

### **Abbozz ta' Liġi msejjah**

*ATT biex jemenda diversi liġijiet li għandhom x'jaqsmu ma' Materji Kriminali.*

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

**1. (1)** It-titolu fil-qosor ta' dan l-Att huwa l-Att tal-2011 li jemenda Diversi Liġijiet li jirrigwardaw Materji Kriminali. Titolu fil-qosor u bidu fis-sehh.

(2) Id-dispożizzjonijiet ta' dan l-Att għandhom jidhlu fis-sehh f'dik id-data li l-Ministru tal-ġustizzja jista' b'avviż fil-Gazzetta jistabbilixxi, u dati differenti jistgħu jiġu hekk stabbiliti għal dispożizzjonijiet differenti jew għal għanijiet differenti ta' dan l-Att.

### **TAQSIMA I**

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

**3.** Fil-paragrafu (e) tas-subartikolu (1) tal-artikolu 5 tal-Kodiċi, minflok il-kliem "314B, 316" għandhom jidhlu l-kliem "314B, 314ĊA, 316". Emenda tal-artikolu 5 tal-Kodiċi.

**4.** Minnufih wara s-subartikolu (2) tal-artikolu 23Ċ tal-Kodiċi għandu jiżdied dan is-subartikolu ġdid li ġej: Emenda tal-artikolu 23Ċ tal-Kodiċi.

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

"proprietà" għandu jkollha l-istess tifsira mogħtija lilha bl-artikolu 23B(3);

"reat rilevanti" tfisser kull reat li ma jkunx wieħed ta' natura involontarja li għalih tista' tingħata l-piena ta' prigunerija jew ta' detenzjoni għal żmien iktar minn sena."

Emenda tal-artikolu 28A tal-Kodiċi.

5. Fis-subartikolu (1) tal-artikolu 28A tal-Kodiċi, minflok il-kliem "iżjed minn erba' snin" għandhom jidhlu l-kliem "iżjed minn sitt snin".

Emenda tal-artikolu 28G tal-Kodiċi.

6. L-artikolu 28G tal-Kodiċi għandu jiġi emendat kif ġej:

(a) minnufih wara s-subartikolu (1) tiegħu, għandu jiżdied is-subartikolu ġdid li ġej:

"(1A) Meta jkun inħareġ ordni ta' superviżjoni skont id-dispożizzjonijiet tas-subartikolu (1), il-qorti tista', b'żieda ma' dak l-ordni, toħroġ ordni ta' servizz fil-komunità kif imfisser fl-artikolu 11 tal-Att dwar il-*Probation* u d-dispożizzjonijiet tal-Att dwar il-*Probation* għandhom, *mutatis mutandis*, japplikaw għal dak l-ordni."; u

(b) minnufih wara s-subartikolu (9) tiegħu, għandu jiżdied is-subartikolu ġdid li ġej:

"(10) Kull referenza għal ordni ta' superviżjoni għandha titqies li tinkludi ordni għal sanzjoni komunitarja."

Emenda tal-artikolu 28H tal-Kodiċi.

7. L-artikolu 28H tal-Kodiċi għandu jiġi emendat kif ġej:

(a) fis-subartikolu (2) tiegħu, minflok il-kliem "ma jkunx ta' aktar minn sitt xhur" għandhom jidhlu l-kliem "ma jkunx ta' aktar minn sena";

(b) fis-subartikolu (3) tiegħu minflok il-kliem "permess bil-liġi." għandhom jidhlu l-kliem "permess bil-liġi:", u minnufih wara għandu jiżdied il-proviso li ġej:

"Izda meta tinbeda azzjoni ċivili għad-danni u l-qorti, f'dawk il-proċeduri tkun illikwidat ammont oġġla bħala kumpens, kull ammont hekk imħallas skont dan is-subartikolu għandu jitqies bħala pagament akkont."; u

(ċ) fis-subartikolu (5) tiegħu, minflok il-kliem "ma

jkunx ta' iktar minn xahar" għandhom jidhlu l-kliem "ma jkunx ta' iktar minn tliet xhur".

**8.** L-artikolu 35 tal-Kodiċi għandu jiġi sostitwit bl-artikolu ġdid li ġej:

Sostituzzjoni tal-artikolu 35 tal-Kodiċi.

"35. Bla ħsara għas-setgħat tal-Ministru taħt l-Att dwar Tfal u Żgħażaġh (Ordnijiet għall-Ħarsien), il-minuri ta' taħt l-erbatax-il sena jkunu eżenti minn responsabilità kriminali għal kull att jew nuqqas."

**9.** L-artikolu 36 tal-Kodiċi għandu jiġi mħassar.

Thassir tal-artikolu 36 tal-Kodiċi.

**10.** L-artikolu 37 tal-Kodiċi għandu jiġi sostitwit bl-artikolu ġdid li ġej:

Sostituzzjoni tal-artikolu 37 tal-Kodiċi.

"37. (1) Il-minuri ta' taħt is-sittax-il sena jkun ukoll eżenti minn responsabilità kriminali għal kull att jew nuqqas magħmul bla ħażen.

(2) Fejn l-att jew nuqqas magħmul minn minuri minn erbatax-il sena sa sittax-il sena jsir b'ħażen u fil-każ ta' minuri minn sittax-il sena sa tmintax-il sena, il-piena applikabbli għal reat għandha titnaqqas bi grad jew tnejn."

**11.** L-artikolu 49 tal-Kodiċi għandu jiġi sostitwit b'dan l-artikolu ġdid li ġej:

Sostituzzjoni tal-artikolu 49 tal-Kodiċi.

"49. (1) Persuna titqies reċidiva jekk, wara li tkun giet ikkundannata għal reat b'sentenza, ukoll meta mogħtija minn qorti barranija, li tkun għaddiet f'gudikat, tagħmel reat ieħor.

(2) Fi proċeduri taħt jew għall-finijiet ta' dan l-artikolu, dokument, debitament awtentikat, li jiċċertifika li persuna nstabet hatja ta' reat kontra l-ligi ta' dak il-pajjiż jew parti minnu, fid-data speċifikata fid-dokument, għandu jkun ammissibli bhala prova tal-fatt u tad-data tad-dikjarazzjoni ta' htija.

(3) Dokument għandu jitqies li hu debitament awtentikat jekk waħda minn dawn il-kondizzjonijiet li ġejjin tapplika:

(a) jekk jidher li hu ffirmat minn imħallef, maġistrat jew uffiċjal tal-Istat fejn tkun ingħatat is-sentenza; jew

(b) jekk jidher li hu ċertifikat, mill-Ministeru, dipartiment jew awtorità oħra responsabbli għall-ġustizzja jew għall-affarijiet barranin tal-Istat fejn tkun ingħatat is-sentenza, sew jekk ikun b'sigill u sew jekk le; jew

(ċ) jekk jidher li hu awtentikat b'ġurament, stqarrija jew affermazzjoni ta' xhud.

(4) Kull dokument li jkun ser jintbagħat b'rabta mal-proċeduri taħt dan l-artikolu jista' jintbagħat b'kull mezz sigur li jkun kapaċi jipproduċi dokumentazzjoni bil-miktub u taħt kondizzjonijiet li jippermettu l-aċċertament tal-awtentiċità tiegħu.

(5) F'dan l-artikolu, "ġurament" tinkludi affermazzjoni jew stqarrija; u xejn f'dan l-artikolu m'għandu jinftiehem li jippreġudika dokument li jkun ammissibbli bħala prova taħt dispożizzjoni oħra tal-liġi".

Emenda tal-artikolu 83 tal-Kodiċi.

**12.** Fl-artikolu 83 tal-Kodiċi, minnufih wara l-kliem "li twaqqaf, iżzomm" għandhom jidhlu l-kliem "waħedha jew ma' persuni oħra"; u minflok il-kliem "multa ta' mhux iżjed minn mitejn u tnejn u tletin euro u erbgħa u disgħin ċenteżmu (€232.94) jew il-piena ta' priġunerija għal mhux iżjed minn sitt xhur jew għal multa u l-priġunerija flimkien" għandhom jidhlu l-kliem "multa ta' mhux iżjed minn ħamest elef euro (€5000) jew il-piena ta' priġunerija għal żmien minn disa' xhur sa ħames snin jew għal multa u priġunerija flimkien".

Emenda tal-artikolu 83A tal-Kodiċi.

**13.** L-artikolu 83A tal-Kodiċi għandu jiġi emendat kif ġej:

(a) is-subartikolu (1) tiegħu għandu jiġi sostitwit bis-subartikolu ġdid li ġej:

"(1) Kull min -

(a) jippromwovi, jikkostitwixxi, jorganizza jew jiffinanzja għaqda bil-ħsieb li jitwettqu reati kriminali soġġetti għal-piena ta' priġunerija għal żmien erba' snin jew iktar; jew

(b) waqt li jkun jaf jew ikollu kawża raġonevoli li jissuspetta dwar l-għan jew l-attività b'mod ġenerali tal-għaqda stabbilita għall-finijiet imsemmija fil-paragrafu (a), jipparteċipa b'mod attiv fl-attivitajiet kriminali tal-għaqda, inklużi iżda mhux limitati għall-għoti ta' informazzjoni jew ta' mezzi materjali jew ir-reklutaġġ ta' membri godda,

ikun hati ta' reat u jehel, meta jinsab hati, il-piena ta' prigunerija ghal zmien minn erbgħa sa disa' snin.";

(b) fis-subartikolu (2) tiegħu, minflok il-kliem "jista' għal dak il-fatt biss jehel il-piena ta' prigunerija għal zmien minn sena sa ħames snin" għandhom jidhlu l-kliem "jehel għal dak il-fatt biss il-piena ta' prigunerija għal zmien minn sentejn sa seba' snin"; u

(c) fis-subartikolu (4) tiegħu, minflok il-kliem "taħt dan l-artikolu" għandhom jidhlu l-kliem "taħt dan it-titolu".

**14.** Fis-subtitolu qabel l-artikolu 83B tal-Kodiċi minflok il-kliem "MOTIVATI BI KSENOFOBIJA" għandhom jidhlu l-kliem "MOTIVATI BI KSENOFOBIJA JEW OMOFOBIJA".

Emenda tas-subtitolu qabel l-artikolu 83B tal-Kodiċi.

**15.** Fl-artikolu 83B tal-Kodiċi, minflok il-kliem "bil-ksenofobija" għandhom jidhlu l-kliem "bil-ksenofobija jew bl-omofobija".

Emenda tal-artikolu 83B tal-Kodiċi.

**16.** Fl-artikolu 95 tal-Kodiċi, minflok il-kliem "miżjuda bi grad" għandhom jidhlu l-kliem "miżjuda b'zewġ gradi".

Emenda tal-artikolu 95 tal-Kodiċi.

**17.** L-artikolu 96 tal-Kodiċi għandu jiġi emendat kif ġej:

Emenda tal-artikolu 96 tal-Kodiċi.

(a) fil-paragrafu (a) tiegħu, minflok il-kliem "minn erba' xhur sa sena" għandhom jidhlu l-kliem "minn sitt xhur sa sentejn"; u

(b) fil-paragrafu (b) tiegħu, minflok il-kliem "minn seba' xhur sa sentejn" għandhom jidhlu l-kliem "minn disa' xhur sa tlett snin".

**18.** Fl-artikolu 97 tal-Kodiċi, minflok il-kliem "minn disa' xhur sa tlett snin" għandhom jidhlu l-kliem "minn sena sa erba' snin".

Emenda tal-artikolu 97 tal-Kodiċi.

**19.** Minnufih wara l-artikolu 99 tal-Kodiċi għandu jiżdied l-artikolu ġdid li ġej:

Żieda ta' artikolu ġdid mal-Kodiċi.

"Disposizzjonijiet mhux applikabbli. Kap. 446.

99A. Id-dispożizzjonijiet tal-artikoli 21 u 28A u d-dispożizzjonijiet tal-Att dwar il-*Probation* ma għandhomx japplikaw rigward persuna li tkun instabet hatja ta' reat taħt dan is-sub-titolu."

**20.** L-artikolu 117 tal-Kodiċi għandu jiġi emendat kif ġej:

Emenda tal-artikolu 117 tal-Kodiċi.

(a) fil-paragrafu (a) tiegħu, minflok il-kliem "minn tmintax-il xahar sa ħames snin" għandhom jidhlu l-kliem "minn tliet snin sa disa' snin";

(b) fil-paragrafu (b) tiegħu, minflok il-kliem "minn disa' xhur sa tliet snin" għandhom jidhlu l-kliem "minn tmintax-il xahar sa ħames snin"; u

(ċ) fil-paragrafu (ċ) tiegħu, minflok il-kliem "minn erba' xhur sa tnax-il xahar" għandhom jidhlu l-kliem "minn disa' xhur sa sentejn".

Emenda tal-  
artikolu 120 tal-  
Kodiċi.

**21.** L-artikolu 120 tal-Kodiċi għandu jiġi emendat kif ġej:

(a) fis-subartikolu (2) tiegħu minflok il-kliem "sa tliet snin." għandhom jidhlu l-kliem "sa tliet snin."; u

(b) minnufih wara s-subartikolu (2) tiegħu għandu jiżdied dan il-proviso li ġej:

"Izda fil-każ tad-delitt imsemmi fl-artikolu 117(ċ), il-piena ma għandhiex tkun aktar minn tmintax-il xahar prigunerija."

Emenda tal-  
artikolu 121 tal-  
Kodiċi.

**22.** L-artikolu 121 tal-Kodiċi għandu jiġi emendat kif ġej:

(a) fis-subartikolu (2) tiegħu, minflok il-kliem "fl-artikolu 115." għandhom jidhlu l-kliem "fl-artikolu 115."; u minnufih wara għandu jiżdied dan il-proviso li ġej:

"B'dan illi l-frazi "gurat" għandha tkun f'kull każ tinkludi persuna fil-ġurija li tkun qegħda taġixxi bħala membru ta' korp kolleġjali fis-sistema ġudizzjarja ta' xi stat ieħor li ma jkunx Malta li jkollha r-responsabbiltà li tiddeċiedi dwar il-htija ta' persuna akkuzata waqt dawk il-proċeduri.";

(b) fil-paragrafu (a) tas-subartikolu (4) tiegħu, minnufih wara l-kliem "assemblea domestika" għandha tiżdied il-kelma "pubblika"; u

(ċ) fil-paragrafu (g) tas-subartikolu (4) tiegħu, minflok il-kliem "f'Malta:" għandhom jidhlu l-kliem "f'Malta";, u minnufih wara, għandu jiżdied dan il-paragrafu (h) ġdid li ġej:

"(h) kull persuna li:

(i) tinhatar biex tagħmilha ta' arbitru hekk kif hemm fid-dispożizzjonijiet tal-Att dwar l-Arbitraġġ, kemm jekk dak l-arbitraġġ ikun wieħed domestiku kemm jekk ikun wieħed internazzjonali;

(ii) bis-saħħa ta' ftehim ta' arbitraġġ ikollha d-dmir li tagħti deċiżjoni li tkun torbot legalment lill-partijiet f'wilwima li tkun għet ippreżentata quddiem dik il-persuna mill-partijiet innifishom fil-ftehim; u

(iii) taġixxi ta' arbitru li jkun qiegħed jeżerċita l-funzjonijiet tiegħu taħt il-ligijiet nazzjonali ta' xi stat ieħor li ma jkunx Malta."

**23.** Fis-subartikolu (1) tal-artikolu 121A tal-Kodiċi, minflok il-kliem "minn tliet xhur sa tmintax-il xahar" għandhom jidhlu l-kliem "minn sitt xhur sa tliet snin".

Emenda tal-artikolu 121A tal-Kodiċi.

**24.** Fl-artikolu 161 tal-Kodiċi, minflok il-kliem "li qegħdin għall-vantaġġ pubbliku jew għaż-żina pubblika u li jkunu ġew imwaqqfin mill-awtorità pubblika, jew bis-setgħa tagħha, jeħel, meta jinsab ħati, il-piena ta' prigunerija minn xahar sa sena jew multa ta' mhux iżjed minn elfejn tliet mija u disgħa u għoxrin euro u sebgha u tletin ċenteżmu (€2,329.37)" għandhom jidhlu l-kliem "li qegħdin għall-vantaġġ pubbliku jew għall-abbelliment pubbliku u li jkunu ġew imwaqqfin mill-awtorità pubblika, jew bis-setgħa tagħha, jeħel, meta jinsab ħati, il-piena ta' prigunerija minn sitt xhur sa tmintax-il xahar jew ta' multa ta' mhux iżjed minn tliet elef u ħames mitt euro (€3,500)".

Emenda tal-artikolu 161 tal-Kodiċi

**25.** Fl-artikolu 162 tal-Kodiċi minflok il-kliem "jeħel il-piena ta' prigunerija minn xahar sa tmintax-il xahar jew multa ta' mhux iżjed minn elf mija u erbgha u sittin euro u disgħa u sittin ċenteżmu (1,164.69)" għandhom jidhlu l-kliem "jeħel il-piena ta' prigunerija minn disa xhur sa sentejn jew multa ta' mhux iżjed minn ħamest elef euro (€5,000)".

Emenda tal-artikolu 162 tal-Kodiċi.

**26.** Minnufih wara l-proviso tas-subartikolu (1) tal-artikolu 203 tal-Kodiċi għandu jizjed dan il-proviso ġdid li gej:

Emenda tal-artikolu 203 tal-Kodiċi.

"Izda wkoll, meta l-vittma tar-reat hija ta' bejn is-sittax u tmintax-il sena, fejn id-differenza fl-età, fl-iżvilupp fiżiku u psikoloġiku, kif ukoll fil-maturità bejn il-partijiet hija viċina u l-att kien konsenswali u ma kien jinvolvi ebda abbuż jew xi forma ta' ħlas jew rimunerazzjoni jew atti ta' pornografija, meta jitqiesu ċ-ċirkostanzi tal-każ, il-Qorti tordna li l-proċedimenti jitwaqqfu."

**27.** Fl-artikolu 205 tal-Kodiċi minflok il-kliem "għal żmien mhux iżjed minn sentejn, bir-rekluzjoni u mingħajrha" għandhom jidhlu l-kliem "għal żmien mhux iżjed minn ħames snin, bir-rekluzjoni u mingħajrha"; u minflok il-kliem "l-piena tkun ta'

Emenda tal-artikolu 205 tal-Kodiċi.

prigunerija minn sena sa erba snin" għandhom jidhlu l-kliem "l-piena tkun ta' prigunerija minn sentejn sa seba snin".

Emenda tal-artikolu 208AA tal-Kodiċi.

**28.** Fl-artikolu 208AA tal-Kodiċi, minflok il-kliem "jista', meta l-proposta tkun segwita b'atti materjali li jwasslu għal dik il-laqgħa, jista', meta jinsab hati, jeħel il-piena ta' prigunerija għal żmien minn tnax-il xahar sa erba snin" għandhom jidhlu l-kliem "jeħel, meta l-proposta tkun segwita b'atti materjali li jwasslu għal dik il-laqgħa, meta jinsab hati, il-piena ta' prigunerija għal żmien minn sentejn sa ħames snin".

Emenda tal-artikolu 208AB tal-Kodiċi.

**29.** Fl-artikolu 208AB tal-Kodiċi, minflok il-kliem "jista', meta jinsab hati, jeħel il-piena ta' prigunerija minn tnax-il xahar għal sentejn" għandhom jidhlu l-kliem "jeħel, meta jinsab hati, il-piena ta' prigunerija għal żmien minn sentejn sa ħames snin".

Żieda ta' artikolu ġdid mal-Kodiċi.

**30.** Minnufih wara l-artikolu 209 tal-Kodiċi għandu jiżdied l-artikolu ġdid li ġej:

"Id-dispożizzjonijiet tal-Att dwar il-*Probation* ma japplikawx.

209A. Id-dispożizzjonijiet tal-artikolu 21 ta' dan il-Kodiċi u d-dispożizzjonijiet tal-Att dwar il-*Probation* m'għandhomx japplikaw fir-rigward ta' persuna li tkun instabet haġja ta' reat taħt dan is-subtitolu."

Emenda tal-artikolu 222A tal-Kodiċi.

**31.** Fis-subartikolu (2) u (3) tal-artikolu 222A tal-Kodiċi, minflok il-kliem "bil-ksenofobija" għandhom jidhlu l-kliem "bil-ksenofobija jew bl-omofobija".

Emenda tal-artikolu 248A tal-Kodiċi.

**32.** L-artikolu 248A tal-Kodiċi għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, minflok il-kliem "jista', meta jinsab hati, jeħel il-piena ta' prigunerija minn sentejn sa disa' snin" għandhom jidhlu l-kliem "jeħel, meta jinsab hati, il-piena ta' prigunerija minn erbgħa sa tnax-il sena"; u

(b) minnufih wara s-subartikolu (2) tiegħu, għandu jiżdied is-subartikolu ġdid li ġej:

"(3) Kull min ixewwex, jgħin jew jassisti fit-traffkar ta' persuna jew f'attentat ta' traffkar ta' persuna, jeħel, meta jinsab hati, il-piena ta' prigunerija minn tliet sa seba' snin."

Emenda tal-artikolu 248Ċ tal-Kodiċi.

**33.** Fl-artikolu 248Ċ tal-Kodiċi, minflok il-kliem "jeħel, meta jinsab hati, il-piena ta' prigunerija għal żmien minn erba' sa tnax-il sena" għandhom jidhlu l-kliem "jeħel, meta jinsab hati, il-piena ta' prigunerija minn sitt snin sa tnax-il sena".



**34.** Fl-artikolu 248D tal-Kodiċi, minflok il-kliem "l-istess piena li hemm f'dawk l-artikoli", għandhom jidhlu l-kliem "il-piena ta' prigunerija għal perjodu minn sentejn sa għaxar snin".

Emenda tal-artikolu 248D tal-Kodiċi.

**35.** Fl-artikolu 248E tal-Kodiċi għandu jigi emendat kif ġej:

Emenda tal-artikolu 248E tal-Kodiċi.

(a) fis-subartikolu (4) tiegħu, minflok il-kliem "li jista' jehel il-ħlas ta' multa ta' mhux inqas minn erbat elef, sitt mija u tmienja u hamsin euro u hamsa u sebgħin ċenteżmu (4,658.75) u mhux iżjed minn miljun u mija u erbgha u sittin elf u sitt mija u tmenin euro u sebgħin ċenteżmu (1,164,686.70)" għandhom jidhlu l-kliem "li jehel multa ta' mhux inqas minn għaxart elef euro (€10,000) u mhux iżjed minn żewġ miljun euro (€2,000,000)"; u

(b) minnufih wara s-subartikolu (4) tiegħu, għandu jizdied s-subartikolu ġdid li ġej:

"(4A) Meta r-reat jitwettaq għall-benefiċċju ta', fl-intier tiegħu jew f'parti minnu, korp magħqud minn persuna li jkollha s-setgħa li tirrappreżenta dak il-korp magħqud, l-awtorità li tiegħu deċiżjonijiet f'isem il-korp magħqud, jew awtorità li twettaq kontroll fuq il-korp magħqud, il-persuna ġuridika tista' tkun soġġetta għal:

(i) esklużjoni milli tkun intitolata għall-benefiċċji jew għajnuna pubbliċi;

(ii) l-għeluq temporanju jew permanenti mill-eżerċizzju tal-attivitajiet kummerċjali;

(iii) it-tqegħid taħt superviżjoni ġudizzjarja;

(iv) stralc obbligatorju; jew

(v) l-għeluq temporanju jew permanenti ta' xi stabbiliment li seta' gie użat għall-għemil tar-reat".

**36.** Minnufih wara l-artikolu 277 tal-Kodiċi għandu jizdied l-artikolu ġdid li ġej::

Żieda ta' artikolu ġdid mal-Kodiċi.

"Dispożizzjonijiet mhux applikabbli. Kap. 446.

277A. Id-dispożizzjonijiet tal-artikoli 21 u 28A ta' dan il-Kodiċi u d-dispożizzjonijiet tal-Att dwar il-*Probation* ma għandhomx japplikaw rigward persuna li tkun instabet haġja ta' reat ta' serq aggravat bil-"vjolenza".

Emenda tal-artikolu 308 tal-Kodiċi.

**37.** Fl-artikolu 308 tal-Kodiċi, minflok il-kliem "il-piena ta' prigunerija minn seba' xhur sa sentejn" għandhom jidhlu l-kliem "il-piena ta' prigunerija minn sena sa seba' snin".

Emenda tal-artikolu 309 tal-Kodiċi.

**38.** Fl-artikolu 309 tal-Kodiċi, minflok il-kliem "il-piena tkun ta' prigunerija minn xahar sa sitt xhur" għandhom jidhlu l-kliem "il-piena tkun ta' prigunerija minn xahrejn sa sentejn".

Sostituzzjoni tal-artikolu 310 tal-Kodiċi.

**39.** L-artikolu 310 tal-Kodiċi għandu jiġi sostitwit bl-artikolu ġdid li ġej:

"310. (1) Fil-każijiet imsemmijin f'dan is-Sub-titolu -

(a) meta l-ammont tal-ħsara magħmula mill-ħati huwa aktar minn ħamest elef euro (€5000), il-piena tkun ta' prigunerija minn sentejn sa disa' snin;

(b) meta l-ammont ta' ħsara magħmula mill-ħati huwa aktar minn ħames mitt euro (€500) iżda mhux aktar minn ħamest elef euro (€5000), il-piena tkun ta' prigunerija minn sitt xhur sa erba' snin:

Iżda jekk il-piena stabbilita għar-reat relevanti fl-artikoli preċedenti ta' dan is-Sub-titolu tkun oghla mill-piena stabbilita f'dan il-paragrafu, għandha tapplika l-piena l-ewwel imsemmija miżjuda bi grad u fil-każ tar-reat taħt l-artikolu 294, il-piena hekk miżjuda ma tingħatax fil-minimu tagħha;

(ċ) meta l-ammont tal-ħsara magħmula mill-ħati ma jkunx aktar minn ħames mitt euro (€500), il-piena tkun ta' prigunerija għal żmien mhux aktar minn sitt xhur.

(2) Id-dispożizzjoni tas-subartikolu (1)(ċ) ma tgħoddx fil-każ ta' delitti msemmija fl-artikoli 296 u 298."

Emenda tal-artikolu 328F tal-Kodiċi.

**40.** Is-subartikolu (1) tal-artikolu 328F tal-Kodiċi għandu jiġi sostitwit bis-subartikolu ġdid li ġej:

"(1) Kull min, direttament jew indirettament, jirċievi, jipprovdi jew jistieden lil xi persuna oħra biex tipprovdi, flus jew proprjetà oħra bil-ħsieb li dawn jintużaw, jew li huwa jkollu kawża raġonevoli li jissuspetta li dawn jistgħu jintużaw, fl-intier tagħhom jew f'parti minnhom, għall-finijiet ta' terroriżmu jeħel, meta jinsab ħati, u kemm-il darba l-fatt ma jkunx jikkostitwixxi reat aktar gravi taħt xi dispożizzjoni oħra ta' dan il-Kodiċi jew ta' xi liġi oħra, il-piena ta' prigunerija għal żmien mhux iżjed minn erba' snin jew multa ta' mhux iżjed

minn tnax-il elf euro (€12,000) jew dik il-multa u prigunerija flimkien."

**41.** Fis-subartikolu (1) tal-artikolu 328J tal-Kodiċi, minflok il-kliem "jista' jeħel għal reat bħal dak il-piena ta' multa ta' mhux inqas minn ħdax-il elf sitt mija u sitta u erbgħin euro u sebgha u tmenin ċenteżmu (11,646.87) u mhux iżjed minn żewġ miljuni u tliet mija u disgha u għoxrin elf u tliet mija u tlieta u sebghin euro u erbgħin ċenteżmu (2,329,373.40)" għandhom jidhlu l-kliem "jeħel għal reat bħal dak multa ta' mhux inqas minn tnax-il elf euro (€12,000) u mhux iżjed minn żewġ miljuni u ħames mitt elf euro (€2,500,000)".

Emenda tal-artikolu 328J tal-Kodiċi.

**42.** Fis-subparagrafu (i) tal-paragrafu (a) tas-subartikolu (1) tal-artikolu 328N tal-Kodiċi minflok il-kliem "bejn sema u ilma" għandhom jidhlu l-kliem "f'ibħra miftuħa".

Emenda tal-artikolu 328N tal-Kodiċi.

**43.** Minnufih wara s-Sub-titolu V tat-Titolu IX tat-Taqsima II tal-Ewwel Ktieb tal-Kodiċi għandu jżied is-Sub-titolu ġdid li ġejj:

Żieda ta' Sub-titolu ġdid mal-Kodiċi.

#### "Sub-Titolu VI

#### FUQ IR-REATI KONTRA L-AMBJENT

Reati kontra l-ambjent.

337L.(1) Kull min iwettaq xi wieħed mill-atti msemmija fis-subartikolu (2) ikun ħati ta' reat, hawn iżjed 'il quddiem f'dan is-Sub-titolu msejjaħ "reat kontra l-ambjent", u jeħel, meta jinsab ħati, l-pieni stabbiliti f'dan is-Sub-titolu.

(2) Għall-finijiet ta' dan is-Sub-titolu, reat kontra l-ambjent ifisser xi wieħed mill-atti li ġejjin:

(a) ir-rimi, l-emissjoni jew l-introduzzjoni ta' kwantità ta' materjali jew radjazzjoni jonizzanti fl-arja, fil-ħamrija jew fl-ilma li jikkawżaw, jew x'aktarx li jikkawżaw il-mewt jew feriment gravi lil kwalunkwe persuna jew ħsara sostanzjali lill-kwalità tal-arja, il-kwalità tal-ħamrija jew il-kwalità tal-ilma, jew lill-annimali jew lill-pjanti;

(b) il-ġbir, it-trasport, l-irkupru jew ir-rimi tal-iskart, inkluża s-supervizzjoni ta' operazzjonijiet bħal dawn u l-manutenzjoni ta' wara ta' impjanti tar-rimi tal-iskart, u inkluża l-azzjoni meħuda bħala negozjant jew sensar fil-manigġar tal-iskart, li tikkawza jew li x'aktarx tikkawza l-mewt jew feriment gravi lil kwalunkwe persuna, jew ħsara sostanzjali lill-kwalità tal-arja, il-kwalità tal-ħamrija jew il-kwalità tal-ilma, jew lill-annimali jew lill-pjanti;

(c) il-vjeġġi ta' skart, fejn din l-attività taqa' fil-kamp ta' applikazzjoni tal-Artikolu 2(35) tar-Regolament (KE) Nru 1013/2006 tal-Parlament europew u tal-Kunsill tal-14 ta' Ġunju 2006 dwar vjeġġi ta' skart u tiġi mwettqa fi kwantità li mhix negligibbli, kemm jekk issir fi vjeġġ uniku jew f'diversi vjeġġi li jidhru li jkunu konnessi;

(d) it-thaddim ta' impjant li fih titwettaq attività perikoluża jew li fih jinħażnu jew jintużaw sustanzi jew preparazzjonijiet perikolużi u li, barra mill-impjant tikkawza jew x'aktarx li tikkawza l-mewt jew feriment gravi lil kwalunkwe persuna, jew ħsara sostanzjali lill-kwalità tal-arja, il-kwalità tal-ħamrija jew il-kwalità tal-ilma, jew lill-annimali jew lill-pjanti;

(e) il-produzzjoni, l-ipproċessar, il-manigġ, l-użu, iż-żamma, il-ħżin, it-trasport, l-importazzjoni, l-esportazzjoni jew ir-rimi ta' materjali nukleari jew ta' sustanzi radjoattivi oħra perikolużi, li jikkawżaw jew li x'aktarx jikkawżaw il-mewt jew feriment gravi lil kwalunkwe persuna, jew ħsara sostanzjali lill-kwalità tal-arja, lill-kwalità tal-ħamrija jew il-kwalità tal-ilma, jew lill-annimali jew lill-pjanti;

(f) il-qtil, il-qerda, il-pussess jew it-tehid ta' kampjuni ta' speċi protetti tal-fawna jew flora selvaġġa, hliet għal każijiet fejn l-imġiba tikkonċerna kwantità negligibbli ta' dawn il-kampjuni u jkollha impatt negligibbli fuq l-istatus tal-konservazzjoni tal-ispeċi;

(g) il-kummerċ f'kampjuni ta' speċi protetti tal-fawna jew tal-flora selvaġġa jew partijiet jew derivattivi tagħhom, hliet meta tingieb prova għas-sodisfazzjoni tal-Qorti li l-imġiba tikkonċerna kwantità negligibbli ta' dawk il-kampjuni u jkollha impatt negligibbli fuq l-istatus ta' konservazzjoni tal-ispeċi;

(h) kwalunkwe mġiba li tikkawża d-deterjorament sinifikanti ta' habitat f'sit protett;

(i) il-produzzjoni, l-importazzjoni, l-esportazzjoni, it-tqeghid fis-suq jew l-użu ta' sustanzi li jnaqqsu l-ożonu.

Ċirkostanzi  
aggravanti.

337J.(1) Jekk, bħala riżultat tar-reat imsemmi fl-aħħar artikolu qabel dan, persuna titlef hajjitha, il-hati jehel il-piena ta' prigunerija għal għomru.

(2) Jekk, bħala riżultat tar-reat imsemmi fl-aħħar artikolu qabel dan, issir offiża gravi fuq il-persuna, il-hati jehel il-piena stabbilita għal reati ta' offiża gravi fuq il-persuna taht l-artikoli 216 jew 218, kif ikun il-każ, miżjuda bi grad jew żewġ gradi skont il-gravità tar-reat:

Iżda jekk l-offiża gravi fuq il-persuna ssir fuq żewġ persuni jew iżjed il-piena stabbilita f'dan is-subartikolu għandha tapplika u ma tingħatax fil-minimu tagħha.

(3) Jekk, bħala riżultat tar-reat imsemmi fl-aħħar artikolu qabel dan, issir ħsara serja lill-kwalità tal-arja, lill-ħamrija jew lill-ilma, jew lil annimali jew pjanti, jew b'xi mod ieħor jiġi kkawżat tgħarriq serju lill-ambjent, il-piena tkun waħda ta' prigunerija għal żmien minn tmien xhur sa seba' snin jew multa ta' mhux anqas minn ttax-il elf euro (€12,000) iżda mhux iżjed minn żewġ miljun u hames mitt elf euro (€2,500,000), jew dik il-prigunerija u dik il-multu flimkien.

Applikabilità  
ta' ċerti  
artikoli.

337K.(1) Id-dispożizzjonijiet tal-artikoli 121D u 248E(4) għandhom jgħoddu *mutatis mutandis* għal kull reat taht dan is-Sub-titolu.

(2) Id-dispożizzjonijiet tal-artikolu 328K ukoll għandhom jgħoddu *mutatis mutandis* għal kull reat taht dan is-Sub-titolu bħallikieku r-referenza, f'dak l-artikolu, għall-artikolu 328J kienet riferenza għall-artikolu 121D.

Tifsir.

337L. F'dan is-Sub-titolu:

"id-Direttiva 2008/99/KE" tfisser id-Direttiva 2008/99/KE tal-Parlament europew u tal-Kunsill tad-19 ta' Novembru 2008 dwar il-protezzjoni tal-ambjent permezz tal-ligi kriminali;

"ħabitat f'post protett", tfisser kwalunkwe ħabitat ta' speċi li għalihom żona hija kklassifikata bħala żona speċjali ta' protezzjoni skont l-Artikolu 4(1) jew (2) tad-Direttiva 79/409/KEE tat-2 ta' April 1979 dwar il-konservazzjoni ta' għasafar selvaġġi, jew kwalunkwe ħabitat naturali jew ħabitat ta' speċi li għalihom sit jintgħazel bħala żona speċjali ta' konservazzjoni skont l-Artikolu 4(4) tad-Direttiva tal-Kunsill 92/43/KEE dwar il-konservazzjoni tal-ħabitat naturali u tal-fawna u l-flora selvaġġi;

"speċi protetti tal-fawna u l-flora selvaġġi" huma:

(a) għall-finijiet tal-artikolu 337I(1)(f), dawk li huma elenkati fi:

(i) l-Anness IV tad-Direttiva tal-Kunsill 92/43/KEE tal-21 ta' Mejju 1992 dwar il-konservazzjoni tal-ħabitat naturali u tal-fawna u l-flora selvaġġa,

(ii) l-Anness I għal, u msemmi fl-Artikolu 4(2) ta', id-Direttiva tal-Kunsill 79/409/KEE tat-2 ta' April 1979 dwar il-konservazzjoni tal-għasafar selvaġġi,

(b) għall-finijiet tal-artikolu 337I(1)(g), dawk li huma elenkati fl-Annessi A jew B tar-Regolament tal-Kunsill (KE) Nru 338/97 tad-9 ta' Diċembru 1996 dwar il-protezzjoni ta' speċi ta' fawna u flora selvaġġi billi jkun regolat il-kummerċ fihom;

"it-Trattat" tfisser it-Trattat li jistabbilixxi l-Komunità europea magħmul f'Ruma fil-25 ta' Marzu, 1957;

"it-Trattat tal-Euratom" tfisser it-Trattat li jistabbilixxi l-Komunità tal-Energija Atomika europea magħmul f'Ruma fil-25 ta' Marzu, 1957;

"illegali" tfisser ksur:

(a) tal-leġislazzjoni adottata skont it-Trattat KE u elenkata fl-Anness A tad-Direttiva 2008/99/KE, jew

(b) fir-rigward tal-attivitajiet koperti mit-Trattat Euratom, il-leġislazzjoni adottata skont it-Trattat Euratom u elenkata fl-Anness B tad-Direttiva 2008/99/KE, jew

(ċ) ta' liġi, regolament amministrattiv ta' Stat Membru jew deċiżjoni meħuda minn awtorità kompetenti ta' Stat Membru li tagħti effett lil-leġislazzjoni Komunitarja msemmija fil-paragrafi (a) jew (b)."

**44.** Fil-paragrafu (ċ) tal-artikolu 355AV tal-Kodiċi minflok il-kliem "bil-kunsens tal-persuna arrestata:" għandhom jidhlu l-kliem "bil-kunsens tal-persuna arrestata u d-dispożizzjonijiet tal-proviso għall-artikolu 355BB għandhom, *mutatis mutandis*, japplikaw:".

Emenda tal-artikolu 355AV tal-Kodiċi.

**45.** L-artikolu 355BA għandu jiġi emendat kif ġej:

Emenda tal-artikolu 355BA tal-Kodiċi.

(a) fil-paragrafu (a) tas-subartikolu (1) tiegħu, minflok il-kliem "marki tal-pali ta' l-idejn" għandhom jidhlu l-kliem "marki tal-pali tal-idejn, marki oħra jew kampjuni tal-kaligrafija"; u

(b) fil-paragrafu (a) tas-subartikolu (2) tiegħu, minflok il-kliem "marki tal-pala ta' l-id jew marki oħra tagħha", għandhom jidhlu l-kliem "marki tal-pala tal-id, marki oħra jew kampjuni tal-kaligrafija tagħha".

**46.** Il-proviso tal-artikolu 355BB tal-Kodiċi għandu jiġi sostitwit b'dan li ġej:

Emenda tal-artikolu 355BB tal-Kodiċi.

"Izda fil-każ fejn persuna, li ma tkunx il-persuna arrestata, tirrifjuta li tagħti l-kunsens tagħha għat-tehid ta' kampjun, kemm jekk ikun kampjun intimu kif ukoll jekk ikun kampjun mhux intimu, tista' wkoll tinkiseb l-awtorizzazzjoni ta' Maġistrat wara li jsir rikors u, mingħajr hsara għad-dispożizzjonijiet tal-artikolu 355AZ, dik l-awtorizzazzjoni għandha tkopri wkoll it-tehid ta' dawk il-mizuri proporzjonati u

neċessarji inkluz l-użu tal-forza mill-Pulizija Eżekuttiva biex jinghata effett għal dik l-awtorizzazzjoni".

Zieda ta' artikolu ġdid mal-Kodiċi.

**47.** Minnufih wara l-artikolu 355BĊ tal-Kodiċi għandu jżied l-artikolu ġdid li ġej:

"Użu ta' kampjuni. 355BD. Il-Kummissarju tal-Pulizija jista' jagħmel użu ta' kampjuni, li jkunu ttieħdu fi proċedimenti kriminali, għal proċedimenti kriminali oħra."

Emenda tal-artikolu 360A tal-Kodiċi.

**48.** Fis-subartikolu (1) tal-artikolu 360A tal-Kodiċi, minflok il-kliem "uffiċjal ta' korp magħqud imwaqqaf b'liġi", għandhom jidhlu l-kliem "uffiċjal ta' korp magħqud imwaqqaf b'liġi u ta' kull rappreżentant ta' korp ieħor skont ma l-Ministru responsabbli għall-ġustizzja jista' minn żmien għal żmien jippreskrivi".

Emenda tal-artikolu 370 tal-Kodiċi.

**49.** Is-subartikolu (6) tal-artikolu 370 tal-Kodiċi għandu jiġi sostitwit bis-subartikolu ġdid li ġej:

"(6) Id-dispożizzjonijiet tal-artikolu 392A għandhom japplikaw ukoll, *mutatis mutandis*, għal reati li tagħmel minnhom il-Qorti tal-Maġistrati bħala qorti ta' ġudikatura kriminali skont id-dispożizzjonijiet ta' dan l-artikolu."

Emenda tal-artikolu 392A tal-Kodiċi.

**50.** L-artikolu 392A tal-Kodiċi għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, minflok il-kliem "bi twegiba għall-mistoqsija fl-artikolu 392(1)(b)" għandhom jidhlu l-kliem "fi kwalunkwe stadju tal-proċeduri"; u minflok il-kliem "id-dispożizzjonijiet tal-artikolu 453(1) għandhom *mutatis mutandis* japplikaw bla ħsara għad-dispożizzjonijiet li ġejjin ta' dan l-artikolu" għandhom jidhlu l-kliem "il-qorti twissih b' mod l-aktar solenni fuq il-konsegwenzi legali ta' dik it-twegiba, u tagħtih ftit taż-żmien biex jerga' lura minnha";

(b) fis-subartikolu (2) tiegħu, minnufih wara l-kliem "li bih ikun akkużat," għandhom jidhlu l-kliem "din it-twegiba tiġi rreġistrata, u";

(ċ) fis-subartikolu (3) tiegħu, minflok il-kliem "għalkemm l-akkużat ikun sqarr, tordna li l-kumpilazzjoni titmexxa" għandhom jidhlu l-kliem "għalkemm l-akkużat ikun sqarr li hu hati, tordna li l-proċeduri jkomplu jitmexxew";

(d) is-subartikolu (5) tiegħu għandu jiġi sostitwit bis-subartikolu ġdid li ġej:

"(5) Fi kwalunkwe stadju tal-proċeduri, l-imputat



u l-Avukat Ġenerali jistgħu jilhqqu ftehim u jitolbu lill-qorti permezz ta' rikors, sabiex fil-każ li l-imputat jiddikjara ruhu ħati, il-Qorti tal-Maġistrati bħala qorti ta' ġudikatura kriminali tapplika dik is-sanzjoni jew miżura jew, meta jkun hekk provdut bil-liġi, kombinazzjoni ta' sanzjonijiet jew miżuri, tax-xorta u l-kwantità miftehma bejniethom u li dwarhom l-imputat ikun jista' jingħata sentenza meta jinsab ħati għar-reat jew ir-reati li jiġi akkużat bihom."; u

(e) minnufih wara s-subartikolu (5) tiegħu, kif sostitwit, għandhom jiżiedu s-subartikoli godda li ġejjin:

"(6) Jekk il-qorti tkun sodisfatta li s-sanzjoni jew il-miżura, jew il-kombinazzjoni ta' sanzjonijiet u miżuri, mitluba kif provdut fis-subartikolu preċedenti jkunu tali li kien ikun leġittimu illi hija timponi mas-sejbien ta' htija għar-reat li dwaru l-imputat ikun ammetta l-htija u ma jkollhiex għaliex tordna li jitkompla l-każ skont dak imsemmi fis-subartikolu (3) jew għal xi raġuni oħra li tiċhad it-talba, u wara li tispjega lill-imputat bi kliem ċar x'ikunu l-konsegwenzi tat-talba tiegħu, il-qorti għandha, meta ssir l-ammissjoni ta' htija tal-imputat, tghaddi biex tagħti s-sentenza lilha indikata mill-partijiet fejn tiddikjara fid-deċiżjoni tagħha li s-sentenza li tkun qegħda tingħata tkun qegħda hekk tiġi mogħtija fuq talba tal-partijiet.

(7) Id-dispożizzjonijiet tal-artikolu 453A(3) sa (5), iż-żewġ subartikoli inklużi, għandhom *mutatis mutandis* japplikaw għall-proċeduri taħt dan l-artikolu."

**51.** Fis-subartikolu (1) tal-artikolu 397 tal-Kodiċi, minflok il-kliem "esperimenti, u kull haġ' oħra", għandhom jidhlu l-kliem "esperimenti, it-teħid ta' xi kampjun u kull miżura jew haġa oħra".

Emenda tal-artikolu 397 tal-Kodiċi.

**52.** L-artikolu 399 tal-Kodiċi għandu jiġi sostitwit bl-artikolu ġdid li ġej:

Sostituzzjoni tal-artikolu 399 tal-Kodiċi.

"399. (1) Meta l-qorti tiddeċiedi li l-eżami ta' xi xhud jew li xi proċess ieħor fl-inkjesta minn xi awtorità barra minn Malta tkun meħtieġa b'mod indispensabbli, l-ittra rogatorja għal għajnuna legali u d-deċiżjoni tal-qorti għandhom, fi żmien tliet ijiem tax-xogħol, jiġu notifikati lill-Avukat Ġenerali li mbaġħad jista', fi żmien hamest ijiem tax-xogħol, jagħmel kull sottomissjoni bil-miktub skont ma hu jkun jidhilru meħtieġ.

(2) L-imputat jista', mhux aktar tard minn erbat ijiem tax-xogħol minn dik id-deċiżjoni, jissottometti talba

addizzjonali għall-eżami ta' xhud jew ta' xi proċess ieħor tal-inkjesta, u jahtar persuna ohra li tidher għalih fl-eżami jew fil-proċess. Dan iż-żmien jista', għal raġuni tajba, jiġi mġedded:

Iżda dak iż-żmien hekk imġedded, ma jisax jeċċedi tletin gurnata mid-data tad-deċiżjoni.

(3) Il-Qorti għandha tordna t-trasmissjoni tat-talba għal għajjnuna legali lill-awtorità barra minn Malta fi żmien tliet ijiem tax-xogħol minn meta jiskadi l-perjodu msemmi fis-subartikolu (2).

(4) Il-Qorti Kriminali tkun kompetenti li tordna t-trasmissjoni tat-talba għal għajjnuna legali lill-awtorità barranija wara li jsir rikors mill-Avukat Ġenerali jew mill-imputat meta jiskadi l-perjodu ta' żmien imsemmi fis-subartikolu (3).

(5) Id-dispożizzjonijiet tal-artikolu 622B tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili li jipprovdu għall-irrekordjar ta' xhieda fuq tejp jew fuq *video* jew b'mezzi ohra għandhom japplikaw għal talba għall-eżami ta' xi xhud taht dan l-artikolu.

(6) Id-dispożizzjonijiet tal-artikoli 618 u 619 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili għandhom japplikaw għall-finjiet ta' dan l-artikolu:

Iżda fejn ikun jeżisti xi trattat, konvenzjoni, patt jew ftehim, bejn Malta u pajjiż ieħor jew li jkun japplika għaž-żewġ pajjiżi jew li fih iż-żewġ pajjiżi jkunu parti, it-talba għandha ssir u tiġi trasmessa skont l-imsemmi trattat, konvenzjoni, patt jew ftehim."

Żjieda ta' artikolu ġdid mal-Kodiċi.

**53.** Minnufih wara l-artikolu 515 tal-Kodiċi għandu jiżdied l-artikolu ġdid li ġej:

"Sezzjonijiet tal-qrati ta' ġurisdizzjoni kriminali.

Kap. 12.

515A. Il-qrati ta' ġurisdizzjoni kriminali jistgħu jinqasmu f'sezzjonijiet, inkluż ukoll li maġistrati jistgħu jiġu assenjati xogħol ta' inkjesti maġisterjali biss, u d-dispożizzjonijiet tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili li jirrigwardaw il-mod kif jiġu stabbiliti dawk is-sezzjonijiet u li jirrigwardaw il-ġurisdizzjoni tagħhom għandhom, *mutatis mutandis*, jgħoddu sakemm ma jkunx stabbilit mod ieħor f'dan il-Kodiċi."

**54.** Is-subartikolu (3) tal-artikolu 516 tal-Kodiċi għandu jiġi sostitwit bis-subartikolu ġdid li ġej:

Emenda tal-artikolu 516 tal-Kodiċi.

"(3) Għandu jkun hemm Bord li jkun magħmul mill-Prim Imħallef, bħala president, li jkollu wkoll vot decisiv, minn imħallef li ordinarjament joqgħod fil-Qorti Kriminali u minn maġistrat nominat mill-President ta' Malta, it-tnejn fuq ir-rakkomandazzjonijiet tal-Prim Imħallef, mill-Avukat Ġenerali, mill-President tal-Kamra tal-Avukati u mill-President tal-Kamra tal-Prokuraturi Legali li l-funzjoni tiegħu tkun li jagħmel regoli msejhin Regoli tal-Qorti, għall-iskopijiet imsemmija fis-subartikolu (2) u f'xi dispożizzjoni oħra ta' dan il-Kodiċi jew ta' xi liġi oħra."

**55.** L-artikolu 522 tal-Kodiċi għandu jiġi emendat kif ġej:

Emenda tal-artikolu 522 tal-Kodiċi.

(a) fis-subartikolu (2) tiegħu, minflok il-kliem "meta jinsab hati, il-piena ta' prigunerija għal mhux iżjed minn tliet xhur" għandhom jidhlu l-kliem "meta jinsab hati, multa ta' mhux inqas minn elfejn u tliet mitt euro (€2,300) iżda mhux iżjed minn erbat elef u sitt mitt euro (€4,600) jew prigunerija għal mhux iżjed minn tliet xhur, jew dik il-multa u prigunerija flimkien"; u

(b) fil-verzjoni bl-Ingliż tas-subartikolu (4) tiegħu, minflok il-kliem "but shall be liable to the punishment of a fine (*multa*)" għandhom jidhlu l-kliem "but shall be liable, on conviction, to the punishment of a fine (*multa*)".

**56.** Fis-subartikolu (3) tal-artikolu 525 tal-Kodiċi l-kliem "fil-każijiet ta' kompetenza tagħha bħala qorti ta' ġudikatura kriminali taht l-artikolu 370(1) jew taht xi dispożizzjoniet oħra ta' dan il-Kodiċi jew ta' kull liġi oħra" għandhom jithassru.

Emenda tal-artikolu 525 tal-Kodiċi.

**57.** L-artikolu 548 tal-Kodiċi għandu jiġi enumerat mill-ġdid bħala s-subartikolu (1) tiegħu, u minnufih wara s-subartikolu (1), kif enumerat mill-ġdid, għandu jizjed is-subartikolu ġdid li ġej:

Emenda tal-artikolu 548 tal-Kodiċi.

"(2) L-esperti mahtura fl-inkjesta sabiex jiġbru u jeżaminaw id-*data* dattiloskopika u l-kampjuni biex jiġi analizzat id-DNA uman għandhom jibagħtu lill-Pulizija Eżekuttiva kopji tad-*data* dattiloskopika u tal-profil tad-DNA flimkien ma' kull informazzjoni oħra li għandha x'taqsam mad-*data* dattiloskopika u mal-profil tad-DNA.

Għall-finijiet ta' dan l-artikolu:

"*data* dattiloskopika" tfisser immaġini ta' marki

tas-swaba, immaġini ta' *latents* ta' marki tas-swaba, marki tal-palma tal-id, *latents* ta' marki tal-palma tal-id, marki tal-palma tal-id ta' bniedem qed jikteb u *latents* ta' marki tal-palma tal-id ta' bniedem qed jikteb; u

"profil tad-DNA" tfisser kodiċi ta' ittra jew numru li jirrappreżenta grupp ta' karatteristiċi ta' identifikazzjoni tal-parti li ma tiġix kodifikata ta' kampjun ta' DNA uman analizzat, jiġifieri l-istruttura molekulari partikolari fil-varji postijiet tad-DNA (*loci*)."

Emenda tal-  
artikolu 550 tal-  
Kodiċi.

**58.** L-artikolu 550 tal-Kodiċi għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu:

(i) minnufih wara l-kliem "persuni oħra li jkunu dehru fl-aċċess" għandhom jidhlu l-kliem "jew xehdu matul l-inkjesta Magisterjali";

(ii) il-kliem "fl-inkjesta" għandhom jithassru; u

(iii) minnufih wara l-kliem "bħala qorti istruttorja" għandhom jidhlu l-kliem "matul il-kumpilazzjoni";

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

"(2) Madankollu matul iż-żmien għall-egħluq tal-kumpilazzjoni msemmi fl-artikolu 401(1) sal-mument li l-qorti tiddeċiedi jekk ikunx hemm jew ma jkunx hemm raġunijiet biżżejjed biex l-imputat jitqiegħed taħt att ta' akkuża kif imsemmi fl-artikolu 401(2), il-Pulizija tkun tista' ġġib, bil-permess speċjali tal-Qorti tal-Maġistrati bħala qorti istruttorja, lil kull waħda mill-persuni msemmija fis-subartikolu (1) biex tagħti xiehda fil-kumpilazzjoni quddiem dik l-istess Qorti fuq materji speċifiċi debitament imsemmija minn dik il-Qorti bil-permess speċjali tagħha; b'dan li wara l-egħluq tal-kumpilazzjoni skont l-artikolu 402(1) u wara li l-qorti tiddeċiedi jekk ikunx hemm jew ma jkunx hemm raġunijiet biżżejjed biex l-imputat jitqiegħed taħt att ta' akkuża kif imsemmi fl-artikolu 401(2), l-Avukat Ġenerali jkun jista' jġib lil kull min irid minn dawk il-persuni skont id-dispożizzjonijiet tal-artikolu 405 sabiex iwieġbu għal materji speċifiċi indikati mill-Avukat Ġenerali fit-talba bil-miktub tiegħu. Il-persuna mixlija tkun tista' wkoll iġġib lil kull min trid minn dawk il-persuni bil-għan li jsirilha

kontro-ezami.".

**59.** Fis-subartikolu (1) tal-artikolu 605 tal-Kodiċi, minflok il-kliem "Il-Kummissarju tal-Pulizija jew ir-rappreżentant tiegħu, Maġistrat, l-Avukat Ġenerali jew ir-rappreżentant tiegħu, il-President tal-Kamra tal-Avukati u l-President tal-Kamra tal-Prokuraturi Legali għandhom, darbtejn fis-sena, jagħmlu, mill-aħjar li jafu -" għandhom jidhlu l-kliem "Il-Kummissarju tal-Pulizija jew ir-rappreżentant tiegħu, il-Maġistrat Anzjan, l-Avukat Ġenerali jew ir-rappreżentant tiegħu, il-President tal-Kamra tal-Avukati u l-President tal-Kamra tal-Prokuraturi Legali għandhom, darbtejn fis-sena, jattendu għal-laqgħa hekk imsejha mid-Direttur, Qrati u Tribunali Kriminali sabiex, jagħmlu, mill-aħjar li jafu -".

**60.** Minnufih wara l-artikolu 647B tal-Kodiċi għandu jizjed l-artikolu ġdid li ġej:

Zieda ta' artikolu ġdid mal-Kodiċi.

"Koperazzjoni transkonfini, partikolarment fil-ġlieda kontra t-terroriżmu u l-kriminalità transkonfini.

647Ċ. (1) Meta l-Avukat Ġenerali jirċievi talba magħmula minn awtorità ġudizzjarja, prosekutrici jew amministrattiva ta' xi post barra minn Malta jew minn qorti internazzjonali -

(a) għat-tehid u l-forniment ta' *data* dattiloskopika; jew

(b) għat-tehid u l-eżami ta' kampjun mhux intimu; jew

(ċ) għall-profil tad-DNA ta' persuna suspettata f'dak il-post li tkun wettqet reat rilevanti jew ta' persuna akkużata, fi proċeduri quddiem il-qrati ta' dak il-post jew quddiem tribunal internazzjonali, li tkun wettqet reat rilevanti,

l-Avukat Ġenerali għandu jikkomunika t-talba lil Maġistrat li għandu, malli jirċievi t-talba, jordna l-arrest tal-persuna rikjesta u d-dispożizzjonijiet tal-artikolu 355AV(ċ) għandhom, *mutatis mutandis*, jgħoddu fl-eżekuzzjoni tat-talba komunikata skont dan l-artikolu.

(2) Il-Maġistrat għandu jittrasmetti l-imsemmija *data*, kampjun jew profil, flimkien ma' kull rapport jew rizzultat tal-eżami, lill-Avukat Ġenerali.

(3) Ghall-finijiet ta' dan l-artikolu l-frazzjiet "profil tad-DNA" u "data dattiloskopika" għandu jkollhom it-tifsira kif rispettivament mogħtija lilhom fl-artikolu 548; "reat rilevanti" għandu jkollha t-tifsira mogħtija lilha fl-artikolu 435D.

(4) Id-dispożizzjonijiet tal-artikolu 649(2) u (5) għandhom, *mutatis mutandis*, jgħoddu għal talba magħmula skont dan l-artikolu."

Emenda tal-artikolu 673 tal-Kodiċi.

**61.** L-artikolu 673 tal-Kodiċi għandu jiġi emendat kif ġej:

(a) fis-subartikolu (2) tiegħu, minflok il-kliem "r-rikors ma għandux jintlaqa' meta l-Avukat Ġenerali joġġezzjona għar-rikors." għandhom jidhlu l-kliem "r-rikors ma għandux jintlaqa' meta l-Avukat Ġenerali joġġezzjona għar-rikors:", u minnufih wara għandu jizdied il-proviso ġdid li ġej:

"Izda, meta l-Avukat Ġenerali joġġezzjona għar-rikors, il-Qorti tista' timponi fuq l-imputat li l-ispejjeż għad-depożitu u l-manutenzjoni tal-oġġett, miżmum mir-Registratur, li jkollu x'jaqsam mal-proċeduri kriminali jew mad-delitt, ikunu fuq l-imputat."; u

(b) minnufih wara s-subartikolu (2) tiegħu, għandu jizdied is-subartikolu ġdid li ġej:

"(2A) Minkejja d-dispożizzjonijiet tas-subartikolu (2), meta l-oġġett li jkollu x'jaqsam mal-proċeduri kriminali jew mad-delitt ikun miżmum mir-Registratur, is-sid ta' dak l-oġġett jista' jitlob lill-Qorti biex jagħmel dawk ix-xogħlijiet ta' manutenzjoni fuq l-oġġett kif ikunu meħtieġa; jekk is-sid tal-oġġett ma jagħmilx it-talba msemmija f'dan is-subartikolu, jew, wara li jkun għamel it-talba, u wara li t-talba tkun intlaqgħat mill-Qorti, ma jagħmilx dawk ix-xogħlijiet ta' manutenzjoni, ir-responsabbiltà għal kull telf jew ħsarat mġarrba minn dak l-oġġett taqa' fuq l-imsemmi sid."

## TAQSIMA II

**62.** Din it-Taqsima temenda l-Ordinanza dwar il-Professjoni Medika u l-Professjonijiet li għandhom x'jaqsmu magħha u għandha tinqara u tintfiehmed haġa wahda mal-Ordinanza dwar il-Professjoni Medika u l-Professjonijiet li għandhom x'jaqsmu magħha, hawnhekk iżjed 'il quddiem f'din it-Taqsima msejha "l-Ordinanza".

Emendi għall-Ordinanza dwar il-Professjoni Medika u l-Professjonijiet li għandhom x'jaqsmu magħha. Kap. 31.

**63.** Minnufih wara l-artikolu 40A tal-Ordinanza, għandu jizdied l-artikolu ġdid li ġej:

Zjieda ta' artikolu ġdid mal-Ordinanza.

"Reati konnessi mal-pjanta Khat.

40B. Kull persuna li -

(a) tikkultiva l-pjanta Khat; jew  
(b) timporta jew iddaħħal f'Malta, jew tesporta minn Malta l-pjanta Khat; jew

(ċ) jkollha fil-pussess tagħha (ħlief waqt transitu f'Malta jew fl-ibħra territorjali ta' Malta) il-pjanta Khat fl-intier tagħha jew biċċa minnha; jew

(d) tbigh jew b'xi mod ieħor tittraffika l-pjanta Khat fl-intier tagħha jew biċċa minnha; jew

(e) tassoċja ruħha ma' xi persuna jew persuni oħra f'Malta jew barra minn Malta sabiex tbigh jew b'xi mod ieħor tittraffika l-pjanta Khat f'Malta bi ksur tad-dispożizzjonijiet ta' dan l-artikolu jew li tippromovi, tikkostitwixxi, torganizza jew tiffinanzja l-assoċjazzjoni,

tkun hatja ta' reat kontra din l-Ordinanza:

Izda l-kelma "tittraffika" f'dan l-artikolu għandu jkollha l-istess tifsira bħal ma għandha fl-artikolu 120A(1B).".

**64.** Minnufih wara s-subartikolu (2D) tal-artikolu 120A tal-Ordinanza, għandu jizdied is-subartikolu ġdid li ġej:

Emenda tal-artikolu 120A tal-Ordinanza.

"(2E) Fil-każ ta' reati imsemija fis-subartikolu (2)(b)(ii), għandhom japplikaw id-dispożizzjonijiet li ġejjin:

(a) għall-finijiet ta' dan is-subartikolu, sakemm ir-rabta' tal-kliem ma' teħtieġx xort'oħra:

"il-Liġijiet dwar id-Droga" tfisser id-dispożizzjonijiet ta' din l-Ordinanza u d-dispożizzjonijiet tal-Ordinanza dwar il-Mediċini Perikolużi u kull regolament magħmul taħthom;

"persuna li nstabet fuqha droga għall-ewwel darba" tfisser persuna li tkun instabet fil-pussess ta' xi mediċina bi ksur tad-dispożizzjonijiet tal-artikolu 40A ta' din l-Ordinanza jew tas-subartikolu (2)(b)(ii) tal-Ordinanza dwar il-Mediċini Perikolużi jew xi regolamenti magħmula taħthom, u li ma nstabet qatt qabel haġja ta' xi reat taħt il-Liġijiet dwar id-Droga u li qatt ma inghatatilha qabel twissija formali mill-Avukat Ġenerali skont it-dispożizzjonijiet ta' din l-Ordinanza, hawn iżjed il-quddiem imsejjaħ "il-ħati";

"programm approvat ta' riabilitazzjoni mid-droga" tfisser kull programm ta' riabilitazzjoni mid-droga skont regolamenti magħmulin mill-Ministru u li jinkludu programm li l-għan tiegħu hu li jirriabilita l-parteciċipanti u jgħinhom biex ma jwettqux reati oħra;

"twissija formali" tfisser dokument bil-miktub formali li jista' jinħareġ mill-Avukat Ġenerali fid-diskrezzjoni unika tiegħu skont it-dispożizzjonijiet li ġejjin ta' dan is-subartikolu u li jiġi notifikat lill-persuna li nstabet fuqha mediċina għall-ewwel darba, f'dawk il-kazijiet fejn l-Avukat Ġenerali jidhirlu xieraq.

(b) f'kull każ fejn persuna li nstabet fuqha droga għall-ewwel darba tinstab fil-pussess ta' mediċina kontra d-dispożizzjonijiet ta' din l-Ordinanza jew tal-Ordinanza dwar il-Mediċini Perikolużi u, jew xi regolament magħmul taħthom, l-Avukat Ġenerali jista', minflok ma jordna li jinbdew proċeduri kriminali quddiem il-Qorti tal-Maġistrati skont is-subartikolu (2)(b)(ii) jordna li tingħata twissija formali taħt il-firma tiegħu kontra l-ħati;

(ċ) mingħajr ħsara għad-dispożizzjonijiet ta' qabel, fi twissija formali bhal din l-Avukat Ġenerali jista', *inter alia*:

(i) formalment iwissi l-ħati dwar is-serjetà, il-gravità u l-konsegwenzi tar-reat li jkun wettaq;



(ii) javża lill-ħati li fil-każ ta' xi ksur ieħor fil-futur ta' xi dispożizzjoni tal-Liġijiet dwar id-Droga, jittiehed proċeduri kriminali kontrih quddiem il-qorti kompetenti ta' ġurisdizzjoni kriminali li jistgħu jwasslu għall-piena ta' multa u, jew prigunerija kif ukoll kull konsegwenza li l-Qorti jista' jidhriha timponi fuqu, skont il-każ;

(iii) jinkludi kull direzzjoni jew rakkomandazzjoni oħra lill-ħati li l-Avukat Ġenerali jidhirlu xieraq li għandu jinkludi f'dik it-twissija formali skont iċ-ċirkostanzi partikolari tal-każ, inkluż li l-ħati jintbagħat quddiem il-Kumitat Konsultattiv dwar l-Abbuż u r-Riabilitazzjoni mid-Droga għall-valutazzjoni eventwali tal-Kumitat sabiex jintbagħat biex isegwi programm approvat ta' riabilitazzjoni mid-droga, skont il-każ;

(iv) jordna l-oġġetti kollha li dwarhom ikun sar ir-reat jiġu konfiskati favur il-Gvern, u kull oġġett hekk konfiskat għandu, jekk l-Avukat Ġenerali hekk jordna, jiġi distrutt jew isir minnu xort'oħra kif jista' jiġi provdut fl-ordni:

(d) it-twissija formali tista' tinhareġ mill-Avukat Ġenerali fil-każ fejn:

(i) il-Kummissarju tal-Pulizija jkun ippreżenta lill-Avukat Ġenerali dik ix-xieħda li turi li l-ħati jkun wettaq reat dwar pussess ta' medicina bi ksur tad-dispożizzjonijiet ta' din l-Ordinanza u, jew l-Ordinanza dwar il-Mediċini Perikolużi u li mod ieħor tinkwadra fil-parametri tas-subartikolu (2)(b)(ii); u

(ii) din ix-xieħda hija hekk li, kieku l-Avukat Ġeneral kellu jordna mod ieħor il-prosekuzzjoni għar-reat quddiem il-Qorti tal-Maġistrati kontra l-ħati, ikun hemm possibbiltà realistika li l-ħati jinstab ħati ta' dan ir-reat; u

(iii) il-ħati ammetta li jkun wettaq ir-reat; u

(iv) ma jkunx fl-interess pubbliku li l-ħati jiġi proċessat għar-reat;

(e) meta l-ħati jkun minuri twissija formali bħal

din għandha tiġi notifikata lill-minuri fil-preżenza ta' xi wiehed mill-ġenituri tiegħu jew ta' persuna li f'dak il-ħin tkun qed teżerċita kura u kustodja fuq dak il-minuri;

(f) il-Ministru għandu jistabbilixxi l-Kumitat Konsultattiv dwar l-Abbuż u r-Riabilitazzjoni mid-Droga, hawn iżjed 'l quddiem imsejjaħ "il-Kumitat" li jkun maqsum f'taqsimiet magħmulin minn elenki ta' persuni maħtura mill-Ministru skont regolamenti li hu jista' jagħmel minn żmien għal żmien u jistabbilixxu l-funzjonijiet mogħtija lil dak il-Kumitat. Kull taqsima għandha tagħti parir lill-Qorti jew lill-Avukat Ġenerali, f'dawk il-każijiet biss fejn il-parir tiegħu jkun ġie mitlub jew fejn ikun hekk stipulat bil-liġi;

(g) qorti ta' ġurisdizzjoni kriminali tista' jew waqt il-proċeduri kriminali jew fis-sentenza tagħha, tordna li l-ħati jintbagħat quddiem il-Kumitat u f'dan il-każ l-imsemmi Kumitat ikollu s-setgħa li:

(i) jagħmel valutazzjoni dwar dik il-persuna li tkun mibgħuta lilu kif imsemmi hawn fuq; u

(ii) sakemm il-Kumitat ma jidhirlux li ma jkunx xieraq li jagħmel hekk, jagħmel l-arragamenti biex il-ħati isegwi programm approvat ta' riabilitazzjoni mid-droga;

(h) il-Ministru jista' b'regolamenti jippreskrivi:

(i) liema persuna u, jew korpi kostitwiti huma awtorizzati li jwettqu programm approvat ta' riabilitazzjoni mid-droga;

(ii) x'għandu jkun fih il-programm approvat ta' riabilitazzjoni mid-droga;

(iii) il-mod kif in-nuqqas li persuna ssegwi programm bħal dan għandu jiġi rrekordjat;

(iv) il-konsegwenzi li jistgħu jinqalgħu fil-każ li l-persuna tonqos milli tipparteċipa f'dan il-programm jew fil-każ fejn il-persuna ma tkomplix l-imsemmi programm b'suċċess; u

(v) il-persuni u, jew l-awtoritajiet li għandhom jiġu notifikati b'dan in-nuqqas;

(i) kopja tat-twissija formali maħruġa mill-Avukat Ġenerali tista' tiġi preżentata bħala xieħda f'kull proċediment sussegwenti kriminali kontra l-ħati."

**65.** Minnufih wara l-artikolu 123A tal-Ordinanza, għandu jizdied l-artikolu ġdid li ġej:

Zieda ta' artikolu ġdid mal-Ordinanza.

"Tifsiriet.

123B.F'din l-Ordinanza, kemm-il darba r-rabta tal-kliem ma teħtieġx xort'oħra, kull fejn hemm riferenza għal "Qorti tal-Maġistrati", jew "Qorti Kriminali" jew "Qorti ta' ġurisdizzjoni kriminali" dik il-frazi għandha tinqara u tinftiehem bħala li tirreferixxi għas-sezzjonijiet xierqa tal-qorti kriminali fejn jinstemgħu każijiet li għandhom x'jaqsmu mal-abbuż ta' droga u mediċini perikolużi, liema sezzjonijiet jiġu stabbiliti skont regolamenti magħmulin mill-Ministru tal-ġustizzja."

### TAQSIMA III

**66.** Din it-Taqsima temenda l-Ordinanza dwar l-Esplożivi u għandha tinqara u tinftiehem haġa waħda mal-Ordinanza dwar l-Esplożivi, hawnhekk iżjed 'il quddiem f'din it-Taqsima msejha "l-Ordinanza".

Emendi għall-Ordinanza dwar l-Esplożivi. Kap. 33.

**67.** Fil-paragrafu (f) tal-artikolu 4 tal-Ordinanza minflok il-kliem "fi żmien erbgħa u għoxrin siegħa." għandhom jidhlu l-kliem "fi żmien erbgħa u għoxrin siegħa:", u minnufih wara għandu jizdied il-proviso ġdid li ġej:

Emenda tal-artikolu 4 tal-Ordinanza.

"Izda, independentement mill-kondizzjonijiet hawn fuq imsemmija, il-Kummissarju tal-Pulizija jista', kemm waħdu kif ukoll fuq ir-rakkomandazzjonijiet maħruġa speċifikament mill-Kumitat tal-Ispettorat, jimponi kondizzjonijiet differenti u onerużi fosthom li jistabbilixxi post tal-ħażna separata u distinta mill-post fejn in-nar maħdum jiġi maħzun, kif ukoll li l-fabbrika tiskeda x-xogħlijiet tagħha skont kif jista' jippreskrivi fl-ammonti, fil-ħinijiet u fil-modalitajiet neċessarji, u li sal-15 ta' Diċembru ta' kull sena jkun sottomess pjan ta' ħidma dettaljata għas-sena ta' wara."

**68.** Fis-subartikolu (1) tal-artikolu 8 tal-Ordinanza, minflok il-kliem "mibjugħa jew ikkunsinnati." għandhom jidhlu l-kliem "mibjugħa jew ikkunsinnati:", u minnufih wara għandu jizdied il-proviso ġdid li ġej:

Emenda tal-artikolu 8 tal-Ordinanza.

"Izda fabbriki tal-esplożivi għandhom ukoll iżommu dawk ir-reġistri kif jista' jkun preskritt b'regolamenti magħmula mill-

Ministru responsabbli għall-Pulizija."

Thassir tal-  
artikolu 16 tal-  
Ordinanza.

**69.** L-artikolu 16 tal-Ordinanza għandu jiġi mħassar.

Emenda tal-  
artikolu 19 tal-  
Ordinanza.

**70.** Fl-artikolu 19 tal-Ordinanza, minflok il-kliem "lil tfal li jidhru li għandhom anqas minn tmintax-il sena." għandhom jidhru l-kliem "lil xi persuna li ma jkollhiex liċenza kif preskritt skont din l-Ordinanza jew skont regolamenti magħmulin taht din l-Ordinanza."

Emenda tal-  
artikolu 24 tal-  
Ordinanza.

**71.** L-artikolu 24 tal-Ordinanza għandu jiġi emendat kif ġej:

(a) is-subartikolu (2) tiegħu għandu jiġi mħassar; u

(b) is-subartikoli (3) u (4) tiegħu għandhom jiġu enumerati mill-ġdid bħala s-subartikoli (2) u (3) tiegħu rispettivament.

Żieda ta'  
artikolu ġdid  
mal-Ordinanza.

**72.** Minnufih wara l-artikolu 26B tal-Ordinanza għandu jiżdied l-artikolu ġdid li ġej:

"Revoka ta'  
liċenza.

26Ċ. Mingħajr hsara għad-dispożizzjonijiet ta' xi liġi oħra, il-Kummissarju tal-Pulizija għandu jirrevoka xi liċenza jew liċenzi, kif ikun il-każ, maħruġin skont din l-Ordinanza jew skont regolamenti magħmulin taht din l-Ordinanza li kull persuna li:

(a) tkun ġiet misjuba hatja ta':

(i) reat kontra d-dispożizzjonijiet ta' din l-Ordinanza jew kontra regolamenti magħmulin taht l-artikolu 22; jew

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

(iii) reat skont l-Att dwar l-Armi; jew

(iv) offiża gravi b'arma regolari jew b'xi strument ieħor jew li tkun qabdet xi arma regolari jew strument ieħor kontra persuni oħra; jew

(v) ta' serq; jew

Kap. 480.

(vi) ta' reat kontra l-ligijiet li għandhom x'jaqsmu mas-soppressjoni jew mal-qirda tal-kummerè fil-prostituzzjoni jew it-traffikar ta' persuni; jew

(vii) ta' reat li jkollu x'jaqsam mat-traffikar ta' mediċinali; jew

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

Kap. 446.

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

(b) ikollha storja personali:

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

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

73. L-artikolu 45 tal-Ordinanza għandu jiġi mħassar.

Thassir tal-artikolu 45 tal-Ordinanza.

#### TAQSIMA IV

74. Din it-Taqsima temenda l-Ordinanza dwar il-Qirda tal-Kummerè fil-Prostituzzjoni u għandha tinqara u tinftiehem haġa waħda mal-Ordinanza dwar il-Qirda tal-Kummerè fil-Prostituzzjoni, hawnhekk iżjed 'il quddiem f'din it-Taqsima msejha "l-Ordinanza".

Emendi għall-Ordinanza dwar il-Qirda tal-Kummerè fil-Prostituzzjoni. Kap. 63.

75. Fis-subartikolu (1) tal-artikolu 5 tal-Ordinanza, minflok il-kliem "jeħel, meta jinsab hati, il-piena ta' prigunerija għal żmien

Emenda tal-artikolu 5 tal-Ordinanza.

ta' mhux izjed minn sentejn" għandhom jidhlu l-kliem "jeħel, meta jinsab ħati, il-piena ta' prigunerija minn sentejn sa ħames snin bir-rekluzjoni jew mingħajrha".

Emenda tal-artikolu 8 tal-Ordinanza.

**76.** Fis-subartikolu (1) tal-artikolu 8 tal-Ordinanza, minnufih wara l-kliem "jew ikollu sehem ma' oħrajn" għandhom jidhlu l-kliem "inkluzi persuni li jagħmluha ta' gwardjani, għassiesa fuq barra tal-post, kemm jekk ikollhom jew ma jkollhomx fuqhom apparat biex jinfurmaw lil min qiegħed ġewwa".

Zieda ta' artikoli godda mal-Ordinanza.

**77.** Minnufih wara l-artikolu 14 tal-Ordinanza għandhom jiżdiedu l-artikoli godda li ġejjin:

"Jghoddu d-dispożizzjonijiet tal-artikolu 24 tal-Att dwar il-*Probation*. Kap. 446.

15. Id-dispożizzjonijiet tal-artikolu 24 tal-Att dwar il-*Probation* li jirrigwardaw is-setgħa tal-qorti biex tordna li l-ħati jhallas id-danni għandhom, *mutatis mutandis*, japplikaw ukoll kull meta persuna tigi misjuba ħatja ta' reat kontra d-dispożizzjonijiet ta' din l-Ordinanza.

Persuna li tinsab ħatja tkun għenet lill-Pulizija.

16. Fejn, rigward persuna li tinsab ħatja ta' reat kontra din l-Ordinanza, il-prosekuzzjoni tiddikjara fl-atti tal-proċeduri li dik il-persuna tkun għenet lill-Pulizija biex tinqabad il-persuna jew jinqabdu l-persuni li jkunu pprovdew il-persuni għat-twettiq tar-reat, jew il-persuna misjuba ħatja kif qabel imsemmi tagħti prova għas-sodisfazzjon tal-qorti li tkun hekk għenet lill-Pulizija, il-piena għandha titnaqqas, rigward il-prigunerija, bi grad wieħed jew tnejn u rigward kull piena pekunjarja, b'terz jew bin-nofs rispettivament.

Zieda fil-pieni għat-tieni reat simili.

17. Meta persuna li tkun giet misjuba ħatja ta' reat kontra d-dispożizzjonijiet ta' din l-Ordinanza, jew ta' xi regolament magħmul taħtha, twettaq it-tieni reat simili, dik il-persuna teħel, meta tinsab ħatja, il-piena ta' dak ir-reat, miżjuda b'żewġ gradi, u fuq it-tielet kundanna jew oħrajn warajha, tiżdied il-piena bi tliet gradi.

Reati kontra d-dispożizzjonijiet tal-artikoli 5 u 8.

18. (1) Meta jsir reat kontra d-dispożizzjonijiet tal-artikoli 5 u 8, il-qorti għandha, b'zieda ma' kull piena oħra, fis-sentenza tagħha, jew f'xi żmien wara, fuq talba tal-prosekuzzjoni:

(a) meta tkun giet uzata xi proprjeta immobbli kif imfisser fl-att tal-akkuza jew fl-akkuza, tordna l-konfiska favur il-Gvern ta' kull titolu fuq il-proprjeta li l-persuna li tinsab hatja jkollha fuq dik il-proprjeta immobbli;

(b) meta l-persuna li tinsab hatja ma tkunx is-sid assolut izda jkollha titolu ieħor fuq il-proprjeta immobbli, jew ikollha titolu, li ma jkunx titolu fuq il-proprjeta, li bis-saħħa tiegħu jkollha l-kontroll fuq, jew xi dritt ta' aċċess għal, dik il-proprjeta, il-qorti għandha tordna li l-persuna li tinsab hatja tħallas multa ta' mhux anqas minn għaxart elef euro (€10,000) izda mhux iżjed minn sittin elf euro (€60,000) kif tistabilixxi l-qorti wara li tqis il-valur tal-proprjeta immobbli u l-valur tat-titolu fuq il-proprjeta, jekk ikun hemm, li tkun giet konfiskata kif imsemmi qabel.

(2) Kull deċiżjoni, kif imsemmi fis-subartikolu (1), li tordna l-konfiska tal-proprjeta immobbli jew ta' xi titolu fuq dik il-proprjeta għandha titqies u għandha tkun eżegwita bħala sentenza fil-qasam ċivili li tittrasferixxi dak it-titolu fuq il-proprjeta favur il-Gvern, u l-Avukat Ġenerali għandu, għall-finijiet tal-artikolu 239 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, jiġi kunsidrat bħala l-parti interessata li tista' tikseb ir-registrazzjoni ta' dak it-trasferiment.

Kap. 12.

Dispożizzjonijiet tal-Kodiċi Kriminali u tal-Att dwar il-*Probation* ma japplikawx.

19. Salv dak provdut fl-artikolu 15, id-dispożizzjonijiet tal-artikoli 21 u 28A tal-Kodiċi Kriminali u d-dispożizzjonijiet tal-Att dwar il-*Probation* ma għandhomx japplikaw fir-rigward ta' persuna li tinsab hatja ta' reat taħt din l-Ordinanza."

## TAQSIMA V

Emendi għall-Ordinanza dwar il-Mediċini Perikolużi. Kap. 101.

**78.** Din it-Taqsima temenda l-Ordinanza dwar il-Mediċini Perikolużi u għandha tinqara u tinftiehem haġa waħda mal-Ordinanza dwar il-Mediċini Perikolużi, hawnhekk iżjed 'il quddiem f'din it-Taqsima msejja "l-Ordinanza".

Emenda tal-artikolu 22 tal-Ordinanza.

**79.** Minnufih wara s-subartikolu (2) tal-artikolu 2 tal-Ordinanza għandu jiżdied is-subartikolu ġdid li ġej:

"(3) F'din l-Ordinanza, kemm-il darba r-rabta tal-kliem ma tehtiegħ xort'ohra, kull fejn hemm riferenza għal "Qorti tal-Maġistrati", jew "Qorti Kriminali" jew "Qorti ta' ġurisdizzjoni kriminali" dik il-frażi għandha tinqara u tinftiehem bhala li tirreferixxi għas-sezzjonijiet xierqa tal-qorti kriminali fejn jinstemgħu każijiet li għandhom x'jaqsmu mal-abbuż ta' droga u mediċini perikolużi, liema sezzjonijiet jiġu stabbiliti skont regolamenti magħmulin mill-Ministru tal-gustizzja."

Emenda tal-artikolu 22 tal-Ordinanza.

**80.** Minnufih wara s-subartikolu (2) tal-artikolu 22 tal-Ordinanza għandu jiżdied is-subartikolu ġdid li ġej:

"(2A) Fil-każ ta' reati imsemija fis-subartikolu (2)(b)(ii), għandhom japplikaw id-dispożizzjonijiet li ġejjin:

(a) għall-finijiet ta' dan is-subartikolu, sakemm ir-rabta' tal-kliem ma' tehtiegħ xort'ohra:

"il-Liġijiet dwar id-Droga" tfisser id-dispożizzjonijiet ta' din l-Ordinanza u d-dispożizzjonijiet tal-Ordinanza dwar il-Professjoni Medika u l-Professjonijiet li għandhom x'jaqsmu magħha u kull regolament magħmul taħthom;

"persuna li nstabet fuqha droga għall-ewwel darba" tfisser persuna li tkun instabet fil-pussess ta' xi medicina bi ksur tad-dispożizzjonijiet tas-subartikolu (2)(b)(ii) ta' din l-Ordinanza jew tal-artikolu 40A tal-Ordinanza dwar il-Professjoni Medika u l-Professjonijiet li għandhom x'jaqsmu magħha jew xi regolamenti magħmula taħthom, u li ma nstabet qatt qabel hatja ta' xi reat taħt il-Liġijiet dwar id-Droga u li qatt ma ingħatatilha qabel twissija formali mill-Avukat Generali skont id-dispożizzjonijiet ta' din l-Ordinanza, hawn iżjed il-quddiem imsejja "il-ħati"

"programm approvat ta' riabilitazzjoni mid-



droga" tffisser kull programm ta' riabilitazzjoni mid-droga skont regolamenti magħmulin mill-Ministru u li jinkludu programm li l-għan tiegħu hu li jirriabilita l-parteċipanti u jgħinhom biex ma jwettqux reati oħra;

"twissija formali" tffisser dokument bil-miktub formali li jista' jinħareġ mill-Avukat Ġenerali fid-diskrezzjoni unika tiegħu skont it-dispożizzjonijiet li ġejjin ta' dan is-subartikolu u li jiġi notifikat lill-persuna li nstabet fuqha mediċina għall-ewwel darba, f'dawk il-kazijiet fejn l-Avukat Ġenerali jidhirlu xieraq.

(b) f'kull każ fejn persuna li nstabet fuqha droga għall-ewwel darba tinstab fil-pussess ta' mediċina kontra d-dispożizzjonijiet ta' din l-Ordinanza jew tal-Ordinanza dwar il-Professjoni Medika u l-Professjonijiet li għandhom x'jaqsmu magħha u, jew xi regolament magħmul taħthom, l-Avukat Ġenerali jista', minflok ma jordna li jinbdew proċeduri kriminali quddiem il-Qorti tal-Maġistrati skont is-subartikolu (2)(b)(ii) jordna li tingħata twissija formali taħt il-firma tiegħu kontra l-ħati;

(ċ) mingħajr ħsara għad-dispożizzjonijiet ta' qabel, fi twissija formali bħal din l-Avukat Ġenerali jista', *inter alia*:

(i) formalment iwissi l-ħati dwar is-serjetà, il-gravità u l-konsegwenzi tar-reat li jkun wettaq;

(ii) javża lill-ħati li fil-każ ta' xi ksur ieħor fil-futur ta' xi dispożizzjoni tal-Liġijiet dwar id-Droga, jittiehed proċeduri kriminali kontrih quddiem il-qorti kompetenti ta' ġurisdizzjoni kriminali li jistgħu jwasslu għall-piena ta' multa u, jew prigunerija kif ukoll kull konsegwenza li l-Qorti jista' jidhirlha timponi fuqu, skont il-każ;

(iii) jinkludi kull direzzjoni jew rakkomandazzjoni oħra lill-ħati li l-Avukat Ġenerali jidhirlu xieraq li għandu jinkludi f'dik it-twissija formali skont iċ-ċirkostanzi partikolari tal-każ, inkluż li l-ħati jintbagħat quddiem il-Kumitat Konsultattiv dwar l-Abbuż u r-Riabilitazzjoni mid-Droga għall-valutazzjoni eventwali tal-Kumitat sabiex jintbagħat biex isegwi programm approvat ta'

riabilitazzjoni mid-droga, skont il-każ;

(iv) jordna l-oġġetti kollha li dwarhom ikun sar ir-reat jiġu konfiskati favur il-Gvern, u kull oġġett hekk konfiskat għandu, jekk l-Avukat Ġenerali hekk jordna, jiġi distrutt jew isir minnu xort'ohra kif jista' jiġi provdut fl-ordni:

(d) it-twissija formali tista' tinhareġ mill-Avukat Ġenerali fil-każ fejn:

(i) il-Kummissarju tal-Pulizija jkun ippreżenta lill-Avukat Ġenerali dik ix-xieħda li turi li l-ħati jkun wettaq reat dwar pussess ta' medicina bi ksur tad-dispożizzjonijiet ta' din l-Ordinanza u, jew l-Ordinanza dwar il-Professjoni Medika u l-Professjonijiet li għandhom x'jaqsmu magħha u li mod iehor tinkwadra fil-parametri tas-subartikolu (2)(b)(ii); u

(ii) din ix-xieħda hija hekk li, kieku l-Avukat Ġeneral kellu jordna mod iehor il-prosekuzzjoni għar-reat quddiem il-Qorti tal-Maġistrati kontra l-ħati, ikun hemm possibbiltà realistika li l-ħati jinstab ħati ta' dan ir-reat; u

(iii) il-ħati ammetta li jkun wettaq ir-reat; u

(iv) ma jkunx fl-interess pubbliku li l-ħati jiġi proċessat għar-reat;

(e) meta l-ħati jkun minuri twissija formali bħal din għandha tiġi notifikata lill-minuri fil-preżenza ta' xi wieħed mill-ġenituri tiegħu jew ta' persuna li f'dak il-ħin tkun qed teżerċita kura u kustodja fuq dak il-minuri;

(f) il-Ministru għandu jstabbilixxi l-Kumitat Konsultattiv dwar l-Abbuż u r-Riabilitazzjoni mid-Droga, hawn iżjed 'l quddiem imsejjaħ "il-Kumitat" li jkun maqsum f'taqsimiet magħmulin minn elenki ta' persuni maħtura mill-Ministru skont regolamenti li hu jista' jagħmel minn żmien għal żmien u jstabbilixxu l-funzjonijiet mogħtija lil dak il-Kumitat. Kull taqsima għandha tagħti parir lill-Qorti jew lill-Avukat Ġenerali, f'dawk il-każijiet biss fejn il-parir tiegħu jkun gie mitlub jew fejn ikun hekk stipulat bil-liġi;

(g) qorti ta' ġurisdizzjoni kriminali tista' jew waqt il-proċeduri kriminali jew fis-sentenza tagħha, tordna li l-ħati jintbagħat quddiem il-Kumitat u f'dan il-każ l-imsemmi Kumitat ikollu s-setgħa li:

(i) jagħmel valutazzjoni dwar dik il-persuna li tkun mibgħuta lilu kif imsemmi hawn fuq; u

(ii) sakemm il-Kumitat ma jidhirlux li ma jkunx xieraq li jagħmel hekk, jagħmel l-arragamenti biex il-ħati isegwi programm approvat ta' riabilitazzjoni mid-droga;

(h) il-Ministru jista' b'regolamenti jippreskrivi:

(i) liema persuna u, jew korpi kostitwiti huma awtorizzatu li jwettqu programm approvat ta' riabilitazzjoni mid-droga;

(ii) x'għandu jkun fih il-programm approvat ta' riabilitazzjoni mid-droga;

(iii) il-mod kif in-nuqqas li persuna ssegwi programm bħal dan għandu jiġi rrekordjat;

(iv) il-konsegwenzi li jistgħu jinjalghu fil-każ li l-persuna tonqos milli tippartecipa f'dan il-programm jew fil-każ fejn il-persuna ma tkomplix l-imsemmi programm b'suċċess; u

(v) il-persuni u, jew l-awtoritajiet li għandhom jiġu notifikati b'dan in-nuqqas;

(i) kopja tat-twissija formali maħruġa mill-Avukat Ġenerali tista' tiġi preżentata bħala xieħda f'kull proċediment sussegwenti kriminali kontra l-ħati."

**81.** Minnufih wara s-subartikolu (6) tal-artikolu 22A tal-Ordinanza għandhom jiżdiedu dawn is-subartikoli godda li ġejjin:

Emenda tal-artikolu 22A tal-Ordinanza.

"(7) Meta l-qorti ma tipproċedix minnufih biex tagħmel ordni kif meħtieġ taħt is-subartikolu (1), il-qorti għandha minnufih tagħmel ordni temporanju ta' iffriżar li jkollu l-istess effett bħal ordni magħmul taħt dan l-artikolu, liema ordni temporanju għandu jibqa' fis-seħħ sa dak iż-żmien meħtieġ li l-qorti tagħmel fl-ordni bl-imsemmi artikolu.

(8) Meta għal xi raġuni tkun xi tkun, il-qorti tiċċad talba

magħmula mill-prosekuzzjoni għal ordni taħt is-subartikolu (1), l-Avukat Ġenerali jista', fi żmien tliet ijiem tax-xogħol, mid-data tad-deċiżjoni tal-qorti, jitlob lill-Qorti Kriminali biex tagħmel l-ordni meħtieġ u d-dispożizzjonijiet ta' dan l-artikolu għandhom *mutatis mutandis* japplikaw għall-ordni magħmul mill-Qorti Kriminali taħt dan is-subartikolu daqs li kieku kien ordni magħmul mill-qorti taħt is-subartikolu (1). L-ordni temporanju ta' iffriżar magħmul taħt is-subartikolu (7) għandu jibqa' fis-seħħ sakemm il-Qorti Kriminali tiegħu deċiżjoni dwar it-talba.

(9) Il-persuna akkużata tista' fi żmien tliet ijiem tax-xogħol mid-data ta' meta sar l-ordni taħt is-subartikolu (7) tagħmel talba lill-Qorti Kriminali għar-revoka ta' dak l-ordni, iżda l-ordni għandu jibqa' fis-seħħ sakemm il-Qorti Kriminali ma tirrevokax l-ordni."

Żjieda ta' artikolu ġdid mal-Ordinanza.

**82.** Minnufih wara l-artikolu 22A tal-Ordinanza għandu jiżjed l-artikolu ġdid li ġej:

"Tmexxija ta' stharrig mir-Registratur.

22A. bis (1) Meta l-qorti tagħmel xi ordni kif imsemmi fl-artikolu 22A, din għandha tordna lir-Registratur biex jagħmel stharrig sabiex jinstabu u jiġi aċċertat fejn ikunu jinsabu xi flejjes jew proprjetà oħra, dovuti jew jappartjenu lil jew taħt il-kontroll tal-imputat jew il-persuna akkużata jew misjuba haġja, kif ikun il-każ.

(2) Kull min ikun meħtieġ mir-Registratur jipprovdi informazzjoni għall-finijiet tas-subartikolu (1) għandu jaderixxi mat-talba fi żmien tletin ġurnata mid-data ta' meta tkun ġiet riċevuta t-talba permezz ta' posta registrata."

## TAQSIMA VI

Emendi għall-Att dwar il-Pulizija. Kap. 164.

**83.** Din it-Taqsima temenda l-Att dwar il-Pulizija u għandha tinqara u tinftiehem haġa waħda mal-Att dwar il-Pulizija, hawnhekk iżjed 'il quddiem f'din it-Taqsima msejjaħ "l-Att prinċipali".

Emenda tal-artikolu 2 tal-Att prinċipali.

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

(a) fit-tifsira "Assoċjazzjoni tal-Pulizija ta' Malta", minflok il-kliem "u li tkun teżisti mal-bidu fis-seħħ ta' dan l-Att" għandhom jiġu sostitwiti l-kliem "u mwaqqfa b'dan l-Att";

(b) minnufih wara t-tifsira "Assoċjazzjoni tal-Pulizija ta' Malta" għandha tiżdied din it-tifsira ġdida li ġejja:

" *data personali*" għandu jkollha l-istess tifsira mogħtija lilha bl-artikolu 2 tal-Att dwar il-Protezzjoni u l-Privatezza tad-*Data*"; u

(ċ) minnufih wara t-tifsira "it-Trattat", għandha tiżdied din it-tifsira ġdida li ġejja:

" *trade union*" għandu jkollha l-istess tifsira mogħtija lilha bl-artikolu 2 tal-Att dwar l-Impieg u r-Relazzjonijiet Industrijali."

**85.** Fis-subartikolu (3) tal-artikolu 7 tal-Att prinċipali, minflok il-kliem "kull assoċjazzjoni professjonali mwaqqfa taħt dan l-Att" għandhom jidhlu l-kliem "kull assoċjazzjoni professjonali". Emenda tal-artikolu 7 tal-Att prinċipali.

**86.** Fl-artikolu 12 tal-Att prinċipali, minflok il-kliem "kif il-Kummissarju jista' jistabbilixxi" għandhom jidhlu l-kliem "kif il-Kummissarju jista' jistabbilixxi jew skont it-termini ta' xi ftehim li jkun sar bejn l-Gvern u l-Assoċjazzjoni tal-Pulizija ta' Malta". Emenda tal-artikolu 12 tal-Att prinċipali.

**87.** Fl-artikolu 14 tal-Att prinċipali, minflok il-kliem "permezz ta' assoċjazzjoni professjonali" għandhom jidhlu l-kliem "permezz tal-Assoċjazzjoni tal-Pulizija ta' Malta". Emenda tal-artikolu 14 tal-Att prinċipali.

**88.** L-artikolu 21 tal-Att prinċipali għandu jiġi emendat kif ġej: Emenda tal-artikolu 21 tal-Att prinċipali.

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

"(1) Sabiex jiġi provdut forum għal konsultazzjoni u djalogu bejn n-naħa tal-persunal u n-naħa uffċjali, għandu jkun hemm Bord tal-Pulizija għan-Negożjar li jkun korp konsultattiv fdat biex jiddiskuti u jikkonsidra kull kwistjoni marbuta mal-korp tal-pulizija.";

(b) fis-subartikolu (4) tiegħu, minflok il-kliem "l-Assoċjazzjoni tal-Pulizija ta' Malta:" għandhom jiġu sostitwiti l-kliem "l-Assoċjazzjoni tal-Pulizija ta' Malta." u l-proviso tiegħu għandu jiġi mħassar.

**89.** Is-subartikolu (2) tal-artikolu 22 tal-Att prinċipali għandu jiġi mħassar, u s-subartikolu (1) tiegħu għandu jiġi enumerat mill-ġdid bhala l-artikolu sħiħ. Emenda tal-artikolu 22 tal-Att prinċipali.

Thassir tal-artikolu 23 tal-Att prinċipali.

90. L-artikolu 23 tal-Att prinċipali għandu jiġi mhassar.

Emenda tal-artikolu 24 tal-Att prinċipali.

91. L-artikolu 24 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (2) tiegħu, minflok il-kliem "Assoċjazzjoni professjonali tista'" għandhom jiġu sostitwiti l-kliem "L-Assoċjazzjoni tal-Pulizija ta' Malta għandha"; u

(b) minnufih wara s-subartikolu (2) tiegħu, għandu jidher dan is-subartikolu ġdid li ġej:

"(3) L-Assoċjazzjoni tal-Pulizija ta' Malta għandu jkollha l-jedd li tkun reġistrata mar-Reġistratur tat-*Trade Unions* skont l-artikolu 53 tal-Att dwar l-Impiegi u r-Relazzjonijiet Industrijali għall-finijiet ta':

(a) twettiq tal-attività biex tirrappreżenta, u, jew tinnegozja f'isem xi wieħed jew kull membru tagħha għar-rigward tal-kondizzjonijiet ta' impieg tagħhom; u

(b) rikonoxximent bħala *trade union* għall-finijiet ta' *collective bargaining* f'isem il-membri tagħha:

Izda li għall-finijiet biex tigi rreġistrata bħala *trade union*, l-Assoċjazzjoni tal-Pulizija ta' Malta għandha tkun id-dispożizzjonijiet tas-Sub-Taqsima I tat-Titolu II tal-Att dwar l-Impiegi u r-Relazzjonijiet Industrijali:

Izda wkoll li, minkejja xi dispożizzjoni kuntrarja, l-Assoċjazzjoni tal-Pulizija ta' Malta għandu jkollha l-jedd biss li tirrappreżenta u, jew tinnegozja f'isem il-membri tagħha għar-rigward tal-kondizzjonijiet ta' impieg tagħhom u ma jkunx leġittimu għall-Assoċjazzjoni tal-Pulizija ta' Malta li tagħti xi direttiva, sew parzjali jew sħiħa, lill-membri tagħha fil-kontemplazzjoni jew fl-avvanz ta' tilwima industrijali."

Emenda tal-artikolu 25 tal-Att prinċipali.

92. L-artikolu 25 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, minflok il-kliem "Is-sħubija f'assoċjazzjoni" għandhom jiġu sostitwiti l-kliem "Is-sħubija fl-Assoċjazzjoni tal-Pulizija ta' Malta";

(b) fis-subartikolu (2) tiegħu, minflok il-kliem "tali assoċjazzjoni" għandhom jiġu sostitwiti l-kliem "tal-Assoċjazzjoni tal-Pulizija ta' Malta"; u

(ċ) fis-subartikolu (3) tiegħu, minflok il-kliem "assoċjazzjoni tista'" għandhom jiġu sostitwiti l-kliem "l-Assoċjazzjoni tal-Pulizija ta' Malta tista'".

93. L-artikolu 26 tal-Att prinċipali għandu jiġi emendat kif ġej: Emenda tal-artikolu 26 tal-Att prinċipali.

(a) minflok il-kliem "Kull assoċjazzjoni u kull kumitat" għandhom jiġu sostitwiti l-kliem "L-Assoċjazzjoni tal-Pulizija ta' Malta u kull kumitat"; u

(b) minflok il-kliem "u mhux assoċjati ma', xi korp li ma jkunx is-servizz tal-pulizija" għandhom jiġu sostitwiti l-kliem "u mhux assoċjati ma' xi korp, inkluż kull *trade union* jew korp jew assoċjazzjoni oħra li tingħaqad jew taħdem fil-qrib ma' *trade union*, li ma jkunx is-servizz tal-pulizija".

94. L-artikolu 29 tal-Att prinċipali għandu jiġi emendat kif ġej: Emenda tal-artikolu 29 tal-Att prinċipali.

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

"(1) L-Assoċjazzjoni tal-Pulizija ta' Malta tista' tissostitwixxi l-istatut tagħha nnifisha u l-istatut li jkun maħsub biex jissostitwixxi dak li jinsab fl-Iskeda għandu jhares id-dispożizzjonijiet ta' dan l-Att u fejn japplika d-dispożizzjonijiet tal-Att dwar l-Impiegi u r-Relazzjonijiet Industrijali. Meta l-istatut ikun ġie hekk approvat mill-Kummissarju, dan għandu jitqiegħed għall-votazzjoni tal-membri tal-Assoċjazzjoni. Dik is-sostituzzjoni għandha tiġi determinata b'maġġoranza tal-voti tal-membri kollha preżenti u votanti. Kull dispożizzjoni tal-istatut li ma tkunx konformi mad-dispożizzjonijiet ta' dan l-Att għandha tkun nulla u bla effett. Kull dispożizzjoni tal-istatut li ma tkunx konformi mad-dispożizzjonijiet tal-Att dwar l-Impiegi u r-Relazzjonijiet Industrijali tista' tirrizulta fir-rifjut tar-registrazzjoni u jew it-taħsir tar-registrazzjoni tal-Assoċjazzjoni tal-Pulizija ta' Malta bhala *trade union*."; u

(b) is-subartikolu (2) tiegħu għandu jiġi mħassar, u s-subartikolu (1) tiegħu għandu jiġi enumerat mill-ġdid bhala l-artikolu sħiħ.

Emenda tal-artikolu 30 tal-Att prinċipali.

**95.** Fl-artikolu 30 tal-Att prinċipali, minflok il-kliem "ma' xi assoċjazzjoni professjonali" għandhom jiġu sostitwiti l-kliem "mal-Assoċjazzjoni tal-Pulizija ta' Malta".

Emenda tal-artikolu 34 tal-Att prinċipali.

**96.** L-artikolu 34 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subparagrafu (a) tiegħu minflok il-kliem "*trade union*; jew" għandhom jiġu sostitwiti l-kliem "*trade union*, li ma tkunx l-Assoċjazzjoni tal-Pulizija ta' Malta mwaqqfa taht dan l-Att; jew";

(b) fis-subparagrafu (b) tiegħu minflok il-kliem "xi haġa msemmija fl-artikolu 21" għandhom jiġu sostitwiti l-kliem "xi haġa marbuta mal-kondizzjonijiet tal-impieg u, jew relazzjonijiet industrijali".

Żieda ta' artikolu ġdid mal-Att prinċipali.

**97.** Minnufih wara l-artikolu 74 tal-Att prinċipali, għandu jiżdied dan l-artikolu ġdid li ġej:

"Regolamenti.

74A. Il-Ministru responsabbli għall-Pulizija jista', wara konsultazzjoni mal-Kummissarju għall-Infurmazzjoni u l-Protezzjoni tad-Data, jagħmel u, meta jagħmel, jemenda, ihassar jew ihassar u jagħmel mill-ġdid regolamenti li jirrispettaw it-twaqqif ta' *automated databases* għall-ħzin ta' *data* personali u l-iskambju ta' *data* personali. Mingħajr ħsara għall-ġeneralità ta' din is-setgħa dawk ir-regolamenti jistgħu, b'mod partikolari, jipprovdu għal:

(a) twaqqif ta' *automated databases* għall-ħzin ta' *data* personali;

(b) użu ta' *data* personali;

(c) iż-żamma ta' *data* personali;

(d) l-iskambju ta' *data* personali; u

(e) provvediment ta' kull kwistjoni li tista' tiġi kkonsiderata neċessarja jew speditiva għat-twettiq aħjar ta' kull operazzjoni marbuta ma' *data* personali."



**98.** Minnufih wara s-subartikolu (2) tal-artikolu 84 tal-Att dwar l-Impiegi u r-Relazzjonijiet Industrijali, għandu jizded is-subartikolu ġdid li ġej:

Emenda  
konsegwenzjali  
għall-Att dwar  
l-Impiegi u r-  
Relazzjonijiet  
Industrijali.  
Kap. 452.

"(3) Id-dispożizzjonijiet ta' dan l-Att japplikaw għall-Assoċjazzjoni tal-Pulizija ta' Malta biss, kif u sakemm l-Att dwar il-Pulizija jipprovdi għal dik l-applikazzjoni minn żmien għal żmien."

## TAQSIMA VII

**99.** Din it-Taqsima temenda l-Att dwar l-Immigrazzjoni u għandha tinqara u tinftiehem haġa waħda mal-Att dwar l-Immigrazzjoni, hawnhekk iżjed 'il quddiem f'din it-Taqsima msejjaħ "l-Att prinċipali".

Emendi għall-  
Att dwar l-  
Immigrazzjoni.  
Kap. 217.

**100.** Fl-artikolu 2 tal-Att prinċipali, minflok it-tifsira "ordni ta' tneħhija" għandha tidhol it-tifsira ġdida li ġejja:

Emenda tal-  
artikolu 2 tal-  
Att prinċipali.

" "deċiżjoni ta' tneħhija" tfisser deċiżjoni maħruġa mill-Uffiċjal Prinċipali tal-Immigrazzjoni jew mill-Bord tal-Appelli dwar l-Immigrazzjoni, skont l-artikolu 14, jew mill-Qorti tal-Appell skond l-artikolu 25A, skond il-każ;".

**101.** L-artikolu 14 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-  
artikolu 14 tal-  
Att prinċipali.

(a) fis-subartikolu (1) tiegħu, minflok il-kelma "titneħha" għandha tiġi sostitwita l-kelma "tintbagħat lura"; minflok il-kliem "ordni ta' tneħhija" għandhom jiġu sostitwiti l-kliem "deċiżjoni dwar ritorn"; u minflok il-kliem "dik l-ordni" għandhom jiġu sostitwiti l-kliem "dik id-deċiżjoni";

(b) fil-proviso tas-subartikolu (1) tiegħu, minflok il-kliem "ordni ta' tneħhija" għandhom jiġu sostitwiti l-kliem "deċiżjoni dwar ritorn"; u minflok il-kelma "ordni" għandha tiġi sostitwita l-kelma "deċiżjoni";

(ċ) fis-subartikolu (2) tiegħu, minflok il-kliem "ssir ordni bħal dik" għandhom jiġu sostitwiti l-kliem "tittiehed deċiżjoni ta' ritorn bħal dik" u minflok il-kliem "ssir dik l-ordni" għandhom jiġu sostitwiti l-kliem "tittiehed dik id-deċiżjoni";

(d) fil-proviso tas-subartikolu (2) tiegħu, minflok il-kliem "ordni ta' tneħhija" għandhom jiġu sostitwiti l-kliem "deċiżjoni ta' ritorn", u minflok il-kliem "it-tkeċċija" għandhom jiġu sostitwiti l-kliem "ir-ritorn";

(e) fis-subartikolu (6) tiegħu, minflok il-kliem "mat-tkeċċija" għandhom jiġu sostitwiti l-kliem "mar-ritorn"; u

(f) fis-subartikolu (7) tiegħu, minflok il-kliem "tat-tkeċċija" għandhom jiġu sostitwiti l-kliem "tar-ritorn".

Emenda tal-artikolu 17 tal-Att prinċipali.

**102.** Fl-artikolu 17 tal-Att prinċipali, minflok il-kliem "ordni ta' tneħħija" għandhom jiġu sostitwiti l-kliem "deċiżjoni ta' ritorn".

Emenda tal-artikolu 19 tal-Att prinċipali.

**103.** Fl-artikolu 19 tal-Att prinċipali, minflok il-kliem "ordni ta' tneħħija" għandhom jiġu sostitwiti l-kliem "deċiżjoni ta' ritorn".

Emenda tal-artikolu 24 tal-Att prinċipali.

**104.** L-artikolu 24 tal-Att prinċipali, minflok il-kliem "ordni ta' tneħħija" għandhom jiġu sostitwiti l-kliem "deċiżjoni ta' ritorn".

Emenda tal-artikolu 25A tal-Att prinċipali.

**105.** Is-subartikolu (9) tal-artikolu 25A of the Act, minflok il-kliem "ta' ordni ta' deportazzjoni jew ta' tneħħija" għandhom jiġu sostitwiti l-kliem "ta' ordni ta' deportazzjoni jew ta' deċiżjoni ta' ritorn".

Emenda tal-artikolu 33 tal-Att prinċipali.

**106.** Fil-paragrafu (b) tal-artikolu 33 tal-Att prinċipali, minflok il-kliem ordni ta' tneħħija" għandhom jiġu sostitwiti l-kliem "deċiżjoni ta' ritorn".

Emenda tal-artikolu 36 tal-Att prinċipali.

**107.** Minnufih wara l-paragrafu (ċ) tas-subartikolu (2) tal-artikolu 36 tal-Att prinċipali għandhom jiżdiedu l-paragrafi ġodda li ġejjin:

"(d) l-*standards* u l-proċeduri għar-ritorn ta' ċittadini ta' pajjiżi terzi li jkunu f'Malta illegalment;

(e) għall-aħjar implimentazzjoni tad-dispożizzjonijiet ta' dan l-At."

## TAQSIMA VIII

Emendi għall-Att kontra *Money Laundering*. Kap. 373.

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

Emenda tal-artikolu 5 tal-Att prinċipali.

**109.** Minnufih wara s-subartikolu (6) tal-artikolu 5 tal-Att prinċipali għandhom jiżdiedu s-subartikoli ġodda li ġejjin:

"(7) Meta l-qorti ma tipproċedix minnufih biex tagħmel ordni kif meħtieġ taħt is-subartikolu (1), il-qorti għandha minnufih tagħmel ordni temporanju ta' iffriżar li jkollu l-istess effett bħal ordni magħmul taħt dan l-artikolu, liema ordni temporanju għandu jibqa' fis-seħħ sa dak iż-żmien meħtieġ li l-

qorti tagħmel fl-ordni bl-imsemmi artikolu.

(8) Meta għal xi raġuni tkun xi tkun, il-qorti tiċhad talba magħmula mill-prosekuzzjoni għal ordni taht is-subartikolu (1), l-Avukat Ġenerali jista', fi żmien tliet ijiem tax-xogħol, mid-data tad-deċiżjoni tal-qorti, jitlob lill-Qorti Kriminali biex tagħmel l-ordni meħtieġ u d-dispożizzjonijiet ta' dan l-artikolu għandhom *mutatis mutandis* japplikaw għall-ordni magħmul mill-Qorti Kriminali taht dan is-subartikolu daqs li kieku kien ordni magħmul mill-qorti taht is-subartikolu (1). L-ordni temporanju ta' iffriżar magħmul taht is-subartikolu (7) għandu jibqa' fis-seħh sakemm il-Qorti Kriminali tiegħu deċiżjoni dwar it-talba.

(9) Il-persuna akkużata tista' fi żmien tliet ijiem tax-xogħol mid-data ta' meta sar l-ordni taht is-subartikolu (7) tagħmel talba lill-Qorti Kriminali għar-revoka ta' dak l-ordni, iżda l-ordni għandu jibqa' fis-seħh sakemm il-Qorti Kriminali ma tirrevokax l-ordni."

**110.** Minnufih wara l-artikolu 5 tal-Att prinċipali għandu jizzied dan l-artikolu ġdid li ġej:

Żjieda ta' artikolu ġdid mal-Att prinċipali.

"Tmexxija ta' sħarriġ mir-Registratur.

5A. (1) Meta l-qorti tagħmel xi ordni kif imsemmi fl-artikolu 5, din għandha tordna lir-Registratur biex jagħmel sħarriġ sabiex jinstabu u jiġi aċċertat fejn ikunu jinsabu xi flejjes jew proprjetà oħra, dovuti jew jappartjenu lil jew taht il-kontroll tal-imputat jew il-persuna akkużata jew misjuba hatja, kif ikun il-każ.

(2) Kull min ikun meħtieġ mir-Registratur jipprovdi informazzjoni għall-finijiet tas-subartikolu (1) għandu jaderixxi mat-talba fi żmien tletin ġurnata mid-data ta' meta tkun ġiet riċevuta t-talba permezz ta' posta registrata."

## TAQSIMA IX

**111.** Din it-Taqsima temenda l-Att dwar il-*Probation* u għandha tinqara u tintfiehmed haġa waħda mal-Att dwar il-*Probation*, hawn iżjed 'il quddiem msejjaħ "l-Att prinċipali".

Emendi għall-Att dwar il-*Probation*. Kap. 446.

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

Emenda tal-artikolu 2 tal-Att prinċipali.

(a) it-tifsira "awtorità kompetenti" għandha tiġi

mħassra;

(b) minnufih wara t-tifsira mħassra "awtorità kompetenti" għandha tiżded din it-tifsira ġdida li ġejja:

" "iċ-ċertifikat" tfisser il-forma, kif hemm fl-Anness tad-Deċiżjoni Qafas, li tirreproduċi dettalji li jistabbilixxu l-informazzjoni meħtieġa bl-istess forma;"

(ċ) minnufih wara t-tifsira "Direttur" għandha tiżded din it-tifsira ġdida li ġejja:

" "imġieba skedata" hija mġieba fil-lista ta' mġieba mnizżla fl-Ewwel Skeda;"

(d) it-tifsira "Stat ta' eżekuzzjoni" għandha tigi sostitwita bit-tifsira ġdida li ġejja:

" "Stat ta' eżekuzzjoni" tfisser l-Istat Membru li lilu tkun inbagħtet sanzjoni komunitarja għall-finijiet ta' eżekuzzjoni;"

Emenda tal-artikolu 23 tal-Att prinċipali.

**113.** Fis-subartikolu (2) tal-artikolu 23 tal-Att prinċipali, minflok il-kliem "jew il-qorti" għandhom jiġu sostitwiti l-kliem "il-qorti".

Sostituzzjoni tal-artikolu 26 tal-Att prinċipali

**114.** L-artikolu 26 tal-Att prinċipali għandu jiġi sostitwit bl-artikolu ġdid li ġejj:

"Awtoritajiet nominati.

26. (1) Id-dispożizzjonijiet tal-artikoli 27 sa 34 għandhom ikunu limitati għat-trasmissjoni u l-eżekuzzjoni ta' sentenzi li jimponu sanzjonijiet komunitarji bejn Malta u Stat Membru tal-Unjoni Ewropea, u għandhom japplikaw għal sentenzi riċevuti f'Malta wara s-16 ta' Diċembru, 2008.

(2) Għall-finijiet tal-artikoli 26 sa 34, it-tnejn inklużi:

(a) l-Avukat Ġenerali għandu jkun kompetenti li jirċievi sentenza li timponi sanzjoni komunitarja maħruġa fl-Istat emittenti u li jittrasmetti lill-Istat ta' eżekuzzjoni s-sentenza li timponi sanzjoni komunitarja maħruġa f'Malta mill-qrati ta' kompetenza kriminali;

(b) il-qrati ta' kompetenza kriminali għandhom ikunu kompetenti li johorġu sentenza li timponi sanzjoni komunitarja;

(ċ) 'sentenza' għandha tfisser deċiżjoni finali jew ordni ta' qorti li tistabbilixxi li persuna naturali tkun kkommettiet reat kriminali u li timponi sanzjoni komunitarja."

**115.** L-artikolu 27 tal-Att prinċipali għandu jiġi emendat kif ġej: Emenda tal-artikolu 27 tal-Att prinċipali.

(a) is-subartikolu (2) tiegħu għandu jiġi mħassar; u

(b) is-subartikolu (1) tiegħu għandu jiġi enumerat mill-ġdid bħala l-artikolu shih u minflok il-kliem "mill-awtorità kompetenti:" tiegħu, għandhom jiġu sostitwiti l-kliem "minn qorti ta' kompetenza kriminali:".

**116.** L-artikolu 28 tal-Att prinċipali għandu jiġi emendat kif ġej: Emenda tal-artikolu 28 tal-Att prinċipali.

(a) fis-subartikolu (1) tiegħu, minflok il-kliem "l-awtorità kompetenti għandha," għandhom jiġu sostitwiti l-kliem "il-qorti ta' kompetenza kriminali għandha,"

(b) fil-proviso tas-subartikolu (1) tiegħu, minflok il-kliem "l-awtorità kompetenti" għandhom jiġu sostitwiti l-kliem "il-qorti ta' kompetenza kriminali għandha";

(ċ) minnufih wara s-subartikolu (1) tiegħu, għandu jiżdied dan is-subartikolu ġdid li ġej:

"(1A) Il-qorti ta' kompetenza kriminali tista', fuq talba tal-persuna sentenzjata, tibgħat sentenza li timponi sanzjoni komunitarja lill-awtorità kompetenti ta' Stat Membru minbarra dak li fih il-persuna sentenzjata hija legalment u ordinarjament residenti, jekk l-awtorità tal-aħħar tkun tat l-kunsens li tintbagħat dik s-sentenza.";

(d) fis-subartikolu (2) tiegħu, minflok il-kliem "b'ċertifikat, fil-forma li tiġi preskritta mill-Ministru permezz ta' regolamenti magħmulin taħt dan l-artikolu." għandhom jiġu sostitwiti l-kliem "b'ċertifikat li għandu jkun iffirmat u l-kontentur tiegħi ċertifikat bħala preċiż mill-Avukat Ġenerali.";

(e) is-subartikolu (3) tiegħu għandu jiġi sostitwit b'dan

li ġejj:

"(3) Ladarba sanzjoni komunitarja tkun ntbagħtet lil Stat ta' eżekuzzjoni taħt dan l-artikolu u l-imsemmi Stat ikun informa lill-qorti ta' kompetenza kriminali jew lill-Avukat Ġenerali, skont il-każ, illi hu irrikonoxxa s-sanzjoni komunitarja li tkun ntbagħtitlu, il-qorti ta' kompetenza kriminali ma għandux ikollha aktar il-kompetenza fir-rigward tas-sorveljanza tas-sanzjoni komunitarja imposta u lanqas biex tiegħu xi deċiżjoniet sussegwenti msemmija fl-artikolu 31(1) sakemm ma ssehhx xi wahda milli ġejjin:

(a) il-persuna sentenzjata taħrab jew ma tkunx iżjed residenti fl-Istat ta' eżekuzzjoni; jew

(b) proċeduri kriminali godda jkunu nbdew kontra l-persuna sentenzjata quddiem il-qorti ta' Malta.";

(f) fis-subartikolu (4) tiegħu, minflok il-kliem "tmur lura għand l-awtorità kompetenti:" għandhom jiġu sostitwiti l-kliem "tmur lura għand il-qorti ta' kompetenza kriminali, skont il-każ:"; u

(g) fis-subartikolu (4)(a) tiegħu, minflok il-kliem "hekk kif l-awtorità kompetenti tkun innotifikat" għandhom jiġu sostitwiti l-kliem "hekk kif l-qorti ta' kompetenza kriminali jew l-Avukat Ġenerali fuq talba mill-imsemmija qorti, ikun innotifika".

**117.** Minnufih wara l-artikolu 28 tal-Att prinċipali għandhom jiżdiedu dawn l-artikoli godda li ġejjin:

Żieda ta' artikoli godda mal-Att prinċipali.

"Kontenut taċ-certifikati.

28A. Sentenza trasmessa skont l-artikolu 28, għandu jkun fiha:

(a) stqarrija li s-sentenza hija dwar:

(i) imġiba li hija reat skedat:

Iżda li f'dawk il-każijiet m'għandux ikun hemm verifika jekk l-imġiba hijiex reat kriminali f'Malta; jew

(ii) imġieba li tkun tikkonsisti f'reat taħt il-liġi ta' Malta li jekk tkun seħħet f'Malta:

Iżda li d-deskrizzjoni tar-reat m'għandiex titqies bhala materjali jekk r-reat taht il-ligi ta' Malta u l-ligi tal-Istat emittenti huma fis-sustanza tal-istess xorta; u

(b) informazzjoni li tindika x-xorta u d-dewmien tal-mizuri ta' sorveljanza.

Mod ta' trasmissjoni.

28B. (1) Sentenza li timponi sanzjoni komunitarja għandha tiġi trasmessa maċ-ċertifikat li jkun fih l-informazzjoni preskritta fih, b'kull mezz kapaċi li jipproduċi prova bil-miktub taht il-kondizzjonijiet li jippermettu li tiġi aċċertata l-awtentiċità tagħha.

(2) Jekk hekk mitlub mill-Istat ta' eżekuzzjoni, is-sentenza oriġinali li timponi sanzjoni komunitarja jew kopja ċertifikata tagħha, u ċ-ċertifikat oriġinali, għandhom jintbagħtu lill-Istat ta' eżekuzzjoni."

**118.** L-artikolu 29 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

Sostituzzjoni tal-artikolu 29 tal-Att prinċipali.

"Iċ-ċertifikat tal-Avukat Ġenerali.

29. (1) Meta l-Avukat Ġenerali jirċievi sanzjoni komunitarja skont l-artikolu 26(1)(a), l-Avukat Ġenerali għandu, fid-diskrezzjoni tiegħu individwali u soġġett għad-dispożizzjonijiet tal-artikolu 30, joħroġ ċertifikat b'effett li s-sentenza hija wahda minn dawk msemmija fid-Deċiżjoni Qafas u dak iċ-ċertifikat għandu jkun prova konkluziva tal-kontenut tiegħu.

(2) Mingħajr il-htieġa ta' xi awtorita' oħra hlief dawk mogħtija b'dan l-artikolu, is-sentenza, flimkien maċ-ċertifikat msemmi fis-subartikolu (1), għandha tintbagħat lill-qorti ta' kompetenza kriminali għall-eżekuzzjoni skont l-artikolu 29A."

**119.** Minnufih wara l-artikolu 29 tal-Att prinċipali, kif sostitwit, għandu jiżdied dan l-artikolu ġdid li ġej:

Żieda ta' artikolu ġdid mal-Att prinċipali.

"Ezekuzzjoni, mill-grati, ta' ordni ta' sanzjoni fil-komunità.

29A.(1) Id-dispożizzjonijiet li ġejjin għandhom japplikaw meta sentenza tiġi trasmessa lil qorti ta' kompetenza kriminali taht l-artikolu 29(2).

(2) Il-qorti ta' kompetenza kriminali, fi żmien sittin jum milli tirċieivi s-sentenza u ċ-ċertifikat, għandha tirrikonoxxi s-sentenza daqs li kieku kienet sentenza mogħtija mill-imsemmija qorti li timponi sanzjoni komunitarja taht dan l-Att.

(3) Kopja tas-sentenza u ċ-ċertifikat għandhom ikunu notifikati lill-persuna sentenzjata.

(4) Is-sentenza għandu jkollha l-istess effett bħal sentenza li tordna sanzjoni komunitarja, taht dan l-Att, u d-dispożizzjonijiet ta' dan l-Att għandhom *mutatis mutandis* japplikaw għal dik is-sentenza, iżda b'danakollu li kull riferenza għal sanzjoni komunitarja taht dan l-Att għandha tinftiehem bhala riferenza għal dik is-sentenza.

(5) Jekk, f'ċirkostanzi eċċezzjonali, ma jkunx possibbli għal qorti li thares mat-terminu stabbilit bis-subregolament (1), il-qorti għandha tinforma lill-awtorità kompetenti tal-Istat emittenti b'kull mezz, u tagħti r-raġunijiet għad-dewmien u tindika ż-żmien meħtieġ maħsub biex tittiehed deċiżjoni finali."

Emenda tal-artikolu 30 tal-Att prinċipali.

**120.** L-artikolu 30 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) l-artikolu preżenti għandu jiġi enumerat mill-ġdid bhala s-subartikolu (1) tiegħu;

(b) fis-subartikolu (1), kif enumerat mill-ġdid tiegħu, minflok il-kliem "Meta Malta hija l-Istat ta' eżekuzzjoni, l-awtorità kompetenti tista' tiċhad li tirrikonoxxi s-sanzjoni komunitarja u tassumi r-responsabbiltà għas-sorveljanza tas-sanzjonijiet komunitarji" għandhom jiġu sostitwiti l-kliem "L-Avukat Ġenerali jista' jiċhad li jirrikonoxxi s-sanzjonijiet komunitarji";



(ċ) fil-paragrafu (a) tas-subartikolu (1), kif enumerat mill-ġdid tiegħu, il-kliem "imsemmi fl-artikolu 28(2)" għandhom jiġu mhassra;

(d) il-paragrafu (b) tas-subartikolu (1), kif enumerat mill-ġdid tiegħu, għandu jiġi sostitwit b'dan li ġej:

"(b) jekk l-persuna sentenzjata mhijiex residenti f'Malta u l-persuna sentenzjata tkun irritornat jew tixtieq li tirritona f'Malta,";

(e) minnufih wara l-paragrafu (b) tas-subartikolu (1), kif enumerat mill-ġdid tiegħu, għandhom jiżdiedu dawn il-paragrafi godda li ġejjin:

"(ba) jekk l-persuna sentenzjata mhijiex residenti f'Malta, l-imsemmija persuna talbet biex tinbagħat is-sanzjoni komunitarja għal Malta mingħajr l-kunsens tal-awtoritajiet ta' Malta;

(bb) jekk l-komunità tipprovdi għal miżuri ta' sorveljanza minbarra dawk imsemmija taht l-artikolu 27;" u

(f) minnufih wara s-subartikolu (1), kif enumerat mill-ġdid tiegħu, għandu jiżdied dan is-subartikolu ġdid li ġej:

"(2) Meta ċ-ċertifikat ma jkunx komplet jew ma jkunx jikkorrispondi mas-sanzjoni komunitarja, l-Avukat Ġenerali jista' jipposponi d-deċiżjoni msemmija taht l-artikolu 29 sakemm jiġi stabbilit tul ta' żmien biex iċ-ċertifikat jiġi kkompletat jew korrett."

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

Emenda tal-artikolu 31 tal-Att prinċipali.

(a) fis-subartikolu (1) tiegħu minflok il-kliem "l-awtorità kompetenti" għandhom jiġu sostitwiti l-kliem "il-qorti ta' kompetenza kriminali";

(b) fis-subartikolu (2) tiegħu minflok il-kliem "l-awtorità kompetenti" għandhom jiġu sostitwiti l-kliem "il-qorti ta' kompetenza kriminali";

(ċ) fis-subartikolu (3) tiegħu, minflok il-kliem "Meta Malta hija l-Istat ta' eżekuzzjoni, l-awtorità kompetenti għandha tinforma mingħajr dewmien" għandhom jiġu sostitwiti l-kliem "Il-qorti ta' kompetenza kriminali għandha titlob mingħajr

dewmien lill-Avukat Ġenerali biex jinforma"; u

(d) fis-subartikolu (4) tiegħu, minflok il-kliem "l-awtorità kompetenti għandha" għandhom jiġu sostitwiti l-kliem "l-Avukat Ġenerali, fuq talba mill-qorti ta' kompetenza kriminali, għandha"; u l-kliem "imsemmi fl-artikolu 28(2)" għandhom jiġu mhassra.

Emenda tal-artikolu 32 tal-Att prinċipali.

**122.** L-artikolu 32 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, minflok il-kliem "l-awtorità kompetenti tista'" għandhom jiġu sostitwiti l-kliem "il-qorti ta' kompetenza kriminali tista'"; u

(b) fis-subartikolu (2) tiegħu, minflok il-kliem "l-awtorità kompetenti tal-Istat emittenti tista' titlob", għandhom jiġu sostitwiti l-kliem "il-qorti ta' kompetenza kriminali tal-Istat emittenti tista' titlob" u il-kliem "lill-awtorità kompetenti tal-Istat ta' eżekuzzjoni biex tittrasferixxi", għandhom jiġu sostitwiti l-kliem "lill-qorti ta' kompetenza kriminali biex tittrasferixxi".

Emenda tal-artikolu 33 tal-Att prinċipali.

**123.** L-artikolu 33 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) minflok il-kliem "Meta Malta hija l-Istat ta' eżekuzzjoni, l-awtorità kompetenti għandha, skont l-Artikolu 18 tad-Deċiżjoni Qafas, tinforma mingħajr dewmien lill-awtorità kompetenti tal-Istat emittenti, b'kull mezz li jhalli *record* bil-miktub:" għandhom jiġu sostitwiti l-kliem "L-awtorità emittenti għandha tkun informata, b'kull mezz li jhalli *record* bil-miktub:";

(b) fil-paragrafu (a) tiegħu, il-kliem "msemmi fl-artikolu 28(2)" għandhom jiġu mhassra; u

(ċ) fil-paragrafu (ċ) tiegħu, il-kliem "msemmi fl-artikolu 28(2)" għandhom jiġu mhassra.

Żieda ta' Skeda ġdida mal-Att prinċipali.

**124.** Minnufih wara l-artikolu 37 tal-Att prinċipali għandha tiżdied l-Iskeda ġdida li ġejja:

"Skeda

(Artikolu 2)

1. Sehem f'organizzazzjoni kriminali.

2. Terroriżmu.
3. Traffikar ta' bnedmin.
4. Sfruttament sesswali ta' tfal u pornografija tat-tfal.
5. Traffikar illicitu ta' drogi narkotiċi u sustanzi psikotropiċi.
6. Traffikar illicitu ta' armi, munizzjon u plussivi.
7. Korruzzjoni.
8. Frodi, inkluż dak li jaffettwa l-interessi finanzjarji tal-Komunitajiet Europej fi hdan it-tifsira tal-Konvenzjoni ta' 26 ta' Lulju 1995 dwar il-protezzjoni tal-interessi finanzjarji tal-Komunitajiet Europej.
9. *Laundering* ta' rikavati tal-kriminalità.
10. Falsifikar ta' muniti, inkluż l-euro.
11. Reati konnessi mal-kompjuters.
12. Kriminalità ambjentali, inkluż it-traffikar illicitu ta' speċi minnaċċjati ta' annimali u ta' speċi minnaċċjati ta' pjanti u varjetajiet.
13. Facilitazzjoni ta' dħul u residenza mhux awtorizzati.
14. Omiċidju, offiża gravi fuq persuna.
15. Kummerċ illicitu fl-organi u tessuti umani.
16. Ħtif, żamma illegali u teħid ta' ostaġġi.
17. Razzismu u ksenofobija.
18. Serq Organizzat jew b'armi.
19. Traffikar illicitu f'merkanzija kulturali, inklużi l-antikittajiet u xogħlijiet tal-arti.
20. Imbrolju.
21. Intrigi ta' qerq u estorsjoni.
22. Falsifikazzjoni u piraterija ta' prodotti.
23. Falsifikazzjoni ta' dokumenti amministrattivi u traffikar

tagħhom.

24. Falsifikazzjoni ta' mezzi ta' hlas.
25. Traffikar illiċitu f'sustanzi ta' sustanzi ormonali u ta' sustanzi oħra ta' tkabbir.
26. Traffikar illiċitu fil-materjali nukleari jew radjoattivi.
27. Traffikar ta' vetturi misruqa.
28. Stupru.
29. Hruq.
30. Reati fi ħdan il-ġurisdizzjoni tal-Qorti Kriminali Internazzjonali.
31. Htif illegali ta' ajruplani / vapuri.
32. Sabutaġġ."

## TAQSIMA X

Emenda għall-Att tal-2010 li jemenda Diversi Ligijiet li jirrigwardaw Materji Kriminali. Att VII tal-2010.

**125.** Din it-Taqsima temenda l-Att tal-2010 li jemenda Diversi Ligijiet li jirrigwardaw Materji Kriminali u għandha tinqara u tinftiehem haġa waħda mal-Att tal-2010 li jemenda Diversi Ligijiet li jirrigwardaw Materji Kriminali, hawnhekk iżjed 'il quddiem f'din it-Taqsima msejjaħ "l-Att li jemenda".

Thassir tal-artikolu 4 tal-Att li jemenda.

**126.** L-artikolu 4 tal-Att li jemenda għandu jiġi mħassar.

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## Għanijiet u Raġunijiet

L-għanijiet ta' dan l-Abbozz ta' Liġi huma biex jiġu implimentati d-dispożizzjonijiet tad-Deċiżjoni Qafas tal-Kunsill 2008/675/ĠAI dwar il-konsiderazzjoni ta' kundanni fi Stati Membri tal-Unjoni europea waqt proċeduri kriminali godda, biex timplimenta d-dispożizzjonijiet tad-Deċiżjoni Kwadru tal-Kunsill 2008/841/ĠAI dwar il-ġlieda kontra l-kriminalità organizzata, biex timplimenta d-Deċiżjoni tal-Kunsill 2008/615/ĠAI dwar it-titjib tal-koperazzjoni transkonfinali, b'mod partikolari fil-ġlieda kontra t-terroriżmu u l-kriminalità transkonfinali, biex jiġu ċċarati ċerti dispożizzjonijiet tal-Kodiċi Kriminali, biex jizdedu l-pieni fl-artikoli 117 u 121A tal-imsemmi Kodiċi, biex jiġu introdotti emendi dwar l-ordnijiet ta' iffriżar fl-Ordinanza dwar il-Mediċini Perikolużi u fl-Att kontra

*Money Laundering*, u biex jiżdiedu l-pieni fil-każ ta' ksur tad-dispożizzjonijiet tal-Ordinanza dwar l-Esplożivi u fl-Ordinanza dwar il-Qirda tal-Kummerċ fil-Prostituzzjoni, biex isiru emendi fl-Att dwar il-Pulizija fil-funzjonijiet tal-Assoċjazzjoni tal-Pulizija u biex isiru emendi fl-Att dwar l-Immigrazzjoni għar-rigward ta' deċiżjoni għar-ritorn ta' immigranti illegali.

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**A Bill  
entitled**

*AN ACT to amend various laws relating to criminal matters.*

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) The short title of this Act is the Various Laws (Criminal Matters) (Amendment) Act, 2011.

(2) The provisions of this Act shall come into force on such a date as the Minister of justice may by notice in the Gazette establish, and different dates may be so established for different provisions or different purposes of this Act.

**PART I**

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 as "the Code".

Amendment of article 5 of the Code.

**3.** In paragraph (e) of subarticle (1) of article 5 of the Code for the words "314B, 316" there shall be substituted the words "314B, 314CA, 316".

Amendment of article 23C of the Code.

**4.** Immediately after subarticle (2) of article 23C of the Code there shall be added the following new subarticle:

"(3) For the purposes of this article:

"relevant offence" mean any offence not being one of an involuntary nature, liable to the punishment of imprisonment or of detention for a term of more than one year;

"property" shall have the same meaning assigned to it by article 23B(3)."

5. In subarticle (1) of article 28A of the Code, for the words "more than four years" there shall be substituted the words "more than six years".

Amendment of article 28A of the Code.

6. Article 28G of the Code shall be amended as follows:

Amendment of article 28G of the Code.

(a) immediately after subarticle (1) thereof, there shall be added the following new subarticle:

"(1A)Where a supervision order is made in accordance with the provisions of subarticle (1), the court may in addition to the order make a community service order as defined in article 11 of the Probation Act and the provisions of the Probation Act shall, *mutatis mutandis*, apply to any such order."; and

(b) immediately after subarticle (9) thereof, there shall be added the following new subarticle:

"(10) Any reference to a supervision order shall be deemed to include a community sanction order."

7. Article 28H of the Code shall be amended as follows:

Amendment of article 28H of the Code.

(a) in subarticle (2) thereof, for the words "not being longer than six months" there shall be substituted the words "not being longer than one year";

(b) in subarticle (3) thereof for the words "permitted by law." there shall be substituted the words "permitted by law:", and immediately thereafter there shall be added the following proviso:

"Provided that when a civil action is instituted for damages and the court, in such proceedings has liquidated a higher amount as compensation, any amount so paid under this subarticle shall be considered as a payment on account."; and

(c) in subarticle (5) thereof, for the words "not exceeding one month" there shall be substituted the words "not exceeding three months".

8. Article 35 of the Code shall be substituted by the following new article:

Substitution of article 35 of the Code.

"35. Without prejudice to the powers of the Minister under the Children and Young Persons (Care Orders) Act, a minor under fourteen years of age shall be exempt from criminal responsibility for any act or omission."

Repeal of article 36 of the Code.

**9.** Article 36 of the Code shall be deleted.

Substitution of article 37 of the Code.

**10.** Article 37 of the Code shall be substituted by the following new article:

"37. (1) The minor under sixteen years of age shall also be exempt from criminal responsibility for any act or omission done without any mischievous discretion.

(2) In the case where the act or omission is committed by a minor who is aged between fourteen to sixteen years of age with mischievous discretion and in the case where the minor is aged between sixteen and eighteen years, the applicable penalty shall be decreased by one or two degrees."

Substitution of article 49 of the Code.

**11.** Article 49 of the Code shall be substituted by the following new article:

"49. (1) A person is deemed to be a recidivist if, after being sentenced for any offence by a judgment, even when delivered by a foreign court, which has become *res judicata*, he commits another offence.

(2) In any proceedings under or for the purposes of this article, a document, duly authenticated, which certifies that a person was convicted on a date specified in the document of an offence against the law of that country, or part of that country, shall be admissible as evidence of the fact and date of the conviction.

(3) A document shall be deemed to be duly authenticated if one of the following conditions applies:

(a) it purports to be signed by a judge, magistrate or officer of the sentencing State; or

(b) it purports to be certified, whether by seal or otherwise, by the Ministry, department or other authority responsible for justice or for foreign affairs of the sentencing State; or

(c) it purports to be authenticated by the oath, declaration or affirmation of a witness.



(4) Any document which is to be sent in connection with proceedings under this article may be transmitted by any secure means capable of producing written records and under conditions permitting the ascertainment of its authenticity.

(5) In this article, "oath" includes an affirmation or a declaration; and nothing in this article shall be construed as prejudicing the admission in evidence of any document which is admissible in evidence under any other provision of law."

**12.** In article 83 of the Code, immediately after the words "who establishes, maintains" there shall be added the words "on his own or with other persons"; and for the words "to a fine (*multa*) not exceeding two hundred and thirty-two euro and ninety-four cents (232.94) or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment" there shall be substituted the words "to a fine (*multa*) not exceeding five thousand euro (€5000) or to imprisonment for a term from nine months to five years, or to both such fine and imprisonment".

Amendment of article 83 of the Code.

**13.** Article 83A of the Code shall be amended as follows:

Amendment of article 83A of the Code.

(a) subarticle (1) thereof shall be substituted by the following new subarticle:

"(1) Any person who -

(a) promotes, constitutes, organises or finances an organization with a view to commit criminal offences liable to the punishment of imprisonment for a term of four years or more; or

(b) knowing or having reasonable cause to suspect the aim or general activity of the organization set up for the purpose mentioned in paragraph (a), actively takes part in the organisation's criminal activities, including but not limited to the provision of information or material means or the recruitment of new members,

shall be guilty of an offence and shall be liable, on conviction, to the punishment of imprisonment for a term from four to nine years.";

(b) in subarticle (2) thereof, for the words "shall for that mere fact be liable to the punishment of imprisonment for a term from one to five years" there shall be substituted the

words "shall for that mere fact be liable to the punishment of imprisonment for a term from two to seven years"; and

(c) in the Maltese version of subarticle (4) thereof, for the words "taħt dan l-artikolu" there shall be substituted the words "taħt dan it-titolu".

Amendment of the Sub-title before article 83B of the Code.

**14.** In the Sub-title before article 83B of the Code for the words "MOTIVATED BY XENOFOBIA" there shall be substituted the words "MOTIVATED BY XENOFOBIA OR HOMOFOBIA".

Amendment of article 83B of the Code.

**15.** In article 83B of the Code, for the words "by xenofobia" there shall be substituted the words "by xenofobia or by homofobia".

Amendment of article 95 of the Code.

**16.** In article 95 of the Code, for the words "increased by one degree" there shall be added the words "increased by two degrees".

Amendment of article 96 of the Code.

**17.** Article 96 of the Code shall be amended as follows:

(a) in paragraph (a) thereof, for the words "from four months to one year" there shall be substituted the words "from six months to two years"; and

(b) in paragraph (b) thereof, for the words "from seven months to two years" there shall be substituted the words "from nine months to three years".

Amendment of article 97 of the Code.

**18.** In article 97 of the Code, for the words "from nine months to three years" there shall be substituted the words "from one year to four years".

Addition of new article to the Code.

**19.** Immediately after article 99 of the Code there shall be added the following new article:

"Non-applicability of provisions. Cap. 446.

99A. The provisions of articles 21 and 28A and the provisions of the Probation Act shall not apply in respect of any person convicted of an offence under this sub-title."

Amendment of article 117 of the Code.

**20.** Article 117 of the Code shall be amended as follows:

(a) in paragraph (a) thereof, for the words "from eighteen months to five years" there shall be substituted the words "from three to nine years";

(b) in paragraph (b) thereof, for the words "from nine months to three years" there shall be substituted the words "from eighteen months to five years"; and

(c) in paragraph (c) thereof, for the words "from four to twelve months" there shall be substituted the words "from nine months to two years".

**21.** Article 120 of the Code shall be amended as follows:

Amendment of  
article 120 of  
the Code.

(a) in subarticle (2) thereof for the words "to three years." there shall be substituted the words "to three years."; and

(b) immediately after subarticle (2) thereof there shall be inserted the following proviso:

"Provided that when the crime is that referred to in article 117(c), the punishment shall not exceed eighteen months imprisonment."

**22.** Article 121 of the Code shall be amended as follows:

Amendment of  
article 121 of  
the Code.

(a) in subarticle (2) thereof, for the words "article 115." there shall be substituted the words "article 115:", and immediately thereafter there shall be added the following proviso:

"Sohowever that the term "juror" shall in any case include a lay person acting as a member of a collegial body within the judicial system of a state other than Malta which has the responsibility of deciding on the guilt of an accused person in the framework of those proceedings.";

(b) in paragraph (a) of subarticle (4) thereof, immediately after the words "of a domestic" there shall be inserted the word "public"; and

(c) in paragraph (g) of subarticle (4) thereof, for the words "in Malta:" there shall be substituted the words "in Malta;", and immediately thereafter, there shall be added the following new paragraph (h):

"(h) any person:

(i) called upon to act as arbitrator in accordance with the provisions of the Arbitration Act, whether such arbitration is domestic or international;

(ii) who by virtue of an arbitration agreement is called upon to render a legally binding decision in a dispute submitted to such person by the parties to the agreement; and

(iii) being an arbitrator exercising his functions under the national legislation of any state other than Malta:".

Amendment of article 121A of the Code.

**23.** In subarticle (1) of article 121A of the Code, for the words "from three months to eighteen months" there shall be substituted the words "from six months to three years".

Amendment of article 161 of the Code

**24.** In article 161 of the Code, for the words "destined for public utility or public embellishment, and erected by, or with the permission of the public authority, shall, on conviction, be liable to imprisonment for a term from one month to one year or to a fine (*multa*) not exceeding two thousand and three hundred and twenty-nine euro and thirty-seven cents (2,329.37)" there shall be substituted the words "destined for public utility or public embellishment, and erected by, or with the permission of the public authority, shall, on conviction, be liable to imprisonment for a term from six to eighteen months or to a fine (*multa*) not exceeding three thousand and five hundred euro (€3,500)".

Amendment of article 162 of the Code.

**25.** In article 162 of the Code for the words "on conviction, be liable to imprisonment for a term from one to eighteen months or to a fine (*multa*) not exceeding one thousand and one hundred and sixty-four euro and sixty-nine cents (1,164.69)" there shall be substituted the words "on conviction, be liable to imprisonment for a term from nine months to two years or to a fine (*multa*) not exceeding five thousand euro (€5,000)".

Amendment of article 203 of the Code.

**26.** Immediately after the proviso of subarticle (1) of article 203 of the Code there shall be added the following new proviso:

"Provided further, when the victim of the offence is aged between sixteen and eighteen years of age, where the difference in age, in the physical and psychological development, as well as the level of maturity between the parties is close and the actual was a consensual one and did not involve any abuse or any form of payment or remuneration or pornographic acts when the circumstances of the case are taken into consideration, the Court shall order a stay of the proceedings.".

Amendment of article 205 of the Code.

**27.** In article 205 of the Code for the words "for a term not exceeding two years, with or without solitary confinement" there shall be substituted the words "for a term not exceeding five years, with or without solitary confinement"; and for the words "imprisonment for a term from one to four years" there shall be substituted the words "imprisonment for a term of two to seven years.

**28.** In article 208AA of the Code, for the words "shall, where the proposal is followed by material acts leading to such a meeting, be liable on conviction to imprisonment for a term from twelve months to four years" there shall be substituted the words "shall, where the proposal is followed by material acts leading to such a meeting, be liable on conviction to imprisonment for a term from two to five years".

Amendment of article 208AA of the Code.

**29.** In the article 208AB of the Code, for the words " shall, on conviction, be liable to imprisonment for a term from twelve months to two years" there shall be substituted the words " shall, on conviction, be liable to imprisonment for a term from two to five years".

Amendment of article 208AB of the Code.

**30.** Immediately after article 209 of the Code there shall be added the following new article:

Addition of new article to the Code.

"Provisions of the Probation Act do not apply. 209A. The provisions of article 21 of this Code and the provisions u the Probation Act shall not apply with respect to a person who is found guilty of an offence under this sub-title."

**31.** In subarticles (2) and (3) of article 222A of the Code, for the words "by xenofobia" there shall be substituted the words "by xenofobia or by homofobia".

Amendment of article 222A of the Code.

**32.** Article 248A of the Code shall be amended as follows:

Amendment of article 248A of the Code.

(a) in subarticle (1) thereof, for the words "shall, on conviction, be liable to the punishment of imprisonment for a term from two to nine years" there shall be substituted the words "shall, on conviction, be liable to the punishment of imprisonment from four to twelve years"; and

(b) immediately after subarticle (2) thereof, there shall be added the following subarticle:

"(3) Whosoever shall incite, aid or abet the trafficking of a person or attempt to traffic a person shall, on conviction, be liable to a term of imprisonment for a term from three to seven years."

**33.** In article 248C of the Code, for the words "shall on conviction be liable to the punishment of imprisonment for a term from four to twelve years" there shall be substituted the words "shall on conviction be liable to the punishment of imprisonment for a term from six to twelve years".

Amendment of article 248C of the Code.

Amendment of article 248D of the Code.

**34.** In article 248D of the Code, for the words "to the same punishment laid down in those articles", there shall be substituted the words "to the punishment of imprisonment for a term from two to ten years".

Amendment of article 248E of the Code.

**35.** Article 248E of the Code shall be amended as follows:

(a) in subarticle (4) thereof, for the words "shall be liable to the payment of a fine (*multa*) of not less than four thousand and six hundred and fifty-eight euro and seventy-five cents (4,658.75) and not more than one million and one hundred and sixty-four thousand and six hundred and eighty-six euro and seventy cents (1,164,686.70)" there shall be substituted the words "shall be liable to the payment of a fine (*multa*) of not less than ten thousand euro (€10,000) and not exceeding two million euro (€2,000,000)"; and

(b) immediately after subarticle (4) thereof, there shall be added the following new subarticle:

"(4A) Whenever the offence is committed for the benefit, in part or in whole, of a body corporate by a person who has the power of representation of the body corporate, authority to take decisions on behalf of the body corporate, or authority to exercise control of the body corporate, the legal person may be subject to:

(i) exclusion from entitlement to public benefits or aid;

(ii) temporary or permanent disqualification from the practice of commercial activities;

(iii) placing under judicial supervision;

(iv) judicial winding up; or

(v) temporary or permanent closure of establishments which have been used for committing the offence."

Addition of new article to the Code.

**36.** Immediately after article 277 of the Code there shall be added the following new article:

"Non-applicability of provisions. Cap. 446.

277A. The provisions of articles 21 and 28A of this Code and the provisions of the Probation Act shall not apply in respect of any person convicted of an offence of theft aggravated by "violence".

**37.** In article 308 of the Code, for the words "to imprisonment for a term from seven months to two years" there shall be substituted the words "to imprisonment for a term from one to seven years".

Amendment of article 308 of the Code.

**38.** In article 309 of the Code, for the words "imprisonment for a term from one to six months" there shall be substituted the words "imprisonment for a term from two months to two years".

Amendment of article 309 of the Code.

**39.** Article 310 of the Code shall be substituted by the following new article:

Sostituzzjoni of article 310 of the Code.

"310. (1) In cases referred to in this sub-title -

(a) when the amount of damage caused by the offender exceeds five thousand euro (€5000), the punishment shall be that of imprisonment from two to nine years;

(b) when the amount of damage caused by the offender exceeds five hundred euro (€500) but does not exceed five thousand euro (€5000), the punishment shall be that of imprisonment from six months to four years:

Provided that if the punishment laid down for the relevant offence in the preceding articles of this Sub-title is higher than the punishment laid down in this paragraph the former punishment shall apply increased by one degree and in the case of the offence under article 294 the punishment so increased shall not be awarded in its minimum;

(c) when the amount of the damage caused by the offender does not exceed five hundred euro (€500), the offender shall be liable to imprisonment for a term not exceeding six months.

(2) The provisions of subarticle (1)(c) shall not apply in the case of any of the crimes referred to in articles 296 and 298."

**40.** Subarticle (1) of article 328F of the Code shall be substituted by the following subarticle:

Amendment of article 328F of the Code.

"(1) Whosoever, directly or indirectly, receives, provides or invites another person to provide, money or other property intending it to be used, or which he has reasonable cause to suspect that it may be used, in whole or in part, for

the purposes of terrorism shall, on conviction, and unless the fact constitutes a more serious offence under any other provision of this Code or of any other law, be liable to the punishment of imprisonment for a term not exceeding four years or to a fine (*multa*) not exceeding twelve thousand euro (€12,000) or to both such fine and imprisonment."

Amendment of article 328J of the Code.

**41.** In subarticle (1) of article 328J of the Code, for the words "shall for such offence be liable to the punishment of a fine (*multa*) of not less than eleven thousand and six hundred and forty-six euro and eighty-seven cents (11,646.87) and not more than two million and three hundred and twenty-nine thousand and three hundred and seventy-three euro and forty cents (2,329,373.40)" there shall be substituted the words "shall for such offence be liable to the punishment of a fine (*multa*) of not less than twelve thousand euro (€12,000) and not more than two million and five hundred thousand euro (€2,500,000)".

Amendment of article 328N of the Code.

**42.** In the Maltese version of subparagraph (i) of paragraph (a) of subarticle (1) of article 328N of the Code for the words "bejn sema u ilma" there shall be substituted the words "f'ibħra miftuha".

Addition of new Sub-title to the Code.

**43.** Immediately after Sub-title V of Title IX of Part II of Book First of the Code there shall be added the following new sub-title:

"Sub-Title VI

OF CRIMES AGAINST THE ENVIRONMENT

Crimes against the environment.

337I.(1) Whosoever shall commit any of the acts referred to in subarticle (2) shall be guilty of an offence, hereinafter in this Sub-title referred to as a "crime against the environment", and shall be liable, on conviction to the punishments set out in this Sub-title.

(2) For the purposes of this sub-title a crime against the environment means any of the following acts:

(a) the discharge, emission or introduction of a quantity of materials or ionising radiation into air, soil or water, which causes or is likely to cause the death or grievous bodily harm to any person or substantial damage to the quality of air, the quality of soil or the quality of water, or to animals or plants;



(b) the collection, transport, recovery or disposal of waste, including the supervision of such operations and the aftercare of disposal sites, and including action taken as a dealer or a broker in waste management, which causes or is likely to cause the death or grievous bodily harm to any person or substantial damage to the quality of air, the quality of soil or the quality of water, or to animals or plants;

(c) the shipment of waste, falling within the scope of Article 2(35) of Regulation (EC) No. 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste and is undertaken in a non-negligible quantity, whether executed in a single shipment or in several shipments which appear to be linked;

(d) the operation of a plant in which a dangerous activity is carried out or in which dangerous substances or preparations are stored or used and which, outside the plant, causes or is likely to cause the death or grievous bodily harm to any person or substantial damage to the quality of air, the quality of soil or the quality of water, or to animals or plants;

(e) the production, processing, handling, use, holding, storage, transport, import, export or disposal of nuclear materials or other hazardous radioactive substances which causes or is likely to cause the death or grievous bodily harm to any person or substantial damage to the quality of air, the quality of soil or the quality of water, or to animals or plants;

(f) the killing, destruction, possession or taking of specimens of protected wild fauna or flora species, except for cases where the conduct concerns a negligible quantity of such specimens and has a negligible impact on the conservation status of the species;

(g) trading in specimens of protected wild fauna or flora species or parts or derivatives thereof, unless, it is proved to the satisfaction of the court that the conduct concerns a negligible quantity of such specimens and has a negligible impact on the conservation status of the species;

(h) any conduct which causes the significant deterioration of a habitat within a protected site;

(i) the production, importation, exportation, placing on the market or use of ozone-depleting substances.

Aggravating  
circumstances.

337J.(1) If, as a result of the offence referred to in the last preceding article, any person shall perish, the offender shall be liable to the punishment of imprisonment for life.

(2) If, as a result of the offence referred to in the last preceding article, a grievous bodily harm is caused to any person, the offender shall be liable to the punishment established for offences of grievous bodily harm under articles 216 or 218, as the case may be, increased by one or two degrees according to the gravity of the offence:

Provided that if a grievous bodily harm is caused to two or more persons the punishment laid down in this subarticle shall apply and shall not be awarded in its minimum.

(3) If, as a result of the offence referred to in the last preceding article, any serious damage is caused to the quality of the air, soil or water, or to animals or plants, or in any other manner serious spoil is caused to the environment, the punishment shall be that of imprisonment for a term from eight months to seven years or a fine (*multa*) of not less than twelve thousand euro (€12,000) and not exceeding two million and five hundred thousand euro (€2,500,000), or such imprisonment and fine (*multa*).

Applicability  
of certain  
articles.

337K.(1) The provisions of articles 121D and 248E(4) shall apply *mutatis mutandis* to any offence under this Sub-title.

(2) The provisions of article 328K shall also apply *mutatis mutandis* to any offence under this Sub-title as if the reference therein to article 328J were a reference to article 121D.

Interpretation.

337L. In this Sub-title:

"Directive 2008/99/EC" means Directive 2008/99/EC of the European Parliament and of the Council of 19 November 2008 on the protection of the environment through criminal law;

"habitat within a protected site" means any habitat of species for which an area is classified as a special protection area pursuant to Article 4(1) or (2) of Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds, or any natural habitat or a habitat of species for which a site is designated as a special area of conservation pursuant to Article 4(4) of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora;

"protected wild fauna and flora species" are:

(a) for the purposes of article 337I(1)(f), those listed in:

(i) Annex IV to Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora,

(ii) Annex I to, and referred to in Article 4(2) of, Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds,

(b) for the purposes of article 337I(1)(g), those listed in Annex A or B to Council Regulation (EC) No 338/97 of 9 December 1996 on the protection of species of wild fauna and flora by regulating trade therein;

"the Treaty" means the Treaty establishing the European Community done at Rome on the 25th March, 1957;

"the Euratom Treaty" means the Treaty establishing the European Atomic Energy Community done at Rome on the 25th March, 1957;

"unlawful" means infringing:

(a) the legislation adopted pursuant to the EC Treaty and listed in Annex A to the Directive 2008/99/EC; or

(b) with regard to activities covered by the Euratom Treaty, the legislation adopted pursuant to the Euratom Treaty and listed in Annex B to the Directive 2008/99/EC; or

(c) a law, an administrative regulation of a Member State or a decision taken by a competent authority of a Member State that gives effect to the Community legislation referred to in paragraphs (a) or (b)."

Amendment of article 355AV of the Code.

**44.** In paragraph (c) of article 355AV of the Code for the words "consent of the person arrested:" there shall be substituted the words "consent of the person arrested and the provisions of the proviso to article 355BB, shall *mutatis mutandis*, apply:".

Amendment of article 355BA of the Code.

**45.** Article 355BA of the Code shall be amended as follows:

(a) in paragraph (a) of subarticle (1) thereof, for the words "palm-prints" there shall be substituted the words "palm-prints, other prints or hand-writing samples"; and

(b) in paragraph (a) of subarticle (2) thereof, for the words "palm-prints or other prints" there shall be substituted the words "palm-prints, other prints or hand-writing samples".

Amendment of article 355BB of the Code.

**46.** The proviso to article 355BB of the Code shall be substituted by the following:

"Provided that in the event that the person, other than the person arrested, withholds his consent to the taking of a sample, whether intimate or non-intimate, a Magistrate's authorization may also be obtained upon an application and, saving the provisions of article 355AZ, such authorization shall also cover the taking of any proportionate and necessary measures, including the use of force, by the Executive Police to give effect to such authorization."

Addition of new article to the Code.

**47.** Immediately after article 355BC of the Code there shall be

added the following new articles:

"Use of  
specimens.

355BD. The Commissioner of Police may make use of specimens, which would have been taken in criminal proceedings, for the purposes of subsequent criminal proceedings."

48. In subarticle (1) of article 360A of the Code, for the words "officer of a body corporate established by law", there shall be substituted the words "officer of a body corporate established by law or by any other representative of such body as the Minister responsible for justice may, from time to time, prescribe".

Amendment of  
article 360A of  
the Code.

49. Subarticle (6) of article 370 of the Code shall be substituted by the following new subarticle:

Amendment of  
article 370 of  
the Code.

"(6) The provisions of article 392A shall also apply, *mutatis mutandis*, to offences which fall within the competence of the Court of Magistrates as a court of criminal judicature in accordance with the provisions of this article."

50. Article 392A of the Code shall be amended as follows:

Amendment of  
article 392A of  
the Code.

(a) in subarticle (1) thereof, for the words "in answer to the question in article 392(1)(b)" there shall be substituted the words "in any stage of the proceedings"; u for the words "the provisions of article 453(1) shall *mutatis mutandis* apply subject to the following provisions of this article" there shall be substituted the words "the court shall warn him in the most solemn manner about the legal consequences of that reply, and shall allow him a period of time for him to reply";

(b) in subarticle (2) thereof immediately after the words "of the offence charged," there shall be added the words ", such reply shall be registered and,";

(c) in subarticle (3) thereof, for the words "notwithstanding the confession of the accused, order that the inquest be proceeded" there shall be substituted the words "notwithstanding the confession of the accused, order that the proceedings be continued";

(d) subarticle (5) thereof shall be substituted by the following new subarticle:

"(5) At any stage of the proceedings, the accused and the Attorney General may agree and may request the court by means of an application, so that in the case where

the accused pleads guilty, the Court of Magistrates as a court of criminal judicature, shall apply such sanction or measure or, where it is so provided by law, a combination of sanctions and measures, of the type and quantity agreed upon between them, and in respect of which the accused may be sentenced when he is found guilty for the offence or the offences with which he has been charged."; and

(e) immediately after subarticle (5) thereof, as substituted, there shall be added the following new subarticles:

"(6) If the court is satisfied that the sanction or the measure, or the combination of sanctions or measures, requested as provided for in the preceding subarticle are such that it shall be lawful for it to impose upon finding the accused guilty of the offence for which the accused has pleaded guilty, and the court feels that it should not order that the case continues in accordance with the provisions of subarticle (3) or for any other reason that it should dismiss the request, and after having clearly explained to the accused the consequences of his request, the court shall where an admission of guilt is made by the accused, proceed to award the sentence indicated to it by the parties wherein it shall be declared in its decision that the sentence which is being awarded is being so awarded on the request of the parties.

(7) The provisions of article 453A(3) to (5), both subarticles inclusive, shall *mutatis mutandis* apply to the proceedings under this article."

Amendment of article 397 of the Code.

**51.** In subarticle (1) of article 397 of the Code, for the words "experiment or any other thing" there shall be substituted the words "experiment, the taking of any sample and any other measure or thing".

Substitution of article 399 of the Code.

**52.** Article 399 of the Code shall be substituted by the following new article:

"399. (1) When the court decides that the examination of any witness or any other process of the inquiry by a foreign authority is indispensably necessary, the request for legal assistance and the court's decision shall be served, within three working days on the Attorney General who may, within five working days, make any submissions in writing as he may deem appropriate.

(2) The accused may, not later than four working days from any such decision, submit an additional request for the examination of any witness or any other process of the inquiry, and appoint some person to represent him at the examination or process. Such term may, upon good cause being shown, be extended:

Provided that such term as extended shall not exceed thirty days from the date of the decision.

(3) The Court shall order the transmission of the request for legal assistance to the foreign authority within three working days upon the expiry of the period referred to in subarticle (2).

(4) The Criminal Court shall have competence to order the transmission of the request for legal assistance to the foreign authority upon an application being made by the Attorney General or the accused upon the expiry of the time period referred to in subarticle (3).

(5) The provisions of article 622B of the Code of Organization and Civil Procedure providing for the audio-recording or video-recording of evidence or by any other means shall apply to a request for the examination of any witness under this article.

(6) The provisions of articles 618 and 619 of the Code of Organization and Civil Procedure shall apply for the purposes of this article:

Provided that where there exists any treaty, convention, agreement or understanding between Malta and another country or which applies to both such countries or to which both such countries are a party, the request shall be made and transmitted in terms of the said treaty, convention, agreement or understanding."

**53.** Immediately after article 515 of the Code there shall be added the following new article:

Addition of new article to the Code.

"Sections of the  
courts of  
criminal  
jurisdiction.  
Cap. 12.

515A. The courts of criminal jurisdiction may be divided into sections, also including that magistrates may be assigned work relating to lay magisterial inquiries only, and the provisions of the Code of Organization and Civil Procedure relating to the manner in which such sections are established and relating to their jurisdiction shall, *mutatis mutandis*, apply unless otherwise established in this Code."

Amendment of  
article 516 of  
the Code.

**54.** Subarticle (3) of article 516 of the Code shall be substituted by the following subarticle:

"(3) There shall be a Board composed of the Chief Justice, as chairman, who shall also have a casting vote, a judge ordinarily sitting in the Criminal Court and a magistrate appointed by the President of Malta, both on the recommendations of the Chief Justice, the Attorney General, the President of the Chamber of Advocates and the President of the Chamber of Legal Procurators whose function shall be to make rules, to be called Rules of Court, for the purposes specified in subarticle (2) or in any other provision of this Code or of any other law."

Amendment of  
article 522 of  
the Code.

**55.** Article 522 of the Code shall be amended as follows:

(a) in subarticle (2) thereof, for the words "be liable to the punishment of imprisonment not exceeding three months" there shall be substituted the words "be liable to a fine (*multa*) of not less than two thousand and three hundred euro (€2,300) and not more than four thousand six hundred euro (€4,600) or to imprisonment for a term not exceeding three months, or to both such fine and imprisonment"; and

(b) in subarticle (4) thereof, for the words "but shall be liable to the punishment of a fine (*multa*)" there shall be substituted the words "but shall be liable, on conviction, to the punishment of a fine (*multa*)".

Amendment of  
article 525 of  
the Code.

**56.** In subarticle (3) of article 525 of the Code the words "in cases falling within its jurisdiction as court of criminal judicature under article 370(1) or under any other provision of this Code or of any other law" shall be deleted.



**57.** Article 548 of the Code shall be renumbered as subarticle (1) thereof and immediately after subarticle (1), as renumbered, there shall be added the following new subarticle:

Amendment of article 548 of the Code.

"(2) Experts employed in the inquest for the purpose of collecting and examining any dactyloscopic data and samples for analyzing human DNA shall transmit to the Executive Police copies of the dactyloscopic data and DNA profiles together with any other information related to the dactyloscopic data and DNA profile.

For the purpose of this article:

"dactyloscopic data" means fingerprint images, images of fingerprint latents, palm prints, palm print latents, writers palm prints and writers palm print latents; and

"DNA profile" means a letter or number code which represents a set of identification characteristics of the non-coding part of an analysed human DNA sample, that is the particular molecular structure at the various DNA locations (loci)."

**58.** Article 550 of the Code shall be amended as follows:

Amendment of article 550 of the Code.

(a) in subarticle (1) thereof:

(i) immediately after the words "or other persons who took part in the inquest" there shall be added the words "or gave evidence during the Magisterial inquest";

(ii) the words "in the inquest" shall be deleted; and

(iii) immediately after the words "as court of criminal inquiry" there shall be added the words "during the compilation stage";

(b) subarticle (2) thereof shall be substituted by the following new subarticle:

"(2) Nevertheless during the period for the conclusion of compilation of evidence referred to in article 401(1) up to the time when the court decides whether there exist enough reasons for the accused to be indicted for an offence as referred to in article 401(2) or not, it shall be lawful for the Police, with the special permission of the Court of Magistrates as a court of criminal inquiry to call upon any person referred to in subarticle (1) to give evidence during the compilation proceedings before the same court on matters which are duly specified and mentioned by the court in its special permission; so however that after the conclusion of the compilation stage in accordance with article 402(1) and after the court will have decided whether there are enough reasons for the accused to be indicted for an offence as referred to in article 401(2) or not, the Attorney General may require the presence of any of those persons in accordance with the provisions of article 405 in order for them to give replies on specific matters indicated by the Attorney General in his written request. The person summoned may also request the presence of any one of those persons for the purpose of the cross-examination."

Amendment of article 605 of the Code.

**59.** In subarticle (1) of article 605 of the Code, for the words "The Commissioner of Police or his representative, a Magistrate, the Attorney General or his representative, the President of the Chamber of Advocates and the President of the Chamber of Legal Procurators shall, twice a year, draw up to the best of their knowledge -" there shall be substituted the words "The Commissioner of Police or his representative, the Senior Magistrate, the Attorney General or his representative, the President of the Chamber of Advocates and the President of the Chamber of Legal Procurators shall, twice a year, attend a meeting called by the Director, Criminal Courts and Tribunals, to draw up to the best of their knowledge -".

Addition of new article to the Code.

**60.** Immediately after article 647B of the Code there shall be added the following new article:

"Cross-border cooperation, particularly in combating terrorism and cross-border crime.

647C. (1) Where the Attorney General receives a request made by a judicial, prosecuting or administrative authority of any place outside Malta or by an international court for -

- (a) the taking of and supply of dactyloscopic data; or
- (b) the taking and examination of a non-intimate sample; or

(c) the DNA profile of a person suspected in that place of a relevant offence or of a person accused, in proceedings before the courts of that place or international tribunal, of a relevant offence,

the Attorney General shall communicate the request to a Magistrate, who shall, upon receiving the request, order the arrest of the requested person and the provisions of article 355AV(c) shall, *mutatis mutandis*, apply in the execution of a request communicated under this article.

(2) The Magistrate shall transmit the said data, sample or profile, together with any report or result of the examination, to the Attorney General.

(3) For the purposes of this article the terms "DNA profile" and "dactyloscopic data" shall have the meaning respectively assigned to them in article 548; "relevant offence" shall have the meaning assigned to it in article 435D.

(4) The provisions of article 649(2) and (5) shall *mutatis mutandis* apply to a request made under this article."

**61.** Article 673 of the Code shall be amended as follows:

Amendment of article 673 of the Code.

(a) in subarticle (2) thereof, for the words "the application shall not be allowed where the Attorney General objects to the application." there shall be substituted the words "the application shall not be allowed where the Attorney General objects to the application:", and immediately thereafter there shall be added the following new proviso:

"Provided that, where the Attorney General objects to the application, the Court may impose on the accused that the costs for the deposit and upkeep of the property, held by the Registrar, connected with criminal proceedings or with the crime, be borne by the accused."; and

(b) immediately after subarticle (2) thereof, there shall be added the following new subarticle:

"(2A) Notwithstanding the provisions of subarticle

(2), where property connected with criminal proceedings or with the crime is held by the Registrar, the owner of that property may request the Court that he be allowed to effect such maintenance works as may be required on the property; if the owner of the property does not make the request mentioned in this subarticle or, having made the request, and the request having been granted by the Court, does not effect such maintenance works, the responsibility for any loss or damages suffered by the said property shall be borne by the said owner."

## PART II

Amendments to the Medical and Kindred Professions Ordinance. Cap. 31.

**62.** This Part amends the Medical and Kindred Professions Ordinance and it shall be read and construed as one with the Medical and Kindred Professions Ordinance, hereinafter in this Part referred to as "the Ordinance".

Addition of new article to the Ordinance.

**63.** Immediately after article 40A of the Ordinance, there shall be added the following new article:

"Offences related to the plant Khat.

40B. Any person who -

(a) cultivates the plant Khat; or

(b) imports or brings into, or exports from, Malta the plant Khat; or

(c) has in his possession (otherwise than in the course of transit through Malta or the territorial waters thereof) the whole or any portion of the plant Khat; or

(d) sells or otherwise deals in the whole or any portion of the plant Khat; or

(e) with another one or more persons in Malta or outside Malta conspires for the purposes of selling or dealing in the plant Khat in Malta against the provisions of this article or who promotes, constitutes, organises or finances the conspiracy,

shall be guilty of an offence against this Ordinance:

Provided that the term "dealing" in this article shall have the same meaning as that assigned to it by article 120A(1B)."

64. Immediately after subarticle (2D) of article 120A of the Ordinance there shall be inserted the following new subarticle:

Amendment of article 120A of the Ordinance.

"(2E) In the case of offences mentioned in subarticle (2)(b)(ii), the following provisions shall apply:

(a) for the purposes of this subarticle, unless the context otherwise requires:

"approved drug rehabilitation programme" means any drug rehabilitation programme in terms of regulations made by the Minister and which include a programme, the purpose of which, is to rehabilitate participants and to prevent them from re-offending;

"Drug Laws" means the provisions of this Ordinance and the provisions of the Dangerous Drugs Ordinance and any regulations made thereunder;

"first-time drug possessor" means a person who is found in possession of a drug contrary to the provisions of article 40A of this Ordinance or of subarticle (2)(b)(ii) of the Dangerous Drugs Ordinance or of any of the regulations made thereunder, and who shall not have been previously found guilty of any offence under the Drug Laws and who shall not have previously been served with a formal warning by the Attorney General in accordance with the following provisions of this Ordinance, hereinafter also referred to as the "offender";

"formal warning" means a formal written document that may be issued by the Attorney General in his sole discretion in accordance with the following provisions of this subarticle and which is served on a first-time drug possessor in those cases where the Attorney General deems fit;

(b) in any case where a first-time drug possessor is found in possession of a drug contrary to the provisions of this Ordinance or the Dangerous Drugs Ordinance and, or any regulations made thereunder, the Attorney General may, instead of ordering the commencement of criminal proceedings before the Court of Magistrates in terms of subarticle (2)(b)(ii), direct that a formal warning under his

signature be issued against the offender;

(c) without prejudice to the foregoing provisions, in such formal warning the Attorney General may, *inter alia*:

(i) formally warn the offender about the seriousness, gravity and consequences of his offence;

(ii) intimate to the offender that in case of any other future violation of any provision of the Drug Laws, criminal proceedings before the competent court of criminal jurisdiction will be instituted against him which in case of conviction may lead to the punishment of a fine and, or imprisonment as well as any consequence which that Court may deem fit to impose against him, as the case may be;

(iii) include any other directions or recommendations to the offender which the Attorney General may deem fit to include in the said formal warning depending on the particular circumstances of the case, including the referral of the offender to the Drug Abuse and Rehabilitation Consultative Committee for its eventual assessment for referral to any approved drug rehabilitation programme as the case may be;

(iv) order that all articles in respect of which the offence was committed shall be forfeited to the Government, and any such forfeited article shall, if the Attorney General so orders, be destroyed or otherwise disposed of as may be provided in his order;

(d) the formal warning may be issued by the Attorney General in the case where:

(i) the Commissioner of Police would have presented to the Attorney General such evidence showing that the offender has committed an offence of possession of a drug in contravention of the provisions of this Ordinance and, or the Dangerous Drugs Ordinance and otherwise falling within the parameters of subarticle (2)(b)(i); and

(ii) this evidence is such that if the Attorney

General otherwise directed the prosecution of the offence before the Court of Magistrates against the offender, there would be a realistic prospect of the offender being convicted of this offence; and

(iii) the offender admitted that he committed the offence; and

(iv) it is not in the public interest for the offender to be prosecuted for the offence;

(e) where the offender is a minor any such formal warning shall be served on the minor in the presence of any of his parents or any person who at the time exercises care and custody over the minor;

(f) the Minister shall establish the Drug Abuse and Rehabilitation Consultative Committee, hereinafter referred to as "the Committee", which shall be divided into sections made up of panels of persons appointed by the Minister in accordance with regulations made by him from time to time and which shall establish the functions assigned to such Committee. Each section shall give advice to the Court or to the Attorney General, only in those cases where its advice is so requested or where it is so stipulated by law;

(g) a Court of criminal jurisdiction may, either during the course of the criminal proceedings or in its judgment, order that the offender be referred to the Committee and in such case the said Committee shall have the power to:

(i) assess any such person referred to it as mentioned above; and

(ii) unless the Committee considers it inappropriate to do so, arrange for the offender to participate in an approved drug rehabilitation programme;

(h) the Minister may by regulations prescribe:

(i) which persons and, or other bodies are authorised to carry out an approved drug rehabilitation programme;

(ii) what should be included in the approved drug

rehabilitation programme;

(iii) the manner in which any failure by a person to participate in such a programme is to be recorded;

(iv) the consequences that might arise in the case of failure by a person to participate in such a programme or in the case where such person fails to complete the said programme successfully; and

(v) the persons and, or authorities to whom any such failure is to be notified;

(i) a copy of the formal warning issued by the Attorney General may be submitted in evidence in any subsequent criminal proceedings against the offender."

Addition of new article to the Ordinance.

**65.** Immediately after article 123A of the Ordinance, there shall be added the following new article:

"Definitions. 123B. In this Ordinance, unless the context otherwise requires, any reference to "Court of Magistrates", or "Criminal Court" or "Court of criminal jurisdiction", shall be read and construed as a reference to the appropriate sections of the criminal court where cases related to drug abuse are heard, which sections shall be established by regulations made by the Minister of justice."

### PART III

Amendments to the Explosives Ordinance. Cap. 33.

**66.** This Part amends the Explosives Ordinance and it shall be read and construed as one with the Explosives Ordinance, hereinafter in this Part referred as "the Ordinance".

Amendment of article 4 of the Ordinance..

**67.** In paragraph (f) of article 4 of the Ordinance for the words "within twenty-four hours." there shall be substituted the words "within twenty-four hours:" and immediately thereafter there shall be added the following new proviso:

"Provided that, independently of the conditions abovementioned, the Commissioner of Police may, whether of his own accord as well as on the recommendations specifically made by the Inspectorate Committee, impose different and honourous conditions, among which that the explosives be stored in a separate and distinct place from the one wherein it is prepared, as well as that the factory schedules its tasks according to the manner in which the Commissioner of Police may



prescribe, as to those amounts, times and necessary methods, and that by the 15th December of each year, a detailed plan of action be submitted for the following year."

**68.** In subarticle (1) of article 8 of the Ordinance, for the words "delivery is made." there shall be substituted the words "delivery is made:", and immediately thereafter there shall be added the following new proviso:

Amendment of article 8 of the Ordinance.

"Provided that fireworks factories shall also keep such registers as may be prescribed by regulations made by the Minister responsible for the police."

**69.** Article 16 of the Ordinance shall be deleted.

Deletion of article 16 of the Ordinance.

**70.** In article 19 of the Ordinance, for the words "any child apparently under the age of eighteen." there shall be substituted the words "any person not in possession of a licence as prescribed under this Ordinance or under regulations made under this Ordinance."

Amendment of article 19 of the Ordinance.

**71.** Article 24 of the Ordinance shall be amended as follows:

Amendment of article 24 of the Ordinance.

(a) subarticle (2) thereof shall be deleted; and

(b) subarticles (3) and (4) thereof shall be renumbered as subarticles (2) and (3) respectively.

**72.** Immediately after article 26B of the Ordinance there shall be added the following new article:

Addition of new article to the Ordinance.

"Revocation of licence.

26C. Saving the provisions of any other law, the Commissioner of Police shall revoke any licence or licences, as the case may be, issued under this Ordinance or under regulations made under this Ordinance to any person who:

(a) has been convicted of:

(i) an offence against the provisions of this Ordinance or against the regulations made under article 22; or

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

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(iii) an offence under the Arms Act; or

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

(v) an offence of theft; or

(vi) an offence against the laws relating to the suppression of prostitution, white slave traffic or traffic of persons; or

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

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

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

(b) has a history:

(i) of drug dependence or abuse; or

(ii) of treatment for mental illness whether in a hospital, mental institute, psychiatric clinic or otherwise, and whether or not such person was confined to such a hospital, institute or clinic where such mental illness is associated with the use by such person of violence, or threatened or attempted use of violence against another person."

Deletion of article 45 of the Ordinance.

**73.** Article 45 of the Ordinance shall be deleted.

## PART IV

74. This Part amends White Slave Traffic (Suppression) Ordinance and it shall be read and construed as one with the White Slave Traffic (Suppression) Ordinance, hereinafter referred to as "the Ordinance".

Amendment to the White Slave Traffic (Suppression) Ordinance. Cap. 63.

75. In subarticle (1) of article 5 of the Ordinance, for the words "shall be liable, on conviction, to imprisonment for a term not exceeding two years" there shall be substituted the words "shall be liable, on conviction, to imprisonment for a term of two to five years with or without solitary confinement".

Amendment of article 5 of the Ordinance.

76. In subarticle (1) of article 8 of the Ordinance, immediately after the words "or share with others" there shall be added the words "including persons who act as wardens, watchmen outside the premises, whether or not they have in their possession any device to warn whosoever may be inside the premises".

Amendment of article 8 of the Ordinance.

77. Immediately after article 14 of the Ordinance there shall be added the following new articles:

Addition of new article to the Ordinance.

"Applicability of article 24 of the Probation Act. Cap. 446.

15. The provisions of article 24 the Probation Act regarding the powers of the court to order damages to be borne by the offender shall, *mutatis mutandis*, also apply every time a person is found guilty of an offence against the provisions of this Ordinance.

Help to the Police by person who has been found guilty.

16. Where, in the case of a person found guilty of an offence against this Ordinance, the prosecution declares in the acts of the proceedings that the person has helped the Police to apprehend the person or persons who would have provided the persons for the commission of the offence, or the person found guilty as aforementioned proves to the satisfaction of the court that he has so helped the Police, the punishment shall be decreased, in the case of imprisonment, by one or two degrees and in the case of pecuniary punishment, it shall be decreased by one-third or halved respectively.

Increase in the punishment for a second similar offence.

17. Where a person who has been found guilty of an offence against the provisions of this Ordinance or of any regulations made thereunder, commits a second similar offence, such person shall, on conviction, be liable to the punishment of that offence, increased by two degrees, and on the third or subsequent conviction, the punishment shall be increased by three degrees.

Offences contrary to the provisions of articles 5 and 8..

18. (1) When an offence is committed contrary to the provisions of articles 5 and 8, the court shall, in addition to all other punishments, in its decision, or a period of time later, on the prosecution's request:

(a) when immovable property has been used as defined in the indictment or the charge, order the confiscation, in favour of the Government, of any title on the immovable property held by the person found guilty;

(b) when the person found guilty is not the absolute owner but holds another title on the immovable property, or holds a title, which is not a title on the property, by virtue of which, the person has control over or has a right of access to, that property, the court shall order the person found guilty to pay a fine (*multa*) of not less than ten thousand euro (€10,000) but not more than sixty thousand euro (€60,000), as established by the court after taking into consideration the value of the immovable property and the value of the title on that property, as the case may be, that has been confiscated as aforementioned.

(2) Every decision taken, as mentioned in subarticle (1), ordering the confiscation of the immovable property or any title on that property, shall be deemed and shall be enforced as a decision in the field of civil jurisdiction which transfers that title on the property in favour of the Government and the Attorney General shall, for the purposes of article 239 of the Code of Organization and Civil Procedure, be considered as the interested party who may obtain the registration of such transfer.

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Non-applicability of the provisions of the Criminal Code and the Probation Act.

19. Save as otherwise provided in article 15, the provisions of articles 21 and 28A of the Criminal Code and the provisions of the Probation Act shall not apply to persons who have been found guilty of an offence under this Ordinance."

#### PART V

**78.** This Part amends the Dangerous Drugs Ordinance and it shall be read and construed as one with the Dangerous Drugs Ordinance, hereinafter in this Part referred as "the Ordinance".

Amendments to the Dangerous Drugs Ordinance. Cap. 101.

**79.** Immediately after subarticle (2) of article 2 of the Ordinance there shall be inserted the following new subarticle:

Amendment of article 2 of the Ordinance.

"(3) In this Ordinance, unless the context otherwise requires, any reference to "Court of Magistrates", or "Criminal Court" or Court of criminal jurisdiction", shall be read and construed as a reference to the appropriate sections of the criminal court where cases related to drug abuse are heard, which sections shall be established by regulations made by the Minister of justice."

**80.** Immediately after subarticle (2) of article 22 of the Ordinance there shall be inserted the following new subarticle:

Amendment of article 22 of the Ordinance.

"(2A) In the case of offences mentioned in subarticle (2)(b)(ii), the following provisions shall apply:

(a) for the purposes of this subarticle, unless the context otherwise requires:

"approved drug rehabilitation programme" means any drug rehabilitation programme in terms of

regulations made by the Minister and which include a programme, the purpose of which, is to rehabilitate participants and to prevent them from re-offending;

"Drug Laws" means the provisions of this Ordinance and the provisions of the Medical and Kindred Professions Ordinance and any regulations made thereunder;

"first-time drug possessor" means a person who is found in possession of a drug contrary to the provisions of subarticle (2)(b)(ii) of this Ordinance or of article 40A of the Medical and Kindred Professions Ordinance or of any of the regulations made thereunder, and who shall not have been previously found guilty of any offence under the Drug Laws and who shall not have previously been served with a formal warning by the Attorney General in accordance with the following provisions of this Ordinance, hereinafter also referred to as the "offender";

"formal warning" means a formal written document that may be issued by the Attorney General in his sole discretion in accordance with the following provisions of this subarticle and which is served on a first-time drug possessor in those cases where the Attorney General deems fit;

(b) in any case where a first-time drug possessor is found in possession of a drug contrary to the provisions of this Ordinance or the Medical and Kindred Professions Ordinance and, or any regulations made thereunder, the Attorney General may, instead of ordering the commencement of criminal proceedings before the Court of Magistrates in terms of subarticle (2)(b)(ii), direct that a formal warning under his signature be issued against the offender;

(c) without prejudice to the foregoing provisions, in such formal warning the Attorney General may, *inter alia*:

(i) formally warn the offender about the seriousness, gravity and consequences of his offence;

(ii) intimate to the offender that in case of any

other future violation of any provision of the Drug Laws, criminal proceedings before the competent court of criminal jurisdiction will be instituted against him which in case of conviction may lead to the punishment of a fine and, or imprisonment as well as any consequence which that Court may deem fit to impose against him, as the case may be;

(iii) include any other directions or recommendations to the offender which the Attorney General may deem fit to include in the said formal warning depending on the particular circumstances of the case, including the referral of the offender to the Drug Abuse and Rehabilitation Consultative Committee for its eventual assessment for referral to any approved drug rehabilitation programme as the case may be;

(iv) order that all articles in respect of which the offence was committed shall be forfeited to the Government, and any such forfeited article shall, if the Attorney General so orders, be destroyed or otherwise disposed of as may be provided in his order;

(d) the formal warning may be issued by the Attorney General in the case where:

(i) the Commissioner of Police would have presented to the Attorney General such evidence showing that the offender has committed an offence of possession of a drug in contravention of the provisions of this Ordinance and, or the Medical and Kindred Professions Ordinance and otherwise falling within the parameters of subarticle (2)(b)(ii); and

(ii) this evidence is such that if the Attorney General otherwise directed the prosecution of the offence before the Court of Magistrates against the offender, there would be a realistic prospect of the offender being convicted of this offence; and

(iii) the offender admitted that he committed the offence; and

(iv) it is not in the public interest for the offender to be prosecuted for the offence;

(e) where the offender is a minor any such formal warning shall be served on the minor in the presence of any of his parents or any person who at the time exercises care and custody over the minor;

(f) the Minister shall establish the Drug Abuse and Rehabilitation Consultative Committee, hereinafter referred to as "the Committee", which shall be divided into sections made up of panels of persons appointed by the Minister in accordance with regulations made by him from time to time and which shall establish the functions assigned to such Committee. Each section shall give advice to the Court or to the Attorney General, only in those cases where its advice is so requested or where it is so stipulated by law;

(g) a Court of criminal jurisdiction may, either during the course of the criminal proceedings or in its judgment, order that the offender be referred to the Committee and in such case the said Committee shall have the power to:

(i) assess any such person referred to it as mentioned above; and

(ii) unless the Committee considers it inappropriate to do so, arrange for the offender to participate in an approved drug rehabilitation programme;

(h) the Minister may by regulations prescribe:

(i) which persons and, or other bodies are authorised to carry out an approved drug rehabilitation programme;

(ii) what should be included in the approved drug rehabilitation programme;

(iii) the manner in which any failure by a person to participate in such a programme is to be recorded;

(iv) the consequences that might arise in the case of failure by a person to participate in such a programme or in the case where such person fails to complete the said programme successfully; and

(v) the persons and, or authorities to whom any



such failure is to be notified;

(i) a copy of the formal warning issued by the Attorney General may be submitted in evidence in any subsequent criminal proceedings against the offender."

**81.** Immediately after subarticle (6) of article 22A of the Ordinance there shall be added the following new subarticles: Amendment of article 22A of the Ordinance.

"(7) Where the court does not proceed forthwith to make an order as required under subarticle (1), the court shall forthwith make a temporary freezing order having the same effect as an order made under this article, which temporary order shall remain in force until such time as the court makes the order required by the said article.

(8) Where for any reason whatsoever the court denies a request made by the prosecution for an order under subarticle (1), the Attorney General may, within three working days from the date of the court's decision, apply to the Criminal Court to make the required order and the provisions of this article shall apply *mutatis mutandis* to the order made by the Criminal Court under this subarticle as if were an order made by the court under subarticle (1). The temporary freezing order made under subarticle (7) shall remain in force until the Criminal Court determines the application.

(9) The person charged may within three working days from the date of the making of the order under subarticle (7) apply to the Criminal Court for the revocation of the order, provided that order shall remain in force unless revoked by the Criminal Court."

**82.** Immediately after article 22A of the Ordinance there shall be added the following new article: Addition of new article to the Ordinance.

"Registrar to conduct inquiries.

22A. bis (1) Where the court makes any order as is referred to in article 22A, it shall order the Registrar to conduct inquiries to trace and ascertain the whereabouts of any moneys or other property, due or pertaining to or under the control of the person charged or accused or convicted, as the case may be.

(2) Whosoever is required by the Registrar to provide information for the purpose of subarticle (1) shall comply with the demand within thirty days from the day of receipt of the demand by registered post."

## PART VI

Amendments to the Police Act. Cap. 164.

**83.** This Part amends the Police Act and it shall be read and construed as one with the Police Act, hereinafter in this Part referred as "the principal Act".

Amendment of article 2 of the principal Act.

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

(a) in the definition "the Malta Police Association", for the words "and existing on the coming into force of this Act" there shall be substituted the words "and established by this Act";

(b) immediately after the definition "non-intimate sample" there shall be added the following new definition:

" "personal data" shall have the same meaning assigned to it by article 2 of the Data Protection Act;"

(c) immediately after the definition "the European Union", there shall be added the following new definition:

" "trade union" shall have the meaning assigned to it by article 2 of the Employment and Industrial Relations Act."

Amendment of article 7 of the principal Act.

**85.** In subarticle (3) of article 7 of the principal Act, for the words "any professional association established under this Act" there shall be substituted the words "any professional association".

Amendment of article 12 of the principal Act.

**86.** In article 12 of the principal Act, for the words "as the Commissioner may determine" there shall be substituted the words "as the Commissioner may determine or in terms of any agreement entered into between the Government and the Malta Police Association".

Amendment of article 14 of the principal Act.

**87.** In article 14 of the principal Act, for the words "through a professional association" there shall be substituted the words "through the Malta Police Association".

Amendment of article 21 of the principal Act.

**88.** Article 21 of the principal Act shall amended as follows:

(a) subarticle (1) thereof shall be substituted by the

following:

"(1) In order to provide a forum for consultation and dialogue between the staff side and the official side, there shall be a Police Negotiating Board which shall be a consultative body entrusted to discuss and consider any matters related to the police force.";

(b) in subarticle (4) thereof, for the words "the Malta Police Association:" there shall be substituted the words "the Malta Police Association." and the proviso thereto shall be deleted.

**89.** Subarticle (2) of article 22 of the principal Act shall be deleted, and subarticle (1) thereof shall be renumbered as the whole article. Amendment of article 22 of the principal Act.

**90.** Article 23 of the principal Act shall be deleted Deletion of article 23 of the principal Act.

**91.** Article 24 of the principal Act be amended as follows: Amendment of article 24 of the principal Act.

(a) in subarticle (2) thereof, for the words "A professional association may" there shall be substituted the words "The Malta Police Association shall"; and

(b) immediately after subarticle (2) thereof, there shall be added the following new subarticle:

"(3) The Malta Police Association shall be entitled to register with the Registrar of Trade Unions in accordance with article 53 of the Employment and Industrial Relations Act for the purposes of:

(a) carrying out the activity of representing, and, or negotiating on behalf of any one or all of its members with regard to their conditions of employment; and

(b) being recognised as a trade union for the purposes of collective bargaining on behalf of its members:

Provided that for the purposes of registering itself as a trade union, the Malta Police Association shall comply with the provisions of Sub-Part 1 of Title II of the Employment and Industrial Relations Act:

Provided further that, notwithstanding any provision to the contrary, the Malta Police Association shall only be entitled to represent and, or negotiate on behalf of its members with regard to their conditions of employment and it shall be unlawful for the Malta Police Association to give any directive, whether partial or full, to its members in contemplation or in furtherance of a trade dispute."

Amendment of article 25 of the principal Act.

**92.** Article 25 of the principal Act shall be amended as follows:

(a) in subarticle (1) thereof, for the words "Membership of an association" there shall be substituted the words "Membership of the Malta Police Association";

(b) in subarticle (2) thereof, for the words "any such association" there shall be substituted the words "the Malta Police Association"; and

(c) in subarticle (3) thereof, for the words "an association may" there shall be substituted the words "the Malta Police Association may".

Amendment of article 26 of the principal Act.

**93.** Article 26 of the principal Act shall be amended as follows:

(a) for the words "An association and every committee" there shall be substituted the words "The Malta Police Association and every committee"; and

(b) for the words "and not associated with any body outside the police service" there shall be substituted the words "and not associated with any body, including any trade union or body or another association that is affiliated or works closely with a trade union, outside the police service".

Amendment of article 29 of the principal Act.

**94.** Article 29 of the principal Act shall be amended as follows:

(a) subarticle (1) thereof shall be substituted with the following:

"(1) The Malta Police Association may substitute its own statute and the statute intended to substitute the contents of the Schedule shall conform to the provisions of this Act and where applicable the provisions of the Employment and Industrial Relations Act. When the

statute is duly approved by the Commissioner, it shall be placed for voting by the members of the Association. That substitution shall be determined by a majority of votes of all the members present and voting. Every provision of the statute that is not in conformity with the provisions of this Act shall be null and void. Every provision of the statute which is not in conformity with the provisions of the Employment and Industrial Relations Act may result in the refusal to register or the cancellation of registration of the Malta Police Association as a trade union."; and

(b) subarticle (2) thereof shall be deleted, and subarticle (1) thereof shall be renumbered as the whole article.

**95.** In article 30 of the principal Act, for the words "a professional association" there shall be substituted the words "the Malta Police Association".

Amendment of article 30 of the principal Act.

**96.** Article 34 of the principal Act shall be amended as follows:

Amendment of article 34 of the principal Act.

(a) in subparagraph (a) thereof for the words "trade union; or" there shall be substituted the words "trade union, which is not the Malta Police Association established under this Act; or";

(b) in subparagraph (b) thereof for the words "anything mentioned in article 21" there shall be substituted the words "anything related to the conditions of employment and, or industrial relations".

**97.** Immediately after article 74, as renumbered, of the principal Act, there shall be added the following new article:

Addition of new article to the principal Act.

"Regulations.

74A. The Minister responsible for the Police may, after consultation with the Information and Data Protection Commissioner, make and, when made, amend, repeal or repeal and re-enact regulations respecting the establishment of automated databases which store personal data and the exchange of personal data. Without prejudice to the generality of this power such regulations may, in particular, provide for:

(a) setting up of automated databases which store personal data;

- (b) the use of personal data;
- (c) the retention of personal data;
- (d) the exchange of personal data; and
- (e) for prescribing any matter that may be considered necessary or expedient for the better carrying out of any operations related to personal data."

Consequential amendment to the Employment and Industrial Relations Act. Cap. 452.

**98.** Immediately after subarticle (2) of article 84 of the Employment and Industrial Relations Act, there shall be added the following new subarticle:

"(3) The provisions of this Act shall apply to the Malta Police Association only in such manner and insofar as provided by the Police Act, from time to time."

#### **PART VII**

Amendment to the Immigration Act. Cap. 217.

**99.** This Part amends the Immigration Act and it shall be read and construed as one with the Immigration Act, hereinafter in this Part referred to as "the principal Act".

Amendment of article 2 of the principal Act.

**100.** In article 2 of the principal Act, for the definition "removal order" there shall be substituted the following new definition:

" "removal decision" means a decision issued by the Principal Immigration Officer or the Immigration Appeals Board in accordance with article 14, or the Court of Appeal under article 25A, as the case may be;".

Amendment of article 14 of the principal Act.

**101.** Article 14 of the principal Act shall be amended as follows:

(a) in subarticle (1) thereof, for the word "removal" there shall be substituted the word "return"; for the words "removal order" there shall be substituted the words "return decision"; and for the word "order" there shall be substituted the word "decision";

(b) in the proviso to subarticle (1) thereof, for the words "removal order" there shall be substituted the words "return decision"; and for the word "order" there shall be substituted the word "decision";

(c) in subarticle (2) thereof, for the words "such order"

there shall be substituted the words "a return decision";

(d) in the proviso to subarticle (2) thereof, for the words "an expulsion order" there shall be substituted the words "a return decision", and for the word "expulsion" there shall be substituted the word "return";

(e) in subarticle (6) thereof, for the word "expulsion" there shall be substituted the word "return"; and

(f) in subarticle (7) thereof for the word "expulsion" there shall be substituted the word "return".

**102.** In article 17 of the principal Act, for the words "removal order" there shall be substituted the words "return decision". Amendment of article 17 of the principal Act.

**103.** In article 19 of the principal Act, for the words "removal order" there shall be substituted the words "return decision". Amendment of article 19 of the principal Act.

**104.** In article 24 of the principal Act, for the words "removal order" there shall be substituted the words "return decision". Amendment of article 24 of the principal Act.

**105.** In subarticle (9) of article 25A of the Act, for the words "removal order" there shall be substituted the words "return decision". Amendment of article 25A of the principal Act.

**106.** In paragraph (b) of article 33 of the principal Act, for the words "removal order" there shall be substituted the words "return decision". Amendment of article 33 of the principal Act.

**107.** Immediately after paragraph (c) of subarticle (2) of article 36 of the principal Act there shall be added the following new paragraphs: Amendment of article 36 of the principal Act.

"(d) the standards and procedures for returning illegally staying third-country nationals;

(e) the better implementation of the provisions of this Act."

## PART VIII

**108.** 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 as "the principal Act". Amendments to the Prevention of Money Laundering Act. Cap. 373.

**109.** Immediately after subarticle (6) of article 5 of the principal Act there shall be added the following new subarticles: Amendment of article 5 of the principal Act.

"(7) Where the court does not proceed forthwith to make an order as required under subarticle (1), the court shall forthwith make a temporary freezing order having the same effect as an order made under this article, which temporary order shall remain in force until such time as the court makes the order required by the said article.

(8) Where for any reason whatsoever the court denies a request made by the prosecution for an order under subarticle (1), the Attorney General may, within three working days from the date of the court's decision, apply to the Criminal Court to make the required order and the provisions of this article shall apply *mutatis mutandis* to the order made by the Criminal Court under this subarticle as if were an order made by the court under subarticle (1). The temporary freezing order made under subarticle (7) shall remain in force until the Criminal Court determines the application.

(9) The person charged may within three working days from the date of the making of the order under subarticle (7) apply to the Criminal Court for the revocation of the order provided that order shall remain in force unless revoked by the Criminal Court."

Addition of new article to the principal Act.

**110.** Immediately after article 5 of the principal Act there shall be added the following new article:

"Registrar to conduct inquiries.

5A. (1) Where the court makes any order as is referred to in article 5, it shall order the Registrar to conduct inquiries to trace and ascertain the whereabouts of any moneys or other property, due or pertaining to or under the control of the person charged or accused or convicted, as the case may be.

(2) Whosoever is required by the Registrar to provide information for the purpose of subarticle (1) shall comply with the demand within thirty days from the day of receipt of the demand by registered post."

**PART IX**

Amendments to the Probation Act. Cap. 446.

**111.** This Part amends the Probation Act and it shall be read and construed as one with the Probation Act, hereinafter in this Part referred as "the principal Act".



**112.** Article 2 of the principal Act shall be amended as follows: Amendment of article 2 of the principal Act.

(a) immediately before the definition "combination order" there shall be added the following new definition:

"the certificate" means the form, as contained in the Annex to the Framework Decision, purporting to reproduce details setting out the information required by the same form;"

(b) the definition of "competent authority" shall be deleted;

(c) the definition "executing State" shall be substituted by the following new definition:

" "executing State" means the Member State to which a community sanction has been transmitted for the purpose of execution;"

(d) in the definition "probationer", for the words "combination order." there shall be substituted the words "combination order;" and immediately thereafter there shall be inserted the following new definitions:

" "scheduled conduct" is a conduct in the list of conduct set out in the First Schedule."

**113.** In the Maltese version of subarticle (2) of article 23 of the principal Act, for the words "jew il-qorti" there shall be substituted the words "il-qorti". Amendment of article 23 of the principal Act.

**114.** Article 26 of the principal Act shall be substituted by the following new article: Substitution of article 26 of the principal Act

"Designated authorities.

26. (1) The provisions of articles 27 to 34 shall be limited to the transmission and execution of judgements imposing community sanctions between Malta and a Member State of the European Union, and shall apply to judgements received in Malta after the 16th December, 2008.

(2) For the purposes of articles 26 to 34, both inclusive:

(a) the Attorney General shall be competent to receive a judgment imposing a community sanction issued in the issuing State and to transmit to the executing State a judgment imposing a community sanction issued in Malta by the courts of criminal jurisdiction;

(b) the courts of criminal jurisdiction shall be competent to issue a judgment imposing a community sanction;

(c) 'judgment' shall mean a final decision or order of a court establishing that a natural person has committed a criminal offence and imposing a community sanction."

Amendment of article 27 of the principal Act.

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

(a) subarticle (2) thereof shall be deleted; and

(b) subarticle (1) thereof shall be renumbered as the whole article and for the words "by the competent authority:" therein, there shall be substituted the words "by a court of criminal jurisdiction:"

Amendment of article 28 of the principal Act.

**116.** Article 28 of the principal Act shall be amended as follows:

(a) in subarticle (1) thereof, for the words "the competent authority shall," there shall be substituted the words "the court of criminal jurisdiction shall,"

(b) in the proviso to subarticle (1) thereof, for the words "the competent authority" there shall be substituted the words "the court of criminal jurisdiction";

(c) immediately after subarticle (1) thereof, there shall be added the following new subarticle:

"(1A) The court of criminal jurisdiction may, upon the request of the sentenced person, forward a judgment imposing a community sanction to the competent authority of a Member State other than the Member State in which the sentenced person is lawfully and ordinarily residing, provided that the latter authority has consented to such

forwarding.";

(d) in subarticle (2) thereof, for the words "a certificate, in such form as may be prescribed by the Minister by regulations made under this article." there shall be substituted the words "the certificate which shall be signed and its content certified as accurate by the Attorney General.";

(e) subarticle (3) thereof shall be substituted by the following:

"(3) Once a community sanction has been forwarded to an executing State under this article and the said State has informed the court of criminal jurisdiction or the Attorney General, as the case may be, that it has recognised the community sanction forwarded, the court of criminal jurisdiction shall no longer have competence over the supervision measures imposed in that sanction nor will it be competent to take decisions referred to in article 31(1) unless any of the following occurs:

(a) the sentenced person absconds or no longer resides in the executing state; or

(b) new criminal proceedings have been instituted against the sentenced person before the Maltese courts.";

(f) in subarticle (4) thereof, for the words "revert to the competent authority:" there shall be substituted the words "revert to the court of criminal jurisdiction, as the case may be:"; and

(g) in subarticle (4)(a) thereof, for the words "as soon as the competent authority has notified" there shall be substituted the words "as soon as the court of criminal jurisdiction or the Attorney General upon a request by the said court, has notified".

**117.** Immediately after article 28 of the principal Act there shall be added the following new articles:

Addition of new articles to the principal Act.

"Contents of certificate.

28A. A judgment transmitted in accordance with article 28, shall contain:

(a) a statement that the judgment relates to:

(i) conduct which is a scheduled offence:

Provided that in such cases there shall be no verification whether the conduct is a criminal offence in Malta; or

(ii) conduct which would constitute an offence under the law of Malta if it occurred in Malta:

Provided that the description of the offence shall not be regarded as material if the offence under the law of Malta and the law of the issuing State are substantially of the same nature; and

(b) information indicating the nature and duration of the supervisory measures.

Mode of transmission.

28B. (1) A judgment imposing a community sanction shall be transmitted with the certificate containing the information prescribed therein, by any means capable of producing a written record under conditions permitting the ascertainment of its authenticity.

(2) If so required by the executing State, the original judgment imposing the community sanction or a certified copy of it, and the original of the certificate, shall be sent to the executing State."

Substitution of article 29 of the principal Act.

**118.** Article 29 of the principal Act shall be substituted by the following:

"Attorney General's certificate.

29. (1) Where the Attorney General receives a community sanction in terms of article 26(1)(a), the Attorney General shall, in his own individual discretion and subject to the provisions of article 30, issue a certificate to the effect that the judgment is one referred to in the Framework Decision and such certificate shall be conclusive evidence of its contents.

(2) Without the need of any further authority other than that conferred by this article, the judgment, together with the certificate referred to in subarticle (1), shall be transmitted to the court of criminal jurisdiction for execution in accordance with article 29A."

**119.** Immediately after article 29 of the principal Act, as substituted, there shall be added the following new article:

Addition of new article to the principal Act.

"Execution, by courts, of community sanction orders.

29A. (1) The following provisions shall apply where a judgment is transmitted to a court of criminal jurisdiction under article 29(2).

(2) The court of criminal jurisdiction, within sixty days of receipt of the judgment and the certificate, shall recognise the judgment as if it were a sentence made by the said court imposing a community sanction under this Act.

(3) A copy of the judgment and the certificate shall be served on the sentenced person.

(4) The judgment shall have the same effect as a sentence ordering a community sanction, under this Act, and the provisions of this Act shall *mutatis mutandis* apply to the said judgment, so however that any reference to a community sanction under this Act shall be construed as a reference to the said judgment.

(5) If, in exceptional circumstances, it is not possible for the court to comply with the time limit provided for in subarticle (1), it shall inform the competent authority of the issuing State by any means, giving the reasons for the delay and indicating the estimated time needed for the final decision to be taken."

**120.** Article 30 of the principal Act shall be amended as follows:

Amendment of article 30 of the principal Act.

(a) the current article 30 shall be re-numbered as subarticle (1) thereof;

(b) in subarticle (1), as renumbered, thereof for the words "Where Malta is the executing State, the competent authority may refuse to recognise the community sanctions and assume responsibility for supervising community sanctions" there shall be substituted the words "The Attorney General may refuse to recognise the community sanctions";

(c) in paragraph (a) of subarticle (1), as renumbered, thereof, the words "referred to in article 28(2)" shall be deleted;

(d) paragraph (b) of subarticle (1), as renumbered, thereof shall be substituted by the following:

"(b) if the sentenced person is not resident in Malta and the sentenced person has returned or wants to return to Malta,";

(e) immediately after paragraph (b) of subarticle (1), as renumbered, thereof there shall be added the following new paragraphs:

"(ba) if the sentenced person is not resident in Malta the said person requested the community sanction to be forwarded to Malta without the consent of the Maltese authorities;

(bb) if the community provides for supervisory measures other than those referred to under article 27;";  
and

(f) immediately after subarticle (1), as renumbered, thereof there shall be added the following new subarticle:

"(2) Where the certificate is incomplete or does not correspond to the community sanction, the Attorney General may postpone the decision referred to under article 29 until a reasonable deadline is set for the certificate to be completed or corrected."

Amendment of  
article 31 of the  
principal Act.

**121.** Article 31 of the principal Act shall be amended as follows:

(a) in subarticle (1) thereof for the words "the competent authority" there shall be substituted the words "the court of criminal jurisdiction";

(b) in subarticle (2) thereof for the words "the competent authority" there shall be substituted the words "the

court of criminal jurisdiction";

(c) in subarticle (3) thereof, for the words "Where Malta is the executing State, the competent authority shall without delay inform" there shall be substituted the words "The court of criminal jurisdiction shall without delay request the Attorney General to inform"; and

(d) in subarticle (4) thereof, for the words "the competent authority shall" there shall be substituted the words "the Attorney General, upon a request by the court of criminal jurisdiction, shall"; and the words "set out in article 28(2)" shall be deleted.

**122.** Article 32 of the principal Act shall be amended as follows: Amendment of article 32 of the principal Act.

(a) in subarticle (1) thereof, for the words "the competent authority may" there shall be substituted the words "the court of criminal jurisdiction may"; and

(b) in subarticle (2) thereof, for the words "the competent authority to transfer", whenever they occur, there shall be substituted the words "the court of criminal jurisdiction to transfer".

**123.** Article 33 of the principal Act shall be amended as follows: Amendment of article 33 of the principal Act.

(a) for the words "Where Malta is the executing State, the competent authority shall, in accordance with Article 18 of the Framework Decision, without delay inform the competent authority of the issuing State, by any means which leaves a written record, of:" there shall be substituted the words "The issuing authority shall be informed, by any means which leaves a written record, of:";

(b) in paragraph (a) thereof, the words "referred to in article 28(2)" shall be deleted; and

(c) in paragraph (c) thereof, the words "referred to in article 28(2)" shall be deleted.

**124.** Immediately after article 37 of the principal Act there shall be added the following new Schedule: Addition of Schedule to the principal Act.

"Schedule

(Article 2)

1. Participation in a criminal organisation.
2. Terrorism.
3. Trafficking in human beings.
4. Sexual exploitation of children and child pornography.
5. Illicit trafficking in narcotic drugs and psychotropic substances.
6. Illicit trafficking in weapons, munitions and explosives.
7. Corruption.
8. Fraud, including that affecting the financial interests of the European Communities within the meaning of the Convention of 26 July 1995 on the protection of the European Communities' financial interests.
9. Laundering of the proceeds of crime.
10. Counterfeiting currency, including of the euro.
11. Computer-related crime.
12. Environmental crime, including illicit trafficking in endangered animal species and in endangered plant species and varieties.
13. Facilitation of unauthorised entry and residence.
14. Murder, grievous bodily injury.
15. Illicit trade in human organs and tissue.
16. Kidnapping, illegal restraint and hostage-taking.
17. Racism and xenophobia.
18. Organised or armed robbery.
19. Illicit trafficking in cultural goods, including antiques and works of art.
20. Swindling.



21. Racketeering and extortion.
22. Counterfeiting and piracy of products.
23. Forgery of administrative documents and trafficking therein.
24. Forgery of means of payment.
25. Illicit trafficking in hormonal substances and other growth promoters.
26. Illicit trafficking in nuclear or radioactive materials.
27. Trafficking in stolen vehicles.
28. Rape.
29. Arson.
30. Crimes within the jurisdiction of the International Criminal Court.
31. Unlawful seizure of aircraft/ships.
32. Sabotage."

## **PART X**

**125.** This Part amends the Various Laws (Criminal Matters) (Amendment) Act, 2010, and it shall be read and construed as one with the Various Laws (Criminal Matters) (Amendment) Act, 2010, hereinafter in this Part referred as "the amending Act".

Amendment to  
the Various  
Laws (Criminal  
Matters)  
(Amendment)  
Act, 2010.  
Act VII of 2010.

**126.** Article 4 of the amending Act shall be deleted.

Deletion of  
article 4 of the  
amending Act.

## **Objects and Reasons**

The objects of this Bill are to implement the provisions of Council Framework Decision 2008/675/JHA on taking account of convictions in Member States of the European Union in the course of new criminal proceedings, to implement the provisions of Council Framework Decision 2008/841/JHA on the fight against organised crime, to implement Council Decision 2008/615/JHA on the stepping-up of cross-border cooperation, particularly in combating terrorism and cross-border crime, to clarify certain provisions of the

Criminal Code, to increase the punishment in articles 117 and 121A of the said Code, to introduce amendments relating to freezing orders in the Dangerous Drugs Ordinance and in the Prevention of Money Laundering Act and to increase the punishments in cases of breach of any of the provisions of the Explosives Ordinance and the White Slave Traffic (Suppression) Ordinance, to implement amendments to the Police Act regarding the functions of the Malta Police Association and to implement amendments to the Immigration Act in relation to decisions for the return of illegal immigrants.

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