

## ABBOZZ TA' LIĠI msejjah

### *ATT biex jemenda l-Kodiċi Kriminali, Kap. 9*

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

1. It-titolu ta' dan l-Att hu Att ta' l-2007 li jemenda l-Kodiċi Kriminali, u dan l-Att għandu jinqara' u jiftiehem haġa waħda mal-Kodiċi Kriminali, hawnhekk iżjed 'il quddiem imsejjah "il-Kodiċi". Titolu fil-qosor.
2. Fis-subartikolu (1) ta' l-artikolu 121A tal-Kodiċi, minflok il-kliem "sa sena" għandhom jidhlu l-kliem "sa tmintax-il xahar". Emenda ta' l-artikolu 121A tal-Kodiċi.
3. Fis-subartikolu (1) ta' l-artikolu 121B tal-Kodiċi, minflok il-kliem "sa sena" għandhom jidhlu l-kliem "sa tmintax-il xahar". Emenda ta' l-artikolu 121B tal-Kodiċi.
4. Minflok is-subartikolu (3) ta' l-artikolu 433 tal-Kodiċi għandhom jidhlu is-subartikoli li ġejjin: Emenda ta' l-artikolu 433 tal-Kodiċi.

“(3) Fl-ahharnett, l-Avukat Ġenerali jista', fi żmien xahar minn dak in-nhar li jkunu ġew lilu mibghuta l-atti tal-kompilazzjoni, jagħmel rikors quddiem il-Qorti Kriminali għall-hruġ ta' mandat ta' arrest ta' persuna illiberata mill-Qorti tal-Maġistrati. Id-dispożizzjonijiet tas-subartikoli (3A) u (3B) għandhom japplikaw għal rikors magħmul taht dan is-subartikolu.

(3A) Ir-rikors ghandu jiġi appuntat ghas-smiegh u ghandu jiġi notifikat lill-persuna illibera flimkien ma' avvizz tad-data tas-smiegh.

(3B) Meta l-Qorti Kriminali tkun tal-fehema illi hemm raġunijiet biżżejjed biex il-persuna illiberata tiġi mqieghda taht att ta' akkuża hija ghandha, ukoll jekk xi hadd mill-partijiet tonqos milli tidher ghas-smiegh mingħajr raġuni tajba, minnufih toħroġ mandat għall-arrest ta' dik il-persuna; u f'dan il-każ, iż-żmien għall-preżentata ta' l-att ta' akkuża jibda jghodd minn dak in-nhar ta' l-arrest.”.

Dispożizzjonijiet  
transitorji.

**5.** (1) Id-dispożizzjonijiet ta' dan l-artikolu ghandhom japplikaw dwar kull peruna (hawn aktar 'il quddiem f'dan l-artikolu msejja "persuna relevanti") li, qabel il-bidu fis-sehh ta' dan l-Att:

(a) kienet ġiet illiberata mill-Qorti tal-Maġistrati bhala qorti istruttoria u ġiet arrestata mill-ġdid bis-sahha ta' mandat mahruġ mill-Avukat Ġenerali taht id-dispożizzjonijiet ta' l-artikolu 433 tal-Kodiċi qabel ġie emendat b'dan l-Att; u

(b) ma ġietx misjuba hatja jew illiberata, kemm jekk b'sentenza ta' l-ewwel grad kif ukoll jekk f'appell, mill-akkużi kontra tagħha.

(2) Id-dispożizzjonijiet ta' l-artikolu 433 tal-Kodiċi kif emendat b'dan l-Att ghandhom, bla hsara għad-dispożizzjonijiet tas-subartikoli li ġejjin ta' dan l-artikolu, japplikaw dwar persuna relevanti.

(3) Meta rikors taht l-artikolu 433 tal-Kodiċi kif emendat b'dan l-Att isir dwar persuna relevanti bis-sahha ta' dan l-artikolu, id-dispożizzjonijiet li ġejjin ghandhom japplikaw:

(a) iż-żmien ta' xahar imsemmi fl-artikolu 433 tal-Kodiċi kif emendat b'dan l-Att ghandu jibda jghodd mid-data tal-bidu fis-sehh ta' dan l-Att;

(b) ir-rikors ma ghandux ikun fih talba għall-hruġ ta' mandat ta' arrest tal-persuna relevanti iżda minflok ghandu jkun fih talba għal dikjarazzjoni li fid-data li fiha l-persuna relevanti kienet ġiet illiberata kien hemm raġunijiet biżżejjed biex titqieghed taht att ta' akkuża;

(c) jekk il-Qorti Kriminali tkun tal-fehma li fid-data li fiha l-persuna relevanti kienet ġiet illiberata kien hemm raġunijiet biżżejjed biex dik il-persuna tiqieghed taht att ta' akkuża il-qorti

ghandha tiddikjara dan fid-deċizjoni tagħha fuq ir-rikos u ghandha tordna l-kontinwazzjoni tal-proċedimenti kontra l-persuna relevanti;

(d) jekk il-Qorti Kriminali tkun tal-fehema li fid-data li fiha l-persuna relevanti kienet giet illiberata ma kienx hemm raġunijiet biżżejjed biex dik il-persuna titqiegħed taht att ta' akkuża il-qorti ghandha tordna li tiġi illiberata.

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### **Għanijiet u Raġunijiet**

L-għan ta' dan l-Abbozz hu prinċipalment biex isir tibdil fil-Kodiċi Kriminali dwar l-azzjoni li jista' jiehu l-Avukat Ġenerali meta persuna tiġi illiberata mill-Qorti tal-Maġistrati bħala qorti istrutturja, u dan bħala konsegwenza ta' sentenza kostituzzjonali riċenti.

**A BILL  
entitled**

*AN ACT to amend the Criminal Code, Cap. 9.*

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

Short title.

**1.** The title of this Act is the Criminal Code (Amendment) Act, 2007, and this Act shall be read and construed as one with the Criminal Code, hereinafter referred to as “the Code”.

Amendment of article 121A of the Code.

**2.** In sub-article (1) of article 121A of the Code, for the words “to one year” there shall be substituted the words “to eighteen months”.

Amendment of article 121B of the Code.

**3.** In article 121B of the Code, for the words “to one year” there shall be substituted the words “to eighteen months”.

Amendment of article 433 of the Code.

**4.** For sub-article (3) of article 433 of the Code there shall be substituted the following sub-articles:

“(3) Finally, the Attorney General may, within one month from the day on which the record of inquiry shall have been transmitted to him, apply to the Criminal Court for the issue of a

warrant for the arrest of any person discharged by the Court of Magistrates. The provisions of sub-articles (3A) and (3B) shall apply to an application made under this sub-article.

(3A) The application shall be appointed for hearing and shall be served on the person discharged together with a notice of the date of the hearing.

(3B) Where the Criminal Court is of the opinion that there are sufficient grounds for an indictment to be filed against the person discharged it shall, even if any of the parties fails without good cause to make an appearance at the hearing, forthwith issue a warrant for the arrest of that person; and in such case the term for filing the indictment shall commence to run from the day of the arrest.”.

**5.** (1) The provisions of this article shall apply in respect of any person (hereinafter in this article referred to as “relevant person”) who, before the coming into force of this Act:

Transitory  
Provisions.

(a) was discharged by the Court of Magistrates as a court of criminal inquiry and re-arrested in pursuance of a warrant issued by the Attorney General under the provisions of article 433 of the Code before its amendment by this Act; and

(b) has not been convicted or acquitted, whether by a judgement of first instance or on appeal, of the charges against him.

(2) The provisions of article 433 of the Code as amended by this Act shall, subject to the provisions of the following sub-articles of this article, apply in respect of a relevant person.

(3) Where an application under article 433 of the Code as amended by this Act is made in respect of a relevant person by virtue of this article the following provisions shall apply:

(a) the period of one month mentioned in article 433 of the Code as amended by this Act shall commence to run from the date of the coming into force of this Act;

(b) the application shall not contain a request for the issue of a warrant of arrest of the relevant person but shall instead contain a request for a declaration that on the date the relevant person was discharged there were sufficient grounds for an indictment to be filed against him;

(c) if the Criminal Court is of the opinion that on the date the relevant person was discharged there were sufficient grounds for an indictment to be filed against that person the court shall so declare in its decision on the application and shall order the continuation of the proceedings against the relevant person;

(d) if the Criminal Court is of the opinion that on the date the person was discharged there were not sufficient grounds for an indictment to be filed against that person the court shall order his discharge.

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### **Objects and Reasons**

The object of this Bill is mainly to effect amendments in the Criminal Code relating to the action which may be taken by the Attorney General when a person is discharged by the Court of Magistrates as a court of criminal inquiry, consequential to a recent judgment of the Constitutional Court.