

Nru. 211

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MALTA

KAMRA TAD-DEPUTATI

ABBOZZ ta' Ligi mressaq mill-Onorevoli Joseph Brincat, M.P., Ministru tal-Gustizzja, Artijiet, Djar u Affarijiet tal-Parlament u moqri għall-Ewwel darba fis-Seduta tad-19 ta' Ottubru, 1981.

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

C. MIFSUD

Skriwan tal-Kamra tad-Deputati

HOUSE OF REPRESENTATIVES

A BILL introduced by the Honourable Joseph Brincat, M.P., Minister of Justice, Lands, Housing and Parliamentary Affairs and read the First time at the Sitting of the 19th October, 1981.

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

C. MIFSUD

Clerk to the House of Representatives

ABBOZZ TA' LIĠI

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, hareġ b'liġi dan li ġej:—

Titolu fil-qosor
u bidu fis-sehh.

1. (1) Dan l-Att jista' jissejjaħ l-Att ta' l-1981 li jemenda l-Kodiċi Kriminali, u għandu jinqara u jiftiehem haġa waħda mal-Kodiċi Kriminali, hawnhekk iżjed 'il quddiem imsejjah "il-liġi prinċipali".

(2) Dan l-Att għandu jibda jseħħ f'dik id-data li l-Ministru responsabbli għall-Gustizzja jista' jstabbilixxi b'avviż fil-Gazzetta.

Sostituzzjoni
ta' l-artikolu
450 tal-liġi
prinċipali.

2. Minflok l-artikolu 450 tal-liġi prinċipali għandu jidhol dan li ġej:

"Notifika
ta' l-att ta'
l-akkuża
lill-
akkużat.

450. (1) Kopja uffiċjali ta' l-att ta' l-akkuża u tan-
nota msemmija fis-subartikolu (2) ta' l-artikolu 584 għand-
hom jiġu notifikati lill-akkużat.

(2) L-akkużat għandu, permezz ta' nota ppre-
żentata fir-Registru tal-Qorti mhux iktar tard minn għaxart
ijiem mid-data ta' dik in-notifika —

(i) jagħti avviż dwar l-eċċezzjonijiet imsemmija
fl-artikolu 461 u kull eċċezzjoni dwar l-ammissibilità tal-
provi li jkollu l-ħsieb li jagħti; u

(ii) jindika x-xhieda u jipproduċi d-dokumenti u
oġġetti oħra li jkollu l-ħsieb li juża fil-kawża,
u kopja uffiċjali ta' dik in-nota għandha tiġi notifikata lill-
Avukat Generali.

(3) L-Avukat Ġenerali għandu, permezz ta' nota pprezentata fir-Registru tal-Qorti mhux iktar tard minn hamest ijiem mid-data ta' dik in-notifika, jagħti avviż ta' kull eċċezzjoni dwar l-ammissibilità ta' provi li jkollu l-ħsieb li jagħti.

(4) Malli jgħaddi ż-żmien imsemmi fis-subartikolu ta' qabel dan il-Qorti għandha tistabbilixxi l-jum għas-smiġħ ta' l-eċċezzjonijiet kollha u għandha f'dak il-jum tordna lir-Registatur biex jaqra l-att ta' l-akkuża, u wara tgħaddi biex tiddeċiedi fuq dawk l-eċċezzjonijiet qabel ma l-akkużat iwiegħeb jekk hux ħati jew le:

Izda l-Qorti tista' ex officio jew fuq rikors ta' l-Avukat Ġenerali jew ta' l-akkużat titlob li dak li jrid jiġi ppruvat bix-xhieda jiġi ddikjarat.

(5) Jekk l-ebda eċċezzjonijiet ma jkunu ġew mogħtija kif provdut fis-subartikoli (2) u (3) ta' dan l-artikolu, jew, wara li jiġu deċiżi dawn l-eċċezzjonijiet, il-Qorti għandha tistabbilixxi jum għas-smiġħ tal-kawża.

(6) L-akkużat għandu jingħata mill-inqas għaxart ijiem żmien biex jipprepara d-difiża. Il-Qorti tista', jekk tiġi murija raġuni xierqa, u wara li tisma' lill-Avukat Ġenerali, tendi dan iż-żmien għal kull żmien ieħor li jidhrilha xieraq.

(7) L-akkużat jista' jirrinunzja għall-jedd ta' dan iż-żmien."

3. L-artikolu 452 tal-liġi prinċipali għandu jiġi emendat kif ġej:

- (a) is-subartikoli (1) u (2) għandhom jiħassru;
 (b) minflok is-subartikolu (3) tiegħu għandu jidhul dan li ġej:

Emenda ta' l-artikolu 452 tal-liġi prinċipali.

"(3) L-attijiet tal-kumpilazzjoni, dokumenti u oġġetti pprezentati fir-Registru tal-Qorti mill-Avukat Ġenerali jew mill-akkużat jistgħu jarawhom l-Avukat Ġenerali u l-akkużat jew l-Avukat jew il-Prokuratur Legali tiegħu."

(ċ) fis-subartikolu (4) tiegħu, minflok il-kliem "id-dokumenti, l-oġġetti u l-attijiet hawn fuq imsemmija" għandhom jidhlu l-kliem "id-dokumenti, l-oġġetti u l-attijiet kollha";

(d) fis-subartikolu (5) tiegħu, minflok il-kliem "fin-nota jew li ma jkunx ġie pprezentat kif jingħad hawn fuq" għandhom jidhlu l-kliem "fin-noti jew li ma jkunux ġew ipprezentati kif provdut fl-artikolu 450,"; u

(e) fis-subartikolu (6) tiegħu, minflok il-kliem "l-prezentata ma tkunx saret fiż-żmien" għandhom jidhlu l-kliem "l-prezentata ma tkunx saret fiż-żmien speċifikat fl-artikolu 450".

4. Minflok is-subartikolu (1) ta' l-artikolu 458 tal-liġi prinċipali għandu jidhul dan li ġej:

"(1) Kull eċċezzjoni kontra l-Imħallef għandha tingħata, u mill-Qorti tinqata' qabel il-qari ta' l-att ta' l-akkuża meta l-akkużat jitqiegħed fl-isbarra, fil-jum stabbilit għas-smiġħ ta' l-eċċezzjonijiet preliminari, jew, jekk l-ebda eċċezzjoni ma' tkun ingħatat, fil-jum stabbilit għas-smiġħ tal-kawża."

Emenda ta' l-artikolu 458 tal-liġi prinċipali.

9. L-artikolu 584 tal-liġi prinċipali għandu jiġi emendat kif ġej:

(a) id-disposizzjoni preżenti għandha tiġi numerata mill-ġdid bħala subartikolu (1); u

(b) minnufih wara s-subartikolu (1) kif numerat mill-ġdid għandu jidhrol is-subartikolu ġdid li ġej:

“(2) Ma’ l-att ta’ l-akkuża l-Avukat Ġenerali għandu jippreżenta wkoll l-attijiet tal-kumpilazzjoni flimkien ma’ nota tax-xhieda, dokumenti u oġġetti oħra li jkollu l-ksieb li jipprođuċi fil-kawża.”.

Emenda ta’
l-artikolu 584
tal-liġi
prinċipali.

Għanijiet u Ragunijiet

L-Għan ta’ dan l-Abbozz huwa li jipprovdi biex l-eċċezzjonijiet preliminari jiġu deċiżi b’aktar heffa fil-ġurijiet.

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 and commencement.

1. (1) This Act may be cited as the Criminal Code (Amendment) Act, 1981, and shall be read and construed as one with the Criminal Code, hereinafter referred to as "the principal law".

(2) This Act shall come into force on such date as the Minister responsible for Justice may by notice in the Gazette appoint.

Substitution of section 450 of the principal law.

2. For section 450 of the principal law there shall be substituted the following:

450. (1) An official copy of the indictment and of the list referred to in subsection (2) of section 584 shall be served on the accused.

(2) The accused shall, by means of a note to be filed in the Registry of the Court not later than ten days from the date of such service —

(i) give notice of any pleas referred to in section 461 and any plea regarding the admissibility of evidence which he intends to raise; and

(ii) indicate the witnesses and produce the documents and other exhibits which he intends to use at the trial,

and an official copy of such note shall be served on the Attorney General.

(3) The Attorney General shall, by means of a note filed in the Registry of the Court not later than five days from the date of such service, give note of any plea regarding the admissibility of evidence which he intends to raise.

(4) On the expiration of the time referred to in the preceding subsection the Court shall appoint a day for the hearing of all the pleas and shall on that day direct the Registrar to read out the indictment, then proceed to determine such pleas before the accused plead to the general issue of guilty or not guilty:

Provided that the Court may ex officio or on the application of the Attorney General or the accused requests that the proof intended to be established by the witnesses be stated.

(5) If no pleas have been raised as provided in subsections (2) and (3) of this section, or, after the determination of such pleas, the Court shall appoint a day for the hearing of the trial.

(6) The accused shall be allowed a term of at least ten days to prepare his defence. The Court may, on good cause being shown, and after hearing the Attorney General, extend such term to any further period as it may deem fit.

(7) The accused may waive his right to such term.”.

3. Section 452 of the principal law shall be amended as follows:

Amendment of section 452 of the principal law.

(a) subsections (1) and (2) shall be deleted;

(b) for subsection (3) thereof there shall be substituted the following:

“(3) The record of the inquiry, documents and exhibits filed in the Registry of the Court by the Attorney General or the accused shall be accessible to the Attorney General and to the accused or his Advocate or Legal Procurator.”;

(c) in subsection (4) thereof for the words “of the said documents; exhibits, and record” there shall be substituted the words “of all the documents, exhibits, and record”;

(d) in subsection (5) thereof, for the words “in the list or filed as aforesaid” there shall be substituted the words “in the lists or filed as provided in section 450.”; and

(e) in subsection (6) thereof, for the words “default of filing within the said term” there shall be substituted the words “default of filing within the term specified in section 450”.

4. For subsection (1) of section 458 of the principal law there shall be substituted the following:

Amendment of section 458 of the principal law.

“(1) Any objection to the Judge shall be raised, and the decision of the Court shall be given thereon, before the reading

out of the indictment, when the accused has been placed at the bar, on the day appointed for the hearing of the preliminary pleas, or, if no such pleas have been raised, on the day appointed for the trial.”.

Amendment of section 460 of the principal law.

5. For section 460 of the principal law there shall be substituted the following:

“Reading out of the indictment to the accused.

460. Where no pleas have been raised as provided in section 450, the Court shall direct the Registrar to read out the indictment.”.

Amendment of section 461 of the principal law.

6. For subsection (1) of section 461 of the principal law there shall be substituted the following:

“(1) The following pleas, that is to say —

- (a) plea to the jurisdiction of the Court;
- (b) plea of nullity of or defect in the indictment;
- (c) plea of extinguishment of action;
- (d) plea of “autrefois convict” or “autrefois acquit”;
- (e) plea of insanity of the accused at the time of the trial;
- (f) plea relating to any other point of fact in consequence of which the trial should not take place at the time, or at any future time; and
- (g) saving the provisions of subsection (1) of section 458, any other preliminary plea,

may only be raised if notice thereof has been given as provided in subsection (2) of section 450:

Provided that the Court may authorise such pleas to be raised for a reason which arises after the time within which the note referred to in subsection (2) of section 450 is to be filed in the Registry of the Court.”.

Amendment of section 466 of the principal law.

7. Section 466 of the principal law shall be amended as follows:

(a) for subsection (1) thereof there shall be substituted the following:

“(1) If the accused pleads not guilty, such plea shall be recorded.”;

- (b) subsection (2) thereof shall be deleted;
- (c) subsection (3) thereof shall be deleted;

(d) in subsection (4) thereof, for the words “the Court shall” there shall be substituted the words “the Court shall, if no pleas have been raised as provided in section 450 or otherwise, after the determination of such pleas,”; and

(e) for subsection (5) thereof there shall be substituted the following:

“(5) On the day fixed for the trial the Court shall impanel the jury and shall then proceed with the trial”.

8. In subsection (1) of section 508B of the principal law for the words “decision given at the stage referred to in subsection (1) of section 466 on the plea of the admissibility of evidence therein mentioned” there shall be substituted the words “decision regarding the admissibility of evidence.”.

Amendment
of section 508B
of the principal
law.

9. Section 584 of the principal law shall be amended as follows:

(a) the present provision shall be renumbered as subsection (1); and

Amendment
of section 584
of the principal
law.

(b) immediately after subsection (1) as renumbered there shall be added the following new subsection:

“(2) With the indictment the Attorney General shall also file the record of the inquiry together with a list of the witnesses, documents and other exhibits which he intends to produce at the trial.”.

Objects and Reasons

The Bill aims at providing an expeditious determination of preliminary pleas in the trial by jury.