

Suppliment tal-Gazzetta tal-Gvern ta' Malta, Nru. 19,964, 16 ta' Marzu, 2018

Taqsim C

Nru. 32

16. 03. 2018

MALTA

KAMRA TAD-DEPUTATI

HOUSE OF REPRESENTATIVES

ABBOZZ ta' Liġi mressaq mill-Onorevoli Michael Farrugia, M.P., Ministru għall-Intern u s-Sigurtà Nazzjonali, u moqri għall-Ewwel darba fis-Seduta tat-12 ta' Marzu, 2018.

A BILL introduced by the Honourable Michael Farrugia, M.P., Minister for Home Affairs and National Security, and read the First time at the Sitting of the 12th March, 2018.

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

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

RAYMOND SCICLUNA
Skrivan tal-Kamra tad-Deputati

RAYMOND SCICLUNA
Clerk of the House of Representatives

Abbozz ta' Liġi msejjah

Att biex jemenda l-Ordinanza dwar l-Esplożivi, Kap. 33.

Il-PRESIDENT, bil-parir u bil-kunsens tal-Kamra tad-Deputati imlaqqgħa f'dan il-Parlament, u bl-awtorità tal-istess, harget b'liġi dan li ġej:

1. It-titolu ta' dan l-Att huwa l-Att tal-2018 li jemenda l-Ordinanza dwar l-Esplożivi u dan l-Att għandu jinqara u jinftiehem haġa waħda mal-Ordinanza dwar l-Esplożivi hawn iżjed 'l quddiem msejja "l-Ordinanza prinċipali".

Titolu fil-qosor.
Kap. 33.

2. Is-subparagrafi (ii) u (iii), inkluż il-proviso tas-subparagrafu (iii), tal-paragrafu (a) tal-artikolu 4 tal-Ordinanza prinċipali għandhom jiġu sostitwiti b'dan li ġej:

Emenda tal-artikolu 4 tal-Ordinanza prinċipali

"(ii) kull triq li tkun tintuża b'mod regolari minn vetturi bil-mutur li ma tkunx triq rurali jew triq jew mogħdija li tintuża prinċipalment biex tagħti aċċess għall-għelieqi jew triq jew mogħdija prinċipalment intiza biex tagħti aċċess għal fabbrika tal-porvli; jew

(iii) kull triq oħra li sa mija u tlieta u tmenin metru minnha ma jkunx rakkomandabbli, fil-fehma tal-Kummissarju tal-Pulizija wara li jkun ikkonsulta mal-Awtorità tal-Ippjanar u mal-Awtorità dwar it-Trasport f'Malta, li tinfetaħ fabbrika bħal dik:

Iżda fabbrika tal-porvli tista' tinfetaħ f'distanza ta' anqas minn mija u tlieta u tmenin metru minn triq meta l-Kummissarju tal-Pulizija wara li jkun ikkonsulta lill-Awtorità tal-Ippjanar u lill-Awtorità dwar it-Trasport f'Malta u wara li jkun qies b'mod xieraq l-esigenzi tas-sigurtà pubblika jqis li jkun xorta waħda rakkomandabbli li tinfetaħ fabbrika bħal dik f'distanza inqas

minn triq taht kondizzjonijiet xierqa.

Meta l-Kummissarju tal-Pulizija jqis li jkun rakkomandabbli illi tinfetah fabbrika tal-porvli skont l-ewwel paragrafu ta' dan il-proviso il-Kummissarju tal-Pulizija ghandu jaghti r-raġunijiet ghad-deciżjoni tiegħu, ghandu jimponi kundizzjonijiet fil-liċenza li jkunu xierqa għas-sodisfazzjon tiegħu għall-protezzjoni tas-sigurtà pubblika u ghandu jippubblika l-istess deciżjoni b'avviż fil-Gazzetta fi żmien għoxrin jum mid-deciżjoni; id-distanza ta' mija u tlieta u tmenin metru msemmija f'dan l-artikolu ghandha titkejjel miċ-ċentru tal-maħżen ghad-depożitu."

Emenda l-artikolu 22 tal-Ordinanza prinċipali.

3. Fis-subartikolu (1) tal-artikolu 22 tal-Ordinanza prinċipali, il-kliem "regolamenti dwar il-kontroll" ghandhom jiġu sostitwiti bil-kliem "regolamenti għall-aħjar twettiq tad-dispożizzjonijiet ta' din l-Ordinanza u għat-tneħħija ta' diffikultajiet fit-twettiq tad-dispożizzjonijiet ta' din l-Ordinanza u dwar il-kontroll".

Żjieda ta' artikolu ġdid mal-Ordinanza.

4. Minnufih wara l-artikolu 26Ċ tal-Ordinanza prinċipali ghandu jiżdied l-artikolu ġdid li ġej:

"Esklużjonijiet mill-ghoti ta' liċenza.

26D. (1) Mingħajr preġudizzju ghad-dispożizzjonijiet ta' kull liġi oħra, il-Kummissarju tal-Pulizija m'għandux joħroġ ebda liċenza taht din l-Ordinanza jew ir-regolamenti taht din l-Ordinanza lil kwalunkwe persuna li f'xi żmien matul il-ħames snin minnufih qabel id-data meta tagħmel l-applikazzjoni tagħha għal-liċenza:

(a) tkun instabet hatja:

(i) ta' reat li jinvolvi l-vjolenza jew tentattiv jew theddid ta' vjolenza kontra l-persuna; jew

(ii) ta' xi reat taht din l-Ordinanza jew taht l-Att dwar l-Armi; jew

(iii) ta' reati fuq il-persuna b'armi regolari jew b'xi strument ieħor jew li tkun qabdet xi arma regolari jew strument ieħor kontra persuni oħra; jew

(iv) ta' serq; jew

(v) ta' reat kontra l-liġijiet li ghandhom x'jaqsmu mal-kummerċ fil-prostituzzjoni jew mat-traffikar ta' persuni; jew

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(vi) ta' reat li jkollu x'jaqsam mattraffikar ta' mediċinali; jew

(vii) ta' reati oħra li l-Ministru jista' b'regolamenti jistipula minn żmien għal żmien:

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Iżda, minkejja kull haġa li hemm fl-Att dwar il-*Probation* għall-finijiet ta' dan il-paragrafu, persuna titqies li tkun giet misjuba hatja ukoll jekk tkun giet applikata fil-konfront tagħha xi dispożizzjoni ta' dak l-Att; jew

(b) ikollha storja personali:

(i) ta' dipendenza fuq il-mediċinali jew abbuż minnhom; jew

(ii) li tkun giet ikkurata għal xi marda tal-moħħ fi sptar, istitut mentali, klinika psikjatrika jew xort'oħra, u sew jekk dik il-persuna tkun għamlet xi żmien f'dak l-isptar, istitut jew klinika sew jekk le, meta dik il-marda mentali tkun assoċjata mal-użu ta' vjolenza minn dik il-persuna, jew ma' theddid jew tentattiv ta' użu ta' vjolenza kontra xi persuna oħra.

(2) Minkejja d-dispożizzjonijiet tas-subartikolu (1), liċenza taħt din l-Ordinanza tista' tingħata bl-awtorità speċjali tal-Ministru fiċ-ċirkostanzi li hemm provdut dwarhom f'dawk is-subartikoli:

(3) Tista' tiġi rifjutata li tingħata liċenza lil xi persuna fl-interess tal-ordni pubbliku, jew fl-interess tas-sigurtà ta' dik il-persuna nnifisha jew tal-pubbliku b'mod ġenerali.

(4) Kull min iħoss ruhu aggravat b'deċiżjoni tal-Kummissarju li tkun ittiegħdet skont id-dispożizzjonijiet tas-subartikolu (1) jista' jappella quddiem il-Ministru fi żmien sebat ijiem minn meta jingħata avviż bil-miktub tar-rifjut mill-Kummissarju u l-Ministru għandu, fil-qadi ta' dmirijietu taħt dan is-subartikolu, jikseb il-parir tal-Kumitat tal-Esplożivi. Id-deċiżjoni tal-Ministru tkun waħda finali."

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Dispożizzjoni
transitorja.

5. Kull fabbrika tal-porvli li fid-data tad-dhul fis-sehh ta' dan l-Att tkun ilha li nbriet jew kollha kemm hi jew parti minnha ghal zmien ta' mill-inqas hamsa u ghoxrin sena u li dwarha matul dak il-perjodu jew parti minnu ikun thallas dritt tal-licenza lill-Kummissarju tal-Pulizija jew lil xi awtorita pubblika oħra, ghandha titqies bhala eligibbli biex, jekk ikun hemm il-htiega, jinhareg permess kemm tal-bini kif ukoll għall-ftuħ ta' fabbrika tal-porvli dwarha jekk dik il-fabbrika tkun konformi mad-dispożizzjonijiet tal-Ordinanza prinċipali kif emendati b'dan l-Att minkejja d-dispożizzjonijiet ta' kull ligi oħra.

Ghanijiet u Raġunijiet

L-għanijiet u r-raġunijiet ta' dan l-Abbozz ta' Ligħi huma sabiex jiġu ċċarati ċerti punti dwar l-applikazzjoni tal-Ordinanza dwar l-Esplożivi u illi jsiru emendi għal dan l-iskop għall-istess Ordinanza.

**A BILL
entitled**

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 title of this Act is the Explosives Ordinance (Amendment) Act, 2018 and this Act shall be read and construed as one with the Explosives Ordinance hereinafter referred to as the "principal Ordinance". Short title.

2. Sub-paragraphs (ii) and (iii), including the proviso to sub-paragraph (iii), of paragraph (a) of article 4 of the principal Ordinance shall be substituted with the following: Amendment of article 4 of the principal Ordinance.

"(ii) any street which is used regularly for the passage of motor vehicles not being a rural street or a street or path used principally to provide access to fields or a street or path used principally to provide access to a gunpowder factory; or

(iii) any other street within one hundred and eighty-three metres of which it would not be advisable, in the opinion of the Commissioner of Police after consultation with the Planning Authority and the Authority for Transport in Malta, to establish such a factory:

Provided that a gunpowder factory may be established within a distance of less than one hundred and eighty three metres from a street where the Commissioner of Police, after consultation with the Planning Authority and with the Authority for Transport in Malta, and after giving due consideration to the exigencies of public safety, considers that it would still be advisable to establish such a factory within a lesser distance from a street subject to

suitable conditions.

When the Commissioner of Police considers that it is advisable that a gunpowder factory be established in accordance with the first paragraph of this proviso the Commissioner of Police shall give reasons for his decision, shall impose conditions in the licence which are to his satisfaction suitable for the protection of public safety and shall publish the said decision by notice in the Gazette within twenty days from the decision; the distance of one hundred and eighty-three metres referred to in this article shall be measured from the centre of the magazine."

Amendment of article 22 of the principal Ordinance.

3. In sub-article (1) of article 22 of the principal Ordinance the words "regulations for the control" shall be substituted by the words "regulations for the better implementation of the provisions of this Ordinance, for the removal of difficulties in the implementation of the provisions of this Ordinance and for the control".

Adds new article 26D to the Ordinance.

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

"Exclusion form holding a licence.

26D. (1) Saving the provisions of any other law, the Commissioner of Police shall not issue a licence under this Ordinance or under regulations made under this Ordinance to any person who, in the preceding five years of his application for a licence, has:

(a) been convicted of:

(i) an offence involving violence or attempted or threatened violence against the person; or

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(ii) an offence under this Ordinance or the Arms Act; or

(iii) an offence of bodily harm with an arms proper or other instrument or of taking up any arm proper or other instrument against other persons; or

(iv) an offence of theft; or

(v) an offence against the laws relating to white slave traffic or traffic of persons; or

(vi) an offence relating to trafficking in drugs; or

(vii) any other offence that the Minister may by regulation prescribe from time to time:

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Provided that, notwithstanding anything contained in the Probation Act, for the purposes of this paragraph a person shall be deemed to have been convicted even if any of the provisions of the said Act may have been applied in his regard; or

- (b) has a history of:
 - (i) drug dependence or abuse; or
 - (ii) of treatment for mental illness whether in a hospital, mental institute, psychiatric clinic or otherwise, and whether or not such person was confined to such a hospital, institute or clinic where such mental illness is associated with the use by such person of violence, or threatened or attempted use of violence against another person.

(2) Notwithstanding the provisions of sub-article (1) a licence under this Ordinance may be granted by special authority of the Minister in the circumstances provided in those sub-articles.

(3) A licence may be refused to any person in the interest of public order or in the interest of the safety of such person or of the general public.

(4) Any person aggrieved by a decision of the Commissioner in accordance with this Article may appeal to the Minister within seven days from the notification in writing of the refusal by the Commissioner and the Minister in the exercise of his functions under this sub-article may seek the advice of the Explosives Committee. The decision of the Minister shall be final and conclusive."

5. All gunpowder factories which on the coming into force of this Act shall have been fully or partially built for at least twenty-five years and licence fees would have been paid in respect thereof to the Commissioner of Police or to any other public authority during that period or part thereof shall be considered to be eligible, should the need arise, for the issue of a building permit and for the issue of a permit for the establishment of a gunpowder factory if that factory is in conformity with the provisions of the principal Ordinance as amended by this Act notwithstanding any provision of any other law.

Transitory provision.

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Objects and Reasons

The objects and reasons of this Bill are to clarify certain points on the application of the Explosives Ordinance and to effect the necessary amendments to the Ordinance for the said purpose.

