

Nru. 4

11. 04. 2013

MALTA

KAMRA TAD-DEPUTATI

ABBOZZ ta' Liġi mressaq mill-Onorevoli Owen Bonnici, M.P., Segretarju Parlamentari għall-Ġustizzja, f'isem il-Ministru għall-Intern u s-Sigurtà Nazzjonali, u moqri għall-Ewwel darba fis-Seduta tal-10 ta' April, 2013.

ATT biex jemenda l-Kodiċi Kriminali, u biex jemenda, bhala konsegwenza, il-Kodiċi Ċivili.

RAYMOND SCICLUNA
Skrivan tal-Kamra tad-Deputati

HOUSE OF REPRESENTATIVES

A BILL introduced by the Honourable Owen Bonnici, M.P., Parliamentary Secretary for Justice, on behalf of the Minister for Home Affairs and National Security, and read the First time at the Sitting of the 10th April, 2013.

AN ACT to amend the Criminal Code, and to amend, consequentially, the Civil Code.

RAYMOND SCICLUNA
Clerk of the House of Representatives

ABBOZZ TA' LIĠI msejjah

ATT biex jemenda l-Kodiċi Kriminali, u biex jemenda, bħala konsegwenza, il-Kodiċi Ċivili.

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

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

Titolu fil-qosor.

Kap. 9.

2. L-artikolu 115 tal-Kodiċi għandu jiġi emendat kif ġej:

Emenda tal-artikolu 115 tal-Kodiċi.

(a) l-artikolu 115 għandu jiġi enumerat mill-ġdid bħala l-artikolu 115(1); u

(b) minnufih wara l-artikolu 115(1), kif enumerat mill-ġdid, għandu jiżdied dan is-subartikolu ġdid li ġej:

"(2) Minkejja kull dispożizzjoni oħra ta' dan il-Kodiċi jew ta' kull liġi oħra, meta d-delitt kontra d-dispożizzjonijiet ta' dan l-artikolu jkun sar minn persuna li, fiż-żmien meta kien sar id-delitt, kellha l-kariga ta' Ministru, Segretarju Parlamentari, Membru tal-Kamra tad-Deputati, Sindku jew Kunsillier, u d-delitt ikun jinvolvi l-abbuż ta' dik il-kariga, id-dispożizzjonijiet tat-Titolu VI tat-Taqsima III tat-Tieni Ktieb ta' dan il-Kodiċi ma japplikawx."

3. 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

(c) fil-paragrafu (c) 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.

4. L-artikolu 120 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 ġdid li ġej:

"Izda meta d-delitt huwa dak imsemmi fl-artikolu 117(c), il-piena ma tistax tkun iżjed minn tmintax-il xahar prigunerija."

Emenda tal-artikolu 121A tal-Kodiċi.

5. L-artikolu 121A tal-Kodiċi għandu jiġi emendat kif ġej:

(a) minflok il-kliem "xi persuna li hemm imsemmija fl-artikoli preċedenti ta' dan is-sub-titolu" għandhom jidhlu l-kliem "xi persuna li hemm imsemmija fl-artikoli preċedenti ta' dan is-sub-titolu u ta' xi persuna oħra"; u

(b) minflok il-kliem "minn tliet xhur sa tmintax-il xahar" għandhom jidhlu l-kliem "minn tliet snin sa tmien snin".

Emenda tal-artikolu 121B tal-Kodiċi.

6. Fl-artikolu 121B tal-Kodiċi, il-kliem "taht l-artikoli preċedenti ta' dan is-sub-titolu" għandhom jiġu mhassra.

Emenda konsegwenzjali tal-Kodiċi Ċivili. Kap. 16.

7. Fl-artikolu 1051A tal-Kodiċi Ċivili minnufih wara s-sub-artikolu (7) għandu jidhol is-sub-artikolu ġdid kif ġej:

"(8) L-eċċezzjoni tal-preskrizzjoni ma tistax tingħata kontra l-Gvern jew kontra xi Kunsill Lokali jew kontra xi korp magħqud imwaqqaf b'liġi f'azzjoni għall-irkupru ta' danni taht dan l-artikolu li tkun imsejsa fuq att ta' korruzzjoni li jkun twettaq mill-persuna mharrka b'abbuż tal-kariga tagħha waqt li dik il-persuna kienet tokkupa l-kariga ta' Ministru, Segretarju Parlamentari, Membru tal-Kamra tad-Deputati, Sindku jew Kunsillier."

Ghanijiet u Raġunijiet

L-Ghanijiet u Raġunijiet ta' dan l-Abbozz ta' Liġi huma sabiex jitneħħa l-perjodu ta' preskrizzjoni dwar ir-reat ta' korruzzjoni li jsir minn persuni eletti għal kariga politika, u sabiex ikomplu jiġu implimentati d-dispożizzjonijiet tal-Konvenzjoni dwar il-Liġi Kriminali fuq il-Korruzzjoni tal-Kunsill tal-Ewropa. L-abbozz jinkludi ukoll emenda konsegwenzjali għall-Kodiċi Ċivili li teskludi l-eċċezzjoni tal-preskrizzjoni f'kawżi għall-irkupru ta' danni sofferti mill-Gvern, minn Kunsilli Lokali jew minn entitajiet pubbliċi oħra b'riżultat ta' att ta' korruzzjoni ta' detentur elett ta' kariga politika .

**A BILL
entitled**

AN ACT to amend the Criminal Code, and to amend, consequentially, the Civil Code.

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.

Cap. 9.

Amendment of
article 115 of
the Code.

1. The short title of this Act is the Criminal Code (Amendment) Act, 2013, and this Act shall be read and construed as one with the Criminal Code, hereinafter referred to as "the Code".

2. Article 115 of the Code shall be amended as follows:

(a) article 115 shall be renumbered as article 115(1);
and

(b) immediately after article 115(1) as renumbered, there shall be added the following new sub-article:

"(2) Notwithstanding any other provision of this Code or of any other law, when the offence against the provisions of this article is committed by a person who, at the time when the offence was committed, held the office of Minister, Parliamentary Secretary, Member of the House of Representatives, Mayor or Local Councillor and the offence involved the abuse of such office, the provisions of Title VI of Part III of Book Second of this Code shall not apply."

Amendment of
article 117 of
the Code.

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

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

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

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

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

Amendment of
article 120 of
the Code.

(a) in sub-article (2) thereof the words "to three years." shall be substituted by the words "to three years."; and

(b) immediately after sub-article (2) thereof, there shall be added the following new proviso:

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

5. Sub-article (1) of article 121A of the Code shall be amended as follows:

Amendment of
article 121A of
the Code.

(a) the words "of any person referred to in the preceding articles of this sub-title" shall be substituted by the words "of any person referred to in the preceding articles of this sub-title and of any other person"; and

(b) the words "from three months to eighteen months" shall be substituted by the words "from three years to six years".

6. In article 121B of the Code, the words "under the preceding articles of this sub-title" shall be deleted.

Amendment of
article 121B of
the Code.

7. In article 1051A of the Civil Code immediately after sub-article (7) there shall be added the following new sub-article:

Consequential
amendment to
the Civil Code.
Cap. 16.

"(8) Prescription may not be set up against the Government or against a Local Council or against a body corporate established by law in an action to recover damages under this article based on an act of corruption committed by the defendant through abuse of his office whilst holding the office of Minister, Parliamentary Secretary, Member of the House of Representatives, Mayor or Local Councillor."

Objects and Reasons

The Objects and Reasons of this Bill are to remove the applicability of prescription to the offence of corruption when committed by persons elected to political office, and to further implement the provisions of the Criminal Law Convention on Corruption of the Council of Europe. The Bill also includes a consequential amendment to the Civil Code which excludes the plea of prescription in actions for the recovery of damages suffered by the Government, by a Local Council or by other public entities as a result of an act of corruption of a an elected holder of political office.

