-Professjoni Medika u l-Professjonijiet li ghandhom x'jaqsmu magħha, Kap. 31.

21. L-Ordinanza dwar il-Professjoni Medika u l-Professjonijiet li ghandhom x'jaqsmu magħha, hawn iżjed 'il quddiem f'dan l-artikolu msejja “l-Ordinanza”, ghandha tiġi emendata kif ġej:

(a) fis-subartikolu (7) ta' l-artikolu 120A, minflok il-kliem “jew (b)(i).” ghandhom jidhlu l-kliem “jew (b)(i):” u minnufih wara ghandhom jizdiedu dawn il-proviso ġodda li ġejjin:

“Izda meta, dwar xi reat imsemmi f'dan is-subartikolu, wara li jitqiesu ċ-ċirkostanzi kollha tal-każ inkluż l-ammont u x-xorta tal-mediċina in kwistjoni, ix-xorta ta' persuna involuta, l-ghadd u n-natura ta' kull kundanna li l-persuna kellha qabel, inklużi kundanni li dwarhom tkun saret ordni taht l-Att dwar il-*Probation*, il-Qorti tkun tal-fehma li l-hati kien bi hsiebu jikkonsma l-mediċina f'dak l-istess post flimkien ma' ohrajn, il-Qorti tista' tiddeċiedi li ma tapplikax id-disposizzjonijiet ta' dan is-subartikolu:

Izda wkoll il-hati jista' jikseb benefiċċju għal darba waħda biss mid-disposizzjonijiet tal-proviso li jiġi minnufih qabel dan.”; u

(b) fis-subartikolu (1) ta' l-artikolu 121E, minflok il-kliem “jirċievi talba magħmula minn awtorità ġudizzjarja jew

prosekutriċi” għandhom jidhlu l-kliem “jirċievi, jew ikun informat dwar, talba magħmula minn jew għan-nom ta’ awtorità għudizzjarja, prosekutriċi, ta’ infurzar tal-liġi jew xi awtorità kompetenti oħra”.

22. L-Ordinanza dwar il-Qirda tak-Kummerċ fil-Prostituzzjoni, għandha tiġi emendata kif ġej:

Ordinanza dwar il-Qirda tal-Kummerċ fil-Prostituzzjoni, Cap 63.

(a) l-artikolu 2 għandu jiġi emendat kif ġej:

(i) fin-nota marginali, minnufih wara l-kliem “biex titlaq minn Malta” għandu jiżdied il-kliem “jew biex tiġi Malta minn band’oħra”;

(ii) fis-subartikolu (1), minnufih wara l-kliem “għal skop ta’ prostituzzjoni xi mkien iehor” għandhom jiżdiedu l-kliem “jew biex tiġi Malta minn band’oħra għal skop ta’ prostituzzjoni f’ dawn il-gzejjer”; u fil-proviso li hemm miegħu minflok il-kliem “sena sa erba’ snin” għandhom jidhlu l-kliem “sentejn sa għaxar snin”;

(b) l-artikolu 3 għandu jiġi emendat kif ġej:

(i) fis-subartikolu (1), minnufih wara l-kliem “titlaq minn Malta” għandhom jiżdiedu l-kliem “jew tiġi Malta”; u minnufih wara l-kliem “s-safar tagħha minn Malta” għandhom jiżdiedu l-kliem “jew li hija tasal Malta”, u minflok il-kliem “minn tmintax-il xahar sa erba’ snin” għandhom jidhlu l-kliem “minn sentejn sa hames snin”;

(ii) fil-proviso mas-subartikolu (1), minflok il-kliem “minn sentejn sa sitt snin” għandhom jidhlu l-kliem “minn tlieta sa għaxar snin”; u

(ċ) fis-subartikolu (2) ta’ l-artikolu 7, minflok il-kliem “mhux iżjed minn tliet xhur” għandhom jidhlu l-kliem “mhux iżjed minn sitt xhur”.

23. L-Ordinanza dwar il-Mediċini Perikolużi, hawn iżjed ’il quddiem f’dan l-artikolu msejja “l-Ordinanza”, għandha tiġi emendata kif ġej:

Emenda ta’ l-Ordinanza dwar il-Mediċini Perikolużi, Kap. 101.

(a) fis-subartikolu (9) ta’ l-artikolu 22:

(i) minflok il-kliem “l-Att dwar il-*Probation* tal-Hatjin” għandhom jidhlu l-kliem “l-Att dwar il-*Probation*”; u

(ii) minflok il-kliem “tas-subartikolu (2).” ghandhom jidhlu l-kliem “tas-subartikolu (2):” u minnufih wara ghandu jizdied dan il-proviso ġdid li ġej:

“Izda meta, dwar xi reat imsemmi f’dan is-subartikolu, wara li jitqiesu ċ-ċirkostanzi kollha tal-każ inkluż l-ammont u x-xorta tal-mediċina in kwistjoni, ix-xorta ta’ persuna involuta, l-ġhadd u n-natura ta’ kull kundanna li l-persuna kellha qabel, inklużi kundanni li dwarhom tkun saret ordni taht l-Att dwar il-*Probation*, il-Qorti tkun tal-fehma li l-hati kien bi hsiebu jikkonsma l-mediċina f’dak l-istess post flimkien ma’ ohrajn, il-Qorti tista’ tiddeċiedi li ma tapplikax id-disposizzjonijiet ta’ dan is-subartikolu:

Izda wkoll il-hati jista’ jikseb benefiċċju ghal darba waħda biss mid-disposizzjonijiet tal-proviso li jiġi minnufih qabel dan.”; u

(b) fis-subartikolu (1) ta’ l-artikolu 30D, minflok il-kliem “jirċievi talba magħmula minn awtorità ġudizzjarja jew prosekuttriċi” ghandhom jidhlu l-kliem “jirċievi, jew ikun informat dwar, talba magħmula minn jew għan-nom ta’ awtorità ġudizzjarja, prosekuttriċi, ta’ infurzar tal-liġi jew xi awtorità kompetenti ohra”.

Emenda ta’ l-Att
dwar il-Pulizija,
Kap. 164.

24. L-Att dwar il-Pulizija ghandu jiġi emendat kif ġej:

(a) minnufih wara is-subartikolu (5) ta’ l-artikolu 48, ghandhom jizdiedu dawn is-subartikoli ġodda li ġejjin:

“(6) Il-Bord ikollu s-setgħa li jeżerċita permezz taċ-*Chairperson* tiegħu –

(a) li jharrek xhieda li ghandhom jinstemghu taht ġurament;

(b) li jagħti l-ġurament lil kull xhud u lil kull persuna li tkun involuta fl-investigazzjoni ta’ l-ilment, u teħtieġ li dawn jixhdu.

(7) It-tahrikiet biex persuni jidhru bħala xhieda jista’ jkollhom dak il-format li l-Bord jiddeċiedi dwaru u ghandhom ikunu iffirmati miċ-*Chairperson* jew mis-Segretarju tal-Bord.

(8) Tahrika tista’ tiġi notifikata jew bl-idejn jew bil-posta. Meta din tiġi notifikata bl-idejn ikun biżżejjed li tingħata

prova tan-notifika permezz ta' prova li t-tahrিকা tkun thalliet ghand persuna li tkun ghalqet is-sittax-il sena fil-post ta' residenza jew tan-negozju tal-persuna mharrka u jekk din tiġi notifikata bil-posta jkun biżżejjed li tinghata prova tan-notifika permezz ta' xiehda li t-tahrিকা kienet indirizzata u impustata kif imiss.

(9) Kull min ikun imharrek kif hawn qabel imsemmi imma jiċhad, jew mingħajr raġuni suffiċjenti jonqos, milli jattendi fil-hin u l-post imsemmi fit-tahrিকা, jew jiċhad mingħajr raġuni suffiċjenti, milli jwieġeb jew milli jwieġeb f'kull dettall u sodisfaċentement, bl-aħjar mod li jaf u jifhem, kull mistoqsija li ssirlu minn jew bi ftehim mal-Bord, jew jiċhad jew jonqos, mingħajr raġuni suffiċjenti, milli jgħib xi dokument li huwa kien mehtieġ iġib mill-Bord jew bi ftehim miegħu, jista', meta jinsab hati, jehel multa ta' mhux iżjed minn hames mitt lira jew priġunerija għal żmien mhux iżjed minn tliet xhur jew għal dik il-multa u priġunerija flimkien:

Iżda, mingħajr preġudizzju għall-ġeneralità tad-disposizzjonijiet tas-subartikolu (6)(b), ebda persuna li tkun qegħda tagħti x-xiehed tagħha quddiem il-Bord ma tista' tkun mgħiegħla twieġeb għal ebda mistoqsija li x'aktarx tesponiha għal prosekuzzjoni kriminali, u kull tali persuna għandu jkollha jedd, għar-rigward ta' xiehda mogħtija minnha quddiem il-Bord, għall-istess privileġġi li jkollu xhud li jixhed quddiem qorti tal-ġustizzja.

(10) Ma għandhom jinbdew ebda proċedimenti għar-rigward ta' xi reat kontra s-subartikolu (9) mingħajr il-qbil ta' l-Avukat Ġenerali.”; u

(b) minnufih wara l-artikolu 49 għandu jiżdied dan l-artikolu ġdid li ġej:

“Terminu ta' żmien għall-ilment.

49A. Kull ilment li jsir lill-Bord għandu jiġi ipprezentat fi żmien sitt xhur minn meta jiġri l-inċident ilmentat u l-Bord jista' jiċhad milli jikkunsidra ilment li jiġi ipprezentat wara dak il-perjodu.”.

25. Minflok l-artikolu 11 ta' l-Att dwar l-Istampa, għandu jidhol dan li ġej:

Emenda ta' l-Att
dwar l-Istampa,
Kap. 248.

“11. Hlief kif provdut xort'ohra f'dan l-Att, kull min, b'xi mezz imsemmi fl-artikolu 3, jagħti malafama lil xi persuna, jista, meta jinsab hati, jehel multa.”.

Għanijiet u Raġunijiet

L-għan ta' dan l-Abbozz huwa prinċipalment sabiex jiġu implimentati miżuri sabiex tiġi żgurata amministrazzjoni aħjar u aktar speditiva skond kif ġie delineat fil-*White Paper* li hareġ il-Gvern f'Jannar ta' l-2005, bħalma huma l-introduzzjoni ta' restrizzjonijiet għall-ghoti immedjat ta' helsien taht garanzija lil hatjin reċidivi, il-hlas fi proċeduri kriminali ta' l-ispejjeż tal-qorti lill-Istat u ta' danni lill-vittma tad-delitt, it-tnehhija tal-htieġa mandatorja ta' korroborazzjoni tax-xiehda ta' persuna kompliċi, l-eliminazzjoni tal-piena ta' priġunerija f'kawżi ta' libell kriminali taht l-Att dwar l-Istampa u t-tnehhija ta' priġunerija mandatorja f'każijiet ta' parteċipazzjoni f'reati dwar id-drogi.

**A BILL
entitled**

AN ACT to 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 Board of the same as follows:

1. (1) The title of this Act is the Criminal Code (Amendment) Act, 2005, and this Act shall be read and construed as one with the Criminal Code, hereinafter referred to as “the Code”. Short title and commencement.

(2) This Act shall come into force on such date as the Minister responsible for justice may by notice in the Gazette appoint, and different dates may be so appointed for different provisions or for different purposes of this Act.

2. The present provision of article 222A of the Code shall be renumbered as sub-article (1) thereof and immediately thereafter there shall be inserted the following new sub-articles: Amendment of article 222A of the Code.

“(2) The punishments established in the foregoing provisions of this sub-title shall also be increased by one to two degrees when the offence is racially or religiously aggravated within the meaning of the following sub-articles.

(3) An offence is racially or religiously aggravated if:

(a) at the time of committing the offence, or immediately before or after the commission of the offence, the offender demonstrates towards the victim of the offence hostility based on the victim's membership (or presumed membership) of a racial or religious group; or

(b) the offence is motivated, wholly or partly, by hostility towards members of a racial group based on their membership of that group.

(4) In paragraph (a) of sub-article (3):

“membership”, in relation to a racial or religious group, includes association with members of that group;

“presumed” means presumed by the offender.

(5) It is immaterial for the purposes of paragraph (a) or (b) of sub-article (3) whether or not the offender's hostility is also based, to any extent, on any other factor not mentioned in that paragraph.

(6) In this article:

“racial group” means a group of persons defined by reference to race, colour, nationality (including citizenship) or ethnic or national origins;

“religious group” means a group of persons defined by reference to religious belief or lack of religious belief.”.

Addition of new article 251D to the Code.

3. Immediately after article 251C of the Code there shall be inserted the following new article 251D:

“Increase of punishment in certain cases. 251D. The punishments established in the foregoing provisions of this sub-title shall be increased by one to two degrees when the offence is racially or religiously aggravated within the meaning of sub-articles (3) to (6), both inclusive, of article 222A.”.

Addition of new article 325A to the Code.

4. Immediately after article 325 of the Code there shall be inserted the following new article:

“Increase of punishment in certain cases. 325A. (1) The punishments established in the foregoing provisions of this sub-title in respect of a relevant offence shall be increased by one to two degrees when the

offence is racially or religiously aggravated within the meaning of sub-articles (3) to (6), both inclusive, of article 222A.

(2) For the purposes of this article “relevant offence” means any of the offences under articles 311, 312, 314A, 316, 317 to 320, both inclusive, and 325.”.

5. Immediately after sub-article (2) of article 391 of the Code there shall be inserted the following new sub-article: Amendment of article 391 of the Code.

“(3) Where the witness is a minor under the age of sixteen years the witness shall be examined and cross-examined in one sitting and his testimony shall be recorded by audio-visual means. The audio-visual recording shall form part of the record of the proceedings.”.

6. Immediately after sub-article (3) of article 401 of the Code there shall be inserted the following: Amendment of article 401 of the Code.

“(3A) Where the court has committed the accused for trial by the Criminal Court the court shall, besides giving the order mentioned in sub-article (3), adjourn the case to another date, being a date not earlier than one month but not later than six weeks from the date of the adjournment.”.

7. Immediately after article 532 of the Criminal Code there shall be inserted the following new articles: Addition of new articles 532A and 532B to the Code

“Orders for payment of damages upon sentence.” 532A. 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 any crime.

Payment of costs.” 532B. Where a person is convicted of a crime punishable with imprisonment he shall be liable to pay such amounts in respect of costs as the Minister may by regulations prescribe. Such regulations may specify the crimes and, or the proceedings in respect of which which the regulations shall apply.”.

8. Immediately after article 546(4) of the Code there shall be inserted the following new sub-article: Amendment of article 546 of the Code.

“(4A) Where a report, information or complaint is made to a Magistrate under this article by a person other than the Attorney

General or a police officer the Magistrate shall hold the inquest only after having obtained the authority of the Chief Justice who shall give his authority after having established that the necessary pre-requisites for the holding of such an inquest exist.”.

Amendment of article 550 of the Code.

9. Article 550 of the Code shall be amended as follows:

(a) in sub-article (1) thereof, the words “it shall not be necessary to examine” shall be deleted and for the words “in the inquest.” there shall be substituted the words “in the inquest shall not be produced to give evidence in the inquiry before the Court of Magistrates as court of criminal inquiry.”;

(b) for sub-article (2) thereof there shall be substituted the following:

“(2) Nevertheless it shall be lawful for the Police to produce any of the persons mentioned in sub-article (1) to give evidence in the inquiry before the Court of Magistrates as court of criminal inquiry on specific issues and for the Attorney General to produce any of the said persons in accordance with the provisions of article 405. It shall also be lawful for the person charged to produce any of the said persons for the purpose of cross-examination.”.

Amendment of article 550A of the Code.

10. Immediately after sub-article (2) of article 550A of the Code there shall be inserted the following new sub-article:

“(3) After the lapse of the period of sixty days referred to in sub-article (1) every interested person may by application request the magistrate to be heard as a witness, or to hear as witnesses the persons indicated in the application. The application shall be served on the Attorney General who may reply within four days.”.

Addition of article 575A to the Code.

11. Immediately after article 575 of the Code there shall be added the following new article:

“575A. (1) Notwithstanding any other provision of this Title, where a person applying for temporary release from custody under this Title:

(a) is charged with a scheduled offence; and

(b) within the period of ten years immediately preceding the date of the commission of the offence charged,

is shown to the satisfaction of the Court to have been convicted of a scheduled offence,

that person may not, before the lapse of three months from the date of arraignment, be released on bail except in the circumstances provided in sub-article (2).

(2) Within the period of three months mentioned in sub-article (1), the person charged may only be released on bail upon an application to the Criminal Court which shall allow the application only upon being satisfied that there are grave and exceptional reasons which warrant the person's release. The Court shall in its decision lay down the reasons for rejecting or allowing such application.

(3) Nothing in this article shall preclude the Court from refusing to grant release on bail after the lapse of three months from the date of arraignment if it finds that there are sufficient reasons for it to do so.

(4) For the purposes of this article "scheduled offence" means any offence listed in the Schedule D to this Code."

12. In sub-article (1) of article 604 of the Code, for the words "Probation Officers" there shall be substituted the words "Probation Officers and any other persons of such a description as the Minister responsible for justice may, from time to time, prescribe by Order in the Gazette". Amendment of article 604 of the Code.

13. In sub-article (1) of article 605 of the Code, for the words from "The Commissioner of Police" to "the best of their knowledge" there shall be substituted the words "The Commissioner of Police or his representative, a Magistrate, the Attorney General or his representative, the President of the Chamber of Advocates and the President of the Chamber of Legal Procurators shall, twice a year, draw up to the best of their knowledge". Amendment of article 605 of the Code.

14. In sub-article (1) of article 606 of the Code, for the words "the names of the common jurors." there shall be substituted the words "the names of the common jurors:" and immediately thereafter there shall be inserted the following new proviso: Amendment of article 606 of the Code.

"Provided that the Minister responsible for justice may, by means of an Order in the Gazette, establish different methods of selection based on a computerised mechanism."

Amendment of
article 611
of the Code.

15. In sub-article (2) of article 611, for the words “and the person admitted.” there shall be substituted the words “and the person admitted:” and immediately thereafter there shall be inserted the following new proviso:

“Provided that for the purpose of challenging a juror for cause the Attorney General or the accused may request that the juror be called to reply on oath to questions to be put to the juror to establish the reason for the challenge.”.

Amendment
of article
639 of the Code.

16. Sub-article (3) of article 639 shall be substituted by the following:

“(3) Where the only witness against the accused for any offence in any trial by jury is an accomplice, it shall be in the discretion of the Court, after taking into account the character and demeanour of the witness, the nature of the offence and its circumstances and any improper motive which the witness might have which could induce him not to tell the truth, to give a direction to the jury to approach the evidence of the witness with caution before relying on it in order to convict the accused.”.

Amendment of
article 646 of
the Code.

17. In sub-article (2) of article 646 of the Code, for the words “the provisions of sub-article (8).” there shall be substituted the words “the provisions of sub-article (8):” and immediately thereafter there shall be inserted the following new proviso:

“Provided further that where the witness is a minor under sixteen years of age and an audio and video-recording of the testimony of the minor is produced in evidence the minor shall not be produced to be examined *viva voce* unless the Court otherwise directs for a reason which arises after the date of the said testimony of the minor and considered by the Court to be in the interest of the administration of justice and the discovery of the truth.”.

Amendment of
article 764
of the Code.

18. Sub-articles (1) and (2) of article 674 shall be substituted by the following:

“(1) Notwithstanding any other provision of this Code or of any other law but subject to the provisions of article 671, where any property which is exhibited in court during the proceedings belongs to a person who is not involved as a principal, an accomplice or a conspirator in the criminal offence which is the subject of such proceedings, that person shall, upon proving in a satisfactory manner his title to the property and satisfying the court that there was no longer any need that the property remains

materially exhibited in the record of the proceedings, be entitled to have such property released in his favour by order of the Court under such terms and conditions as the Court may deem fit, saving, following such release, any right of the person charged or accused or of any other person according to law.

(2) The order referred to in sub-article (1) may be given either on the Court's own motion or following an application by the person claiming the property. Where the Court acts upon its own motion it shall announce its intention to make such an order by means of a decree. Any such decree or any application made by the person claiming the property in terms of this sub-article shall be served on the Attorney General or on the Commissioner of Police as the case may be, and on the person charged, or accused, each of whom shall be allowed five working days for a reply."

19. Immediately after article 697 of the Code there shall be inserted the following new article:

Addition of new article 698 to the Code.

"Compensation of victims of crime.

698. (1) The Minister may make regulations to establish a scheme for the compensation of victims of crime under such conditions and restrictions and subject to such considerations and qualifications as the Minister may provide and to establish a fund to finance such a scheme.

(2) Without prejudice to the generality of sub-article (1), any scheme established under this article:

(a) may be of general application extending to all crimes or may be limited to such crimes as may be specified in the regulations;

(b) may provide that compensation by Government to the victim shall only be payable when the victim has exhausted all remedies available to him against the offender for the payment of damages suffered by the victim;

(c) may provide for a ceiling on the amount payable to any individual victim or group of victims by way of compensation under the scheme.

(3) The Government shall be subrogated in the rights of the victim against the offender for the payment of any sums received by the victim from the Government in

accordance with any scheme established by regulations under this article.”.

Addition of new schedule to the Code.

20. Immediately after Schedule C of the Code there shall be added the following new schedule :

“Schedule D

(Article 575A)

(a) any crime punishable with a maximum term of imprisonment of nine years or more;

(b) the crimes envisaged in articles 198 to 207, 216 (1) (a) (b) (c) and (e), 217, 262(1) (a) and (b), and 263 of this Code (other than unlawful use or consumption of a service);

(c) any theft committed against any person under the age of twelve years or over the age of sixty years other than the theft of vehicles.”.

Amendment of the Medical and Kindred Professions Ordinance, Cap. 31.

21. The Medical and Kindred Professions Ordinance, hereinafter in this article referred to as “the Ordinance”, shall be amended as follows:

(a) in sub-article (7) of article 120A thereof, for the words “or (b)(i).” there shall be substituted the words “or (b)(i):” and immediately thereafter there shall be inserted the following new provisos:

“Provided that where, in respect of any offence mentioned in this sub-article, after considering all the circumstances of the case including the amount and nature of the drug involved, the character of the person concerned, the number and nature of any previous convictions, including convictions in respect of which an order was made under the Probation Act, the court is of the opinion that the offender intended to consume the drug on the spot with others, the court may decide not to apply the provisions of this sub-article:

Provided further that an offender may only benefit once from the provisions of the above proviso.”; and

(b) in sub-article (1) of article 121E thereof, for the words “receives a request made by a judicial or prosecuting authority” there shall be substituted the words “receives, or is informed about,

a request made by or on behalf of a judicial, prosecuting, law enforcement or other competent authority”.

22. The White Slave Traffic (Suppression) Ordinance shall be amended as follows:

Amendment of the
White Slave Traffic
(Suppression)
Ordinance, Cap. 63.

(a) article 2 shall be amended as follows:

(i) in its marginal note, immediately after the words “leave Malta” there shall be added the words “or comes to Malta from elsewhere”;

(ii) in sub-article (1) thereof, immediately after the words “for purposes of prostitution elsewhere” there shall be added the words “or to come to Malta from elsewhere for the purposes of prostitution in these islands”; and in the proviso thereof the words “one to four years” shall be substituted by the words “two to ten years”;

(b) article 3 thereof shall be amended as follows:

(i) in sub-article (1) thereof, immediately after the words “leave Malta” there shall be added the words “or come to Malta”; and immediately after the words “his departure from Malta” there shall be added the words “or arrival in Malta”, and the words “from eighteen months to four years” shall be substituted by the words “from two to five years”;

(ii) in the proviso to sub-article (1), the words “from time to six years” shall be substituted by the words “from three to ten years”; and

(c) in sub-article (2) of article 7 thereof, the words “not more than three months” shall be substituted by the words “not more than six months”,

23. The Dangerous Drugs Ordinance, hereinafter in this article referred to as “the Ordinance”, shall be amended as follows:

Amendment of
the Dangerous
Drugs Ordinance,
Cap. 101.

(a) in sub-article (9) of article 22 thereof:

(i) for the words “the Probation of Offenders Act” there shall be substituted the words “the Probation Act”; and

(ii) for the words “of sub-article (2).” there shall be substituted the words “of sub-article (2):” and immediately thereafter there shall be inserted the following new proviso:

“Provided that where, in respect of any offence mentioned in this sub-article, after considering all the circumstances of the case including the amount and nature of the drug involved, the character of the person concerned, the number and nature of any previous convictions, including convictions in respect of which an order was made under the Probation Act, the court is of the opinion that the offender intended to consume the drug on the spot with others, the court may decide not to apply the provisions of this sub-article:

Provided further that an offender may only benefit once from the provisions of the above proviso.”; and

(b) in sub-article (1) of article 30D thereof, for the words “receives a request made by a judicial or prosecuting authority” there shall be substituted the words “receives, or is informed about, a request made by or on behalf of a judicial, prosecuting, law enforcement or other competent authority”.

Amendment of the
Police Act, Cap.
164.

24. The Police Act shall be amended as follows:

(a) immediately after sub-article (5) of article 48 thereof, there shall be added the following new sub-articles:

“(6) The Board shall have the power exercisable through its Chairperson –

(a) to summon witnesses who shall be heard on oath;

(b) to administer an oath to any witness and to any person concerned in the investigation of the complaint, and require them to give evidence.

(7) Summonses for attendance of witnesses may be in such form as decided by the Board and shall be signed by the Chairperson or Secretary of the Board.

(8) A summons may be served either by hand or by post. Where it is served by hand it shall be sufficient to prove service by evidence that the summons was left with a person

over the age of sixteen years at the place of residence or of business of the person summoned and if served by post it shall be sufficient to prove service by evidence that the summons was properly addressed and posted.

(9) Any person summoned as aforesaid who refuses, or without sufficient cause fails, to attend at the time and place mentioned in the summons, or refuses without sufficient cause, to answer or to answer fully and satisfactorily, to the best of his knowledge and belief, all questions put to him by or with the concurrence of the Board, or refuses or fails, without sufficient cause, to produce any document he was required to produce by or with the concurrence of the Board, shall be liable on conviction to a fine (*multa*) not exceeding five hundred liri or to imprisonment not exceeding three months or to both such fine and imprisonment:

Provided that, without prejudice to the generality of the provisions of sub-article (6)(b), no person giving evidence before the Board may be compelled to answer any question which tends to expose him to any criminal prosecution, and every such person shall, in respect of any evidence given by him before the Board be entitled to the same privileges to which a witness giving evidence before a court of law is entitled.

(10) No proceedings shall be commenced in respect of any offence against sub-article (9) without the concurrence of the Attorney General.”; and

(b) immediately after article 49 thereof there shall be added the following new article:

“Time limit
for
complaint. 49A. Any complaint to the Board shall be submitted within six months from the date of the occurrence of the incident complained of and the Board may refuse to consider any complaint submitted after such period.”.

25. Article 11 of the Press Act shall be substituted by the following: Amendment of the
Press Act, Cap. 248.

“11. Save as otherwise provided in this Act, whosoever shall, by any means mentioned in article 3, libel any person, shall be liable on conviction to a fine (*multa*).”.

Objects and Reasons

The purpose of this Bill is mainly that of implementing measures to ensure a better and more expeditious administration of justice as outlined in the January 2005 Government White Paper, such as introducing restrictions to the immediate granting of bail to repeat offenders, the payment in criminal proceedings of judicial costs to the State and of damages to the crime victim, the removal of the mandatory requirement of corroboration of the evidence of an accomplice, the elimination of the punishment of imprisonment in criminal libel actions under the Press Act and the removal of mandatory imprisonment in cases of sharing in drug offences.