

ABBOZZ TA' LIĠI msejjah

ATT biex jemenda l-Att dwar ir-Rifuġjati, Kap. 420

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 ġej:-

1. (1) It-titolu fil-qosor ta' dan l-Att hu Att ta' l-2004 li jemenda l-Att dwar ir-Rifuġjati, u għandu jinqara u jiftiehem haġa waħda ma' l-Att ta' l-2000 dwar ir-Rifuġjati, hawn iżjed 'il quddiem f'dan l-Att imsejjah "l-Att prinċipali".

Titolu fil-qosor u bidu fis-sehh.

Att XX ta' l-2000.

(2) Dan l-Att għandu jibda jsehh f'dik id-data li l-Ministru responsabbli għall-immigrazzjoni jista' b'avviż fil-Gazzetta jistabbilixxi, u jistgħu jiġu hekk stabbiliti dati differenti għal disposizzjonijiet differenti u għanijiet differenti ta' dan l-Att.

2. Minnufih wara is-subartikolu (4) ta' l-artikolu 4 ta' l-Att prinċipali, għandu jiżdied dan is-subartikolu (5) li ġej:

Emenda ta' l-artikolu 4 ta' l-Att prinċipali.

“(5) (a) Mingħajr preġudizzju għad-disposizzjonijiet tas-subartikolu (4) għandu jkun hemm dak l-għadd ta' Assistenti Kummissarji għar-Rifuġjati (hawn iżjed 'il quddiem msejha Assistenti Kummissarji) skond ma l-Prim Ministru jista' b'avviż fil-Gazzetta minn żmien għal żmien jistabbilixxi.

(b) L-Assistenti Kummissarji jinhatru mill-Prim Ministru minn fost uffiċjali pubbliċi u minn fost persuni li f’kull każ, fil-fehma tal-Prim Ministru, ikollhom konoxxenza u esperjenza f’affarijiet li jkollhom x’jaqsmu mar-rifuġjati.

(ċ) L-Assistenti Kummissarji ghandu jkollhom, taht it-tmexxija ġenerali tal-Kummissarju, il-funzjonijiet u poteri bħal dawk mogħtija lill-Kummissarju b’dan l-Att, u li jiġu assenjati lil kull wiehed minnhom mill-Kummissarju, inklużi l-funzjoni u l-poter li jeżaminaw applikazzjonijiet għal status ta’ rifuġjat u li jagħtu l-ġurament lil kull persuna, u riferenza f’dan l-Att, minbarra dan l-artikolu, għall-Kummissarju għandha titqies bħala li tinkludi wkoll riferenza għal Assistent Kummissarju filwaqt li jkun qieghed jeżerċita funzjoni lilu mogħtija mill-Kummissarju.”.

Emenda ta’ l-artikolu 5 ta’ l-Att prinċipali.

3. Minnufih wara s-subartikolu (3) ta’ l-artikolu 5 għandu jiżdied dan is-subartikolu li ġej:

“(4) (a) Għandu jkun hemm dak l-għadd ta’ Awli tal-Bord ta’ l-Apelli dwar ir-Rifuġjati skond ma jista’ jordna l-Ministru.

(b) Meta jkun hemm iktar minn Awla wahda tal-Bord, il-każijiet għandhom jiġu assenjati lid-diversi Awli skond dawk ir-regoli li jista’ jordna l-Ministru.

(ċ) Kull awla tal-Bord tkun magħmula minn president u żewġ membri oħra skond ma hemm provdut fis-subartikoli (1) sa (3) ta’ dan l-artikolu, li flimkien mad-disposizzjonijiet l-oħra kollha ta’ dan l-Att minbarra dan is-subartikolu għandhom japplikaw fir-rigward ta’ kull Awla bħallikieku referenza hemm fih għall-Bord kienet referenza għal awla tal-Bord.”.

Emenda ta’ l-artikolu 8 ta’ l-Att prinċipali.

4. L-artikolu 8 ta’ l-Att prinċipali għandu jiġi emendat kif ġej

(a) minnufih wara s-subartikolu (2) tiegħu, għandu jidhrol dan is-subartikolu (2A) li ġej:

“(2A) L-applikazzjoni msemmija fis-subartikolu (2) għandha ssir, u ma għandhiex tkun valida kemm-il darba din ma ssirx fi żmien ġimagħtejn minn meta l-applikant jasal Malta;” u

(b) minnufih wara s-subartikolu (5) tieghu ghandu jizdied dan is-subartikolu (5A) li ġej:

“(5A) Ma ghandha tintlaqa’ ebda applikazzjoni meta l-applikant ikollu nazzjonalità jew ikun ċittadin ta’ pajjiż, jew jekk ma jkollux nazzjonalità jew ma jkunx ċittadin ta’ dak il-pajjiż, ikollu jedd ta’ residenza f’dak il-pajjiż, skond ma l-Ministru jista’ minn żmien għal żmien jordna bhala pajjiż ta’ l-oriġini sigur għall-finijiet ta’ dan is-subartikolu.”.

5. Minnufih wara s-subartikolu (8) ta’ l-artikolu 25A ta’ l-Att dwar l-Immigrazzjoni ghandu jizdied dan li ġej:

Emenda
konsegwenzjali ta’
l-Att dwar l-
Immigrazzjoni,
Kap. 217.

“(9) Il-Bord ikollu wkoll ġurisdizzjoni jisma’ u jiddeċiedi applikazzjonijiet li jsiru minn persuni li jkunu qeghdin jinżammu f’kustodja bis-sahha biss ta’ ordni ta’ deportazzjoni jew ta’ tnehhija sabiex jiġu meħlusin mill-kustodja sakemm tiġi deċiża applikazzjoni taht l-Att dwar ir-Rifuġjati jew xort’ohra sakemm jiġu deportati skond dawn is-subartikoli ta’ dan l-artikolu li ġejjin.

(10) Il-Bord ghandu jaghti biss helsien mill-kustodja taht is-subartikolu (9) meta fil-fehma tieghu d-detenzjoni mkompliġa ta’ dik il-persuna tkun, meta jiġu kkunsidrati ċ-ċirkostanzi kollha tal-każ, daqstant irragonevoli għar-rigward tat-tul ta’ żmien jew għaliex ma jkun hemm ebda prospett ragonevoli li tkun se ssehh deportazzjoni fi żmien ragonevoli.

(11) Il-Bord ma ghandux jaghti dak il-helsien f’dawn il-każijiet li ġejjin:

(a) meta l-identità ta’ l-applikant inkluża n-nazzjonalità tieghu tkun għad trid tiġi verifikata, partikolarment fejn l-applikant ikun qered id-dokumenti tieghu ta’ l-ivvjaġġar jew ta’ l-identità jew inkella jkun uża dokumenti frawdolenti sabiex iqarraq bl-awtoritajiet;

(b) meta jkunu għad iridu jiġu deċiżi xi elementi li fuqhom tkun ibbażata talba mill-applikant taht l-Att dwar ir-Rifuġjati, fejn dik id-deċiżjoni ma tkunx tista’ ssir jekk ma jkunx hemm detenzjoni;

(ċ) fejn il-helsien ta’ l-applikant jista’ jkun ta’ theddida għas-sigurezza pubblika jew għall-ordni pubbliku.

(12) Persuna li tkun inhelset taht id-disposizzjonijiet tas-subartikoli (9) sa (11) ta' dan l-artikolu tista', fejn l-Uffiċjal Prinċipali ta' l-Immigrazzjoni jkun sodisfatt li jkun hemm prospett raġonevoli ta' deportazzjoni, u ma jkun hemm ebda proċedimenti taht l-Att dwar ir-Rifugjati pendenti, terġa' tinzamm taht kustodja sakemm dik il-persuna titnehha minn Malta.

(13) Tkun kondizzjoni ta' helsien li jsir taht is-subartikoli (9) sa (12) ta' dan l-artikolu li l-persuna li tkun ġiet hekk mehlusa ghandha perjodikament (u f'ebda każ inqas minn darba fil-ġimgħa) tirrapporta ghand l-awtoritajiet ta' l-immigrazzjoni f'dawk l-intervalli skond ma l-Bord jista' jistabbilixxi.”.

Għanijiet u Raġunijiet

L-għan ewlieni ta' l-Abbozz hu sabiex jagħmel arrangamenti amministrattivi sabiex jithaffef l-ipproċessar ta' l-applikazzjonijiet għal status ta' rifugjat.

**A BILL
entitled**

AN ACT to amend the Refugees Act, Cap. 420

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. (1) The title of this Act is the Refugees (Amendment) Act, 2004, and it shall be read and construed as one with the Refugees Act, 2000, hereinafter in this Act referred to as “the principal Act”. Short title
and
commencement.

(2) This Act shall come into force on such date as the Minister responsible for immigration may by notice in the Gazette establish, and different dates may be so established for different provisions and different purposes thereof.

2. Immediately after sub-article (4) of article 4 of the principal Act, there shall be added the following subarticle (5): Amendment of
article 4 of the
principal Act.

“(5) (a) Without prejudice to the provisions of subarticle (4) there shall be such number of Assistant Refugee Commissioners (hereinafter referred to as Assistant Commissioners) as the Prime Minister may by notice in the Gazette from time to time determine.

(b) The Assistant Commissioners shall be appointed by the Prime Minister from among public officers and from among persons who in each case, in the opinion of the Prime Minister, have knowledge and experience in matters relating to refugees.

(c) The Assistant Commissioners shall under the general direction of the Commissioner have such functions and powers as are conferred on the Commissioner by this Act, and are assigned to each of them by the Commissioner, including the function and power to examine applications for refugee status and to administer the oath to any person, and any reference in this Act, other than in this article to the Commissioner shall be deemed to include also reference to an Assistant Commissioner in the exercise of any function assigned to him by the Commissioner.”.

Amendment of article 5 of the principal Act.

3. Immediately after subarticle (3) of article 5 there shall be added the following subarticle:

“(4) (a) There shall be such number of Chambers of the Refugee Appeals Board as the Minister may prescribe.

(b) Where there is more than one chamber of the Board, cases shall be assigned to the various chambers in accordance with such rules as the Minister may prescribe.

(c) Each chamber of the Board shall be composed of a chairperson and two other members as provided in subarticles (1) to (3) of this article, which together with all the other provisions of this Act other than this subarticle shall apply with respect to each chamber as if reference therein to the Board were a reference to a chamber of the Board.

Amendment of article 8 of the principal Act.

4. Article 8 of the principal Act shall be amended as follows:

(a) immediately after sub-article (2) thereof, there shall be inserted the following subarticle (2A):

“(2A) An application as is referred to in subarticle (2) shall be made, and shall not be valid unless made within two week of the applicant’s arrival in Malta;” and

(b) immediately after subarticle (5) thereof there shall be added the following subarticle (5A):

“(5A) No application shall be accepted where the applicant is a national or citizen of, or if he is not a national or citizen thereof, he has a right of residence in any country, as the Minister may from time to time prescribe as a safe country of origin for the purposes of this subarticle.”.

5. Immediately after subarticle (8) of article 25A of the Immigration Act there shall be added the following:

Consequential
amendment of the
Immigration Act,
Cap. 217.

“(9) The Board shall also have jurisdiction to hear and determine applications made by persons in custody in virtue only of a deportation or removal order to be released from custody pending the determination of any application under the Refugees Act or otherwise pending their deportation in accordance with the following subarticles of this article.

(10) The Board shall only grant release from custody under subarticle (9) where in its opinion the continued detention of such person is taking into account all the circumstances of the case, unreasonable as regards duration or because there is no reasonable prospect of deportation within a reasonable time.

(11) The Board shall not grant such release in the following cases:

(a) when the identity of the applicant including his nationality has yet to be verified, in particular where the applicant has destroyed his travel or identify documents or used fraudulent documents in order to mislead the authorities;

(b) when elements on which any claim by applicant under the Refugees Act is based, have to be determined, where the determination thereof cannot be achieved in the absence of detention;

(c) where the release of the applicant could pose a threat to public security or public order.

(12) A person who has been released under the provisions of subarticles (9) to (11) of this article, may where the Principle Immigration Officer is satisfied that there exists a reasonable prospect of deportation, and no proceedings under the Refugees Act are pending, be again taken into custody pending his removal from Malta.

(13) It shall be a condition of any release under subarticles (9) to (12) of this article that the person so released shall periodically (and in no case less often than once every week) report to the immigration authorities at such intervals as the Board may determine.”.

Objects and Reasons

The main object of the Bill is to make administrative arrangements to expedite the processing of applications for refugee status.