

MALTA

**ATT Nru XXXVII tal-2020**

ATT maħruġ b'ligi mill-Parlament ta' Malta.

**ATT sabiex jemenda l-Att dwar il-Protezzjoni tal-Minuri (Ħarsien Alternattiv), Kap. 602.**

**ACT No. XXXVII of 2020**

AN ACT enacted by the Parliament of Malta.

**AN ACT to amend the Minor Protection (Alternative Care) Act, Cap. 602.**



Nagħti l-kunsens tiegħi.

(L.S.)

**GEORGE VELLA**  
**President**

28 ta' Lulju, 2020

**ATT Nru XXXVII tal-2020**

*ATT sabiex jemenda l-Att dwar il-Protezzjoni tal-Minuri (Harsien Alternattiv), Kap. 602.*

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

**1.** It-titolu fil-qosor ta' dan l-Att hu l-Att tal-2020 li jemenda l-Att dwar il-Protezzjoni tal-Minuri (Harsien Alternattiv), u dan l-Att għandu jinqara u jinftiehem haġa waħda mal-Att dwar il-Protezzjoni tal-Minuri (Harsien Alternattiv), hawn iżjed 'il quddiem imsejjaħ "l-Att prinċipali".

Titolu fil-qosor.  
Kap. 602.

**2.** Fl-artikolu 2 tal-Att prinċipali minnufih wara l-kliem "l-Att dwar il-Qorti tal-Minorenni" għandhom jidhlu l-kliem "iżda li jikkonsisti biss mill-Maġistrat mingħajr iż-żewġ assistenti maħtura skont l-artikolu 4(2) *et seq.* tal-istess Att".

Emenda tal-artikolu 2 tal-Att prinċipali.

**3.** L-artikolu 9 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 9 tal-Att prinċipali.

(a) fis-subartikolu (2) tiegħu minflok il-kliem "li jikkostitwixxi reat kriminali li jikkaguna ħsara sinifikanti hekk kif imfissra fis-subartikolu (4) fuq minuri" għandhom jidhlu l-kliem "li jikkaguna jew li jista' jikkaguna ħsara sinifikanti fuq minuri kif imfissra fis-subartikolu (4) jew li jikkostitwixxi reat kriminali"; u

A 698

(b) fis-subartikolu (4) tiegħu minflok il-kliem "u t-traffikar ta' xi persuni kif imsemmi fis-Sub-Titolu VIII Bis tat-Titolu VIII tat-Taqsima II tal-Ewwel Ktieb tal-Kodiċi Kriminali" għandhom jidhlu l-kliem "traffikar, biza' ta' vjolenza u mutilazzjoni tal-organi ġenitali ta' mara kif imfissra u kontemplati fl-Ewwel Ktieb tal-Kodiċi Kriminali. Tinkludi wkoll li persuna tkun vittima tal-vjolenza domestika kif imfissra u kontemplat taħt l-Att dwar il-Vjolenza abbażi ta' Ġeneru u Vjolenza Domestika".

Kap. 581.

Emenda tal-artikolu 15 tal-Att prinċipali.

4. L-artikolu 15 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu minflok il-kliem "Children's House" għandhom jidhlu l-kliem "l-post jew il-postijiet fejn il-Qorti tal-Minorenni għandha żżomm is-seduti f'Malta u f'Għawdex";

(b) is-subartikolu (2) għandu jiġi enumerat mill-ġdid bħala s-subartikolu (3) u minnufih wara s-subartikolu (1) għandu jiżdied is-subartikolu ġdid li ġej:

"(2) Il-Qorti għandha tistabbilixxi jum u hin sabiex tisma' x-xhieda tal-minuri u għal dan il-għan għandha żżomm is-seduta biex tisma' lill-minuri f'dawk il-postijiet preskritti mill-Ministru permezz ta' regolamenti sabiex iservu bħala *Children's House*".

Emenda tal-artikolu 18 tal-Att prinċipali.

5. L-artikolu 18 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (3) tiegħu minflok il-kliem "fi żmien erbġha u għoxrin siegħa" għandhom jidhlu l-kliem "fi żmien peremptorju, liema żmien ma għandu qatt jeċċedi dak ta' tmienja u erbġhin siegħa"; u

(b) fis-subartikolu (5) tiegħu minnufih wara l-kliem "nominat minnha" għandhom jiżdiedu l-kliem "kuratur *ad litem*"; u minnufih wara s-subartikolu (5), kif emendat, għandhom jiżdiedu l-provisos ġodda li ġejjin:

"Iżda n-notifika msemmija fis-subartikolu 5 għandha sseħħ minnufih permezz tal-uffiċjali eżekuttivi tal-qorti skont l-artikolu 67 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili:

Kap. 12.

Kap. 12.

Iżda wkoll il-Qorti għandha taħtar kuraturi skont l-artikolu 930 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili sabiex jirrappreżentaw lill-ġenituri tal-minuri meta l-istess ġenituri ma jkunux ġew notifikati bl-avviż tas-smiġħ, kemm-il darba l-Qorti jkollha quddiemha riferita negattiva skont l-artikolu

188 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili. Il-proċedura tal-ħruġ tal-bandi kif meħtieġa skont l-artikolu 931 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili m'għandhiex ixxekkel is-smiġh kif provdut taħt is-subartikolu (5) tal-artikolu 18. Meta tidher persuna li toffri ruhha li taċċetta l-ħatra ta' kuratur wara l-ħruġ tal-bandi, tista' tiġi konfermata bhala kuratur tal-ġenituri mill-Qorti skont l-artikolu 933 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili."

**6.** Fis-subartikolu (1)(ċ) tal-artikolu 19 tal-Att prinċipali minnufih wara l-kliem "ġenituri tal-minuri" għandhom jiżdiedu l-kliem "jew il-minuri". Emenda tal-artikolu 19 tal-Att prinċipali.

**7.** Fis-subartikolu (4) tal-artikolu 21 tal-Att prinċipali l-kliem "tutela u kurazija u bla" għandhom jiġu sostitwiti bil-kliem "tutela u kurazija bl-eċċezzjoni tal-ipoteka ta' hwejjigħa kif meħtieġ taħt l-artikolu 167 u 199 tal-Kodiċi Ċivili. Bla". Emenda tal-artikolu 21 tal-Att prinċipali.

**8.** Fl-artikolu 32 tal-Att prinċipali minnufih wara s-subartikolu (4) għandu jiżdied is-subartikolu ġdid li ġejj:

"(5) Il-Ministru għandu jahtar persuna biex taġixxi bhala Segretarju tal-Bord ta' Reviżjoni u dik il-persuna għandha, bhala parti minn dmirijietha, tkun responsabbli biex iżżomm id-dokumenti rilevanti u għandha tagħmel kull xogħol ieħor relatat mal-funzjonijiet tal-Bord ta' Reviżjoni skont kif tista' tkun imqabnda miċ-*Chairperson*:

Iżda s-Segretarju tal-bord ma jkollux vot."

**9.** Fis-subartikolu (6) tal-artikolu 51 tal-Att prinċipali minnufih wara l-kliem "direzżjoni mingħand il-Bord ta' Reviżjoni" għandhom jidhlu l-kliem "liema direzżjoni għandha tingħata mhux aktar tard minn għaxart ijiem utili". Emenda tal-artikolu 51 tal-Att prinċipali.

**10.** Fis-subartikolu (1) tal-artikolu 61 tal-Att prinċipali, minnufih wara l-paragrafu (j) għandhom jiżdiedu l-paragrafi ġodda li ġejjin: Emenda tal-artikolu 61 tal-Att prinċipali.

"(k) li jkollhom id-dritt jifih kont bankarju f'isem il-minuri u li huma għandhom jamministraw bhala missier tajjeb tal-familja;

(l) li jirċievu kull informazzjoni rilevanti, inkluż informazzjoni medika, dwar il-minuri li ser jitqiegħed taħt il-ħarsien tagħhom u jiżguraw li dik l-informazzjoni tinżamm kunfidenzjali;

(m) li jiżguraw li l-minuri jattendi għal xi trattament li l-

A 700

Bord ta' Revizjoni jista' jiddeċiedi li hu meħtieġ għall-gid tal-minuri;

(n) li jattendu flimkien mal-minuri għar-revizjonijiet quddiem il-Bord ta' Revizjoni u jzommu lil dak il-bord aġġornat dwar il-progress li l-minuri ikun qed jagħmel u dwar kull grajja oħra sinifikanti;

(o) li jirrispettaw u jiffaċilitaw id-dritt tal-minuri li jipprattika reliġjon tal-għażla tiegħu."

Emenda tal-artikolu 65 tal-Att prinċipali.

**11.** Fis-subartikolu (9) tal-artikolu 65 tal-Att prinċipali, minflok il-kliem "Qorti tal-Appell" għandhom jidhlu l-kliem "Qorti tal-Appell (Kompetenza Inferjuri)" u minflok il-kliem "l-artikolu 41(6)" għandhom jidhlu l-kliem "l-artikolu 41(9)".

Emenda tal-artikolu 66 tal-Att prinċipali.

**12.** L-artikolu 66 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu minflok il-kliem "Qorti tal-Appell" għandhom jidhlu il-kliem "Qorti tal-Appell (Kompetenza Inferjuri)" u minflok il-kliem "l-artikolu 41(6)" għandhom jidhlu l-kliem "l-artikolu 41(9)"; u

(b) fit-tieni proviso għas-subartikolu (1) tiegħu minflok il-kelma "dejjem" għandha tidhol il-kelma "wkoll".

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Mgħoddi mill-Kamra tad-Deputati fis-Seduta Nru 363 tat-22 ta' Lulju, 2020.

ANĠLU FARRUGIA  
*Speaker*

RAYMOND SCICLUNA  
*Skrivan tal-Kamra tad-Deputati*

I assent.

(L.S.)

**GEORGE VELLA**  
**President**

28th July, 2020

**ACT No. XXXVII of 2020**

*AN ACT to amend the Minor Protection (Alternative Care) Act, Cap. 602.*

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same as follows:

**1.** The short title of this Act is the Minor Protection (Alternative Care) (Amendment) Act, 2020 and this Act shall be read and construed as one with the Minor Protection (Alternative Care) Act, hereinafter referred to as "the principal Act".

Short title.

Cap. 602.

**2.** In article 2 of the principal Act, immediately after the words "Juvenile Court Act" there shall be added the words "but consisting solely of the Magistrate without the two assistants appointed according to article 4(2) *et seq.* of the same Act".

Amendment of article 2 of the principal Act.

**3.** Article 9 of the principal Act shall be amended as follows:

Amendment of article 9 of the principal Act.

(a) in sub-article (2) thereof the words "which constitutes a criminal offence causing significant harm as defined in sub-article (4) on a minor" shall be substituted by the words "causing or which may cause significant harm on a minor

A 702

as defined in sub-article (4) or which constitutes a criminal offense"; and

(b) in sub-article (4) thereof the words "and trafficking of any of the persons as mentioned in Sub-title VIII Bis of Title VIII of Part II of Book First of the Criminal Code" shall be substituted by the words "trafficking, fear of violence and female genital mutilation as defined and provided for in Book First of the Criminal Code. It also includes being a victim of domestic violence as defined and provided for in Gender-based Violence and Domestic Violence Act".

Cap. 581.

Amendment of article 15 of the principal Act.

4. Article 15 of the principal Act shall be amended as follows:

(a) in sub-article (1) thereof, the words "Children's House" shall be substituted by the words "the building or buildings where the Juvenile Court shall sit in Malta and in Gozo";

(b) sub-article (2) thereof shall be renumbered as sub-article (3) and immediately after sub-article (1) there shall be added the following new sub-article:

"(2) The Court shall appoint the date and time in which the minor shall give evidence and for such purpose it shall convene to hear the minor in those premises as are prescribed by the Minister, through regulations, to serve as Children's House."

Amendment of article 18 of the principal Act.

5. Article 18 of the principal Act shall be amended as follows:

(a) in sub-article (3) thereof the words "within twenty-four hours" shall be substituted by the words "in the shortest time possible and such period shall in no case exceed that of forty-eight hours";

(b) in sub-article (5) thereof immediately after the words "appointed by it" there shall be added the words "curator *ad litem*"; and immediately after sub-article (5), as amended, there shall be added the following new provisos:

"Provided that the service mentioned in sub-article (5) shall take place immediately by court executive officers in accordance with article 67 of the Code of Organization and Civil Procedure:

Cap. 12.

Provided further that the Court shall appoint curators in accordance with article 930 of the Code of Organization and

Cap. 12.



Civil Procedure to represent the parents of the minor when such parents have not been served by the date of the hearing, given that the Court would have before it a negative certificate of service in accordance with article 188 of the Code of Organization and Civil Procedure. The procedure of issue of banns as required by article 931 of the Code of Organization and Civil Procedure shall not hinder the hearing as set by sub-article (5) of article 18. Any person appearing to the banns may be confirmed as curator of the parents by the Court in accordance with article 933 of the Code of Organization and Civil Procedure."

6. In sub-article (1)(c) of article 19 of the principal Act immediately after the words "parents of the minor" there shall be added the words "or the minor".

Amendment of article 19 of the principal Act.

7. In sub-article (4) of article 21 of the principal Act the words "shall apply *mutatis mutandis* and without" shall be substituted by the words "shall apply *mutatis mutandis* with the exception of the hypothecation of his own property required by article 167 and 199 of the Civil Code. Without".

Amendment of article 21 of the principal Act.

8. In article 32 of the principal Act, immediately after sub-article (4) there shall be added the following new sub-article:

Amendment of article 32 of the principal Act.

"(5) The Minister shall designate a person to act as Secretary to the Review Board and such person shall, as part of his duties, be responsible for the keeping of the relevant records and shall carry out such other work related to the functions of the Review Board as may be instructed by the Chairperson:

Provided that the Secretary to the board shall have no vote."

9. In sub-article (6) of article 51 of the principal Act immediately after the words "a direction from the Review Board" there shall be added the words "which direction is to be given by not later than ten working days".

Amendment of article 51 of the principal Act.

10. In sub-article (1) of article 61 of the principal Act immediately after paragraph (j) there shall be added the following new paragraphs:

Amendment of article 61 of the principal Act.

"(k) the right to open a bank account in the name of the minor, which they shall administer as a *bonus paterfamilias*;

(l) the receiving of any relevant information, including medical information, about the minor being placed in their care

and ensuring that any such information is kept confidential;

(m) ensuring that the minor attends to any treatment which the Review Board may determine as needed for the well-being of the minor;

(n) attendance together with the minor for reviews by the Review Board and updating that board on the progress being done by the minor and on any other significant event;

(o) respecting and facilitating the right of the minor to practice a religion of his own choice."

Amendment of article 65 of the principal Act.

**11.** In sub-article (9) of article 65 of the principal Act, the words "Court of Appeal" shall be substituted by the words "Court of Appeal (Inferior Jurisdiction)" and the words "article 41(6)" shall be substituted by the words "article 41(9)".

Amendment of article 66 of the principal Act.

**12.** Article 66 of the principal Act shall be amended as follows:

(a) in sub-article (1) thereof, the words "Court of Appeal" shall be substituted by the words "Court of Appeal (Inferior Jurisdiction)" and the words "article 41(6)" shall be substituted by the words "article 41(9)"; and

(b) in the second proviso to sub-article (1) thereof the word "always" shall be substituted by the word "also".

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Passed by the House of Representatives at Sitting No. 363 of the 22nd July, 2020.

ANĠLU FARRUGIA  
*Speaker*

RAYMOND SCICLUNA  
*Clerk of the House of Representatives*



