

Naghti l-kunsens tieghi.

(L.S.)

EDWARD FENECH ADAMI
President

6 ta' Awissu, 2004

ATT Nru. VIII ta' l-2004

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'ligi 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.

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

2. L-artikolu 2 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

Emenda ta' l-artikolu 2 ta' l-Att prinċipali.

(a) minflok it-tifsira ta' "pajjiż ta' oriġini sigur" għandha tidhol din it-tifsira li ġejja:

“ “pajjiż ta' l-oriġini sigur” tfisser pajjiż li tiegħu applikant ikollu nazzjonalità jew ċittadinanza jew, jekk ma jkollox nazzjonalità jew ċittadinanza tiegħu, li fih ikollu dritt ta' residenza u li f'termini ġenerali, jitqies bhala li

ma jipprezenta ebda riskju serju ta' persekuzzjoni fuq il-baži li persuna li tkun tfitteż asil tięi trattata skond il-prinċipji li ġejjin f'dak il-pajjiż –

(a) il-hajja u l-libertà ma jięux mhedda minhabba razza, relięjon, nazzjonalità, ġhaliex tkun membru fi grupp soċjali partikolari jew fehma politika; u

(b) il-prinċipju kontra *refoulement* skond il-Konvenzjoni jięi rispettata; u

(ċ) il-projbizzjoni tat-tnehhija bi ksur tad-dritt ġhall-helsien minn tortura u trattament krudil, inuman jew degradanti kif provduta fid-dritt internazzjonali tięi rispettata; u

(d) tkun teżisti l-possibilità biex issir talba ġhal status ta' rifuęjat u, jekk jinstab li jkun rifuęjat, jirċievi harsien skond il-Konvenzjoni.”; u

(b) minnufih wara t-tifsira ta' “rifuęjat” ġhandha tidhol din it-tifsira ġdida li ġejja:

““Stat Membru” ġhandha l-istess tifsira li nġhatatilha bl-artikolu 2 ta' l-Att dwar l-Elezzjonijiet ġhall-Parlament Ewropew.”.

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

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

“(5) (a) Mingħajr preęudizzju ġhad-dispożizzjonijiet tas-subartikolu (4) ġhandu jkun hemm dak l-ġhadd ta' Assistenti Kummissarji ġhar-Rifuęjati (hawn iżjed 'il quddiem msejha Assistenti Kummissarji) skond ma l-Prim Ministru jista' b'avviż fil-Gazzetta minn žmien ġhal žmien 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-rifuęjati.

(ċ) L-Assistenti Kummissarji ġhandu jkollhom, taht it-mexxija ġenerali tal-Kummissarju, il-funzjonijiet u poteri bħal dawk mogħtija lill-Kummissarju b'dan l-Att, u li jięu assenjati lil kull wiehed minnhom mill-Kummissarju, inklużi l-funzjoni

u l-poter li jeżaminaw applikazzjonijiet għal status ta' rifuġjat u li jagħtu l-gurament lil kull persuna, u riferenza f'dan l-Att, minbarra dan l-artikolu, għall-Kummissarju għandha titqies bhala li tinkludi wkoll riferenza għal Assistent Kummissarju filwaqt li jkun qieghed jeżerçita funzjoni lilo mogħtija mill-Kummissarju.”.

4. Minnufih wara s-subartikolu (3) ta' l-artikolu 5 ta' l-Att prinċipali, għandu jiżdied dan is-subartikolu li ġej:

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

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

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

(c) 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.”.

5. Minnufih wara s-subartikolu (2) ta' l-artikolu 8 ta' l-Att prinċipali, għandhom jidhlu s-subartikoli (2A) u (2B) li ġejjin:

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

“(2A) Salvi d-disposizzjonijiet tas-subartikolu (2B), l-applikazzjoni msemmija fis-subartikolu (2) għandha ssir, u ma għandhiex tkun valida kemm-il darba ma ssirx fi żmien xahrejn minn meta l-applikant jasal Malta.

(2B) Minkejja d-disposizzjonijiet tas-subartikolu (2A), il-Kummissarju jista', għal raġunijiet speċjali u eċċezzjonali li għandhom jissemew fid-deċiżjoni tiegħu, iqis valida applikazzjoni li tkun saret wara li jkun għalaq iż-żmien imsemmi fl-istess subartikolu (2A) u jipproċedi skond hekk.”.

6. Minflok is-subartikolu (1) ta' l-artikolu 18 ta' l-Att prinċipali, għandu jidhol dan li ġej:

Emenda ta' l-artikolu 18 ta' l-Att prinċipali.

“(1) Persuna li tkun qed tfittex asil f'Malta skond l-artikolu 8 ta' dan l-Att għandha tiġi eżaminata taht proċeduri aċċellerati skond dan l-artikolu meta l-applikazzjoni tagħha tkun

tidher *prima facie* bhala wahda manifestament infondata kif imfisser fl-artikolu 2 ta' dan l-Att.”.

Żieda ta' l-artikolu 18A ġdid ma' l-Att prinċipali.

7. Minnufih wara l-artikolu 18 ta' l-Att prinċipali, ghandu jidhol l-artikolu ġdid li ġej:

“18A. (1) Dan l-artikolu japplika ghal xi persuna f'Malta li tkun qed tipprova takkwista status ta' rifuġjat u li:

(a) tkun inghatat status ta' rifuġjat minn Stat Membru li ma jkunx Malta; jew

(b) tkun ġiet rikonoxxuta f'pajjiż li ma jkunx stat membru bhala rifuġjat u tkun ghad tista' tgawdi minn dak il-harsien jew xort'ohra tkun tgawdi harsien biżżejjed f'dak il-pajjiż, inkluż li tibbenefika mill-prinċipju ta' *non-refoulement*, u li dik il-persuna tkun tista' tiġi mhollija tidhol mill-ġdid f'dak il-pajjiż; jew

(ċ) tkun ta' nazzjonalità jew ċittadinanza ta' xi pajjiż ta' l-orijini sigur li jkun elenkat fl-Iskeda ma' dan l-Att jew, jekk ma jkunx ta' nazzjonalità jew ċittadinanza tiegħu, ikollu dritt ta' residenza hemm.

(2) Il-Ministru jista' b'regolament jemenda l-lista tal-pajjiżi speċifikati fl-Iskeda ma' dan l-Att b'dan li huma biss dawk il-pajjiżi li fil-fehma tiegħu huma pajjiżi ta' l-orijini sigur li jistgħu jiġu elenkati fl-Iskeda msemmija u b'dan ukoll li l-Ministru ghandu jneħhi mill-Iskeda msemmija kull pajjiż li fil-fehma tiegħu ma jkunx aktar pajjiż ta' l-orijini sigur.

(3) Applikazzjoni għal status ta' rifuġjat minn persuna li għaliha japplika dan l-artikolu tkun inammissibbli.

(4) Jekk waqt xi intervista li għaliha saret riferenza fl-artikolu 8(1) il-persuna intervistata titlob biex tapplika għal status ta' rifuġjat u dik il-persuna tkun wahda li għaliha japplika dan l-artikolu, l-uffiċjal ta' immigrazzjoni li jkun imexxi l-intervista ghandu minnufih jagħmel rapport bil-miktub fis-sens li kull applikazzjoni minn dik il-persuna għal status ta' rifuġjat hija inammissibbli taht is-subartikolu (3) u jispeċifika ir-raġuni għal dik l-inammissibilità.

(5) Kopja tar-rapport ghandha tinghata mill-uffiċjal ta' immigrazzjoni lill-persuna intervistata li ghandha tiġi

informata li tista' tapplika lill-Kummissarju sabiex tiġi konsidrata mill-ġdid it-talba tagħha għal status ta' rifuġjat.

(6) Meta r-raġuni għall-inammissibilità ta' l-applikazzjoni tkun li pajjiż iehor ikun pajjiż ta' l-oriġini sigur, l-uffiċjal ta' immigrazzjoni għandu, flimkien mar-rapport, jagħti lill-persuna intervistata dokument fil-lingwa ta' dak il-pajjiż, li jinforma lill-awtoritajiet ta' dak il-pajjiż li l-persuna intervistata kienet talbet għal status ta' rifuġjat u li t-talba tagħha kienet ġiet meqjusa inammissibbli u ma ġietx eżaminata fis-sustanza.

(7) Persuna li għar-rigward tagħha jkun sar rapport taħt dan l-artikolu tista' fi żmien sebat ijiem mid-data tar-rapport tapplika lill-Kummissarju sabiex jikkonsidra mill-ġdid l-opinjoni dwar l-inammissibilità.

(8) Il-Kummissarju għandu minnufih jeżamina l-applikazzjoni taħt is-subartikolu (7) u għandu jikkonsidra s-sottomissjonijiet li jsiru u l-provi miġjuba mill-applikant sabiex juri li ma hix persuna li għaliha japplika dan l-artikolu.

(9) Meta l-applikazzjoni tirrigwarda rapport bħal dak li għalih jagħmel riferenza is-subartikolu (6) il-Kummissarju għandu jikkonsidra wkoll kull sottomissjonijiet li jsiru u l-provi miġjuba mill-applikant sabiex juri li:

(a) il-pajjiż dikjarat fir-rapport li hu pajjiż ta' l-oriġini sigur ma hux pajjiż fejn l-applikant jista' jitreġġa' lura fis-sigur; jew

(b) l-applikant ikun suġġett għal tortura jew jinghata trattament jew jiġi punit b'mod krudil, inuman jew degradanti jekk jiġi mreġġa' lura f'dak il-pajjiż.

(10) Kull deċiżjoni tal-Kummissarju taħt dan l-artikolu dwar l-inammissibilità jew xort'ohra ta' l-applikazzjoni għal status ta' rifuġjat mill-applikant tkun finali u ebda appell ma jista' jsir minn dik id-deċiżjoni.”.

8. Minnufih wara l-artikolu 20 ta' l-Att prinċipali, għandha tidhol l-iskeda li ġejja:

Żieda ta' Skeda
ma' l-Att
prinċipali.

**“SKEDA
(Artikolu 18A)**

Awstralja	Islanda
Benin	Kanada
Botswana	Kosta Rika
Brażil	Liechtenstein
Bulgarija	Mali
Cape Verde	New Zealand
Ċili	Norveġja
Gabon	Romanija
Kroazja	Senegal
Ġamajka	Stati Uniti ta' l-Amerika
Gana	Svizzera
Ġappun	Urugwaj”.
Indja	

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

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

“(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 mkomplija 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 ssehħ 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-ivvjagġar jew ta' l-identità jew inkella jkun uża dokumenti frawdolenti sabiex iqarraq bl-awtoritajiet;

(b) meta jkunu ghad iridu jġu 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 ghas-sigurezza pubblika jew ghall-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-Rifuġjati 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-ġimgha) tirrapporta ghand l-awtoritajiet ta' l-immigrazzjoni f'dawk l-intervalli skond ma l-Bord jista' jstabilixxi.”.

10. (1) Is-subartikolu (2) ta' l-artikolu 39 ta' l-Att ta' l-2004 biex Jemenda Diversi Ligijiet ghandu jġi emendat kif ġej:

Emenda ta' l-Att ta' l-2004 biex Jemenda Diversi Ligijiet.

Att III ta' l-2004.

(a) fit-test Malti biss tiegħu, ghandhom jithassru l-kliem minn “u kull Ordni” sa “l-artikolu 49” u minnufih wara l-kliem “25 ta' Marzu, 2004” ghandhom jidhlu l-kliem “u kull Ordni magħmul taht dak l-Att relattiv ghal dak l-artikolu 49 ghandu jitqies bla ebda effett ghal kollox u ghandu jitqies li qatt ma sar”; u

(b) fit-test Ingliż biss tiegħu, minnufih wara l-kliem “the said article 49” ghandhom jidhlu l-kliem “shall be without any effect whatsoever and shall be deemed to have never been made”.

(2) Id-disposizzjonijiet ta' dan l-artikolu ghandhom jitqiesu li ġew fis-sehħ fl-14 ta' Mejju, 2004.

A 556

Mghoddi mill-Kamra tad-Deputati fis-Seduta Nru. 162 tas-26 ta' Lulju, 2004.

ANTON TABONE
Speaker

RICHARD J. CAUCHI
Skrivan tal-Kamra tad-Deputati

I assent.

(L.S.)

EDWARD FENECH ADAMI
President

6th August, 2004

ACT No. VIII of 2004

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. Article 2 of the principal Act shall be amended as follows: Amendment of article 2 of the principal Act.

(a) for the definition of “safe country of origin” there shall be substituted the following:

“ “safe country of origin” means a country of which an applicant is a national or citizen or, if he is not a national or citizen thereof, in which he has a right of residence and which, in general terms, is considered as presenting no serious risk of persecution on the basis that a person seeking

asylum will be treated in accordance with the following principles in that country –

(a) life and liberty are not threatened on account of race, religion, nationality, membership of a particular group or political opinion; and

(b) the principle of non-*refoulement* in accordance with the Convention is respected; and

(c) the prohibition on removal in breach of the right to freedom from torture and cruel, inhuman or degrading treatment as laid down in international law is respected; and

(d) the possibility exists to request refugee status and, if found to be a refugee, to receive protection in accordance with the Convention.”; and

(b) immediately after the definition of “refugee” there shall be inserted the following new definition:

“ “Member State” shall have the same meaning assigned to it by article 2 of the European Parliament Elections Act.”.

Amendment of article 4 of the principal Act.

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

“(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.”.

- 4.** Immediately after subarticle (3) of article 5 of the principal Act, there shall be added the following subarticle: Amendment of article 5 of the principal Act.

“(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.”.

- 5.** In article 8 of the principal Act, immediately after subarticle (2) thereof, there shall be inserted the following subarticles (2A) and (2B): Amendment of article 8 of the principal Act.

“(2A) Saving the provisions of subarticle (2B), an application as is referred to in subarticle (2) shall be made, and shall not be valid unless made, within two months of the applicant’s arrival in Malta.

(2B) Notwithstanding the provisions of subarticle (2A), the Commissioner may, for special and exceptional reasons to be stated in his decision, consider valid an application made after the lapse of the period mentioned in the same subarticle (2A) and proceed accordingly.”.

- 6.** For subarticle (1) of article 18 of the principal Act, there shall be substituted the following: Amendment of article 18 of the principal Act.

“(1) A person seeking asylum in Malta in terms of article 8 of this Act shall be examined under accelerated procedures in accordance with this article when his application appears *prima facie* to be manifestly unfounded as defined in article 2 of this Act.”.

7. Immediately after article 18 of the principal Act, there shall be inserted the following new article:

“18A. (1) This article shall apply to any person in Malta seeking refugee status and who:

(a) has been granted refugee status by a Member State other than Malta; or

(b) has been recognised in a country which is not a member state as a refugee and can still avail himself of that protection or otherwise enjoys sufficient protection in that country, including benefitting from the principle of non-refoulement, and such person can be re-admitted to that country; or

(c) is a national or citizen of any safe country of origin listed in the Schedule to this Act or, if he is not a national or citizen thereof, he has a right of residence therein.

(2) The Minister may by regulation amend the list of countries specified in the Schedule to this Act provided that only countries which in his opinion are countries of safe origin may be listed in the said Schedule and provided further that the Minister shall remove from the said Schedule any country which in his opinion is no longer a safe country of origin.

(3) An application for refugee status by any person to whom this article applies shall be inadmissible.

(4) If in the course of an interview referred to in article 8(1) the person interviewed requests to apply for refugee status and that person is one to whom this article applies the immigration officer conducting the interview shall forthwith draw up a report in writing to the effect that any application by that person for refugee status is inadmissible under subarticle (3) and shall specify the reason for such inadmissibility.

(5) A copy of the report shall be given by the immigration officer to the person interviewed who shall be informed that he may apply to the Commissioner for a reconsideration of his request for refugee status.

(6) Where the ground for the inadmissibility of the application is that another country is a safe country of origin

the immigration officer shall, together with his report, provide the person interviewed with a document in the language of the said country informing the authorities of that country that the person interviewed requested refugee status and that his request was ruled inadmissible and not examined in substance.

(7) A person in whose regard a report is drawn up under this article may within seven days from the date of the report apply to the Commissioner for a reconsideration of the opinion on inadmissibility.

(8) The Commissioner shall forthwith examine any application under subarticle (7) and shall consider any submissions made or evidence produced by the applicant seeking to show that he is not a person to whom this article applies.

(9) Where the application concerns a report as is referred to in subarticle (6) the Commissioner shall also consider any submissions made or evidence produced by the applicant seeking to show that:

(a) the country declared in the report to be a safe country of origin is not a country to which the applicant may safely return; or

(b) that the applicant would be subjected to torture, cruel, inhuman or degrading treatment or punishment were he to be returned to that country.

(10) Any decision of the Commissioner under this article on the inadmissibility or otherwise of an application for refugee status by the applicant shall be final and no appeal shall lie from that decision.”.

8. Immediately after article 20 of the principal Act, there shall be inserted the following schedule:

Addition of
Schedule to the
principal Act.

**“SCHEDULE
(Article 18A)**

Australia	Iceland
Benin	India
Botswana	Jamaica
Brazil	Japan
Bulgaria	Liechtenstein
Canada	Mali
Cape Verde	New Zealand
Chile	Norway
Croatia	Romania
Costa Rica	Senegal
Gabon	Switzerland
Ghana	United States of America
	Uruguay”.

Consequential amendment of the Immigration Act, Cap. 217.

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

“(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 identification 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 Principal 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.”.

10. (1) Subarticle (2) of article 39 of the Amendment of Various Laws Act, 2004 shall be amended as follows:

Amendment of the Amendment of Various Laws Act, 2004.

(a) in the Maltese text only thereof, the words from “u kull Ordni” to “l-artikolu 49” shall be deleted and immediately after the words “25 ta’ Marzu, 2004” there shall be inserted the words “u kull Ordni magħmul taht dak l-Att relattiv għal dak l-artikolu 49 għandu jitmigħ bla effett għal kollox u għandu jitmigħ li qatt ma sar”; and

Act III of 2004.

(b) in the English text only thereof, immediately after the words “the said article 49” there shall be inserted the words “shall be without any effect whatsoever and shall be deemed to have never been made.”.

(2) The provisions of this article shall be deemed to have come into force on the 14th May, 2004.

Passed by the House of Representatives at Sitting No. 162 of the 26th July, 2004.

ANTON TABONE
Speaker

RICHARD J. CAUCHI
Clerk to the House of Representatives