

Nru. 137

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MALTA

KAMRA TAD-DEPUTATI

HOUSE OF REPRESENTATIVES

ABBOZZ ta' Ligi mressaq mill-Onorevoli Joseph Cassar, M.P., Deputat Prim Ministru Anzjan u Ministru tal-Gustizzja u Affarijiet tal-Parlament u moqri għall-Ewwel darba fis-Seduta ta' 1-4 ta' Marzu, 1986.

A BILL introduced by the Honourable Joseph Cassar, M.P., Senior Deputy Prime Minister and Minister of Justice and Parliamentary Affairs and read the First time at the Sitting of the 4th March, 1986.

ATT biex ikompli jemenda l-Kodiċi Kriminali, Kap. 12.

AN ACT further to amend the Criminal Code, Cap. 12.

C. MIFSUD

Skrivan tal-Kamra tad-Deputati

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Clerk to the House of Representatives

ABBOZZ TA' LIGI

msejjah

ATT biex ikompli jemenda l-Kodiċi Kriminali, Kap. 12.

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

1. Dan l-Att jista' jissejjaħ l-Att ta' l-1986 li jemenda l-Kodiċi Kriminali, u għandu jinqara u jiftiehem ħaġa waħda mal-Kodiċi Kriminali, hawnhekk iżjed 'il quddiem imsejjaħ "il-liġi prinċipali". Titolu fil-qosor.

2. Fil-paragrafu (b) tas-subartikolu (1) ta' l-artikolu 236 tal-liġi prinċipali, minflok il-kliem "dik ix-xhieda jew perizja" għandhom jidhlu l-kliem "dik ix-xhieda jew perizja, jew fuq il-persuna ta' tifel taħt l-età ta' disa' snin". Emenda ta' l-artikolu 236 tal-liġi prinċipali.

3. L-artikolu 277 tal-liġi prinċipali għandu jiġi emendat kif ġej: Emenda ta' l-artikolu 277 tal-liġi prinċipali.

(a) fit-tieni paragrafu għas-subartikolu (1) tiegħu —

(i) minnufih wara l-kliem "jew tal-meters ta' dawn is-servizzi", għandhom jidhlu l-kliem "jew ta' xi sigill ta' xi meter,"; u

(ii) minnufih wara l-kliem "ma' dawn il-kanni, fili jew gumni," għandhom jidhlu l-kliem "jew l-eżistenza ta' xi mezz qarrieq kif imsemmi fis-subartikolu (2) ta' dan l-artikolu,"; u

(b) fis-subartikolu (2) tiegħu —

(i) minnufih wara l-kliem "jew ta' fili jew gumni tas-servizz elettriku," għandhom jidhlu l-kliem "jew tal-meters tagħhom, jew ta' xi sigill ta' xi meter, jew fil-każ ta' "; u

(ii) minflok il-kliem "fejn ikunu jinsabu dawn il-mezzi qarrieqa" għandhom jidhlu l-kliem "fejn ikunu jinsabu daww il-ksur jew il-mezzi qarrieqa".

Emenda ta' l-artikolu 284 tal-liġi prinċipali.

4. Minnufih wara l-paragrafu (f) ta' l-artikolu 284 tal-liġi prinċipali għandu jiżdid il-paragrafu ġdid li ġej:

“(g) meta jsir fuq xi vettura f’post pubbliku jew f’post aċċessibbli għall-pubbliku, jew fuq xi parti jew aċċessorju ta’, jew fuq xi haġa li tkun ġo, dik il-vettura.”.

Emenda ta' l-artikolu 352 tal-liġi prinċipali.

5. L-artikolu 352 tal-liġi prinċipali għandu jiġi emendat kif ġej:

(a) fil-paragrafu (h) tiegħu, minflok il-kliem “jissieheb ma’ lagħaba f’dik ix-xorta ta’ logħob” għandhom jidhlu l-kliem “jissieheb ma’ lagħaba f’dik ix-xorta ta’ logħob; jew ikun preżenti fil-waqt li jkun qed jintlab xi logħob bħal dak”;

(b) minnufih wara l-paragrafu (ff) tiegħu, għandu jiżdid il-paragrafu ġdid li ġej:

“(gg) hlief kif permess bil-liġi, u kemm-il darba xi liġi oħra ma tipprovdix għal piena oghla għar-reat, jagħmel jew jipprova jagħmel jew b’xi mod ikollu x’jaqsam ma’ l-għemil ta’ xi mħatra magħduda mħatra li għandha x’taqsam ma’ xi logħba, sport jew grajja f’Malta jew x’imkien ieħor; jew li jkun preżenti f’xi post fejn tkun qed issir xi mħatra bħal dik.”.

Emenda ta' l-artikolu 356 tal-liġi prinċipali.

6. L-artikolu 356 tal-liġi prinċipali għandu jiġi emendat kif ġej:

(a) fil-paragrafu (a) tiegħu, minflok il-kliem “imsemmi fil-paragrafu (h) ta’ l-artikolu 352” għandhom jidhlu l-kliem “imsemmi fil-paragrafu (h) ta’ l-artikolu 352, u kull flus li jinsabu fuq xi persuna li tagħmel reat taħt l-imsemmi paragrafu”; u

(b) minnufih wara l-paragrafu (b) tiegħu għandu jiżdid il-paragrafu ġdid li ġej:

“(ċ) kull flus li jinsabu fuq xi persuna li tagħmel reat taħt il-paragrafu (gg) ta’ l-artikolu 352.”.

Emenda ta' l-artikolu 377 tal-liġi prinċipali.

7. Fis-subartikolu (3) ta’ l-artikolu 377 tal-liġi prinċipali minflok il-kelma “Sotto-spettur” għandhom jidhlu l-kliem “Sotto-spettur jew ittimbrati b’*facsimile* ta’ dik il-firma.”.

Emenda ta' l-artikolu 425 tal-liġi prinċipali.

8. Minnufih wara s-subartikolu (1) ta’ l-artikolu 425 tal-liġi prinċipali għandu jidhlo is-subartikolu ġdid li ġej:

“(1A) Meta sentenza tingħata dwar diversi reati u appell għal xi waħda mir-raġunijiet imsemmija fil-paragrafu (b) tas-subartikolu ta’ qabel dan, jew taħt xi liġi oħra, ikun jista’ jsir dwar xi wieħed minn dawk ir-reati, appell ikun jista’ jsir dwar kull wieħed minn dawk ir-reati l-oħra li jkollhom x’jaqsu ma’ dak ir-reat.

Reati jkollhom x’jaqsmu ma’ xulxin meta —

(i) il-fatti tar-reat ikunu sostanzjalment l-istess; jew

(ii) reat ikun serva bħal mezz għall-egħmil ta’ reat ieħor; jew

(iii) il-prova ta’ reat jew ta’ ċirkostanza tagħha jkun jolqot prova ta’ reat ieħor jew ta’ ċirkostanza tiegħu.”.

Emenda ta' l-artikolu 433 tal-liġi prinċipali.

9. Minnufih wara s-subartikolu (2) ta’ l-artikolu 433 tal-liġi prinċipali għandu jiżdid is-subartikolu ġdid li ġej:

“(3) Meta l-appellant ma jkunx ġie notifikat bl-avviż tal-ġurnata maħtura għas-smiegh, u wara bl-avviż tal-ġurnata li għaliha

s-smiegħ ikun tħalla, ir-Registratur għandu, fi żmien jumejn mill-gurnata l-aħħar imsemmija, jieħu ħsieb li jitwaħħal avviz barra l-bieb ta' l-awla fejn toqgħod il-Qorti, li juri d-data li għaliha l-appell ikun reġa' tħalla u li javża li jekk l-appellant ma jidhix quddiem il-Qorti f'dik id-data l-appell tiegħu jitqies li ġie deżert skond dan is-subartikolu. Jekk l-appellant jonqos li jidher f'dik id-data għas-smiegħ ta' l-appell, l-appell tiegħu jitqies li ġie deżert u japplikaw id-dispożizzjonijiet tas-subartikolu (1) ta' l-artikolu 434.”.

10. L-artikolu 542 tal-liġi prinċipali għandu jiġi emendat kif ġej: Emenda ta' l-artikolu 542 tal-liġi prinċipali.

(a) fil-proviso li hemm għalih, minflok il-kelma “Izda” għandhom jidhlu l-kliem “Izda wkoll,”; u

(b) minnufih qabel il-proviso li hemm għalih għandu jidhlo il-proviso ġdid li ġej:

“Izda l-Maġistrat jista', meta jidhirlu spedjenti, jagħti s-setgħa lill-periti li jirċievu dokumenti u jisimgħu x-xhieda bil-ġurament u li jieħdu x-xhieda tagħhom bil-miktub u d-dispożizzjonijiet tas-subartikolu (5) ta' l-artikolu 646 u tas-subartikolu (3) ta' l-artikolu 649 għandhom japplikaw *mutatis mutandis*.”.

11. (1) Kull ċitazzjoni msemmija fl-artikolu 372 tal-liġi prinċipali li tkun inħarġet qabel il-bidu fis-seħħ ta' dan l-Att u li tkun ittimbrata b'*facsimile* tal-firma ta' uffiċjal tal-Pulizija Eżekuttiva mhux taħt il-grad ta' Sotto-spettur titqies li tkun giet iffirmata regolarment minn dak l-uffiċjal għall-finijiet ta' l-artikolu 377 tal-liġi prinċipali. Dispożizzjoni transitorja.

(2) L-ewwel proviso għall-artikolu 542 tal-liġi prinċipali, miżjud b'dan l-Att, għandu japplika għal kull aċċess li fih Maġistrat ikun, qabel il-bidu fis-seħħ ta' dan l-Att, ha s-setgħa lil periti li jirċievi d-dokumenti u li jisma' xhieda.

Għanijiet u Ragunijiet

L-Għan ta' l-Abbozz huwa prinċipalment li jipprovdi għal emenda dwar ir-reat ta' serq ta' enerġija, għal jedd għal appell meta jkun hemm reati li jkollhom x'jaqsmu ma' xulxin, u għal ċirkostanzi godda fejn appelli jitqiesu li ġew deżerti. L-Abbozz jerga' jdaħħal il-kontravvenzjoni ta' mhatri, u jipprovdi għal pieni oghla f'każijiet ta' offiża fuq il-persuna ta' tfal żgħar.

A BILL
entitled

AN ACT further to amend the Criminal Code, Cap. 12.

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:—

Short title.

1. This Act may be cited as the Criminal Code (Amendment) Act, 1986, and shall be read and construed as one with the Criminal Code, hereinafter referred to as "the principal law".

Amendment of section 236 of the principal law.

2. In paragraph (b) of subsection (1) of section 236 of the principal law, for the words "of such evidence or opinion" there shall be substituted the words "of such evidence or opinion, or on the person of a child under nine years of age".

Amendment of section 277 of the principal law.

3. Section 277 of the principal law shall be amended as follows:

(a) in the second paragraph of subsection (1) thereof —

(i) immediately after the words "or of the metres thereof," there shall be inserted the words "or of any seal of any meter.,"; and

(ii) immediately after the words "with such pipes, wires, or cables," there shall be inserted the words "or the existence of artificial means as are mentioned in subsection (2) of this section.,"; and

(b) in subsection (2) thereof —

(i) immediately after the words "or of the wires or cables of the electricity service," there shall be inserted the words "or of the metres thereof, or of any seal of any meter, or in the case of"; and

(ii) for the words "in which such artificial means are found" there shall be substituted the words "in which such breaking or artificial means are found".

4. Immediately after paragraph (f) of section 284 of the principal law there shall be added the following new paragraph: Amendment of section 284 of the principal law.

“(g) when it is committed on any vehicle in a public place or in a place accessible to the public, or on any part or accessory of, or anything inside, such vehicle.”.

5. Section 352 of the principal law shall be amended as follows: Amendment of section 352 of the principal law.

(a) in paragraph (h) thereof, for the words “shall be a partner of any player at any such game” there shall be substituted the words “shall be a partner of any player at any such game; or who is present while any such game is being played”;

(b) immediately after paragraph (ff) thereof, there shall be added the following new paragraph:

“(gg) except as is allowed by law, and unless any other law provides for a higher punishment for the offence, makes or attempts to make or is in any way concerned in the making of any bet or wager including a bet or wager connected with any game, sport or event occurring in Malta or elsewhere; or who is present in any place while such betting or wagering is taking place.”.

6. Section 356 of the principal law shall be amended as follows: Amendment of section 356 of the principal law.

(a) in paragraph (a) thereof, for the words “in contravention of paragraph (h) of section 352” there shall be substituted the words “in contravention of paragraph (h) of section 352, and any money found on any person committing an offence under the said paragraph”; and

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

“(c) any money found on any person committing an offence under paragraph (gg) of section 352.”.

7. In subsection (3) of section 377 of the principal law for the word “Sub-inspector.” there shall be substituted the words “Sub-inspector or be stamped with a *facsimile* of such a signature.”. Amendment of section 377 of the principal law.

8. Immediately after subsection (1) of section 425 of the principal law there shall be inserted the following new subsection: Amendment of section 425 of the principal law.

“(1A) Where a judgement is given in respect of several offences and a right of appeal on any of the grounds mentioned in paragraph (b) of the preceding subsection, or under any other law, is competent in respect of one of those offences, an appeal shall lie in respect of any other of those offences connected with that offence.

There is connection between offences when —

- (i) the facts of the offences are substantially the same;
- or
- (ii) an offence has served as a means for the commission of another offence; or
- (iii) the proof of an offence or of a circumstance thereof has a bearing on the proof of another offence or of a circumstance thereof.”.

Amendment of section 433 of the principal law.

9. Immediately after subsection (2) of section 433 of the principal law there shall be added the following new subsection:

“(3) Where the appellant has not been served with the notice of the day appointed for the hearing, and subsequently with the notice of the day for which the hearing has been adjourned, the Registrar shall, within two working days from the latter day, cause a notice to be posted up outside the entrance of the hall where the Court sits, showing the date for which the appeal has again been adjourned and intimating that if the appellant does not appear before the Court on such date his appeal shall be taken to be abandoned in terms of this subsection. If the appellant fails to appear on that date for the hearing of the appeal, his appeal shall be taken to have been abandoned and the provisions of subsection (1) of section 434 shall apply.”.

Amendment of section 542 of the principal law.

10. Section 542 of the principal law shall be amended as follows:

(a) in the proviso thereto, for the words “Provided, however” there shall be substituted the words “Provided further, however”; and

(b) immediately before that proviso thereto there shall be inserted the following new proviso:

“Provided that the Magistrate may, where he deems it to be so expedient, empower the experts to receive documents and to examine witnesses on oath and to take down their depositions in writing and the provisions of subsection (5) of section 646 and of subsection (3) of section 649 shall, *mutatis mutandis*, apply.”.

Transitory provision.

11. (1) Every summons referred to in section 372 of the principal law which was issued before the coming into force of this Act and which was stamped by a *facsimile* of the signature of an officer of the Executive Police not below the rank of Sub-Inspector, shall be deemed to have been regularly signed by such officer for the purposes of section 377 of the principal law.

(2) The first proviso to section 542 of the principal law, added by this Act, shall apply to every inquest in which a Magistrate has, before the coming into force of this Act, empowered any expert to receive documents and to examine witnesses.

Objects and Reasons

The Object of the Bill is mainly to provide for an amendment in respect of the offence of theft of energy, for a right of appeal where offences are connected, and for new circumstances in which appeals are to be taken to be abandoned. The Bill re-introduces the contravention of gaming and betting, and provides for a heavier penalty in cases of bodily harm to young children.