

### Abbozz ta' Liġi msejjah

*ATT biex ikompli jemenda l-Kodiċi Kriminali (Kap. 9).*

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.** It-titolu fil-qosor ta' dan l-Att huwa l-Att tal-2013 li jemenda l-Kodiċi Kriminali (Emenda Nru. 4), u dan l-Att għandu jinqara u jinftiehem haġa waħda mal-Kodiċi Kriminali, hawnhekk iżjed 'il quddiem f'dan l-Att imsejjah "il-Kodiċi".

Titolu fil-qosor.  
Kap.9.

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

Sostituzzjoni  
tal-artikolu 35  
tal-Kodiċi.

"Minuri taht l-  
erbatax-il sena.

35. (1) Bla hsara għas-setgħat tal-Ministru taht l-Att dwar Tfal u Żgħażaġħ (Ordniġiet għall-Ħarsien), il-minuri ta' taht l-erbatax-il sena jkunu eżenti minn responsabbiltà kriminali għal kull att jew nuqqas.

Setgħat tal-qorti.

(2) B'dana kollu, f'każ imsemmi fis-subartikolu (1), il-qorti tista', fuq talba tal-Pulizija, iġġiegħel li jidhru quddiemha l-ġenitur jew persuna oħra li jkollha d-dmir tat-trobbija tal-minuri, u, jekk il-fatt allegat bħala magħmul mill-minuri jiġi ppruvat u jkun maħsub mil-liġi bħala reat, il-qorti tista' tobbliġa lill-ġenitur jew lil dik il-persuna l-oħra li jieħdu ħsieb tal-imġiba tal-minuri, taħt penali, jekk jonqsu, ta' somma ta' mhux anqas minn mitt euro (€100) u mhux iżjed minn elfejn euro (€2,000) skont il-mezzi tal-persuna obbligata u l-gravità tal-fatt.

(3) Jekk il-fatt magħmul mill-minuri huwa maħsub mil-liġi bħala reat punibbli b'ammenda, il-qorti tista', minflok ma tapplika d-dispożizzjonijiet tas-subartikolu (2), tikkundanna għal dik il-piena lill-ġenitur jew lill-persuna li jkollha d-dmir tat-trobbija tal-minuri, jekk il-fatt seta' jiġi evitat bid-diligenza tagħhom.

(4) Għall-fini tal-applikazzjoni tad-dispożizzjonijiet imsemmijin fis-subartikoli ta' qabel dan l-artikolu, il-ġenitur jew il-persuna li jkollha d-dmir tat-trobbija tal-minuri kif jingħad hawn qabel, jiġu msejha biex jidhru, b'ċitazzjoni, bil-mod li jingħad fit-Tieni Ktieb ta' dan il-Kodiċi."

Thassir tal-artikolu 36 tal-Kodiċi.

3. L-artikolu 36 tal-Kodiċi għandu jiġi mħassar.

Sostituzzjoni tal-artikolu 37 tal-Kodiċi.

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

"Minuri taħt is-sittax-il sena li jaġixxu mingħajr hazen.

37. (1) Il-minuri ta' taħt is-sittax-il sena jkun ukoll eżenti minn responsabbiltà kriminali għal kull att jew nuqqas magħmul mingħajr hazen.

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

5. Fil-paragrafu (h) tas-subartikolu (1) tal-artikolu 339 tal-Kodiċi, minflok il-kliem "barra mill-qies;" there shall be substituted the words "barra mill-qies:" u minnufih wara għandu jżied il-proviso li ġej:

Emenda tal-artikolu 339 tal-Kodiċi.

"Izda, biex jiġi evitat kull dubju, swat tal-ġisem ta' kull tip għandu dejjem jitqies li jkun barra mill-qies."

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#### Għanijiet u Raġunijiet

L-għanijiet ta' dan l-Abbozz ta' Liġi huma biex jiġu emendati d-dispożizzjonijiet tal-Kodiċi Kriminali li jirrigwardaw l-eżenzjoni mir-responsabbiltà kriminali ta' minuri taħt l-erbatax-il sena u minuri taħt is-sittax-il sena li jaġixxu mingħajr hażen, u d-dispożizzjonijiet dwar il-moderazzjoni meta haddiehor qed jiġi mwiddeb.

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**A Bill  
entitled**

*AN ACT to further 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 short title of this Act is the Criminal Code (Amendment No. 4) Act, 2013, and this Act shall be read and construed as one with the Criminal Code, hereinafter in this Act referred as "the Code".

Cap. 9.

Substitution of  
article 35 of the  
Code.

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

"Minors under  
fourteen years  
of age.

35. (1) 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.

Powers of the court.

(2) Nevertheless, in a case referred to in subarticle (1), the court may, on the application of the Police, require the parent or other person charged with the upbringing of the minor to appear before it, and, if the fact alleged to have been committed by the minor is proved and is contemplated by the law as an offence, the court may bind over the parent or other person to watch over the conduct of the minor under penalty for non-compliance of a sum of not less than one hundred euro (€100) and not exceeding two thousand euro (2,000), regard being had to the means of the person bound over and to the gravity of the fact.

(3) If the fact committed by the minor is contemplated by the law as an offence punishable with a fine (*ammenda*), the court may, in lieu of applying the provisions of subarticle (2), award the punishment against the parent or other person charged with the upbringing of the minor, if the fact could have been avoided by his diligence.

(4) For the purpose of the application of the provisions of the preceding subarticles of this article, the parent or other person charged with the upbringing of the minor as aforesaid, shall be required to appear, by summons, in accordance with the provisions contained in Book Second of this Code."

3. Article 36 of the Code shall be deleted.

Repeal of article 36 of the Code.

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

Substitution of article 37 of the Code.

"Minors under sixteen years of age acting without mischievous discretion.

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.

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(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."

Amendment of article 339 of the Code.

5. In paragraph (h) of sub-article (1) of article 339 of the Code, for the words "of moderation;" there shall be substituted the words "of moderation:" and immediately thereafter there shall be added the following proviso:

"Provided that, for the avoidance of any doubt, corporal punishment of any kind shall always be deemed to exceed the bounds of moderation."

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### **Objects and Reasons**

The objects of this Bill are to amend the provisions of the Criminal Code regarding the exemption from criminal responsibility of minors under fourteen years of age and minors under sixteen years of age acting without mischievous discretion, and the provisions relating to moderation in correcting another person.

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