

Suppliment tal-Gazzetta tal-Gvern ta' Malta, Nru. 21,191, 9 ta' Frar, 2024

Taqsimha A

MALTA

ATT Nru VI tal-2024

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

ATT sabiex jemenda varji liġijiet dwar ir-rikavat mill-kriminalità.

ACT No. VI of 2024

AN ACT enacted by the Parliament of Malta.

AN ACT to amend various laws relating to the proceeds of crime.

Nagħti l-kunsens tiegħi.

(L.S.)

GEORGE VELLA
President

9 ta' Frar, 2024

ATT Nru VI tal-2024

ATT sabiex jemenda varji ligijiet dwar ir-rikavat mill-kriminalità.

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-2024 li jemenda Titolu fil-qosor. Varji Ligijiet dwar ir-Rikavat mill-Kriminalità.

TAQSIMA I

Emendi għall-Kodiċi Kriminali

2. Din it-Taqsima temenda l-Kodiċi Kriminali u għandha tinqara u Emendi għall-Kodiċi Kriminali. Kap. 9. tinftiehem haġa waħda mal-Kodiċi Kriminali, hawn iżjed 'il quddiem f'din it-Taqsima msejjaħ "il-Kodiċi".

3. L-artikolu 23A tal-Kodiċi għandu jiġi sostitwit b'dan l-artikolu ġdid li ġej: Sostituzzjoni tal-artikolu 23A tal-Kodiċi.

"Iffriżar tal-proprjetà ta' min ikun akkużat. Kap. 621.

23A. (1) L-iffriżar tal-proprjetà ta' xi persuna li tkun imputata jew akkużata b'reat relevanti għandu jiġi regolat mid-dispożizzjonijiet tal-Att dwar ir-Rikavat mill-Kriminalità:

Kap. 31. Iżda dak stipulat hawn fuq ma għandux japplika meta persuna tkun imputata jew akkużata b'reat kontra d-dispożizzjonijiet tal-Ordinanza dwar il-Professjoni Medika u l-Professjonijiet li għandhom x'jaqsmu magħha jew tal-Ordinanza dwar il-Mediċini Perikolużi kemm jekk l-akkużi jkunu biss ta' reati kontra dawk il-ligijiet kif ukoll jekk ikunu ta' reati kontra dawk il-ligijiet u reati kontra ligijiet oħra:

Kap. 31. Iżda wkoll fejn, qabel id-dhul fis-seħh ta' dan il-proviso, ikun inhareġ Ordni ta' Ffriżar dwar reat kontra l-Ordinanza dwar il-Professjoni Medika u l-Professjonijiet li għandhom x'jaqsmu magħha jew l-Ordinanza dwar il-Mediċini Perikolużi taht l-Ordinanza dwar il-Professjoni Medika u l-Professjonijiet li għandhom x'jaqsmu magħha jew taht l-Ordinanza dwar il-Mediċini Perikolużi jew taht l-artikolu 23A ta' dan il-Kodiċi kif kien fis-seħh fiż-żmien meta nhareġ dak l-ordni, kemm jekk l-akkużi kienu biss dwar reati kontra l-Ordinanza dwar il-Professjoni Medika u l-Professjonijiet li għandhom x'jaqsmu magħha jew taht l-Ordinanza dwar il-Mediċini Perikolużi jew għal reati taht dawk il-ligijiet flimkien ma' akkużi għal reati taht ligijiet oħra kull Ordni ta' Ffriżar hekk maħruġ għandu jitqies li nhareġ taht l-Ordinanza dwar il-Professjoni Medika u l-Professjonijiet li għandhom x'jaqsmu magħha u l-Ordinanza dwar il-Mediċini Perikolużi, u għandu, wara d-dhul fis-seħh ta' dan il-proviso, jibqa' fis-seħh u għandu jkun regolat skont l-Ordinanza dwar il-Professjoni Medika u l-Professjonijiet li għandhom x'jaqsmu magħha u l-Ordinanza dwar il-Mediċini Perikolużi.

Kap. 621. (2) F'dan l-artikolu u fl-artikoli 23B, 23Ċ u 23D il-kliem "proprjetà" u "reat relevanti" għandhom l-istess tifsira mogħtija lilhom fl-Att dwar ir-Rikavat mill-Kriminalità u l-kelma "rikavat" għandha l-istess tifsira mogħtija lill-kliem "Rikavat mill-Kriminalità" fl-Att dwar ir-Rikavat mill-Kriminalità.

Kap. 621. (3) Fejn dan l-artikolu u l-artikoli 23B, 23Ċ u 23D jipprovdu dwar il-konfiska ta' rikavat mill-kriminalità b'mod li mhuwiex provdut fl-Att dwar ir-Rikavat mill-Kriminalità d-dispożizzjonijiet ta' dan l-artikolu u tal-artikoli 23B, 23Ċ u 23D għandhom jiġu applikati qabel id-dispożizzjonijiet tal-Att dwar ir-Rikavat mill-Kriminalità. Id-dispożizzjonijiet tal-Att dwar ir-Rikavat mill-Kriminalità għandhom japplikaw biss sussidjarjament skont l-artikolu 5(3) tal-Att dwar ir-Rikavat mill-Kriminalità."

4. Is-subartikoli (1A), (1B) u (3) tal-artikolu 23B tal-Kodiċi għandhom jiġu mħassra. Emenda tal-artikolu 23B tal-Kodiċi.

5. L-artikolu 23Ċ tal-Kodiċi għandu jiġi emendat b'dan li ġej: Emenda tal-artikolu 23Ċ tal-Kodiċi.

(a)(i) fis-subartikolu (2) tiegħu, il-kliem "22(3A)(b), (d) u (7)" għandhom jiġu sostitwiti bil-kliem "22(3A)(b) u (7)"; u

(ii) is-subartikolu (2) fl-intier tiegħu, kif emendat, għandu jiġi enumerat mill-ġdid bħala l-paragrafu (a) tal-istess subartikolu u minnufih wara għandu jiġi miżjud dan il-paragrafu ġdid li ġej:

"(b) il-Qorti għandha tordna l-konfiska favur il-Gvern ta' dawk il-flejjes jew proprjeta' mobbli oħra u ta' dik il-proprjeta' immobbli tal-persuna misjuba ħatja tar-reat relevanti li jkunu jikkostitwixxu rikavat minn dak ir-reat ukoll jekk il-proprjeta' mobbli jew immobbli minn meta l-ħati jkun ġie imputat tkun għaddiet għand terzi persuni u anke jekk l-imsemmija flejjes, proprjeta' mobbli jew proprjeta' immobbli jkunu qegħdin f'xi post barra minn Malta."; u

(b) is-subartikolu (6) tiegħu għandu jiġi mħassar.

6. Is-subartikolu (3) tal-artikolu 435A tal-Kodiċi għandu jiġi sostitwit b'dan is-subartikolu ġdid li ġej: Emenda tal-artikolu 435A tal-Kodiċi.

"(3) Għall-finijiet ta' dan l-artikolu:

Kap. 373. "l-Att" tfisser l-Att kontra *Money Laundering*; u

Kap. 621. "reat relevanti" għandu jkollha l-istess tifsira kif mogħtija lilha fl-Att dwar ir-Rikavat mill-Kriminalità."

7. Fis-subartikolu (3) tal-artikolu 435D tal-Kodiċi l-kliem " "l-Att" u "l-Ordinanzi" għandhom l-istess tifsir bħalma hu mogħti lilhom rispettivament bl-artikolu 23A(1);" għandhom jiġu sostitwiti bil-kliem Emenda tal-artikolu 435D tal-Kodiċi.

"Kap. 373. "l-Att" tfisser l-Att kontra *Money Laundering*;

Kap. 31. "l-Ordinanzi" tfisser l-Ordinanza dwar il-Professjoni Medika u l-Professjonijiet li għandhom x'jaqsmu magħha u Kap. 101. l-Ordinanza dwar il-Mediċini Perikolużi; u".

TAQSIMA II
Emendi għall-Att dwar l-Awtorità għas-Servizzi Finanzjarji ta' Malta

Emendi għall-Att dwar l-Awtorità għas-Servizzi Finanzjarji ta' Malta.
Kap. 330.

8. Din it-Taqsima temenda l-Att dwar l-Awtorità għas-Servizzi Finanzjarji ta' Malta u għandha tinqara u tinftiehem haġa waħda mal-Att dwar l-Awtorità għas-Servizzi Finanzjarji ta' Malta, hawn iżjed 'il quddiem f'din it-Taqsima msejjaħ l-"Att prinċipali".

Sostituzzjoni tal-artikolu 17A tal-Att prinċipali.

9. L-artikolu 17A tal-Att prinċipali għandu jiġi sostitwit b'dan l-artikolu ġdid li ġej:

"Ordnijiet ta' sekwestru.

Kap. 621.

17A. Meta fuq informazzjoni li jirċievi mill-Awtorità, l-Avukat Ġenerali jkollu raġuni biżżejjed sabiex jissuspetta li persuna hija haġja ta' xi ksur ta' dan l-Att jew ta' xi Att ieħor, l-Avukat Ġenerali jista' jitlob lill-Qorti Kriminali sabiex toħroġ Ordni ta' Sekwestru u d-dispożizzjonijiet tal-artikolu 35 tal-Att dwar ir-Rikavat mill-Kriminalità għandhom japplikaw."

Sostituzzjoni tal-artikolu 17B tal-Att prinċipali.

10. L-artikolu 17B tal-Att prinċipali għandu jiġi sostitwit b'dan l-artikolu ġdid li ġej:

"Iffriżar ta' fondi.

Kap. 621.

17B. Meta persuna tkun ġiet imputata b'reat kriminali bi ksur ta' dan l-Att jew b'reat li jkun reat relevanti skont l-Att dwar ir-Rikavat mill-Kriminalità, il-prosekuzzjoni tista' titlob lill-Qorti tal-Maġistrati għal ordni ta' ffrizar u għandhom japplikaw id-dispożizzjonijiet tal-artikolu 36 tal-imsemmi Att."

TAQSIMA III
Emendi għall-Att Kontra Money Laundering

Emendi għall-Att Kontra Money Laundering.
Kap. 373.

11. Din it-Taqsima temenda l-Att kontra *Money Laundering* u għandha tinqara u tinftiehem haġa waħda mal-Att kontra *Money Laundering*, hawn iżjed 'il quddiem f'din it-Taqsima msejjaħ "l-Att prinċipali".

Emenda tal-artikolu 3 tal-Att prinċipali.

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

(a) fil-proviso għall-paragrafu (a) tas-subartikolu (5) tiegħu l-kliem "Izda, għall-finijiet ta'" għandhom jiġu sostitwiti bil-kliem "Izda wkoll, għall-finijiet ta'" u minnufih qabel għandu jiġi miżjud dan il-proviso ġdid li ġej:

"Izda l-preżunzjoni f'dan il-paragrafu u kwalunkwe preżunzjoni simili f'xi liġi oħra ma għandhiex tippregudika s-setgħa tal-Qorti li tvarja ordni ta' ffrizar

waqt li l-proċeduri kriminali jkunu pendenti kif provdut fl-artikolu 5."; u

(b) is-subartikolu (7) tiegħu għandu jiġi emendat b'dan li ġej:

(i) il-kliem "22(3A)(b), (d) u (7)" għandhom jiġu sostitwiti bil-kliem "22(3A)(b) u (7)"; u

(ii) is-subartikolu (7) fl-intier tiegħu, kif emendat, għandu jiġi enumerat bħala l-paragrafu (a) tal-istess subartikolu u minnufih wara għandu jiġi miżjud dan il-paragrafu ġdid li ġej:

"(b) Il-Qorti għandha tordna l-konfiska favur il-Gvern ta' dawk il-flejjes jew proprjetà mobbli oħra u ta' dik il-proprjetà immobbli tal-persuna misjuba ħatja tar-reat ta' money laundering li jkunu jikkostitwixxu r-rikavat minn dak ir-reat ukoll jekk il-proprjetà mobbli jew immobbli minn meta l-ħati jkun gie imputat tkun għaddiet għand terzi persuni u anke jekk l-imsemmija flejjes, proprjetà mobbli jew proprjetà immobbli jkunu qegħdin f'xi post barra minn Malta."

13. Minnufih wara s-subartikolu (11) tal-artikolu 4 tal-Att prinċipali għandu jiġi miżjud is-subartikolu ġdid li ġej:

Emenda tal-artikolu 4 tal-Att prinċipali.

"(11A)(a) Meta Ordni ta' Sekwestru jiġi revokat mill-Qorti Kriminali jew irtirat mill-Avukat Ġenerali qabel l-iskadenza tal-perjodu ta' validità tiegħu, l-imsemmija Qorti għandha toħroġ digriet li jikkonferma l-imsemmija revoka u għandha tordna n-notifika tal-imsemmi digriet lill-persuna suspettata u lis-sekwestratarji kollha bil-mod provdut fis-subartikolu (9) u lil dawk kollha mnotifikati bl-Ordni ta' Sekwestru.

(b) Meta l-perjodu ta' validità ta' Ordni ta' Sekwestru jiġi sospiż matul dak iż-żmien li l-persuna suspettata ma tkunx Malta, l-imsemmija sospensjoni għandha tapplika biss fir-rigward ta' dik il-persuna.

(ċ) Meta Ordni ta' Sekwestru ma jibqax fis-seħħ, il-Qorti Kriminali għandha toħroġ digriet li jikkonferma li l-Ordni ta' Sekwestru ma għadux fis-seħħ. Il-Qorti għandha tordna n-notifika tal-imsemmi digriet lill-persuna suspettata u lis-sekwestratarji kollha bil-mod provdut fis-subartikolu (9) u lil dawg kollha nnotifikati bl-Ordni ta' Sekwestru."

Sostituzzjoni tal-artikolu 5 tal-Att prinċipali.

14. L-artikolu 5 tal-Att prinċipali għandu jiġi sostitwit b'dan l-artikolu ġdid li ġej:

"Iffriżar ta' proprjetà tal-imputat.

Kap. 621.

5. Meta persuna tiġi akkużata taħt l-artikolu 3, il-prosekuzzjoni tista' titlob lill-Qorti tal-Maġistrati għal ordni ta' ffriżar u d-dispożizzjonijiet tal-artikolu 36 tal-Att dwar ir-Rikavat mill-Kriminalità għandhom japplikaw."

Sostituzzjoni tal-artikolu 7 tal-Att prinċipali.

15. L-artikolu 7 tal-Att prinċipali għandu jiġi sostitwit b'dan l-artikolu ġdid li ġej:

"Konfiska u drittijiet ta' partijiet terzi. Kap. 621.

7. L-artikoli 38 u 39 tal-Att dwar ir-Rikavat mill-Kriminalità għandhom japplikaw fir-rigward tad-determinazzjoni ta' kwalunkwe proprjetà li tkun soġġetta għall-konfiska skont l-artikolu 3(5) u tad-determinazzjoni tad-drittijiet ta' partijiet terzi fuq dik il-proprjetà."

Thassir tal-artikolu 8 tal-Att prinċipali.

16. L-artikolu 8 tal-Att prinċipali għandu jiġi mħassar.

TAQSIMA IV

Emendi għall-Att dwar il-Prevenzjoni ta' Abbuż fis-Swieq Finanzjarji

Emendi għall-Att dwar il-Prevenzjoni ta' Abbuż fis-Swieq Finanzjarji. Kap. 476.

17. Din it-Taqsima temenda l-Att dwar il-Prevenzjoni ta' Abbuż fis-Swieq Finanzjarji u għandha tinqara u tinftiehem haġa waħda mal-Att dwar il-Prevenzjoni ta' Abbuż fis-Swieq Finanzjarji, hawn iżjed 'il quddiem f'din it-Taqsima msejjaħ l-"Att prinċipali".

Sostituzzjoni tal-artikolu 18 tal-Att prinċipali.

18. L-artikolu 18 tal-Att prinċipali għandu jiġi sostitwit b'dan l-

artikolu ġdid li ġej:

"Ordni ta' Sekwestru.

18. Meta waqt investigazzjoni li titwettaq skont dan l-Att u, jew ir-Regolament dwar l-Abbuż tas-Suq, fuq informazzjoni li jkun irċieva mill-awtorità kompetenti, l-Avukat Ġenerali jkollu raġuni tajba sabiex jissuspetta li persuna tista' tkun responsabbli ta' ksur ta' dan l-Att u, jew tar-Regolament dwar l-Abbuż tas-Suq, l-Avukat Ġenerali jista' jippreżenta rikors fil-Qorti Kriminali sabiex jitlob lill-imsemmija Qorti toħroġ Ordni ta' Sekwestru u d-dispożizzjonijiet tal-artikolu 35 tal-Att dwar ir-Rikavat mill-Kriminalità għandhom japplikaw."

Kap. 621.

19. L-artikolu 19 tal-Att prinċipali għandu jiġi sostitwit b'dan l-artikolu ġdid li ġej:

Sostituzzjoni tal-artikolu 19 tal-Att prinċipali.

"Iffriżar tal-fondi.

19. Meta persuna tkun ġiet akkużata bi ksur ta' xi dispożizzjoni ta' dan l-Att u, jew tar-Regolament dwar l-Abbuż tas-Suq u hekk kif tirċievi talba mill-awtorità kompetenti, il-prosekuzzjoni tista', fejn tqis xieraq, titlob lill-Qorti tal-Maġistrati sabiex toħroġ ordni ta' ffrizar u d-dispożizzjonijiet tal-artikolu 36 tal-Att dwar ir-Rikavat mill-Kriminalità għandhom japplikaw."

Kap. 621.

TAQSIMA V

Emendi għall-Att dwar ir-Rikavat mill-Kriminalità

20. Din it-Taqsima temenda l-Att dwar ir-Rikavat mill-Kriminalità u għandha tinqara u tinftiehem haġa waħda mal-Att dwar ir-Rikavat mill-Kriminalità, hawn iżjed 'il quddiem f'din it-Taqsima msejjaħ l-"Att prinċipali".

Emendi għall-Att dwar ir-Rikavat mill-Kriminalità. Kap. 621.

21. L-artikolu 2 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 2 tal-Att prinċipali.

(a) minnufih qabel it-tifsira "assi virtwali" għandhom jiġu miżjuda t-tifsiriet godda li ġejjin:

" "akkużat" għandha tinkludi persuna imputata;

"ammont stabbilit mill-Ministru b'ordni fil-Gazzetta" jinkludi kemm ordni li jstabbilixxi ammont fiss kif ukoll ordni li jstabbilixxi formula dwar kif għandu jinħadem dak l-ammont kemm jekk b'referenza għal perjodu ta' żmien speċifiku u kemm jekk minn żmien għal żmien;"

(b) minnufih wara t-tifsira "Ministru" għandha tiġi miżjuda din it-tifsira ġdida li ġejja:

" "Ordni ta' Qbid u Ffriżar" għandha tinkludi referenza għal tali ordni li juża kliem ieħor bl-istess effett u b'mod partikolari tinkludi ordni msemmi taht liġi oħra li jissejjaħ sempliċiment "Ordni ta' Ffriżar";".

Emenda tal-artikolu 19 tal-Att prinċipali.

22. Minnufih wara s-subartikolu (6) tal-artikolu 19 tal-Att prinċipali għandu jiġi miżjud dan is-subartikolu għdid li ġejj:

"(7) Għall-finijiet approvduti fis-subartikolu (6), l-Uffiċċju jista' jagħmel kuntratti għall-ħażna u l-manutenzjoni ta' proprjetà maqbuda jew iffriżata, u jista' jhallas kumpens lill-istimaturi, esperti u professjonisti oħra li jistgħu jiġu mqabbdha sabiex jassistu lill-Uffiċċju sabiex jiġi stabbilit il-valur u jsiru l-arrangamenti u l-koordinamenti dwar il-bejgħ, it-trasferiment, jew l-assenjazzjoni ta' dik il-proprjetà, qabel jew wara l-għoti tas-sentenza finali."

Emenda tal-artikolu 35 tal-Att prinċipali.

23. L-artikolu 35 tal-Att prinċipali għandu jiġi emendat kif ġejj:

(a) is-subartikolu (5) tiegħu għandu jiġi emendat kif ġejj:

(i) il-kliem "tar-reat relattiv relevanti:" għandhom jiġu sostitwiti bil-kliem "tar-reat relattiv relevanti."; u

(ii) il-proviso tiegħu għandu jiġi mħassar;

(b) minnufih wara s-subartikolu (5) tiegħu, kif emendat, għandhom jiġu miżjudha s-subartikoli ġodda li ġejjin:

"(5A) Id-dispożizzjonijiet tas-subartikoli (5) u (6) tal-artikolu 36 għandhom japplikaw *mutatis mutandis* għal Ordni ta' Sekwestru.

(5B) Meta Ordni ta' Sekwestru jiġi rtirat mill-Avukat Ġenerali qabel l-iskadenza tal-perjodu ta' validità tiegħu jew ma jibqax fis-seħħ għal kwalunkwe raġuni oħra inkluża l-iskadenza taż-żmien ta' validità tiegħu, il-Qorti Kriminali għandha toħroġ digriet li jikkonferma li l-Ordni ta' Sekwestru jkun ġie revokat jew ma jkunx għadu fis-seħħ u għandha tordna n-notifika tal-imsemmi digriet lis-suspettat u lis-sekwestratarji kollha u dawk kollha nnotifikati bl-Ordni ta' Sekwestru bil-mod kif provdut fis-subartikolu (4).";

(ċ) fis-subartikolu (6) tiegħu minnufih wara l-kliem "għandu jizdied mal-perjodu ta' validità tal-Ordni ta' Sekwestru" għandhom jiġu miżjudha l-kliem "fir-rigward tal-imsemmi suspettat"; u

(d) minnufih wara s-subartikolu (13) tiegħu għandu jiġi miżjud dan is-subartikolu ġdid li ġej:

"(14) Is-suspettat jew il-persuna imputata jew akkużata ma jistax fiż-żmien meta jinħareġ l-ordni jikkontesta l-bażi fattwali għall-ħruġ tal-ordni skont dan l-artikolu jew l-artikolu 36, hlief kif provdut fil-paragrafu (ii) tas-subartikolu (8) tal-artikolu 36."

24. L-artikolu 36 tal-Att prinċipali għandu jiġi sostitwit b'dan l-artikolu ġdid li ġej:

Sostituzzjoni tal-artikolu 36 tal-Att prinċipali.

"Ordnijiet ta' Qbid u Ffriżar.

36. (1) Meta persuna tkun akkużata b'reat relevanti, il-Qorti għandha, fuq talba tal-prosekuzzjoni, tagħmel Ordni, hawn iżjed 'il quddiem imsejjaħ "Ordni ta' Qbid u Ffriżar", li bih tiġi sekwestrata kwalunkwe proprjetà li tkun f'idejn partijiet terzi li dwarha jkun hemm raġuni valida sabiex jitwemmen li l-proprjetà hija soġġetta għall-konfiska, u li żżomm u tipprojbixxi lill-akkużat milli jittrasferixxi, jagħti b'rahan, jipoteka, jew b'xi mod ieħor ibiddel jew jiddisponi minn dik il-proprjetà u minn proprjetà oħra tiegħu jew li tkun fil-pussess tiegħu.

(2) Fil-każ li proprjetà li tkun soġġetta għall-konfiska kif imsemmi fis-subartikolu (1) ma tkunx tista' tiġi sekwestrata jew miżmuma peress li ma tkunx tista' tiġi lokalizzata, tkun tħalltet ma' proprjetà oħra, tkun ġiet trasferita lil parti terza, tkun tinstab barra minn Malta, jew għal xi raġuni oħra ma tkunx tista' tiġi sekwestrata jew miżmuma l-Qorti għandha, soġġett għal-limitazzjonijiet fis-subartikolu (3), tinkludi fl-Ordni ta' Qbid u Ffriżar dispożizzjoni li tissekwestra u żżomm proprjetà ta' valur ekwivalenti.

(3)(a) It-talba għal Ordni ta' Qbid u Ffriżar għandha ssir mill-prosekuzzjoni jew b'rikors li jkun jindika l-assi jew somma flus jew it-tnejn li jkunu soġġetti għall-konfiska fil-każ ta' sejbien ta' htija jew fid-dokument li permezz tiegħu jsiru l-akkużi.

(b) Id-dritt tal-imputat li jikkontesta Ordni ta' Qbid u Ffriżar għandu jkun skont kif provdut fil-paragrafu (ii) tas-subartikolu (8).

(ċ) Parti terza li tistabbilixxi li Ordni ta' Qbid u Ffriżar ikun qiegħed jikkagunala preġudizzju immedjat u irreparabbli jista' jitlob lill-Qorti sabiex tvarja l-Ordni għall-mitigazzjoni ta' dak id-dannu sa fejn ikun prattikabbli li dan isir mingħajr ma jiġu agġudikati l-kwistjonijiet li parti terza jkollha d-dritt li tqajjem fi żmien xieraq skont l-artikolu 39.

(d) Il-prosekuzzjoni tista', fi kwalunkwe hin matul il-proċeduri, titlob lill-Qorti sabiex temenda Ordni ta' Qbid u Ffriżar kif provdut fil-paragrafu (a), sabiex iżżid jew tnaqqas proprjetà li tkun soġġetta għal dak l-Ordni.

(4)(a) Jekk l-akkuża fir-rigward tal-imputat jew it-talba magħmula mill-prosekuzzjoni skont is-subartikolu (3)(a) tkun telenka l-assi li għandhom ikunu soġġetti għall-konfiska fil-każ ta' sejbien ta' htija, jew jekk tallega somma ta' flus speċifika jew it-tnejn bħala l-proprjetà li għandha tkun soġġetta għall-konfiska, l-Ordni ta' Qbid u Ffriżar għandu jkun limitat għal dawk l-assi speċifiċi jew għal proprjetà li jkollha valur li ma jkunx akbar minn dik is-somma flus.

(b)(i) Jekk l-akkuża jew it-talba għall-ħruġ tal-Ordni ta' Qbid u Ffriżar fir-rigward tal-imputat tkun tipprovdi f'termini ġenerali li l-proprjetà tal-imputat għandha tkun soġġetta għall-konfiska, iżda ma tillimitax dik il-proprjetà soġġetta għall-konfiska ta' assi speċifiċi jew ta' somma ta' flus speċifika jew it-tnejn, il-Qorti għandha toħroġ Ordni ta' Qbid u Ffriżar li jkun biżżejjed sabiex tiġi ppreservata dik il-proprjetà kif jista' jkun meħtieġ sabiex tissoddisfa l-ordni tal-konfiska, sa u inklużi l-assi kollha tal-akkużat, iżda fi kwalunkwe każ il-Qorti għandha tirrikjedi lill-prosekuzzjoni li tistabbilixxi fi żmien disgħin (90) jum li hemm bażi raġonevoli sabiex wiehed jemmen li l-proprjetà se tkun soġġetta għall-konfiska:

Iżda t-terminu għall-prosekuzzjoni sabiex tistabbilixxi l-proprjetà li għandha tkun soġġetta għall-Ordni ta' Qbid u Ffriżar jista' jiġi mġedded mill-Qorti għal disgħin (90) jum ieħor jekk il-Qorti tkun sodisfatta li dik l-estensjoni tkun ġustifikata;

(ii) jekk il-prosekuzzjoni fit-termini provduti fil-paragrafu (i) tillimita l-proprjetà soġġetta għall-Ordni ta' Qbid u Ffriżar għall-assi speċifiċi jew għal somma flus speċifika jew it-tnejn, il-Qorti għandha, jekk tqis li dan ikun xieraq, temenda l-Ordni ta' Qbid u Ffriżar u d-dispożizzjonijiet tal-paragrafu (ii) tas-subartikolu (8) għandhom japplikaw;

(iii) jekk il-prosekuzzjoni fit-termini provduti fil-paragrafu (i) ma tillimitatx il-proprjetà soġġetta għall-Ordni ta' Qbid u Ffriżar għal assi speċifiċi jew għal somma flus speċifika jew it-tnejn l-Ordni ta' Qbid u Ffriżar ma għandux jibqa' fis-sehħ meta jiskadu l-imsemmija termini u d-dispożizzjonijiet tas-subartikolu (5B) tal-artikolu 35 għandhom japplikaw *mutatis mutandis* fir-rigward tal-akkużat;

(iv) meta Ordni ta' Qbid u Ffriżar ma jibqax fis-sehħ skont is-subparagrafu (iii) il-Qorti għandha fuq talba b'rikors tal-persuna imputata jew akkużata toħroġ digriet li jikkonferma li l-Ordni ta' Qbid u Ffriżar ma jkunx għadu fis-sehħ u għandha tordna n-notifika tal-imsemmi digriet lill-persuni kollha li jkunu ġew notifikati bl-Ordni ta' Qbid u Ffriżar.

(5)(a) Il-Qorti tista' tvarja Ordni ta' Qbid u Ffriżar permezz ta' rikors mill-persuna imputata jew akkużata. L-imsemmi rikors għandu jkun notifikat lill-prosekuzzjoni u lid-Direttur. Fuq dak ir-rikors, il-Qorti għandha tiddetermina xi flus jistgħu jithallsu jew jiġu riċevuti mill-persuna imputata jew akkużata matul il-validità ta' dak l-Ordni, sabiex tippermetti lilu u lill-familja tiegħu għajxien deċenti f'ammont annwali li ma jkunx aktar mill-ammont stabbilit mill-Ministru b'ordni fil-Gazzetta u kull ammont ieħor illi l-Qorti tikkunsidra li jkun ġustifikat sabiex jithallsu l-ispejjeż neċessarji.

(b) Fuq rikors tal-qorti tal-persuna imputata jew akkużata notifikat lill-prosekuzzjoni u lid-Direttur, il-Qorti għandha wkoll, soġġett għal dawk il-kondizzjonijiet li hija jidhrilha li jkunu xierqa:

(i) tiddetermina xi flus jistgħu jithallsu jew jiġu riċevuti mill-persuna imputata jew akkużata matul iż-żmien ta' validità ta' Ordni ta' Qbid u Ffriżar sabiex tippermettilha twettaq kwalunkwe kummerċ, negozju, professjoni jew xogħol;

(ii) tawtorizza l-hlas ta' djun li jkollhom jithallsu mill-persuna imputata jew akkużata lil kredituri *bona fide* u li jkunu saru qabel ma jkun sar l-Ordni ta' Qbid u Ffriżar;

(iii) għal raġuni tajba, tawtorizza lill-persuna imputata jew akkużata biex tittrasferixxi proprjetà mobbli jew immobbli.

(c) F'każ li matul il-proċeduri ssir talba għall-varjazzjoni tal-Ordni skont il-paragrafi (a) jew (b) dwar spejjeż li jkunu rikorrenti, l-Ordni li jippermetti l-hlas ta' tali spejjeż rikorrenti għandu jitqies li jkun ikopri dawk l-ispejjeż kull meta jinqalgħu mingħajr il-htieġa li jiġi pprezentat rikors kull darba li jinqalgħu dawk l-ispejjeż.

(6) Kwalunkwe deċiżjoni meħuda mill-Qorti skont dan l-artikolu għandha tikkostitwixxi miżura proviżorja u ma għandhiex tippregudika l-mertu tal-każ.

(7) Ordni ta' Qbid u Ffriżar għandu jiġi notifikat minnufih lid-Direttur u għandu:

(a) isir operattiv u jorbot lill-partijiet terzi minnufih malli jinħareġ u d-Direttur għandu jaċċerta li l-avviż tiegħu jiġi ppubblikat fil-Gazzetta mingħajr dewmien u għandu jaċċerta li kopja tiegħu tiġi reġistrata fir-Registru Pubbliku, fir-Registru tal-Artijiet u fi kwalunkwe registru ieħor imwaqqaf b'liġi għar-reġistrazzjoni ta' proprjetà tkun ta' liema xorta tkun. Kopja ta' dak l-Ordni għandha tiġi notifikata wkoll lil kull persuna li l-prosekuzzjoni jew id-Direttur jistgħu jindikaw; u

(b) bla ħsara għad-dispożizzjonijiet l-oħra ta' dan l-artikolu, jibqa' fis-seħħ sad-determinazzjoni finali tal-proċeduri u fil-każ li jkun hemm sejbien ta' htija sakemm is-sentenza tkun giet esegwita.

(8)(i) Meta l-Qorti tal-Maġistrati ma toħroġx Ordni skont is-subartikolu (1) meta mitluba mill-prosekuzzjoni, il-Qorti għandha minflok toħroġ ordni ta' ffrizar temporanju li għandu jkollu l-istess effett. L-Avukat Ġenerali jista', fi żmien sebat (7) ijiem tax-xogħol mid-data tad-deċiżjoni tal-Qorti, jippreżenta rikors quddiem il-Qorti Kriminali sabiex tagħmel l-ordni meħtieġ. Il-Qorti Kriminali għandha tagħti sebat (7) ijiem tax-xogħol lill-imputat sabiex jirrispondi għar-rikors tal-Avukat Ġenerali. L-Ordni ta' Ffrizar temporanju għandu jibqa' fis-seħħ sakemm il-Qorti Kriminali tiddeċiedi dwar ir-rikors.

(ii) Meta ordni skont is-subartikolu (1) jinħareġ mill-Qorti tal-Maġistrati, l-imputat jista', fi żmien sebat (7) ijiem tax-xogħol mid-data tad-deċiżjoni tal-Qorti, jippreżenta rikors quddiem il-Qorti Kriminali fejn jitlob ir-revoka sħiħa jew parzjali tal-ordni, iżda l-ordni għandu jibqa' fis-seħħ sakemm tingħata d-deċiżjoni mill-Qorti Kriminali. Il-Qorti Kriminali għandha tagħti sebat (7) ijiem tax-xogħol lill-prosekuzzjoni u lid-Direttur sabiex jirrispondu għat-talba tal-imputat. Id-deċiżjoni tal-Qorti Kriminali fuq ir-rikors għandha tingħata fi żmien sebat (7) ijiem tax-xogħol minn meta jiġu ppreżentati r-risposti jew minn meta jkun skada t-terminu għall-preżentata tagħhom.

(9) (a) Fuq rikors tal-Uffiċċju, il-Qorti Ċivili (Sezzjoni tal-Irkupru tal-Assi) għandha tordna l-bejgħ waqt il-proċeduri u mingħajr ma tistenna s-sentenza finali ta' kwalunkwe proprjetà li tkun ġiet maqbuda jew iffriżata skont dan l-artikolu jekk il-Qorti ssib illi:

(i) il-proprjetà hija ta' natura li tithassar jew f'riskju ta' deterjorazzjoni, tħassir, ħsara jew deprezzament fil-valur;

(ii) l-ispiza sabiex tinżamm il-proprjetà tkun eċċessiva jew tkun sproporzjonata għall-valur tagħha fis-suq meta wieħed iqis ukoll iż-żmien li x'aktarx ikun meħtieġ sabiex jiġi determinat jekk il-proprjetà hijiex se tkun soġġetta għal konfiska jew għal ordni ta' konfiska;

(iii) il-proprjetà tkun soġġetta għal self jew għal dritt ieħor fuq il-proprjetà jew għal taxxi li dwarhom is-sid ikun naqas mill-obbligi tiegħu; jew

(iv) ikun hemm raġuni valida oħra għall-bejgħ:

Iżda l-Qorti tista', fid-diskrezzjoni tagħha, tiċhad talba sabiex tordna l-bejgħ jekk issib li l-proprjetà jkollha karatteristiċi tant uniċi li l-bejgħ tagħha jkun jikkostitwixxi telf li jkun insostitwibbli għas-sid tal-proprjetà, jekk il-proprjetà fl-aħħar tinstab li mhijiex soġġetta għall-konfiska.

(b) Ir-rikavat ta' kull bejgħ skont dan is-subartikolu għandu jinżamm f'kont miżmum mill-Uffiċċju u għandu jservi bħala *res* sostituttiv fi kwalunkwe proċeduri kriminali jew għall-konfiska bbażata fuq nuqqas ta' kundanna.

(ċ) Il-Qorti għandha tiddeċiedi dwar it-talba tal-Uffiċċju skont dan is-subartikolu fi żmien tletin (30) jum minn meta ssir dik it-talba. Id-digriet għandu jkun soġġett għal dritt ta' appell fuq punti ta' dritt mill-parti aggravata u dak l-appell għandu jiġi ppreżentat fil-Qorti tal-Appell fi żmien sebat (7) ijiem tax-xogħol mid-data tad-digriet. Il-parti appellata tista' tippreżenta risposta fi żmien sebat (7) ijiem tax-xogħol minn meta tiġi notifikata bl-appell. Il-Qorti tal-Appell għandha tiddeċiedi l-appell fi żmien tletin (30) jum mill-konklużjoni tal-proċeduri bil-miktub.

(10) Id-dispożizzjonijiet tas-subartikoli (7) sa (13) tal-artikolu 35 għandhom japplikaw *mutatis mutandis* fil-każ ta' Ordni ta' Qbid u Ffriżar maħruġ skont dan l-artikolu u ta' kwalunkwe ordni li fir-rigward tiegħu japplikaw id-dispożizzjonijiet ta' dan l-artikolu.

(11) Meta Ordni ta' Qbid u Ffriżar, kif maħruġ jew kif varjat, ikun limitat għal proprjetà speċifika, il-proprjetà l-oħra tal-imputat ma għandhiex titqies bħala li tkun soġġetta għal dik l-ordni."

Sostituzzjoni tal-artikolu 38 tal-Att prinċipali.

25. L-artikolu 38 tal-Att prinċipali għandu jiġi sostitwit b'dan l-artikolu ġdid li ġej:

"Determi-
nazzjoni ta'
proprjetà
soġġetta għal
konfiska.

38. (1) Meta Qorti ta' ġurisdizzjoni kriminali tagħti sentenza dwar persuna li tkun instabet hatja ta' reat rilevanti, hija għandha tinkludi fis-sentenza ordni, hawn iżjed 'il quddiem imsejjaħ "ordni ta' konfiska", li bih tiġi konfiskata kwalunkwe proprjetà li l-Qorti tiddetermina, abbażi ta' bilanċ ta' probabbilitajiet, li tkun proprjetà li hija soġġetta għall-konfiska, kif imfisser fl-artikolu 3(6), bħala konsegwenza tas-sejbien ta' htija.

(2) Wara s-sejbien ta' htija iżda qabel ma tiddetermina liema proprjetà hija soġġetta għall-konfiska u qabel ma tagħti s-sentenza, il-Qorti għandha tordna lid-Direttur jew lill-prosekuzzjoni sabiex jissottomettu lista ta' assi soġġetti għall-konfiska.

(3) L-akkużat jista' jikkontesta l-lista ta' assi soġġetti għall-konfiska permezz ta' rikors ipprezentat fi żmien xahar (1) minn meta tkun giet sottomessa l-imsemmija lista. Il-Qorti għandha tinnotifika r-rikors lill-Avukat Generali sabiex jirrispondi fi żmien xahar (1). Il-Qorti għandha tisma' lill-prosekuzzjoni u lill-akkużat, u għandha fis-sentenza tiddeċiedi liema proprjetà għandha tkun soġġetta għall-ordni ta' konfiska.

(4) Jekk il-Qorti ssib li xi parti mill-proprjetà li tkun soġġetta għall-konfiska ma tkunx disponibbli hija għandha tohroġ ordni ta' konfiska fis-sentenza għal somma ta' flus li tkun ekwivalenti għall-valur tal-proprjetà li ma tkunx disponibbli. Fi kwalunkwe ħin wara l-ħruġ ta' tali ordni għal somma flus il-Qorti, permezz ta' rikors tal-Avukat Generali, tista' tohroġ ordni li bih tiġi konfiskata kull proprjetà oħra tal-persuna misjuba ħatja sabiex tissoddisfa s-sentenza kollha jew parzjalment.

(5) Kull ordni ta' konfiska li jsir skont dan l-artikolu, inkluż ordni fil-forma ta' sentenza għal somma ta' flus, tista' tiġi appellata flimkien mal-appell mis-sejbien ta' htija u mis-sentenza:

Iżda t-terminu għall-appell mis-sejbien ta' htija jibda jgħaddi minn meta tingħata s-sentenza li tkun tinkludi l-ordni ta' konfiska.

(6) Il-Qorti għandha tohroġ ordni li jikkonfiska l-proprjetà skont dan l-artikolu abbażi biss tas-sejbien tagħha li l-proprjetà hija soġġetta għall-konfiska u mingħajr ma tqis id-drittijiet ta' sjieda jew ta' partijiet terzi fil-proprjetà. Il-kwistjonijiet kollha dwar id-drittijiet ta' partijiet terzi għandhom jiġu determinati fi proceduri separati skont l-artikolu 39. Il-partijiet terzi għalhekk ma jistgħux jipparteċipaw fid-determinazzjoni ta' liema proprjetà hija soġġetta għall-konfiska skont dan l-artikolu.

(7) Il-ħruġ ta' ordni ta' konfiska skont dan l-artikolu huwa mandatorju, ħlief illi fil-każ ta' proprjetà faċilitattiva u proprjetà involuta f'money laundering apparti r-rikavat tar-reat predikat, il-Qorti għandha tillimita l-konfiska għal dak li jkun neċessarju sabiex tiżgura li l-konfiska ma tkunx sproporzjonata b'mod grossolan għall-gravità tar-reat li jagħti lok għall-konfiska.

(8) Għall-iskop li jkun meġħjun fl-identifikazzjoni u l-lokalizzazzjoni tal-proprjetà li tkun soġġetta għall-konfiska, fil-kalkolu tal-ammont ta' sentenza għal somma ta' flus, jew fl-identifikazzjoni tal-proprjetà li tista' tkun meħtieġa sabiex tiġi sodisfatta s-sentenza, l-Avukat Ġenerali jista' jitlob il-ħruġ ta' ordni skont l-artikoli 34 u 35.

(9) Sakemm jiġi determinat mill-Qorti li l-proprjetà hija soġġetta għall-konfiska, jew dwar jekk il-proprjetà hux ser tkun meħtieġa sabiex tissodisfa sentenza ta' konfiska, kwalunkwe proprjetà tal-persuna misjuba ħatja jew ta' parti terza tista' tiġi sekwestrata, iffriżata jew maqbuda skont l-artikoli 35 u 36 jekk il-Qorti, permezz ta' rikors tal-Avukat Ġenerali, issib li hemm bażi raġonevoli sabiex wieħed jemmen li l-proprjetà tista' tinstab li tkun soġġetta għall-konfiska.

(10) Meta iżjed minn persuna waħda tkun misjuba ħatja ta' reat, kull persuna misjuba ħatja tkun obbligata *in solidum* għat-total tar-rikavat mir-reat li jkun inkiseb minn kwalunkwe wieħed minnhom:

Iżda:

(a) il-Gvern ma jistax jirkupra iżjed mit-total tar-rikavat tar-reat; u

(b) fil-każ ta' persuna li tkun instabet ħatja illi l-irwol tagħha fir-reat kien inċidentali meta paragunat mal-irwoli tal-persuni l-oħra misjuba ħatja, il-Qorti għandha tikkunsidra sa fejn l-impożizzjoni tar-responsabbiltà *in solidum* għar-rikavat totali tar-reat tkun sproprozjonata b'mod grossolan għall-irwol ta' dik il-persuna fir-reat."

Emenda tal-artikolu 39 tal-Att prinċipali.

26. Minnufih wara s-subartikolu (6) tal-artikolu 39 tal-Att prinċipali għandu jiġi miżjud dan is-subartikolu ġdid li ġej:

"(7) Azzjoni taħt dan l-artikolu minn parti terza skont l-artikolu 38 dwar proprjetà konfiskata b'sentenza ta' Qorti ta' Ġurisdizzjoni Kriminali għandha tiġi preżentata sa mhux aktar tard minn sitt (6) xhur mid-data tas-sentenza finali li tkun ordnat

il-konfiska. Jekk ma tiġi preżentata l-ebda azzjoni kif imsemmi qabel il-konfiska tal-proprjetà ssir finali u ma tkunx tista tiġi impunjata."

27. L-artikolu 41 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 41 tal-Att prinċipali.

(a) fis-subartikolu (1) tiegħu l-kliem "il-proviso għal paragrafu (b) tas-subartikolu (1) tal-artikolu 36 u skond is-subartikolu (4) tal-imsemmi artikolu" għandhom jiġu sostitwiti bil-kliem "is-subartikolu (5) tal-artikolu 36 u kwalunkwe rikors biex jiġi varjat Ordni ta' Sekwestru jew Ordni ta' Qbid u Ffriżar" u l-kliem "il-Qorti Kriminali" għandhom jiġu sostitwiti bil-kliem "il-Qorti";

(b) is-subartikolu (2) tiegħu għandu jiġi sostitwit bis-subartikolu ġdid li ġej:

"(2) Fid-determinazzjoni ta' kull h̄las li jkun permess li jsir lis-suspettat jew lill-akkużat skont is-subartikolu (5A) tal-artikolu 35 jew is-subartikolu (5) tal-artikolu 36, il-Qorti għandha tiegħu inkonsiderazzjoni l-bżonnijiet attwali tas-suspettat jew tal-akkużat u d-disponibbiltà ta' mezzi oħra għas-sussistenza."

28. Il-paragrafu (d) tas-subartikolu (2) tal-artikolu 43 tal-Att prinċipali għandu jiġi sostitwit b'dan il-paragrafu ġdid li ġej:

Emenda tal-artikolu 43 tal-Att prinċipali.

"(d) kull vjolazzjoni ta' kwalunkwe sanzjoni internazzjonali imposta mill-Ġnus Magħquda, mill-Unjoni Ewropea jew minn korpi internazzjonali ieħor illi l-awtorità tiegħu li jimponi tali sanzjonijiet internazzjonali hija rikonoxxuta fil-liġi Maltija."

29. Fis-subartikolu (4) tal-artikolu 44 tal-Att prinċipali l-kliem "l-artikolu 59" għandhom jiġu sostitwiti bil-kliem "l-artikolu 49".

Emenda tal-artikolu 44 tal-Att prinċipali.

30. L-artikolu 47 tal-Att prinċipali għandu jiġi sostitwit b'dan l-

Sostituzzjoni tal-artikolu 47 tal-Att prinċipali.

artikolu ġdid li ġej:

"Konfiska ta' proprjetà li tkun qiegħda barra minn Malta.

47. B'żieda mal-awtorità li tressaq azzjoni għall-konfiska bbażata fuq nuqqas ta' kundanna kontra proprjetà li tkun tinsab Malta, il-Gvern jista' jeżerçita tali azzjoni kontra proprjetà li tkun qiegħda barra minn Malta, jekk il-proprjetà tkun soġġetta għall-konfiska skont l-artikolu 43(2)(a) kieku kienet qiegħda Malta. F'tali każ, il-Qrati ta' Malta jkollhom l-awtorità li joħroġu ordni ta' konfiska kif jixraq, u l-Avukat Ġenerali għandu jkollu l-awtorità li jitlob lill-awtorità ċentrali fil-pajjiż fejn tkun qiegħda l-proprjetà sabiex tirreġistra u tenforza l-ordni skont il-liġijiet domestiċi ta' dak il-pajjiż u kull ftehim internazzjonali li jkun japplika."

Emenda tal-artikolu 48 tal-Att prinċipali.

31. L-artikolu 48 tal-Att prinċipali għandu jiġi emendat kif ġej:

(1) is-subartikolu (4) tiegħu għandu jiġi sostitwit b'dan is-subartikolu ġdid li ġej:

"(4)(a) Jekk il-Gvern jikkontesta r-risposta ta' xi intervenut abbażi li dan ikun naqas li jistabbilixxi interess proprjetarju fil-proprjetà, qabel ma tagħmel kull haġa oħra, il-Qorti għandha l-ewwel tiddetermina jekk l-intervenut ikunx stabbilixxa l-interess proprjetarju tiegħu.

(b) Minkejja kwalunkwe titolu għall-proprjetà, il-Qorti ma għandhiex tkun sodisfatta li l-intervenut għandu interess proprjetarju fil-proprjetà jekk issib illi l-intervenut huwa nominee li ma eżerçitax dominju u kontroll effettiv fuq il-proprjetà, jew xort'oħra ma ppruvax drittijiet ta' proprjetà konsistenti ma' proprjetà reali.";

(2) il-paragrafu (b) tas-subartikolu (5) tiegħu għandu jiġi sostitwit b'dan il-paragrafu ġdid li ġej:

"(b) Xort'oħra, jekk tiġi ppreżentata talba valida, il-Qorti għandha toħroġ ordni ta' konfiska jekk tiddetermina li:

(i) abbażi ta' bilanċ ta' probabbilitajiet, il-Gvern ikun stabbilixxa li l-proprjetà hija soġġetta għall-konfiska; u

(ii) l-ebda intervenut ma jkun stabbilixxa difiża affermattiva skont l-artikolu 49."; u

(3) minnufih wara l-paragrafu (b) tas-subartikolu (5) tiegħu, kif sostitwit, għandu jiżdied il-paragrafu ġdid li ġej:

"(ċ) Fid-determinazzjoni dwar jekk il-Gvern ikunx wettaq l-oneru tiegħu li jistabbilixxi illi l-proprjetà hija soġġetta għall-konfiska, il-Qorti tista' tikkunsidra kull prova relevanti għal dik id-determinazzjoni li tiġi sottomessa mill-intervenut. Il-Qorti għandha tipposponi d-determinazzjoni dwar jekk l-intervenut irnexxilux jistabbilixxi difiża affermattiva skont l-artikolu 49 sakemm tkun sabet illi l-proprjetà hija soġġetta għall-konfiska."

TAQSIMA VI Dispożizzjonijiet Tranzitorji

32. (1) Hlief kif provdut xort'oħra f'dan l-artikolu, id-dispożizzjonijiet tal-artikoli 17A u 17B tal-Att dwar l-Awtorità għas-Servizzi Finanzjarji ta' Malta, tal-artikoli 3, 4 u 5 tal-Att kontra *Money Laundering*, tal-artikoli 18 u 19 tal-Att dwar il-Prevenzjoni ta' Abbuż fis-Swieq Finanzjarji, u tal-artikoli 35, 36 u 41 tal-Att dwar ir-Rikavat mill-Kriminalità, kif emendati bl-Att tal-2024 li jemenda Varji Liġijiet dwar ir-Rikavat mill-Kriminalità għandhom japplikaw għal proċeduri ta' investigazzjoni u għal proċeduri kriminali li jinbdew wara d-dhul fis-seħh tal-istess Att.

Dispożizzjonijiet
tranzitorji.
Kap. 330.
Kap. 373.

Kap. 476.
Kap. 621.

Att Nru VI tal-2024.

(2) Id-dispożizzjonijiet tal-artikoli msemmija fis-subartikolu (1) kif kienu fis-seħh qabel id-dhul fis-seħh tal-Att tal-2024 li jemenda Varji Liġijiet dwar ir-Rikavat mill-Kriminalità għandhom jibqgħu fis-seħh u għandhom japplikaw wara d-dhul fis-seħh tal-istess Att għal investigazzjonijiet u proċeduri kriminali li jkunu nbdeu qabel id-dhul fis-seħh tal-istess Att, hlief kif provdut xort'oħra f'dan l-artikolu.

Att Nru VI tal-2024.

(3) Id-dispożizzjonijiet tal-artikoli msemmija fis-subartikolu (1) kif emendati bl-Att tal-2024 li jemenda Varji Liġijiet dwar ir-Rikavat mill-Kriminalità għandhom japplikaw għal Ordnijiet ta' Sekwestru u Ordnijiet ta' Qbid u Ffriżar maħruġa għal investigazzjonijiet u proċeduri kriminali li jkunu nbdeu qabel id-data tad-dhul fis-seħh ta' dawk l-artikoli kif emendati bl-Att tal-2024 li jemenda Varji Liġijiet dwar ir-Rikavat mill-Kriminalità iżda li jkunu għadhom pendenti fl-imsemmija data tad-dhul fis-seħh, taħt dawn il-kondizzjonijiet:

Att Nru VI tal-2024.

(a) is-suspettat, l-imputat jew l-akkużat jagħmel talba b'rikors lill-Qorti Kriminali fil-każ ta' Ordni ta' Sekwestru jew lill-Qorti li quddiemha tkun qiegħda tinstema' l-kawża fil-każ ta' Ordni ta' Qbid u Ffriżar fejn jitlob illi l-ordni maħruġ fil-konfront tiegħu jiġi regolat bl-imsemmija artikoli kif emendati bl-istess Att minflok l-artikoli li kienu fis-seħh qabel ma ġew hekk emendati;

(b) il-Qorti, wara li tkun semgħet lill-prosekuzzjoni u lil kull xhud li hi tqis li jkun jixraq li tisma', tqis illi għandha tilqa' t-talba; u

(ċ) il-Qorti toħroġ digriet illi bih tirregola l-mod u l-perjodu ta' żmien speċifikat kif l-Ordni ta' Sekwestru jew l-Ordni ta' Qbid u Ffriżar għandhom jgħaddu biex ikunu regolati skont l-artikoli msemmija fis-subartikolu (1) kif emendati bl-istess Att:

Kap. 621.
Att Nru VI tal-
2024.

B'dan iżda illi, bla ħsara għall-generalità ta' dan is-subartikolu, fil-każ ta' Ordni ta' Qbid u Ffriżar id-dispożizzjonijiet tal-artikolu 36(4) tal-Att dwar ir-Rikavat mill-Kriminalità kif emendat bl-Att tal-2024 li jemenda Varji Liġijiet dwar ir-Rikavat mill-Kriminalità għandhom, minn dik id-data kif jista' jiġi stabbilit fl-istess digriet, jibdew japplikaw *mutandis mutandis* għall-Ordni ta' Qbid u Ffriżar b'mod iżda illi ż-żewġ (2) termini ta' disgħin (90) jum stipulati fl-artikolu 36(4)(b) ikunu jistgħu jiġu mġedda wkoll mill-Qorti fuq talba tal-prosekuzzjoni b'terminu ieħor sussegwenti ta' disgħin (90) jum jekk il-Qorti tkun sodisfatta illi dik l-estensjoni tkun ġustifikata.

Att Nru VI tal-
2024.

(4) Meta l-liġi applikabbli għal Ordni ta' Sekwestru jew Ordni ta' Qbid u Ffriżar tiġi modifikata skont is-subartikolu (3), l-investigazzjoni jew il-proċeduri kriminali li dwarhom issir dik il-modifika għandhom, ħlief fil-każ ta' proċeduri kriminali mħollijin għas-sottomissjonijiet finali jew għas-sentenza, ikunu minn dak iż-żmien 'il quddiem regolati fl-intier tagħhom, inkluż iżda mhux limitament għall-proċedura għall-konfiska ta' kwalunkwe rikavat mill-kriminalità, mid-dispożizzjonijiet tal-liġi kif emendati bl-Att tal-2024 li jemenda Varji Liġijiet dwar ir-Rikavat mill-Kriminalità.

Kap. 373.
Kap. 621.

Att Nru VI tal-
2024.

(5) Id-dispożizzjonijiet tal-artikolu 7 tal-Att kontra *Money Laundering* u tal-artikolu 38 tal-Att dwar ir-Rikavat mill-Kriminalità kif emendati bl-Att tal-2024 li jemenda Varji Liġijiet dwar ir-Rikavat mill-Kriminalità għandhom japplikaw għall-investigazzjonijiet u proċeduri kriminali kollha inklużi wkoll dawk li jkunu pendenti fid-data tad-dħul fis-seħħ tal-istess Att ħlief għal proċeduri kriminali li fid-data tad-dħul fis-seħħ tal-istess Att ikunu mħollija għas-sottomissjonijiet finali jew għas-sentenza u fil-każijiet tal-aħħar dawk il-proċeduri għandhom jibqgħu regolati mid-dispożizzjonijiet tal-imsemmija artikoli kif kienu fis-seħħ qabel id-dħul fis-seħħ tal-istess Att u dawk id-dispożizzjonijiet għandhom, għall-finijiet ta' dan is-subartikolu, jitqiesu li baqgħu fis-seħħ.

Att Nru VI tal-
2024.

(6) Id-dispożizzjonijiet tal-artikoli l-oħra kollha tal-Att tal-2024 li jemenda Varji Liġijiet dwar ir-Rikavat mill-Kriminalità li mhumhiex imsemmija fis-subartikolu (1) jew fis-subartikolu (5) għandhom japplikaw għall-proċeduri kollha, kemm dawk li jkunu pendenti fid-data tad-dħul fis-seħħ tal-istess Att, u kemm dawk li jinbdew wara li jidhol fis-seħħ l-istess Att.

Mgħoddi mill-Kamra tad-Deputati fis-Seduta Nru 201 tat-30 ta' Jannar, 2024.

ANĠLU FARRUGIA
Speaker

ELEANOR SCERRI
Skrivan tal-Kamra tad-Deputati

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I assent.

(L.S.)

GEORGE VELLA
President

9th February, 2024

ACT No. VI of 2024

AN ACT to amend various laws relating to the proceeds of crime.

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.** The short title of this Act is the Various Laws relating to Proceeds of Crime (Amendment) Act, 2024.

PART I

Amendments to the Criminal Code

Amendments to
the Criminal
Code.
Cap. 9.

2. This Part amends the Criminal Code and it shall be read and construed as one with the Criminal Code, hereinafter in this Part referred to as "the Code".

Substitution of
article 23A of
the Code.

3. Article 23A of the Code shall be substituted by the following new article:

"Freezing of
property of
person
accused.
Cap. 621.

23A. (1) The freezing of property of any person charged or accused of a relevant offence shall be regulated by the provisions of the Proceeds of Crime Act:

Cap. 31.
Cap. 101.

Provided that the above shall not apply when a person is charged or accused with an offence against the provisions of the Medical and Kindred Professions Ordinance or of the Dangerous Drugs Ordinance both if the charges are only for offences against the said laws and if they are for offences under the said laws and offences under other laws:

Cap. 31.
Cap. 101.

Provided further that where, before the coming into force of this proviso, a Freezing Order was issued in respect of an offence against the Medical and Kindred Professions Ordinance or the Dangerous Drugs Ordinance under the Medical and Kindred Professions Ordinance or Dangerous Drugs Ordinance or under article 23A of this Code as in force at the time of the issuing of the said order, whether the charges were only for offences against the Medical and Kindred Professions Ordinance or the Dangerous Drugs Ordinance or for offences under those laws together with charges for offences under other laws every Freezing Order so issued shall be deemed to have been issued under the Medical and Kindred Professions Ordinance and the Dangerous Drugs Ordinance, and shall, after the coming into force of this proviso, continue to be in force and shall be regulated in accordance with the Medical and Kindred Professions Ordinance and the Dangerous Drugs Ordinance.

Cap. 621.

(2) In this article and in articles 23B, 23C and 23D the words "property" and "relevant offence" have the same meaning as assigned to them in the Proceeds of Crime Act and the word "proceeds" has the same meaning as assigned to the words "Proceeds of crime" in the Proceeds of Crime Act.

Cap. 621.

(3) Where this article and articles 23B, 23C and 23D provide for the forfeiture of proceeds of crime in a manner which is not provided for in the Proceeds of Crime Act the provisions of this article and of articles 23B, 23C and 23D shall be applied before the provisions of the Proceeds of Crime Act. The provisions of the Proceeds of Crime Act shall apply only subsidiarily in accordance with article 5(3) of the Proceeds of Crime Act."

4. Sub-articles (1A), (1B) and (3) of article 23B of the Code shall be deleted. Amendment of article 23B of the Code.

5. Article 23C of the Code shall be amended by the following: Amendment of article 23C of the Code.

(a)(i) in sub-article (2) thereof, the words "22(3A)(b) and (d) and (7)" shall be substituted by the words "22(3A)(b) and

(7)"; and

(ii) sub-article (2) thereof in its entirety, as amended, shall be renumbered as paragraph (a) of the same sub-article and immediately thereafter there shall be added the following new paragraph:

"(b) the Court shall order the forfeiture in favour of the Government of such moneys or other movable property and such immovable property of the person found guilty of the relevant offence which constitute the proceeds of the said offence even if the movable or immovable property has since the offender was charged passed into the hands of third parties and even if the said moneys, movable property or immovable property are situated in any place outside Malta."; and

(b) sub-article (6) thereof shall be deleted.

Amendment of article 435A of the Code.

6. Sub-article (3) of article 435A of the Code shall be substituted by the following new sub-article:

"(3) For the purposes of this article:

Cap. 373. "the Act" means the Prevention of Money Laundering Act; and

Cap. 621. "relevant offence" shall have the same meaning as assigned to it in the Proceeds of Crime Act."

Amendment of article 435D of the Code.

7. In sub-article (3) of article 435D of the Code the words "the Act" and "the Ordinances" shall have the same meaning assigned to them respectively by article 23A(1);" shall be substituted by the words

"Cap. 373. "the Act" means the Prevention of Money Laundering Act;

Cap. 31. "the Ordinances" means the Medical and Kindred Professions Ordinance and the Dangerous Drugs Ordinance; and"

PART II

Amendments to the Malta Financial Services Authority Act

Amendments to the Malta Financial Services Authority Act. Cap. 330.

8. This Part amends the Malta Financial Services Authority Act and it shall be read and construed as one with the Malta Financial Services Authority Act, hereinafter in this Part referred to as the "principal Act".

9. Article 17A of the principal Act shall be substituted by the following new article:

Substitution of article 17A of the principal Act.

"Attachment Orders.

17A. When upon information received from the Authority, the Attorney General has reasonable cause to suspect that a person is guilty of a breach of this Act or of any other Act, the Attorney General may request the Criminal Court to issue an Attachment Order and the provisions of article 35 of the Proceeds of Crime Act shall apply."

Cap. 621.

10. Article 17B of the principal Act shall be substituted by the following new article:

Substitution of article 17B of the principal Act.

"Freezing of funds.

17B. When a person is charged with a criminal offence in breach of this Act or with an offence which is a relevant offence in terms of the Proceeds of Crime Act, the prosecution may apply to the Court of Magistrates for a freezing order and the provisions of article 36 of the said Act shall apply."

Cap. 621.

PART III

Amendments to the Prevention of Money Laundering Act

11. This Part amends the Prevention of Money Laundering Act and it shall be read and construed as one with the Prevention of Money Laundering Act, hereinafter in this Part referred to as the "principal Act".

Amendments to the Prevention of Money Laundering Act. Cap. 373.

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

Amendment of article 3 of the principal Act.

(a) in the proviso to paragraph (a) of sub-article (5) thereof the words "Provided that, for the purposes" shall be substituted by the words "Provided further that, for the purposes" and immediately before there shall be added the following new proviso:

"Provided that the presumption in this paragraph and any similar presumption in any other law shall not prejudice the power of the Court to vary a freezing order whilst criminal proceedings are pending as provided in article 5:"; and

(b) sub-article (7) thereof shall be amended by the following:

(i) the words "22(3A)(b), (d) and (7)" shall be substituted by the words "22(3A)(b) and (7)"; and

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(ii) sub-article (7) in its entirety, as amended, shall be renumbered as paragraph (a) of the same sub-article and immediately thereafter there shall be added the following new paragraph:

"(b) The court shall order the forfeiture in favour of the Government of such moneys or other movable property and such immovable property of the person found guilty of the offence of money laundering which constitute the proceeds of the said offence even if the movable or immovable property has since the offender was charged passed into the hands of third parties and even if the said moneys, movable property or immovable property are situated in any place outside Malta."

Amendment of article 4 of the principal Act.

13. Immediately after sub-article (11) of article 4 of the principal Act there shall be added the following new sub-article:

"(11A)(a) When an Attachment Order is revoked by the Criminal Court or withdrawn by the Attorney General prior to the expiration of its period of validity, the said Court shall issue a decree confirming the said revocation and shall order the service of the said decree upon the suspect and upon all garnishees in the manner provided in sub-article (9) and upon all those served with the Attachment Order.

(b) When the period of validity of an Attachment Order is suspended for such time as the suspect is away from Malta, the said suspension shall only apply in respect of that person.

(c) When an Attachment Order no longer remains in force, the Criminal Court shall issue a decree confirming that the Attachment Order is no longer in force. The Court shall order the service of the said decree upon the suspect and upon all garnishees in the manner as provided in sub-article (9) and upon all those served with the Attachment Order."

Substitution of article 5 of the principal Act.

14. Article 5 of the principal Act shall be substituted by the following new article:

"Freezing of property of person charged.
Cap. 621.

5. When a person is charged under article 3, the prosecution may apply to the Court of Magistrates for a freezing order and the provisions of article 36 of the Proceeds of Crime Act shall apply."

15. Article 7 of the principal Act shall be substituted by the following new article:

Substitution of article 7 of the principal Act.

"Confiscation and rights of third parties. Cap. 621. 7. Articles 38 and 39 of the Proceeds of Crime Act shall apply in respect of the determination of any property subject to confiscation in terms of article 3(5) and of the determination of the rights of third parties over such property."

16. Article 8 of the principal Act shall be deleted.

Deletion of article 8 of the principal Act.

PART IV

Amendments to the Prevention of Financial Markets Abuse Act

17. This Part amends the Prevention of Financial Markets Abuse Act and it shall be read and construed as one with the Prevention of Financial Markets Abuse Act, hereinafter in this Part referred to as the "principal Act".

Amendments to the Prevention of Financial Markets Abuse Act. Cap. 476.

18. Article 18 of the principal Act shall be substituted by the following new article:

Substitution of article 18 of the principal Act.

"Attachment Order. 18. When in the course of an investigation conducted in accordance with this Act and, or the Market Abuse Regulation, upon information received from the competent authority, the Attorney General has reasonable cause to suspect that a person may be responsible for a breach of this Act and, or the Market Abuse Regulation, the Attorney General may file an application before the Criminal Court to request the said Court to issue an Attachment Order and the provisions of article 35 of the Proceeds of Crime Act shall apply."

Cap. 621.

19. Article 19 of the principal Act shall be substituted by the following new article:

Substitution of article 19 of the principal Act.

"Freezing of funds. 19. When a person is charged with a breach of any provisions of this Act and, or of the Market Abuse Regulation and upon receiving a request from the competent authority, the prosecution may where it deems it appropriate, request that the Court of Magistrates issue a freezing order and the provisions of article 36 of the Proceeds of Crime Act shall apply."

Cap. 621.

PART V
Amendments to the Proceeds of Crime Act

Amendments to the Proceeds of Crime Act. Cap. 621.

20. This Part amends the Proceeds of Crime Act and it shall be read and construed as one with the Proceeds of Crime Act, hereinafter in this Part referred to as the "principal Act".

Amendment of article 2 of the principal Act.

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

(a) immediately before the definition "Board" there shall be added the following new definitions:

" "accused" shall include a person charged;

"amount established by the Minister by order in the Gazette" includes both an order establishing a fixed amount as well as an order establishing a formula determining the manner in which such an amount should be computed whether by reference to a specific period of time or from time to time;" and

(b) immediately after the definition "property" there shall be added the following new definition:

" "Seizing and Freezing Order" shall include a reference to such an order using words to the same effect and in particular includes an order referred to simply as a "Freezing Order" under any other law;".

Amendment of article 19 of the principal Act.

22. Immediately after sub-article (6) of article 19 of the principal Act there shall be added the following new sub-article:

"(7) For the purposes provided for in sub-article (6), the Bureau may enter into contracts for the storage and maintenance of property seized or frozen, and may pay compensation to appraisers, experts and other professionals who may be engaged to assist the Bureau in establishing the value, and make arrangements for, or coordinating the sale, the transfer, or the assignment of such property either before or after a final judgment is delivered.".

Amendment of article 35 of the principal Act.

23. Article 35 of the principal Act shall be amended as follows:

(a) sub-article (5) thereof shall be amended as follows:

(i) the words "relevant offence:" shall be substituted by the words "relevant offence."; and

(ii) the proviso thereof shall be deleted;

(b) immediately after sub-article (5) thereof, as amended, there shall be added the following new sub-articles:

"(5A) The provisions of sub-articles (5) and (6) of article 36 shall apply *mutatis mutandis* to an Attachment Order.

(5B) When an Attachment Order is withdrawn by the Attorney General prior to the expiration of its period of validity or no longer remains in force for any other reason including the lapse of its period of validity, the Criminal Court shall issue a decree confirming that the Attachment Order has been revoked or is no longer in force and it shall order the service of the said decree upon the suspect and all the garnishees and all those served with the Attachment Order in the manner as provided for in sub-article (4).";

(c) in sub-article (6) thereof immediately after the words "shall be added to the period of validity of the Attachment Order" there shall be added the words "in respect of the said suspect"; and

(d) immediately after sub-article (13) thereof there shall be added the following new sub-article:

"(14) The suspect or the person charged or accused may not contest the factual basis for the issuing of the order according to this article or article 36 at the time when the order is issued, except as provided in paragraph (ii) of sub-article (8) of article 36.

24. Article 36 of the principal Act shall be substituted by the following new article:

Substitution of article 36 of the principal Act.

"Seizing and Freezing Orders.

36. (1) Where a person is charged with a relevant offence, the Court shall, at the request of the prosecution, issue an Order, hereinafter referred to as a "Seizing and Freezing Order", attaching any property in the hands of third parties for which there is reasonable cause to believe that the property is subject to confiscation, and restraining and prohibiting the accused from transferring, pledging, hypothecating, or otherwise changing or disposing of any such property and of such other property owned by him or being in his possession.

(2) In the case that property which is subject to confiscation referred to in sub-article (1) cannot be attached or restrained because it cannot be located, has been mixed with other property, has been transferred to a third party, is located outside Malta, or cannot for any other reason be attached or restrained, the Court shall, subject to the limitations in sub-article (3), include in the Seizing and Freezing Order a provision attaching and restraining property of equivalent value.

(3)(a) The request for a Seizing and Freezing Order shall be made by the prosecution either by means of an application indicating the assets or sum of money or both subject to confiscation in the case of a conviction, or in the document whereby the charges are made.

(b) The right of the person charged to contest a Seizing and Freezing Order shall be as provided in paragraph (ii) of sub-article (8).

(c) A third party who establishes that a Seizing and Freezing Order is causing him immediate and irreparable prejudice may request the Court to vary the Order to mitigate such harm to the extent that it is practicable to do so without adjudicating the issues that the third party would be entitled to raise at the appropriate time in accordance with article 39.

(d) The prosecution may request the Court, at any time during the proceedings, to amend the Seizing and Freezing Order as provided in paragraph (a), to add or remove property which is subject to such Order.

(4)(a) If the charge against the person charged or the request made by the prosecution in terms of sub-article (3)(a) lists the assets that shall be subject to confiscation in the case of a conviction, or if it alleges a specific sum of money or both as the property subject to confiscation, the Seizing and Freezing Order shall be limited to such specific assets or to property having a value not greater than that sum of money.

(b)(i) If the charge or the request for the issuing of a Seizing and Freezing Order against the person charged provides in general terms that the property of the person charged shall be subject to confiscation, but does not limit the property subject to confiscation to specific assets or to a specific sum of money or both, the Court shall issue a Seizing and Freezing Order sufficient to preserve such property as may be required to satisfy a confiscation order, up to and including all assets of the accused, but in any case the Court shall require the prosecution to establish within ninety (90) days that there is a reasonable basis to believe that the property shall be subject to confiscation:

Provided that the time limit for the prosecution to establish the property that shall be subject to the Seizing and Freezing Order may be extended by the Court for another ninety (90) days if the Court is satisfied that such extension is justified;

(ii) if the prosecution within the time limits provided in paragraph (i) limits the property subject to the Seizing and Freezing Order to specific assets or a specific sum of money or both, the Court shall, if it deems it appropriate, amend the Seizing and Freezing Order and the provisions of paragraph (ii) of sub-article (8) shall apply;

(iii) if the prosecution does not within the time limits provided in paragraph (i) limit the property subject to the Seizing and Freezing Order to specific assets or to a specific sum of money or both, the Seizing and Freezing Order shall cease to have effect upon the lapse of the said time limits and the provisions of sub-article (5B) of article 35 shall apply *mutatis mutandis* in respect of the accused;

(iv) when a Seizing and Freezing Order ceases to have effect in accordance with sub-paragraph (iii) the Court shall upon a demand by application of the person charged or accused issue a decree confirming that the Seizing and Freezing Order is no longer in force and shall order service of the said decree upon all persons who were served with the Seizing and Freezing Order.

(5)(a) The Court may vary a Seizing and Freezing Order upon an application of the person charged or accused. The said application shall be served upon the prosecution and upon the Director. Upon such application the Court shall determine what monies may be paid to or received by the person charged or accused during the validity of such Order, to allow him and his family a decent living in a yearly amount not exceeding the amount established by the Minister by order in the Gazette and any other amount which the Court considers justified to meet necessary expenses.

(b) On a court application of the person charged or accused served upon the prosecution and the Director, the Court shall also, subject to such conditions as it deems fit:

(i) determine what moneys may be paid or received by the person charged or accused during the validity of a Seizing and Freezing Order to allow him to carry on any trade, business, profession or occupation;

(ii) authorise the payment of debts which are due by the person charged or accused to *bona fide* creditors and which were contracted before the Seizing and Freezing Order was made;

(iii) on good ground, authorise the person charged or accused to transfer movable or immovable property.

(c) In the case that during the proceedings a request is made for the variation of the Order in terms of paragraph (a) or (b) which relates to expenses which are recurrent, the Order allowing the payment of such recurrent expenses shall be considered as covering such expenses whenever they arise without the need to file an application every time such expenses arise.

(6) Any decision taken by the Court in accordance with this article shall constitute a provisional measure and shall not prejudice the merits of the case.

(7) A Seizing and Freezing Order shall be immediately served upon the Director and shall:

(a) become operative and binding on all third parties immediately when it is issued and the Director shall cause a notice thereof to be published without delay in the Gazette and also cause a copy thereof to be registered in the Public Registry, the Land Registry and any other registry established by law for the registration of property of any kind. A copy of such Order shall also be served on any person who the prosecution or the Director may indicate; and

(b) without prejudice to the other provisions of this article, remain in force until the final determination of the proceedings and in the case of a conviction until the sentence has been executed.

(8)(i) Where the Court of Magistrates does not issue an Order in accordance with sub-article (1) when requested by the prosecution, the Court shall instead issue a temporary freezing order having the same effect. The Attorney General may, within seven (7) working days from the date of the Court's decision, file an application before the Criminal Court to make the required order. The Criminal Court shall grant the accused seven (7) working days to reply to the application of the Attorney General. The temporary Freezing Order shall remain in force until the Criminal Court determines the application.

(ii) When an order in accordance with sub-article (1) is issued by the Court of Magistrates, the person charged may within seven (7) working days from the date of the Court's decision, file an application before the Criminal Court requesting the total or partial revocation of the order, provided that the order shall remain in force until a decision is given by the Criminal Court. The Criminal Court shall grant the prosecution and the Director seven (7) working days to reply to the request of the person charged. The decision of the Criminal Court on the application shall be delivered within seven (7) working days from the filing of the replies or from when the time limit for their filing lapsed.

(9)(a) On the application of the Bureau, the Civil Court (Asset Recovery Section) shall order the sale during the proceedings and without awaiting a final judgment of any property which has been seized or frozen in terms of this article if that Court finds that:

(i) the property is perishable or at risk of deterioration, decay, damage or depreciation in value;

(ii) the expense of keeping the property is excessive or disproportionate to its fair market value when one also takes into consideration the time likely to determine whether the property shall be subject to forfeiture or to a confiscation order;

(iii) the property is subject to a loan or other right over property or to taxes on which the owner is in default of his obligations; or

(iv) there is any other valid reason for the sale:

Provided that the Court may in its discretion, deny a request to order the sale if it finds that the property possesses such unique characteristics that its sale would constitute an irreplaceable loss to the property owner should the property ultimately be found not to be subject to confiscation.

(b) The proceeds of any sale pursuant to this sub-article shall be held in an account maintained by the Bureau and shall serve as a substitute *res* in any ensuing criminal or non-conviction based confiscation proceeding.

(c) The Court shall decide on the request of the Bureau in accordance with this sub-article within thirty (30) days from the date when the request is made. The decree shall be subject to a right of appeal by the aggrieved party on points of law and such appeal shall be filed in the Court of Appeal within seven (7) working days from the date of the decree. The party against whom the appeal is filed may file a reply within seven (7) working days from the service of the appeal. The Court of Appeal shall decide the appeal within thirty (30) days from the conclusion of the written pleadings.

(10) The provisions of sub-articles (7) to (13) of article 35 shall *mutatis mutandis* apply in the case of a Seizing and Freezing Order issued in accordance with this article and to any order to which the provisions of this article apply.

(11) Where a Seizing and Freezing Order, as issued or as varied, is limited to specific property, the other property of the defendant shall not be considered as being subject to such Order."

25. Article 38 of the principal Act shall be substituted by the following new article:

Substitution of article 38 of the principal Act.

"Determination of property subject to confiscation.

38. (1) When a Court of criminal jurisdiction sentences a person convicted of a relevant offence, it shall include in its sentence an order, hereinafter referred to as a "confiscation order", confiscating any property which the Court determines, on a balance of probabilities, to be property subject to confiscation, as defined in article 3(6), as a consequence of the conviction.

(2) After conviction but before determining what property is subject to confiscation and before giving judgment the Court shall order the Director or the prosecution to submit a list of assets subject to confiscation.

(3) The accused may contest the list of assets subject to confiscation by means of an application filed within one (1) month from the submission of the said list. The Court shall serve the application upon the Attorney General for a reply to be filed within a month (1). The Court shall hear the prosecution and the accused and shall in the judgement decide which property shall be subject to the confiscation order.

(4) If the Court finds that any part of the property subject to confiscation is unavailable, it shall make a confiscation order in the judgment for a sum of money equal in value to the unavailable property. At any time after the issuance of such an order for a sum of money, the Court, upon the application of the Attorney General, may make an order confiscating any other property of the person convicted to satisfy the judgement in whole or in part.

(5) Any confiscation order made in accordance with this article, including an order in the form of a judgement for a sum of money, may be appealed together with the appeal from the conviction and sentence:

Provided the time limit for filing an appeal from the conviction shall commence to run from the date when the judgement which includes the confiscation order is delivered.

(6) The Court shall issue an order confiscating property pursuant to this article based solely on its finding that the property is subject to confiscation and without regard to the ownership or the rights of any third parties over the property. All issues regarding the rights of third parties shall be determined in separate proceedings in accordance with article 39. Accordingly, third parties may not participate in the determination of which property is subject to confiscation in accordance with this article.

(7) The issuance of a confiscation order in accordance with this article is mandatory, except that in the case of facilitating property and property involved in money laundering other than the proceeds of the predicate offence, the Court shall limit the confiscation to the extent necessary to ensure that the confiscation is not grossly disproportionate to the gravity of the offence giving rise to the confiscation.

(8) For the purpose of being assisted in the identification and location of property subject to confiscation, in the calculation of the amount of a judgement for a sum of money, or in the identification of property that may be needed to satisfy such a judgment, the Attorney General may apply for an order pursuant to articles 34 and 35.

(9) Pending a determination by the Court that the property is subject to confiscation, or that a property shall be needed to satisfy a confiscation judgement, any property of the person convicted or of a third party may be attached, frozen or seized in accordance with articles 35 and 36, if the Court, upon the application of the Attorney General, finds that there are reasonable grounds to believe that the property may be found to be subject to confiscation.

(10) When more than one person is convicted of an offence, each convicted person shall be jointly and severally liable for the total proceeds of crime obtained by any of them:

Provided that:

(a) the Government may not recover more than the total proceeds of the offence; and

(b) in the case of a convicted person whose role in the offence was incidental in comparison with the roles of the other convicted persons, the Court shall consider the extent to which making such person jointly and severally liable for the total proceeds of the crime would be grossly disproportionate to the role of that person in the offence."

26. Immediately after sub-article (6) of article 39 of the principal Act there shall be added the following new article:

Amendment of article 39 of the principal Act.

"(7) In respect of property confiscated by a judgement of a Court of Criminal Jurisdiction in terms of article 38, an action by a third party under this article shall be filed by not later than six (6) months from the date of the final judgement ordering confiscation. If no action is filed as aforesaid the confiscation of property shall become final and cannot be challenged."

27. Article 41 of the principal Act shall be amended as follows:

Amendment of article 41 of the principal Act.

(a) in sub-article (1) the words "the proviso to paragraph (b) of sub-article (1) of article 36 and in terms of sub-article (4) of the said article" shall be substituted by the words "sub-article (5) of article 36 and any application to vary an Attachment Order or a Seizing and Freezing Order" and the words "the Criminal Court" shall be substituted by the words "the Court";

(b) sub-article (2) thereof shall be substituted by the following new sub-article:

"(2) In determining any payment allowed to be made to the suspect or to the accused in terms of sub-article (5A) of article 35 or of sub-article (5) of article 36 the Court shall take into consideration the actual needs of the suspect or the accused and the availability of other means for his subsistence."

28. Paragraph (d) of sub-article (2) of article 43 of the principal Act shall be substituted by the following new paragraph:

Amendment of article 43 of the principal Act.

"(d) any violation of any international sanction imposed by the United Nations, the European Union, or other international body whose authority to impose such international sanctions is recognized in Maltese law."

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Amendment of article 44 of the principal Act. **29.** In sub-article (4) of article 44 of the principal Act the words "article 59" shall be substituted by the words "article 49".

Substitution of article 47 of the principal Act. **30.** Article 47 of the principal Act shall be substituted by the following new article:

"Confiscation of property situated outside Malta. **47.** In addition to the authority to bring a non-conviction-based confiscation action against property that is found in Malta, the Government may exercise such an action against property located outside of Malta, if the property would be subject to confiscation in terms of article 43(2)(a) if the property were found in Malta. In such a case, the Courts of Malta shall have the authority to issue an appropriate confiscation order, and the Attorney General shall have the authority to request the central authority in the country where the property is located, to register and enforce the order in accordance with that country's domestic laws and any applicable international agreements.".

Amendment of article 48 of the principal Act. **31.** Article 48 of the principal Act shall be amended as follows:

(1) sub-article (4) thereof shall be substituted by the following new sub-article:

"(4)(a) If the Government contests the reply of any intervener for failure to establish an ownership interest in the property, prior to any other matter, the Court shall first determine whether the intervener has established his ownership interest.

(b) Notwithstanding any title to the property, the Court shall not be satisfied that the intervener has an ownership interest in the property if it finds that the intervener is a nominee who did not exercise effective dominion and control over the property, or otherwise did not prove rights of ownership consistent with real ownership.";

(2) paragraph (b) of sub-article (5) thereof shall be substituted by the following new paragraph:

"(b) Otherwise, if a valid claim is filed, the Court shall issue a Confiscation Order if it determines that:

(i) on a balance of probabilities, the Government has established that the property is subject to confiscation; and

(ii) no intervener has established an affirmative defence in terms of article 49."; and

(3) immediately after paragraph (b) of sub-article (5) thereof, as substituted, there shall be added the following new paragraph:

"(c) In determining whether the Government has met its burden of establishing that the property is subject to confiscation, the Court may consider any evidence relevant to that determination submitted by the intervener. The Court shall postpone determining whether the intervener is able to establish an affirmative defence in terms of article 49 until it has found that the property is subject to confiscation."

PART VI

Transitory Provisions

32. (1) Except as otherwise provided in this article, the provisions of articles 17A and 17B of the Malta Financial Services Authority Act, of articles 3, 4 and 5 of the Prevention of Money Laundering Act, of articles 18 and 19 of the Prevention of Financial Markets Abuse Act, and of articles 35, 36 and 41 of the Proceeds of Crime Act, as amended by the Act to amend Various Laws relating to the Proceeds of Crime, 2024 shall apply to investigation procedures and to criminal proceedings which are commenced after the coming into force of the said Act.

Transitory provisions.
Cap. 330.
Cap. 373.
Cap. 476.
Cap. 621.

Act No. VI of 2024.

(2) The provisions of the articles referred to in sub-article (1) as in force before the coming into force of the Act to amend Various Laws relating to the Proceeds of Crime, 2024 shall remain in force and shall apply after the coming into force of the said Act in relation to investigations and criminal proceedings which were commenced before the coming into force of the said Act, except as otherwise provided in this article.

Act No. VI of 2024.

(3) The provisions of the articles referred to in sub-article (1) as amended by the Act to amend Various Laws relating to the Proceeds of Crime, 2024 shall apply in respect of Attachment Orders and Seizing and Freezing Orders issued in relation to investigations or criminal proceedings which were commenced before the date of coming into force of the said articles as amended by the Act to amend Various Laws relating to the Proceeds of Crime, 2024 but which are still pending on the said date of coming into force, subject to the following conditions:

Act No. VI of 2024.

(a) the suspect, the person charged or the accused files a request by application to the Criminal Court in the case of an Attachment Order or to the Court before which the case is being

heard in the case of a Seizing and Freezing Order in which he requests that the order issued in his regard be regulated by the said articles as amended by the said Act instead of the articles as were in force prior to being so amended;

(b) the Court, after having heard the prosecution and every witness who it considers appropriate to hear, considers that it should accede to the request; and

(c) the Court issues a decree by which it shall regulate the manner and the time frame according to which the Attachment Order or the Seizing and Freezing Order shall proceed to be regulated in accordance with the articles referred to in sub-article (1) as amended by the said Act:

Provided that, without prejudice to the generality of this sub-article, in the case of a Seizing and Freezing Order the provisions of article 36(4) of the Proceeds of Crime Act as amended by the Act to amend Various Laws relating to the Proceeds of Crime, 2024 shall, as from such date as may be established in the said decree, commence to apply *mutatis mutandis* to the Seizing and Freezing Order in such manner so however that the two (2) periods of ninety (90) days provided for in article 36(4)(b) may also be extended by the Court upon a request by the prosecution by another subsequent period of ninety (90) days if the Court is satisfied that such extension is justified.

Cap. 621.
Act No. VI of
2024.

(4) Where the law applicable to an Attachment Order or a Seizing and Freezing Order is modified in accordance with sub-article (3), the investigation or the criminal proceedings with reference to which the said modification is made shall, except in the case of criminal proceedings which are adjourned for final submissions or for judgment, be regulated from that time onwards in their entirety, including but not limited to the procedure for the confiscation of any proceeds of crime, by the provisions of the law as amended by the Act to amend Various Laws relating to the Proceeds of Crime, 2024.

Act No. VI of
2024.

(5) The provisions of article 7 of the Prevention of Money Laundering Act and of article 38 of the Proceeds of Crime Act as amended by the Act to amend Various Laws relating to the Proceeds of Crime, 2024 shall apply to all investigations and criminal proceedings also including those which are pending on the date of the coming into force of the said Act except for criminal proceedings which on the date of the coming into force of the said Act are adjourned for final submissions or for judgment in which latter cases the said proceedings shall continue to be regulated by the provisions of the said articles as in force before the coming into force of the said Act and those provisions shall, for the purposes of this sub-article, be deemed to have

Cap. 373.
Cap. 621.

Act No. VI of
2024.

remained in force.

(6) The provisions of all articles of the Act to amend Various Laws relating to the Proceeds of Crime, 2024 which are not referred to in sub-article (1) or sub-article (5) shall apply to all proceedings, whether they are pending on the date of the coming into force of the said Act, or if commenced subsequent to the coming into force of the said Act.

Act No. VI of
2024.

Passed by the House of Representatives at Sitting No. 201 of the 30th January, 2024.

ANĠLU FARRUGIA
Speaker

ELEANOR SCERRI
Clerk of the House of Representatives

