

Suppliment tal-Gazzetta tal-Gvern ta' Malta, Nru. 20,016, 26 ta' Ġunju, 2018
Taqsim C

Nru. 47

26. 06. 2018

MALTA

KAMRA TAD-DEPUTATI

ABBOZZ ta' Liġi mressaq mill-Onorevoli Claudio Grech, M.P. u moqri għall-Ewwel darba fis-Seduta tal-25 ta' Ġunju 2018.

ATT biex jemenda l-Kodiċi Ċivili, Kap. 16 u l-Kodiċi Kriminali, Kap. 9, biex jipprova għall-immunità mir-responsabbiltà f'każijiet ta' salvatagg jew tentattiv ta' salvatagg.

RAYMOND SCICLUNA
Skrivan tal-Kamra tad-Deputati

HOUSE OF REPRESENTATIVES

A BILL introduced by the Honourable Claudio Grech, M.P., and read the First time at the Sitting of the 25th June 2018.

AN ACT to amend the Civil Code, Cap. 16 and the Criminal Code, Cap. 9, in order to make provision for immunity from liability in cases of rescue or attempted rescue.

RAYMOND SCICLUNA
Clerk of the House of Representatives

ABBOZZ TA' LIĠI msejjah

ATT biex jemenda l-Kodiċi Ċivili, Kap. 16 u l-Kodiċi Kriminali, Kap. 9, biex jipprovdi għall-immunità mir-responsabbiltà f'kazijiet ta' salvataġġ jew tentattiv ta' salvataġġ.

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

1. (1) It-titolu fil-qosor ta' dan l-Att hu l-Att tal-2018 li jemenda l-Kodiċi Ċivili u l-Kodiċi Kriminali u dan l-Att għandu jinqara u jinftiehem haġa waħda mal-Kodiċi Ċivili u l-Kodiċi Kriminali rispettivament.

Titolu fil-qosor u dhul fis-seħh. Kap. 16. Kap. 9.

(2) Dan l-Att għandu jidhol fis-seħh f'dik id-data li l-Ministru responsabbli għall-Gustizzja jista' b'avviż fil-Gazzetta jistabbilixxi, u jistgħu jiġu stabbiliti dati differenti għal dispożizzjonijiet u għanijiet differenti ta' dan l-Att.

TAQSIMA I

Emenda għall-Kodiċi Kriminali

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 msejjaħ "il-Kodiċi".

Emenda tal-Kodiċi Kriminali. Kap. 9.

3. Minnufih wara l-artikolu 226B tal-Kodiċi, għandu jiżdied dan l-artikolu ġdid li ġej:

Żjieda tal-artikolu 226B ġdid fil-Kodiċi.

"Omicidju involontarju jew offiża fuq il-persuna kkawżati waqt tentattiv ta' salvatagg.

226Ċ. Minkejja d-dispożizzjonijiet tal-artikoli 225, 226 u 226A, persuna m'għandhiex tkun responsabbli kriminalment jekk, ikkonfrontata b'periklu attwali jew imminenti lil persuna oħra, tiegħu l-azzjoni meħtieġa sabiex tiżgura s-sigurtà ta' dik il-persuna, anke jekk l-azzjoni fil-fatt ma tiżgurax is-sigurtà tal-persuna:

Iżda dan l-artikolu ma japplikax fil-każ meta l-mezzi użati jkunu sproporzjonati għall-gravità tat-theddida."

TAQSIMA II

Emenda għall-Kodiċi Ċivili

Emenda tal-Kodiċi Ċivili. Kap. 16.

4. Din it-Taqsima temenda l-Kodiċi Ċivili u għandha tinqara u tinftiehem haġa waħda mal-Kodiċi Ċivili, hawnhekk iżjed 'il quddiem f'din it-Taqsima msejjaħ "il-Kodiċi".

Żjieda tal-artikoli ġodda 1033A u 1033B fil-Kodiċi.

5. Minnufih wara l-artikolu 1033 tal-Kodiċi, għandhom jiżdiedu l-artikoli l-ġodda li ġejjin:

"Eżenzjoni f'każ ta' salvataġġ.

1033A. Minkejja d-dispożizzjonijiet tal-artikoli 1031, 1032 u 1033, kull persuna li fi twettiq ta' salvataġġ, tgħin lil haddieħor, m'għandha tkun responsabbli għall-ebda dannu kkawżat waqt dak is-salvataġġ, lil persuna fil-bżonn, lil proprjetà tagħha jew lil terzi persuni jew lil proprjetà tagħhom:

Iżda l-persuna li twettaq is-salvataġġ tista' tkun responsabbli għal atti mwettqa b'negligenza kbira u intenzjonati.

Responsabbiltà għal dannu kkawżat lil persuna li twettaq is-salvataġġ.

1033B. Kull persuna li tgħin lil haddieħor għandu jkollha d-dritt li titlob mingħand il-vittma, id-danni attwali sostnuti lil persuna tagħha jew lil proprjetà tagħha waqt is-salvataġġ, jekk is-sitwazzjoni tkun irriżultat minn atti li jkunu imputabbli lil vittma:

Iżda fejn ma jkunx ċar li s-sitwazzjoni irriżultat minn atti imputabbli lil vittma, bħal fil-każ ta' incident ta' traffiku, l-oneru tal-prova tat-tort tal-vittma jaqa' fuq il-persuna li tkun wettqet l-att ta' salvataġġ."

Ghanijiet u Raġunijiet

L-għan ta' dan l-Abbozz huwa sabiex jiddaħhal il-kunċett tas-Samaritan it-Tajjeb u b'hekk jipprovdi għall-immunità mir-responsabbiltà f'każijiet ta' salvataġġ jew tentattiv ta' salvataġġ ta' persuni kkonfrontati b'perikolu attwali u imminenti.

C 990

**A BILL
entitled**

AN ACT to amend the Civil Code, Cap. 16 and the Criminal Code, Cap. 9, in order to make provision for immunity from liability in cases of rescue or attempted rescue.

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 date for coming into force.
Cap. 16.
Cap. 9.

1. (1) The short title of this Act is the Civil Code (Amendment) Act and the Criminal Code (Amendment) Act, 2018, and this Act shall be read and construed as one with the Civil Code and the Criminal Code respectively.

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

PART I

Amendment to the Criminal Code

Amendment 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 to as "the Code".

Adds new article 226B to the Code.

3. Immediately after article 226B of the Code, there shall be added the following new article:

"Involuntary homicide or bodily harm in the course of a rescue attempt.

226C. Notwithstanding the provisions of articles 225, 226 and 226A, a person will not be criminally liable if, confronted with a present or imminent danger to another person, he performs an act necessary to ensure the safety of that person, whether or not the act actually ensures the safety of the person:

Provided that this article shall not apply where the means used are disproportionate to the seriousness of the threat."

PART II

Amendment to the Civil Code

4. This Part amends the Civil Code, and it shall be read and construed as one with the Civil Code, hereinafter in this part referred to as "the Code".

Amendment to the Civil Code. Cap. 16.

5. Immediately after article 1033 of the Civil Code, there shall be added the following new articles:

Adds new articles 1033A and 1033B to the Code.

"Exemption in case of rescue.

1033A. Notwithstanding the provisions of articles 1031, 1032 and 1033, any person who in the performance of a rescue comes to another person's aid, shall not be liable for any damage caused, in the course of that rescue, to the person in need, his property or to third parties or third party property:

Provided that the person performing the rescue may be held liable for gross negligence and intent.

Liability for damage caused to rescuer.

1033B. Any person coming to another person's aid, shall be entitled to claim from the victim, actual damages sustained to his person or his property in the course of the rescue, if the situation was brought about by acts imputable to the victim:

Provided that where it is unclear whether the situation was brought about by acts imputable to the victim, such as in the case of a traffic accident, it shall be incumbent on the person coming to another's rescue to prove that the victim was at fault."

C 992

Objects and Reasons

The object of this Bill is to introduce the concept of the Good Samaritan and therefore to make provision for immunity from liability in cases of rescue or attempted rescue of persons confronted with a present or imminent danger.
