

Naghti l-kunsens tieghi.

(L.S.)

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Agent President

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ATT Nru. XVI ta' l-2006

ATT biex 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 ta' l-istess, hareġ b'liġi dan li ġej:-

1. (1) It-titolu ta' dan l-Att hu Att ta' l-2006 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 u bidu fis-sehh.

(2) Dan l-Att għandu jibda jsehh f'dik id-data li l-Ministru responsabbli għall-ġustizzja jista' jstabbilixxi b'avviż fil-Gazzetta, u jistgħu jiġu appuntati dati differenti għal disposizzjonijiet differenti jew għal għanijiet differenti ta' dan l-Att.

2. Id-disposizzjoni li hemm fl-artikolu 85 tal-Kodiċi għandha tiġi enumerata mill-ġdid bħala s-subartikolu (1) tiegħu u minnufih wara għandu jidhol is-subartikolu ġdid li ġej:

Emenda ta' l-artikolu 85 tal-Kodiċi.

“(2) Id-disposizzjonijiet tas-subartikolu (5) ta' l-artikolu 377 japplikaw f'kull każ ta' sejbien ta' htija taht is-subartikolu (1) ta' dan l-artikolu u meta l-ghemil tal-hati jkun irriżulta filli persuna ohra tbatl spoll il-qorti għandha tapplika d-disposizzjonijiet ta' dak is-subartikolu sabiex tassigura li l-persuna li batiet l-ispoll titqiegħed għal kollox fl-istat ta' qabel ma batiet l-ispoll.”.

Emenda ta' l-artikolu 104 tal-Kodiċi.

3. Is-subartikolu (2) ta' l-artikolu 104 tal-Kodiċi ghandu jiġi emendat kif ġej:

(a) minflok il-kliem “dik il-piena akbar:” ghandhom jidhlu l-kliem “dik il-piena akbar.”;

(b) il-proviso li hemm mieghu ghandu jithassar.

Emenda ta' l-artikolu 222A tal-Kodiċi.

4. Id-disposizzjoni preżenti ta' l-artikolu 222A tal-Kodiċi ghandha tiġi enumerata mill-ġdid bħala s-subartikolu (1) tiegħu u minnufh wara dan ghandhom jiżdiedu dawn is-subartikoli ġodda li ġejjin:

“(2) Il-pieni stabbiliti fid-disposizzjonijiet ta' qabel ta' dan is-sub-titolu ghandhom ukoll jiżdiedu minn grad sa żewġ gradi meta r-reat ikun aggravat għal raġunijiet li ghandhom x'jaqsmu ma' razza jew reliġjon fi hdan it-tifsira mogħtija f'dawn is-subartikoli li ġejjin.

(3) Reat ikun aggravat għal raġunijiet li ghandhom x'jaqsmu ma' razza jew reliġjon meta:

(a) fil-waqt li fih isir ir-reat, jew minnufih qabel l-ghemil tar-reat, il-hati juri lejn il-vittma tar-reat ostilità li tkun ibbażata fuq il-fatt li l-vittma tkun tappartjeni (jew preżunta li tappartjeni) għal grupp razzjali jew reliġjuż; jew

(b) ir-reat ikun motivat, ghalkollox jew b'mod parzjali, minn ostilità lejn membri ta' grupp razzjali ibbażata fuq il-fatt li dawn ikunu jappartjenu għal dak il-grupp.

(4) Fil-paragrafu (a) tas-subartikolu (3):

“jappartjeni għal”, għar-rigward ta' grupp razzjali jew reliġjuż, tinkludi assoċjazzjoni ma' membri ta' dak il-grupp;

“preżunta” tfisser preżunta mill-hati.

(5) Għall-finijiet tal-paragrafu (a) jew (b) tas-subartikolu (3) m'ghandu jiġi tenut ebda kont dwar jekk l-ostilità tal-hati tkun jew ma tkunx ibbażata, f'xi limitu jew iehor, fuq xi fattur iehor li m'huwiex imsemmi f'dak il-paragrafu.

(6) F'dan l-artikolu:

“grupp razzjali” tfisser grupp ta’ persuni definit b’riferenza għal razza, kulur, nazzjonalità (inkluża ċittadinanza) jew l-oriġini etnika jew nazzjonali;

“grupp reliġjuż” tfisser grupp ta’ persuni definit b’riferenza għal twemmin reliġjuż jew nuqqas ta’ twemmin reliġjuż.”.

5. Minnufih wara l-artikolu 251C tal-Kodiċi għandu jiżdied dan l-artikolu 251D ġdid li ġej:

Żjieda ta’
l-artikolu 251D
ġdid mal-Kodiċi.

“Żjieda
fil-piena
f’ċerti
każijiet.

251D. Il-pieni stabbiliti fid-disposizzjonijiet ta’ qabel ta’ dan is-sub-titolu għandhom jiżdiedu minn grad sa żewġ gradi meta r-reat ikun aggravat għal raġunijiet li għandhom x’jaqsmu ma’ razza jew reliġjon fi hdan it-tifsira mogħtija fis-subartikoli (3) sa (6), it-tnejn inklużi, ta’ l-artikolu 222A.”.

6. Minnufih wara l-artikolu 325 tal-Kodiċi għandu jidhol dan l-artikolu ġdid li ġej:

Żjieda ta’
l-artikolu 325A
ġdid mal-Kodiċi.

“Żjieda
ta’ piena
f’ċerti
każijiet.

325A. (1) Il-pieni stabbiliti fid-disposizzjonijiet ta’ qabel ta’ dan is-sub-titolu għar-rigward ta’ reat rilevanti għandhom jiżdiedu minn grad sa żewġ gradi meta r-reat ikun aggravat għal raġunijiet li għandhom x’jaqsmu ma’ razza jew reliġjon fi hdan it-tifsira mogħtija fis-subartikoli (3) sa (6), it-tnejn inklużi, ta’ l-artikolu 222A.

(2) Għall-finijiet ta’ dan l-artikolu “reat rilevanti” tfisser kull wiehed mir-reati taht l-artikoli 311, 312, 314A, 316, 317 sa 320, it-tnejn inklużi, u 325.”.

7. Fil-paragrafu (z) ta’ l-artikolu 338 tal-Kodiċi, minflok il-kliem “ikollha tithallas dik is-somma;” għandhom jidhlu l-kliem “ikollha tithallas dik is-somma:” u minnufih wara għandu jidhol il-proviso ġdid li ġej:

Emenda ta’ l-
artikolu 338 tal-
Kodiċi.

“Izda, minkejja kull disposizzjoni ohra ta’ dan il-Kodiċi, l-azzjoni kriminali għal reat taht dan il-paragrafu taqa’ bi preskrizzjoni bl-gheluq ta’ sitt xhur;”.

8. Minnufih wara s-subartikolu (2) ta’ l-artikolu 391 tal-Kodiċi għandu jiżdied dan is-subartikolu ġdid li ġej:

Emenda ta’ l-
artikolu
391 tal-Kodiċi.

“(3) Meta x-xhud ikun minuri ta’ taht is-sittax-il sena, ix-xhud għandu jiġi eżaminat u kontro-eżaminat f’seduta wahda u x-

xiehda tiegħu għandha tiġi reġistrata b'mezzi awdjo-viżivi. Ir-reġistrazzjoni awdjo-viżiva għandha tkun tagħmel parti mill-inkartament tal-proċedimenti:

Iżda għal raġunijiet speċjali u eċċezzjonali li jinqalghu wara li x-xhud ikun ta x-xhieda tiegħu, il-Qorti tista' tawtorizza s-smigh ta' l-istess xhud f'xi seduta oħra wara.”.

Emenda ta' l-artikolu 401 tal-Kodiċi.

9. Minnufih wara s-subartikolu (3) ta' l-artikolu 401 tal-Kodiċi għandu jiżdied dan li ġej:

“(3A) Meta l-qorti tqiegħed lill-imputat taht att ta' akkuza quddiem il-Qorti Kriminal, il-qorti għandha, minbarra li tagħti l-ordni msemmija fis-subartikolu (3), taggorna l-każ għal data oħra, li tkun data mhux aktar kmieni minn xahar iżda mhux aktar tard minn sitt ġimgħat mid-data ta' l-aġġornament. Il-qorti għandha wkoll taggorna l-każ għal data oħra kif ingħad wara li tkun irċeviet lura mingħand l-Avukat Ġenerali l-atti tal-kumpilazzjoni u qabel ma tibgħat l-atti lura lill-Avukat Ġenerali skond xi disposizzjoni ta' dan il-Kodiċi.”.

Emenda ta' l-artikolu 416 tal-Kodiċi.

10. Minnufih wara s-subartikolu (3) ta' l-artikolu 416 tal-Kodiċi għandu jidhol is-subartikolu ġdid li ġej:

“(3A) In-nuqqas li ssir dikjarazzjoni ta' l-appell kif mahsub fis-subartikolu (3) ma jkunx ta' ostakolu li l-parti misjuba hatja tappella mis-sentenza sakemm l-appell isir fiż-żmien mogħti biex isir l-appell.”.

Żjieda ta' l-artikoli 532A u 532B godda mal-Kodiċi.

11. Minnufih wara l-rtikolu 532 tal-Kodiċi Kriminali għandhom jiżdiedu dawn l-artikoli godda li ġejjin:

“Ordnijiet għall-hlas ta' danni meta tingħata s-sentenza.

532A. Id-disposizzjonijiet ta' l-artikolu 24 ta' l-Att dwar il-*Probation* għar-rigward tas-setgħa li għandha l-qorti li tordna lill-hati jhallas id-danni għandhom ukoll *mutatis mutandis* japplikaw kull meta jiġri li persuna tingħata sentenza wara li tkun insabet hatja ta' delitt.

Hlas ta' spejjeż.

532B. Meta persuna tinsab hatja ta' delitt punibbli bi priġunerija huwa jkollu jhallas dawk l-ammonti għar-rigward ta' spejjeż skond ma l-Ministru jista' jistabbilixxi permezz ta' regolamenti. Dawk ir-regolamenti jistgħu jispeċifikaw id-delitti u, jew il-proċedimenti li dwarhom ikunu japplikaw ir-regolamenti kif ukoll liema parti ta' l-ispejjeż tkun tista' tiġi konvertita fi priġunerija u liema parti tkun tista' tingabar bhala

dejn ċivili, jew li l-ammont kollu jkun jista' jiġi hekk konwertit jew hekk jingabar, u l-proċedura applikabbli f'kull każ.”.

12. Minnufih wara l-artikolu 546(4) tal-Kodiċi għandu jiżdied dan is-subartikolu ġdid li ġej:

Emenda ta' l-artikolu 546 tal-Kodiċi.

“(4A) Meta r-rapport, id-denunzja jew il-kwerela jsiru lil Maġistrat taht dan l-artikolu minn xi persuna li ma tkunx l-Avukat Ġenerali jew uffiċjal tal-pulizija, ir-rapport, id-denunzja jew il-kwerela għandhom isemmu ċar lill-persuna suspettata li għamlet ir-reat (hawn iżjed 'il quddiem f' dan l-artikolu imsejha “il-persuna suspettata”). Il-Maġistrat għandu jordna li r-rapport, id-denunzja jew il-kwerela, skond ma jkun il-każ, jiġi notifikat lill-persuna suspettata filwaqt li jagħtiha żmien għal risposta u wara li jgħaddi dak iż-żmien il-Maġistrat għandu jiddeċiedi jekk jagħmilx l-aċċess. Il-Maġistrat għandu jiddeċiedi li jagħmel l-aċċess biss jekk ikun stabbilixxa li l-prerekwiżiti mehtiega biex isir dak l-aċċess ikunu jeżistu.

(4B) Id-deċizjoni tal-Maġistrat taht is-subartikolu (4A) għandha tiġi notifikata lill-persuna li għamlet ir-rapport, denunzja jew il-kwerela u lill-persuna suspettata. Kull wiehed minnhom jista', fi żmien jumejn tax-xogħol mid-data tan-notifika tad-deċizjoni, jagħmel rikors lill-Qorti Kriminali biex tiġi revokata d-deċizjoni tal-Maġistrat u l-Qorti Kriminali għandha tagħti d-deċizjoni tagħha fuq ir-rikors bl-urġenza.

(4C) F'kull każ fejn ikun ser isir aċċess taht id-disposizzjonijiet tas-subartikoli (4A) u (4B) il-Maġistrat li jmexxi l-aċċess għandu jingħazel bil-polza minn fost il-Maġistrati kollha.”.

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

Emenda ta' l-artikolu 550 tal-Kodiċi.

(a) fis-subartikolu (1), minflok il-kliem “minghajr ma jkun jinhtieg li jinstemgħu” għandha tidhol il-kelma “u” u minflok il-kliem “fl-aċċess” għandhom jidhlu l-kliem “fl-aċċess ma jstgħux jingiebu biex jagħtu xiehda fl-inkjesta quddiem il-Qorti tal-Maġistrati bhala qorti istruttoria.”;

(b) minflok is-subartikolu (2) għandu jidhol dan li ġej:

“(2) Madankollu il-Pulizija tkun tista' ġġib lil kull waħda mill-persuni msemmija fis-subartikolu (1) biex tagħti xiehda fil-kumpilazzjoni quddiem il-Qorti tal-Maġistrati bhala qorti istruttoria fuq materji speċifiċi u biex l-Avukat Ġenerali jġib lil kull min irid minn dawk l-persuni skond id-

disposizzjonijiet ta' l-artikolu 405. Il-persuna mixlija tkun tista' wkoll iġġib lil kull minn trid minn dawk il-persuni bil-ghan li jsirilha kontro-eżami.” .

Emenda ta' l-artikolu 550A tal-Kodiċi.

14. Minnufih wara s-subartikolu (2) ta' l-artikolu 550A tal-Kodiċi għandu jiżded dan is-subartikolu ġdid li ġej:

“(3) Wara li jiskadu s-sittin ġurnata msemmija fis-subartikolu (1) kull min ikollu interess jista' jagħmel rikors fejn jitlob lill-maġistrat li huwa jinstema' bhala xhud, jew li jinstemghu bhala xhieda il-persuni indikati fir-rikors. Ir-rikors għandu jiġi notifikat lill-Avukat Ġenerali li jkollu erbat ijiem żmien biex jirrispondi.”.

Żjieda ta' l-artikolu 575A mal-Kodiċi.

15. Minnufih wara l-artikolu 575 tal-Kodiċi għandu jiżded dan l-artikolu ġdid li ġej:

“Helsien taht garanzija fil-każ ta' reati skedati.

575A. (1) Mingħajr hsara għad-disposizzjonijiet tas-subartikolu (6) ta' l-artikolu 574A iżda minkejja kull disposizzjoni ohra ta' dan il-Kodiċi jew ta' xi liġi ohra, meta l-Qorti tal-Maġistrati f' kull żmien tordna l-helsien mill-arrest ta' persuna li:

(a) tkun akkużata b'reat skedat u li tkun reċidiva skond l-artikoli 50 u 51; u

(b) tkun ġiet qabel misjuba hatja ta' reat skedat b'sentenza li tkun għaddiet b'ġudikat,

l-ordni tal-Qorti għandu jingħata fil-qorti bil-miftuh f'data li tkun ġiet notifikata minn qabel lill-prosekuzzjoni u lill-persuna akkużata u għandu jiġi notifikat lill-Avukat Ġenerali mhux aktar tard mill-ġurnata tax-xogħol li jkun imiss.

(2) L-Avukat Ġenerali jista', mhux aktar tard mill-ġurnata tax-xogħol li jkun imiss wara d-data tan-notifika lill ta' l-ordni tal-Qorti tal-Maġistrati, jagħmel rikors quddiem il-Qorti Kriminali sabiex jitlob it-thassir jew tibdil ta' l-ordni u l-Qorti Kriminali għandha tahtar ġurnata għas-smiġh tar-rikors li tkun mhux aktar tard minn jumejn tax-xogħol minn meta ġie preżentat ir-rikors. Il-Qorti Kriminali għandha tagħti d-deċiżjoni tagħha fuq ir-rikors bl-urgenza.

(3) L-esekuzzjoni ta' l-ordni tal-Qorti tal-Maġistrati li jordna l-helsien mill-arrest tal-persuna akkużata għandha tiġi sospiżza tul iż-żmien mogħti lill-Avukat Ġenerali

biex jagħmel rikors lill-Qorti Kriminali taht dan l-artikolu u, wara li jsir ir-rikors, sakemm il-Qorti Kriminali tagħti d-deċiżjoni tagħha.

(4) Id-disposizzjonijiet tas-subartikolu (1) ta' l-artikolu 575 għandhom japplikaw ukoll fil-każ ta' persuna akkużata b'reat skedat.

(5) Għall-finijiet ta' dan l-artikolu "reat skedat" tfisser reat minn dawk elenkati fi Skeda D li tinsab ma' dan il-Kodiċi."

16. L-artikolu 579 tal-Kodiċi għandu jiġi emendat kif ġej:

Emenda ta' l-artikolu 579 tal-Kodiċi.

(a) id-disposizzjoni preżenti tiegħu għandha tiġi enumerata mill-ġdid bhala s-subartikolu (1) tiegħu; u

(b) minnfih wara s-subartikolu (1) tiegħu kif enumerat mill-ġdid għandhom jidhlu s-subartikoli ġodda li ġejjin:

“(2) Kull persuna li tonqos milli thares xi wahda mill-kondizzjonijiet imposti mill-qorti fid-digriet tagħha li bih tagħti l-helsien mill-arrest taht garanzija tkun hatja ta' reat u tehel, meta tinsab hatja, il-piena ta' multa jew ta' priġunerija għal żmien ta' mhux aktar minn sitt xhur, jew għal multa u priġunerija flimkien.

(3) Minkejja d-disposizzjonijiet ta' xi liġi, kull persuna akkużata b'reat kif imsemmi fis-subartikolu (2) għandha tiġi mressqa l-Qorti taht arrest, u l-Pulizija tkun tista', fl-istess proċedimenti, titlob ir-revoka tal-helsien mill-arrest u l-arrest mill-ġdid ta' dik il-persuna. Il-proċedimenti għal reat taht is-subartikolu (2) għandhom jittiehdu mill-Pulizija u jiġu deċiżi mill-Qorti bl-urgenza.

(4) Il-Pulizija tista' tidhol f'kull fond sabiex tiżgura li l-kondizzjonijiet imposti mill-qorti kif ingħad fis-subartikolu (1) ikunu qegħdin jiġu mharsa. Il-Pulizija tista' wkoll tarresta mighajr mandat kull persuna suspettata b'reat taht is-subartikolu (2).”.

17. Fis-subartikolu (1) ta' l-artikolu 604 tal-Kodiċi, minflok il-kliem “l-Uffiċjali tal-*Probation*” għandhom jidhlu l-kliem “l-Uffiċjali tal-*Probation* u kull persuna ohra ta' kull xorta skond ma l-Ministru responsabbli għall-ġustizzja jista', minn żmien għal żmien, jistabbilixxi b'Ordni fil-Gazzetta”.

Emenda ta' l-artikolu 604 tal-Kodiċi.

Emenda ta' l-
artikolu 605
tal-Kodiċi.

18. Fis-subartikolu (1) ta' l-artikolu 605 tal-Kodiċi, minflok il-kliem minn "Il-Kummissarju tal-Pulizija" sa "mill-ahjar li jafu" ghandhom jidhlu l-kliem "Il-Kummissarju tal-Pulizija jew ir-rappreżentant tiegħu, Maġistrat, l-Avukat Ġenerali jew ir-rappreżentant tiegħu, il-President tal-Kamra ta' l-Avukati u l-President tal-Kamra tal-Prokuraturi Legali ghandhom, darbtejn fis-sena, jagħmlu, mill-ahjar li jafu".

Emenda ta' l-
artikolu 606
tal-Kodiċi.

19. Fis-subartikolu (1) ta' l-artikolu 606 tal-Kodiċi, minflok il-kliem "l-ismijiet tal-ġurati ordinarji." ghandhom jidhlu l-kliem "l-ismijiet tal-ġurati ordinarji:" u minnufih wara dan ghandu jiżdied dan il-proviso ġdid li ġej:

"Iżda l-Ministru responsabbli għall-ġustizzja jista', b'Ordni fil-Gazzetta, jistabbilixxi metodi ta' għażla differenti li jkunu ibbażati fuq mekkanizmu komputerrizzat."

Emenda ta' l-
artikolu 611
tal-Kodiċi.

20. Fis-subartikolu (2) ta' l-artikolu 611, minflok il-kliem "u l-persuna approvata." ghandhom jidhlu l-kliem "u l-persuna approvata:" u minnufih wara dan ghandu jiżdied dan il-proviso ġdid li ġej:

"Iżda bil-ghan li ssir ir-rikuża ta' ġurat għal raġuni l-Avukat Ġenerali jew l-akkużat jistgħu jitolbu li l-ġurat jissejjah biex iwieġeb bil-ġurament għall-mistoqsijiet li jsiru lill-ġurat biex tiġi stabbilita r-raġuni għar-rikuża."

Emenda ta' l-
artikolu
639 tal-Kodiċi.

21. Minflok is-subartikolu (3) ta' l-artikolu 639 ghandu jidhol dan li ġej:

"(3) Meta l-uniku xhud kontra l-akkużat dwar xi reat fi proċess li jinstema' quddiem il-ġurati tkun persuna kompliċi, il-Qorti għandha tagħti direttiva lill-ġurati biex jiżnu x-xieħda li dak ix-xhud jagħti b'kawtela qabel ma jserrħu fuqha u jaslu biex isibu hati lill-akkużat."

Emenda ta' l-
artikolu 646
tal-Kodiċi.

22. Fis-subartikolu (2) ta' l-artikolu 646 tal-Kodiċi, minflok il-kliem "tas-subartikolu (8)." ghandhom jidhlu l-kliem "tas-subartikolu (8):" u minnufih wara ghandu jiżdied dan il-proviso ġdid li ġej:

"Iżda wkoll meta x-xhud ikun minuri taħt is-sittax-il sena u tingieb bi prova reġistrazzjoni bl-awdjo u bil-video tax-xieħda tal-minuri, il-minuri ma għandux jingieb biex jiġi eżaminat *viva voce* kemm-il darba l-Qorti ma tordnax li jsir xort'ohra għal xi raġuni li toriġina wara d-data meta dak il-minuri jkun ta x-xieħda tiegħu u l-Qorti tqis li dan ikun fl-interess ta' l-amministrazzjoni tal-ġustizzja u l-kxif tas-sewwa."

23. Minflok is-subartikoli (1) u (2) ta' l-artikolu 674 ghandu jidhol dan li ġejj:

Emenda ta' l-artikolu 764 tal-Kodiċi.

“(1) Minkejja kull disposizzjoni oħra ta' dan il-Kodiċi jew ta' kull liġi oħra iżda bla ħsara għad-disposizzjonijiet ta' l-artikolu 671, meta xi proprjetà li tkun esibita l-qorti matul il-proċedimenti, tkun tappartjeni lil xi persuna li ma tkunx involuta bħala persuna prinċipali, kompliċi jew assoċjata fir-reat kriminali li jkun jiffirma l-materja ta' dawk il-proċeduri, dik il-persuna, wara li ġġib prova b'mod sodisfacenti dwar it-titolu li jkollha għal dik il-proprjetà u tissodisfa lill-qorti li ma kienx għad hemm il-bżonn li dik il-proprjetà tibqa' materjalment esibita fl-inkartament tal-proċeduri, għandu jkollha jedd għar-rilaxx ta' dik il-proprjetà favur tagħha b'ordni tal-Qorti taht dawk il-pattijiet u kundizzjonijiet li l-Qorti tista' tqis li jkunu adatti, salv, wara dak ir-rilaxx, kull dritt li jista' jkollu l-imputat jew l-akkużat jew kull persuna oħra skond il-liġi.

(2) L-ordni msemmija fis-subartikolu (1) tista' tinghata jew b'inizjattiva tal-Qorti nnifisha jew wara li jsir rikors minn min ikun qiegħed jitlob li jinghata l-proprjetà. Meta l-Qorti taġixxi b'inizjattiva tagħha nnifisha hija għandha thabbar il-ħsieb li jkollha li toħroġ ordni bħal dik permezz ta' digriet. Digriet bħal dak jew rikors li jsir minn min ikun qiegħed jitlob li jinghata l-proprjetà skond ma jgħid dan is-subartikolu għandu jiġi notifikat lill-Avukat Ġenerali jew lill-Kummissarju tal-Pulizija skond il-każ, u lill-imputat, jew l-akkużat, li kull wieħed minnhom ikollu hamest ijiem tax-xogħol għar-risposta tiegħu.”.

24. Minnufih wara l-artikolu 697 tal-Kodiċi għandu jizdied dan l-artikolu ġdid li ġejj:

Żjieda ta' l-artikolu 698 ġdid mal-Kodiċi.

“Kumpens li jinghata lil vittmi ta' xi delitt.

698. (1) Il-Ministru jista' jagħmel regolamenti sabiex jistabbilixxi skema ta' kumpens għall-vittmi ta' xi delitt taht dawk il-kundizzjonijiet u restrizzjonijiet u bla ħsara għal konsiderazzjonijiet u kwalifiki bħal dawk hekk kif il-Ministru jista' jipprovd i dwarhom u sabiex jistabbilixxi fond biex jiffinanzja skema bħal dik.

(2) Mingħajr preġudizzju għall-ġeneralità tas-subartikolu (1), kull skema stabbilita taht dan l-artikolu:

(a) jista' jkollha applikazzjoni ġenerali li tkun testendi għad-delitti kollha jew li tista' tkun limitata għal dawk id-delitti li jistgħu jkunu speċifikati fir-regolamenti;

(b) tista' tkun tipprovdi li kumpens li jinghata mill-Gvern lill-vittma għandu jithallas biss meta l-vittma tkun eżawriet kull rimedju li jkollha disponibbli kontra l-hati għall-hlas ta' danni li l-vittma tkun ġarrbet;

(ċ) tista' tkun tipprovdi dwar l-oghla ammont tas-somma li tista' tithallas lil xi vittma individwali jew lil grupp ta' vittmi bhala kumpens taht l-iskema.

(3) Il-Gvern għandu jiġi surrogat fid-drittijiet tal-vittma kontra l-hati għall-hlas ta' kull somma li l-vittma tirċievi minghand il-Gvern skond kull skema stabbilita b'regolamenti taht dan l-artikolu.”.

Żjieda ta' skeda ġdida mal-Kodiċi.

25. Minnufih wara Skeda Ċ tal-Kodiċi għandha tizdied din l-iskeda ġdida li ġejja:

“Skeda D

(Artikolu 575A)

(a) kull delitt li dwaru hemm piena ta' żmien massimu ta' prigunerija ta' disa' snin jew aktar;

(b) id-delitti ikkontemplati fl-artikoli 198 sa 207, 216 (1) (a) (b) (c) u (e), 217, 262(1) (a) u (b), u 263 ta' dan il-Kodiċi (minbarra l-użu illegittimu jew il-konsum ta' servizz);

(ċ) kull serq li jsir kontra persuna taht l-età ta' tnax-il sena jew li jkollha iżjed minn sittin sena minbarra s-serq ta' vetturi.”.

Emenda tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, Kap. 12.

26. Minnufih wara s-subartikolu (3) ta' l-artikolu 791 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili għandu jidhol is-subartikolu ġdid li ġej:

“(4) F'kawża ta' spoll ix-xiehda tax-xhieda li tkun inghatat fi proċeduri kriminali għal reat taht l-artikolu 85 tal-Kodiċi Kriminali dwar l-istess għemil li dwaru tkun il-kawża tista' tingieb bhala prova fil-kawża minghajr hsara għad-dritt tal-parti l-ohra għall-kontroezami.”.

Emenda ta' l-Ordinanza dwar il-Professjoni Medika u l-Professjonijiet li għandhom x'jaqsmu magħha, Kap. 31.

27. L-Ordinanza dwar il-Professjoni Medika u l-Professjonijiet li għandhom x'jaqsmu magħha, hawn iżjed 'il quddiem f'dan l-artikolu msejjha “l-Ordinanza”, għandha tiġi emendata kif ġej:

(a) fis-subartikolu (7) ta' l-artikolu 120A, minflok il-kliem “jew (b)(i).” ghandhom jidhlu l-kliem “jew (b)(i):” u minnufih wara ghandhom jizdiedu dawn il-proviso godda li ġejjin:

“Izda meta, dwar xi reat imsemmi f’dan is-subartikolu, wara li jitqiesu ċ-ċirkostanzi kollha tal-każ inkluż l-ammont u x-xorta tal-medicina in kwistjoni, ix-xorta ta’ persuna involuta, l-ghadd u n-natura ta’ kull kundanna li l-persuna kellha qabel, inklużi kundanni li dwarhom tkun saret ordni taht l-Att dwar il-*Probation*, il-Qorti tkun tal-fehma li l-hati kien bi hsiebu jikkonsma l-medicina f’dak l-istess post flimkien ma’ ohrajn, il-Qorti tista’ tiddeciedi li ma tapplikax id-disposizzjonijiet ta’ dan is-subartikolu:

Izda wkoll il-hati jista’ jikseb benefiċċju ghal darba wahda biss mid-disposizzjonijiet tal-proviso li jiġi minnufih qabel dan.”; u

(b) fis-subartikolu (1) ta’ l-artikolu 121E, minflok il-kliem “jirċievi talba maghmula minn awtorità ġudizzjarja jew prosekutrici” ghandhom jidhlu l-kliem “jirċievi, jew ikun informat dwar, talba maghmula minn jew ghan-nom ta’ awtorità ġudizzjarja, prosekutrici, ta’ infurzar tal-liġi jew xi awtorità kompetenti ohra”.

28. L-Ordinanza dwar il-Qirda tak-Kummerċ fil-Prostituzzjoni, ghandha tiġi emendata kif ġej:

Ordinanza dwar il-Qirda tal-Kummerċ fil-Prostituzzjoni, Kap. 63.

(a) l-artikolu 2 ghandu jiġi emendat kif ġej:

(i) fin-nota marginali, minnufih wara l-kliem “biex titlaq minn Malta” ghandu jizdied il-kliem “jew biex tiġi Malta minn band’ohra”;

(ii) fis-subartikolu (1), minnufih wara l-kliem “ghal skop ta’ prostituzzjoni xi mkien iehor” ghandhom jizdiedu l-kliem “jew biex tiġi Malta minn band’ohra ghal skop ta’ prostituzzjoni f’dawn il-gzejjer”; u fil-proviso li hemm mieghu minflok il-kliem “sena sa erba’ snin” ghandhom jidhlu l-kliem “sentejn sa ghaxar snin”;

(b) l-artikolu 3 ghandu jiġi emendat kif ġej:

(i) fis-subartikolu (1), minnufih wara l-kliem “titlaq minn Malta” ghandhom jizdiedu l-kliem “jew tiġi Malta”; u minnufih wara l-kliem “s-safar tagħha minn Malta” ghandhom jizdiedu l-kliem “jew li hija tasal Malta”, u minflok il-kliem

“minn tmintax-il xahar sa erba’ snin” ghandhom jidhlu l-kliem “minn sentejn sa hames snin”;

(ii) fil-proviso mas-subartikolu (1), minflok il-kliem “minn sentejn sa sitt snin” ghandhom jidhlu l-kliem “minn tlieta sa ghaxar snin”; u

(c) fis-subartikolu (2) ta’ l-artikolu 7, minflok il-kliem “mhux iżjed minn tliet xhur” ghandhom jidhlu l-kliem “mhux iżjed minn sitt xhur”.

Emenda ta’
l-Ordinanza dwar
il-Mediċini
Perikolużi,
Kap. 101.

29. L-Ordinanza dwar il-Mediċini Perikolużi, hawn iżjed ’il quddiem f’dan l-artikolu msejja “l-Ordinanza”, ghandha tiġi emendata kif ġej:

(a) fis-subartikolu (9) ta’ l-artikolu 22:

(i) minflok il-kliem “l-Att dwar il-*Probation* tal-Hatjin” ghandhom jidhlu l-kliem “l-Att dwar il-*Probation*”;
u

(ii) minflok il-kliem “tas-subartikolu (2).” ghandhom jidhlu l-kliem “tas-subartikolu (2):” u minnufih wara ghandu jżied dan il-proviso ġdid li ġej:

“Izda meta, dwar xi reat imsemmi f’dan is-subartikolu, wara li jitqiesu ċ-ċirkostanzi kollha tal-każ inkluż l-ammont u x-xorta tal-mediċina in kwistjoni, ix-xorta ta’ persuna involuta, l-ghadd u n-natura ta’ kull kundanna li l-persuna kellha qabel, inklużi kundanni li dwarhom tkun saret ordni taht l-Att dwar il-*Probation*, il-Qorti tkun tal-fehma li l-hati kien bi hsiebu jikkonsma l-mediċina f’dak l-istess post flimkien ma’ ohrajn, il-Qorti tista’ tiddeċiedi li ma tapplikax id-disposizzjonijiet ta’ dan is-subartikolu:

Izda wkoll il-hati jista’ jikseb benefiċċju ghal darba waħda biss mid-disposizzjonijiet tal-proviso li jiġi minnufih qabel dan.”; u

(b) fis-subartikolu (1) ta’ l-artikolu 30D, minflok il-kliem “jirċievi talba magħmula minn awtorità ġudizzjarja jew prosekuttriċi” ghandhom jidhlu l-kliem “jirċievi, jew ikun informat dwar, talba magħmula minn jew għan-nom ta’ awtorità ġudizzjarja, prosekuttriċi, ta’ infurzar tal-liġi jew xi awtorità kompetenti ohra”.

30. L-Att dwar il-Pulizija ghandu jiġi emendat kif ġej:

(a) minnufih wara is-subartikolu (5) ta' l-artikolu 48, ghandhom jiżdiedu dawn is-subartikoli ġodda li ġejjin:

“(6) Il-Bord ikollu s-setgha li jeżercita permezz taç-*Chairperson* tiegħu –

(a) li jharrek xhieda li ghandhom jinstemgħu taht ġurament;

(b) li jagħti l-ġurament lil kull xhud u lil kull persuna li tkun involuta fl-investigazzjoni ta' l-ilment, u teħtieġ li dawn jixhdu.

(7) It-tahrikiet biex persuni jidhru bhala xhieda jista' jkollhom dak il-format li l-Bord jiddeċiedi dwaru u ghandhom ikunu iffirmati miç-*Chairperson* jew mis-Segretarju tal-Bord.

(8) Tahrika tista' tiġi notifikata jew bl-idejn jew bil-posta. Meta din tiġi notifikata bl-idejn ikun biżżejjed li tinghata prova tan-notifika permezz ta' prova li t-tahrika tkun thalliet ghand persuna li tkun għalqet is-sittax-il sena fil-post ta' residenza jew tan-negozju tal-persuna mharrka u jekk din tiġi notifikata bil-posta jkun biżżejjed li tinghata prova tan-notifika permezz ta' xiehda li t-tahrika kienet indirizzata u impustata kif imiss.

(9) Kull min ikun imħarrek kif hawn qabel imsemmi imma jiçhad, jew mingħajr raġuni suffiçjenti jonqos, milli jattendi fil-hin u l-post imsemmi fit-tahrika, jew jiçhad mingħajr raġuni suffiçjenti, milli jwieġeb jew milli jwieġeb f'kull dettall u sodisfaçentement, bl-aħjar mod li jaf u jifhem, kull mistoqsija li ssirlu minn jew bi ftehim mal-Bord, jew jiçhad jew jonqos, mingħajr raġuni suffiçjenti, milli jġib xi dokument li huwa kien meħtieġ iġib mill-Bord jew bi ftehim miegħu, jista', meta jinsab hati, jehel multa ta' mhux iżjed minn mitt lira jew priġunerija għal żmien mhux iżjed minn xahar jew għal dik il-multa u priġunerija flimkien:

Iżda, mingħajr preġudizzju għall-ġeneralità tad-disposizzjonijiet tas-subartikolu (6)(b), ebda persuna li tkun qegħda tagħti x-xiehed tagħha quddiem il-Bord ma tista' tkun mgieghla twieġeb għal ebda mistoqsija li x'aktarx tesponiha għal prosekuzzjoni kriminali, u kull tali persuna ghandu jkollha jedd, għar-rigward ta' xiehda mogħtija minnha

quddiem il-Bord, għall-istess privileġġi li jkollu xhud li jixhed quddiem qorti tal-ġustizzja.

(10) Ma għandhom jinbdew ebda proċedimenti għar-rigward ta' xi reat kontra s-subartikolu (9) mingħajr il-qbil ta' l-Avukat Ġenerali.”; u

(b) minnufih wara l-artikolu 49 għandu jizzied dan l-artikolu ġdid li ġej:

“Terminu ta' żmien għall-ilment.

49A. Kull ilment li jsir lill-Bord għandu jiġi ipprezentat fi żmien sitt xhur minn meta jiġri l-incident ilmentat u l-Bord jista' jiċhad milli jikkunsidra ilment li jiġi ipprezentat wara dak il-perjodu.”.

Emenda ta' l-Att dwar l-Istampa, Kap. 248.

31. Minflok l-artikolu 11 ta' l-Att dwar l-Istampa, għandu jidhol dan li ġej:

“11. Hlief kif provdut xort'ohra f'dan l-Att, kull min, b'xi mezz imsemmi fl-artikolu 3, jagħti malafama lil xi persuna, jista, meta jinsab hati, jehel multa.”.

Emenda ta' l-Att Dwar il-Kummissarji tal-Ġustizzja, Kap. 291.

32. L-artikolu 13 ta' l-Att dwar il-Kummissarji tal-Ġustizzja għandu jiġi emendat kif ġej:

(a) il-paragrafi (g) sa (i) tiegħu, it-tnejn inklużi, għandhom jiġu enumerati mill-ġdid bħala paragrafi (h) sa (j) rispettivament; u

(b) minnufih wara l-paragrafu (f) tiegħu għandu jidhol il-paragrafu ġdid li ġej:

“(g) li jistabbilixxu sistema ta' infurzar lokali u jiffissaw il-funzjonijiet tagħha;”.

Mghoddi mill-Kamra tad-Deputati fis-Seduta Nru. 428 tat-28 ta' Lulju, 2006.

ANTON TABONE
Speaker

RICHARD J. CAUCHI
Skrivan tal-Kamra tad-Deputati

I assent.

(L.S.)

GEORGE HYZLER
Acting President

8th August, 2006

ACT No. XVI of 2006

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 Board of the same as follows:

1. (1) The title of this Act is the Criminal Code (Amendment) Act, 2006, and this Act shall be read and construed as one with the Criminal Code, hereinafter referred to as “the Code”. Short title and commencement.

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

2. The provision in article 85 of the Code shall be renumbered as subarticle (1) thereof and immediately thereafter there shall be inserted the following new subarticle: Amendment of article 85 of the Code.

“(2) The provisions of subarticle (5) of article 377 shall apply in the case of any conviction under subarticle (1) of this article and when the conduct of the offender has resulted in a person being despoiled the Court shall apply the provisions of that subarticle in order to ensure that the person despoiled is fully re-vested in the position before he was despoiled.”.

Amendment
of article 104
of the Code.

3. Subarticle (2) of article 104 of the Code shall be amended as follows:

(a) for the words “such higher punishment:” there shall be substituted the words “such higher punishment.”; and

(b) the proviso thereto shall be deleted.

Amendment
of article 222A
of the Code.

4. The present provision of article 222A of the Code shall be renumbered as subarticle (1) thereof and immediately thereafter there shall be inserted the following new sub-articles:

“(2) The punishments established in the foregoing provisions of this sub-title shall also be increased by one to two degrees when the offence is racially or religiously aggravated within the meaning of the following sub-articles.

(3) An offence is racially or religiously aggravated if:

(a) at the time of committing the offence, or immediately before or after the commission of the offence, the offender demonstrates towards the victim of the offence hostility based on the victim’s membership (or presumed membership) of a racial or religious group; or

(b) the offence is motivated, wholly or partly, by hostility towards members of a racial group based on their membership of that group.

(4) In paragraph (a) of subarticle (3):

“membership”, in relation to a racial or religious group, includes association with members of that group;

“presumed” means presumed by the offender.

(5) It is immaterial for the purposes of paragraph (a) or (b) of subarticle (3) whether or not the offender’s hostility is also based, to any extent, on any other factor not mentioned in that paragraph.

(6) In this article:

“racial group” means a group of persons defined by reference to race, colour, nationality (including citizenship) or ethnic or national origins;

“religious group” means a group of persons defined by reference to religious belief or lack of religious belief.”.

5. Immediately after article 251C of the Code there shall be inserted the following new article 251D:

Addition of new article 251D to the Code.

“Increase of punishment in certain cases.” 251D. The punishments established in the foregoing provisions of this sub-title shall be increased by one to two degrees when the offence is racially or religiously aggravated within the meaning of sub-articles (3) to (6), both inclusive, of article 222A.”.

6. Immediately after article 325 of the Code there shall be inserted the following new article:

Addition of new article 325A to the Code.

“Increase of punishment in certain cases.” 325A. (1) The punishments established in the foregoing provisions of this sub-title in respect of a relevant offence shall be increased by one to two degrees when the offence is racially or religiously aggravated within the meaning of sub-articles (3) to (6), both inclusive, of article 222A.

(2) For the purposes of this article “relevant offence” means any of the offences under articles 311, 312, 314A, 316, 317 to 320, both inclusive, and 325.”.

7. In paragraph (z) of article 338 of the Code, for the words “such sum should be paid;” there shall be substituted the words “such sum should be paid:”, and immediately thereafter there shall be inserted the following new proviso:

Amendment of article 338 of the Code.

“Provided that, notwithstanding any other provision of this Code, the criminal action for an offence under this paragraph is barred by the lapse of six months;”.

8. Immediately after subarticle (2) of article 391 of the Code there shall be inserted the following new subarticle:

Amendment of article 391 of the Code.

“(3) Where the witness is a minor under the age of sixteen years the witness shall be examined and cross-examined in one sitting and his testimony shall be recorded by audio-visual means. The audio-visual recording shall form part of the record of the proceedings:

Provided that for special and exceptional reasons which arise after the witness has given his testimony the Court may authorize the hearing of the witness in a subsequent sitting.”.

Amendment of article 401 of the Code.

9. Immediately after subarticle (3) of article 401 of the Code there shall be inserted the following:

“(3A) Where the court has committed the accused for trial by the Criminal Court the court shall, besides giving the order mentioned in subarticle (3), adjourn the case to another date, being a date not earlier than one month but not later than six weeks from the date of the adjournment. The court shall also adjourn the case as aforesaid after having received back from the Attorney General the record of the inquiry and before returning the record to the Attorney General in terms of any provision of this Code.”.

Amendment of article 416 of the Code.

10. Immediately after subarticle (3) of article 416 of the Code there shall be inserted the following new subarticle:

“(3A) The failure to make a declaration of appeal as provided in subarticle (3) shall not preclude the party convicted from appealing the judgement provided that such appeal is filed within the time allowed for entering such appeal.”.

Addition of new articles 532A and 532B to the Code.

11. Immediately after article 532 of the Criminal Code there shall be inserted the following new articles:

“Orders for payment of damages upon sentence.

532A. The provisions of article 24 of the Probation Act concerning the power of the court to order the offender to pay damages shall *mutatis mutandis* also apply whenever a person is sentenced upon conviction for any crime.

Payment of costs.

532B. Where a person is convicted of a crime punishable with imprisonment he shall be liable to pay such amounts in respect of costs as the Minister may by regulations prescribe. Such regulations may specify the crimes and, or the proceedings in respect of which which the regulations shall apply as well as which part of the costs may be converted into imprisonment and which part may be recovered as a civil debt, or that the whole amount may be so converted or so recovered, and the procedure applicable in every case.”.

Amendment of article 546 of the Code.

12. Immediately after article 546(4) of the Code there shall be inserted the following new subarticle:

“(4A) Where a report, information or complaint is made to a Magistrate under this article by a person other than the Attorney General or a police officer the report, information or complaint shall contain a clear designation of the person suspected to have committed the offence (hereinafter in this article referred to as

“the suspect”). The Magistrate shall order the report, information or complaint, as the case may be, to be served upon the suspect allowing him time to reply and upon the lapse of such time shall decide whether to hold the inquest. The Magistrate shall decide to hold the inquest only after having established that the necessary pre-requisites for the holding of such an inquest exist.

(4B) The decision of the Magistrate under subarticle (4A) shall be served on the person who made the report, information or complaint and upon the suspect. Any one of them may, within two working days from the date of service of the decision, apply to the Criminal Court for a reversal of the decision of the Magistrate and the Criminal Court shall give its decision on the application with urgency.

(4C) In every case where an inquest is to be held under the provisions of subarticles (4A) and (4B) the Magistrate who conducts the inquest shall be chosen by lot from among all the Magistrates.”.

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

Amendment of
article 550 of
the Code.

(a) in subarticle (1) thereof, the words “it shall not be necessary to examine” shall be deleted and for the words “in the inquest.” there shall be substituted the words “in the inquest shall not be produced to give evidence in the inquiry before the Court of Magistrates as court of criminal inquiry.”;

(b) for subarticle (2) thereof there shall be substituted the following:

“(2) Nevertheless it shall be lawful for the Police to produce any of the persons mentioned in subarticle (1) to give evidence in the inquiry before the Court of Magistrates as court of criminal inquiry on specific issues and for the Attorney General to produce any of the said persons in accordance with the provisions of article 405. It shall also be lawful for the person charged to produce any of the said persons for the purpose of cross-examination.”.

14. Immediately after subarticle (2) of article 550A of the Code there shall be inserted the following new subarticle:

Amendment of
article 550A
of the Code.

“(3) After the lapse of the period of sixty days referred to in subarticle (1) every interested person may by application request the magistrate to be heard as a witness, or to hear as witnesses the

persons indicated in the application. The application shall be served on the Attorney General who may reply within four days.”.

Addition of article 575A to the Code.

15. Immediately after article 575 of the Code there shall be added the following new article:

“Bail in respect of scheduled offences.

575A. (1) Saving the provisions of subarticle (6) of article 574A but notwithstanding any other provision of this Code or of any other law, where the Court of Magistrates at any time orders the temporary release from custody of a person who:

(a) is charged with a scheduled offence and with being a recidivist in terms of articles 50 and 51; and

(b) has been previously found guilty of a scheduled offence by means of a judgment which has become *res judicata*, the order of the Court shall be given in open court on a date previously notified to the prosecution and the person charged and shall be served on the Attorney General by not later than the next working day.

(2) The Attorney General may, not later than the next working day following the date of service of the order of the Court of Magistrates, apply to the Criminal Court for the revocation or amendment of the order and the Criminal Court shall appoint the application for hearing not later than two working days from the filing of the application. The Criminal Court shall give its decision on the application with urgency.

(3) The execution of the order of the Court of Magistrates ordering the temporary release of the person charged shall be suspended during the period allowed to the Attorney General to apply to the Criminal Court under this article and, following such application, until the Criminal Court gives its decision thereon.

(4) The provisions of subarticle (1) of article 575 shall apply also in the case of a person charged with a scheduled offence.

(5) For the purposes of this article “scheduled offence” means any offence listed in the Schedule D to this Code.”.

Amendment of article 579 of the Code.

16. Article 579 of the Code shall be amended as follows:

(a) the present provision thereof shall be renumbered as subarticle (1) thereof; and

(b) immediately after subarticle (1) thereof as renumbered there shall be added the following new subarticle:

“(2) Any person who fails to observe any of the conditions imposed by the court in its decree granting bail shall be guilty of an offence and shall, on conviction, be liable to the punishment of a fine (*multa*) or to a term of imprisonment not exceeding six months, or to both such fine and imprisonment.

(3) Notwithstanding the provisions of any law, any person charged with any offence as mentioned in subarticle (2) shall be arraigned in Court under arrest, and it shall be lawful for the Police to request in the same proceedings the revocation of bail and the re-arrest of such person. The proceedings for an offence under subarticle (2) shall be taken by the Police and shall be decided by the Court with urgency.

(4) It shall be lawful for the Police to enter into any premises in order to ensure that the conditions imposed by the court as mentioned in subarticle (1) are being observed. It shall also be lawful for the Police to arrest without warrant any person suspected of an offence under subarticle (2).”.

17. In subarticle (1) of article 604 of the Code, for the words “Probation Officers” there shall be substituted the words “Probation Officers and any other persons of such a description as the Minister responsible for justice may, from time to time, prescribe by Order in the Gazette”.

Amendment of
article 604
of the Code.

18. In subarticle (1) of article 605 of the Code, for the words from “The Commissioner of Police” to “the best of their knowledge” there shall be substituted 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”.

Amendment of
article 605
of the Code.

19. In subarticle (1) of article 606 of the Code, for the words “the names of the common jurors.” there shall be substituted the words “the names of the common jurors:” and immediately thereafter there shall be inserted the following new proviso:

Amendment of
article 606
of the Code.

“Provided that the Minister responsible for justice may, by means of an Order in the Gazette, establish different methods of selection based on a computerised mechanism.”.

Amendment of article 611 of the Code.

20. In subarticle (2) of article 611, for the words “and the person admitted.” there shall be substituted the words “and the person admitted:” and immediately thereafter there shall be inserted the following new proviso:

“Provided that for the purpose of challenging a juror for cause the Attorney General or the accused may request that the juror be called to reply on oath to questions to be put to the juror to establish the reason for the challenge.”.

Amendment of article 639 of the Code.

21. Subarticle (3) of article 639 shall be substituted by the following:

“(3) Where the only witness against the accused for any offence in any trial by jury is an accomplice, the Court shall give a direction to the jury to approach the evidence of the witness with caution before relying on it in order to convict the accused.”.

Amendment of article 646 of the Code.

22. In subarticle (2) of article 646 of the Code, for the words “the provisions of subarticle (8).” there shall be substituted the words “the provisions of subarticle (8):” and immediately thereafter there shall be inserted the following new proviso:

“Provided further that where the witness is a minor under sixteen years of age and an audio and video-recording of the testimony of the minor is produced in evidence the minor shall not be produced to be examined *viva voce* unless the Court otherwise directs for a reason which arises after the date of the said testimony of the minor and considered by the Court to be in the interest of the administration of justice and the discovery of the truth.”.

Amendment of article 764 of the Code.

23. Subarticles (1) and (2) of article 764 shall be substituted by the following:

“(1) Notwithstanding any other provision of this Code or of any other law but subject to the provisions of article 671, where any property which is exhibited in court during the proceedings belongs to a person who is not involved as a principal, an accomplice or a conspirator in the criminal offence which is the subject of such proceedings, that person shall, upon proving in a satisfactory manner his title to the property and satisfying the court that there was no longer any need that the property remains

materially exhibited in the record of the proceedings, be entitled to have such property released in his favour by order of the Court under such terms and conditions as the Court may deem fit, saving, following such release, any right of the person charged or accused or of any other person according to law.

(2) The order referred to in subarticle (1) may be given either on the Court's own motion or following an application by the person claiming the property. Where the Court acts upon its own motion it shall announce its intention to make such an order by means of a decree. Any such decree or any application made by the person claiming the property in terms of this subarticle shall be served on the Attorney General or on the Commissioner of Police as the case may be, and on the person charged, or accused, each of whom shall be allowed five working days for a reply."

24. Immediately after article 697 of the Code there shall be inserted the following new article:

Addition of new article 698 to the Code.

"Compensation of victims of crime.

698. (1) The Minister may make regulations to establish a scheme for the compensation of victims of crime under such conditions and restrictions and subject to such considerations and qualifications as the Minister may provide and to establish a fund to finance such a scheme.

(2) Without prejudice to the generality of subarticle (1), any scheme established under this article:

(a) may be of general application extending to all crimes or may be limited to such crimes as may be specified in the regulations;

(b) may provide that compensation by Government to the victim shall only be payable when the victim has exhausted all remedies available to him against the offender for the payment of damages suffered by the victim;

(c) may provide for a ceiling on the amount payable to any individual victim or group of victims by way of compensation under the scheme.

(3) The Government shall be subrogated in the rights of the victim against the offender for the payment of any sums received by the victim from the Government in

accordance with any scheme established by regulations under this article.”.

Addition of new schedule to the Code.

25. Immediately after Schedule C of the Code there shall be added the following new schedule :

“Schedule D

(Article 575A)

(a) any crime punishable with a maximum term of imprisonment of nine years or more;

(b) the crimes envisaged in articles 198 to 207, 216 (1) (a) (b) (c) and (e), 217, 262(1) (a) and (b), and 263 of this Code (other than unlawful use or consumption of a service);

(c) any theft committed against any person under the age of twelve years or over the age of sixty years other than the theft of vehicles.”.

Amendment of the Code of Organization and Civil Procedure, Cap. 291.

26. Immediately after subarticle (3) of article 791 of the Code of Organization and Civil Procedure there shall be inserted the following new subarticle:

“(4) In a spoliation suit the depositions of witnesses given in criminal proceedings for an offence under article 85 of the Criminal Code for the same conduct concerned in the suit shall be admissible as evidence in the suit without prejudice to the right of the other party to cross-examination.”.

Amendment of the Medical and Kindred Professions Ordinance, Cap. 31.

27. The Medical and Kindred Professions Ordinance, hereinafter in this article referred to as “the Ordinance”, shall be amended as follows:

(a) in subarticle (7) of article 120A thereof, for the words “or (b)(i).” there shall be substituted the words “or (b)(i):” and immediately thereafter there shall be inserted the following new provisos:

“Provided that where, in respect of any offence mentioned in this subarticle, after considering all the circumstances of the case including the amount and nature of the drug involved, the character of the person concerned, the number and nature of any previous convictions, including convictions in respect of which an order was made under the Probation Act, the court is of the opinion that the offender

intended to consume the drug on the spot with others, the court may decide not to apply the provisions of this subarticle:

Provided further that an offender may only benefit once from the provisions of the above proviso.”; and

(b) in subarticle (1) of article 121E thereof, for the words “receives a request made by a judicial or prosecuting authority” there shall be substituted the words “receives, or is informed about, a request made by or on behalf of a judicial, prosecuting, law enforcement or other competent authority”.

28. The White Slave Traffic (Suppression) Ordinance shall be amended as follows:

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

(a) article 2 shall be amended as follows:

(i) in its marginal note, immediately after the words “leave Malta” there shall be added the words “or comes to Malta from elsewhere”;

(ii) in subarticle (1) thereof, immediately after the words “for purposes of prostitution elsewhere” there shall be added the words “or to come to Malta from elsewhere for the purposes of prostitution in these islands”; and in the proviso thereof the words “one to four years” shall be substituted by the words “two to ten years”;

(b) article 3 thereof shall be amended as follows:

(i) in subarticle (1) thereof, immediately after the words “leave Malta” there shall be added the words “or come to Malta”; and immediately after the words “his departure from Malta” there shall be added the words “or arrival in Malta”, and the words “from eighteen months to four years” shall be substituted by the words “from two to five years”;

(ii) in the proviso to subarticle (1), the words “from time to six years” shall be substituted by the words “from three to ten years”; and

(c) in subarticle (2) of article 7 thereof, the words “not more than three months” shall be substituted by the words “not more than six months”,

29. The Dangerous Drugs Ordinance, hereinafter in this article referred to as “the Ordinance”, shall be amended as follows:

(a) in subarticle (9) of article 22 thereof:

(i) for the words “the Probation of Offenders Act” there shall be substituted the words “the Probation Act”; and

(ii) for the words “of subarticle (2).” there shall be substituted the words “of subarticle (2):” and immediately thereafter there shall be inserted the following new proviso:

“Provided that where, in respect of any offence mentioned in this subarticle, after considering all the circumstances of the case including the amount and nature of the drug involved, the character of the person concerned, the number and nature of any previous convictions, including convictions in respect of which an order was made under the Probation Act, the court is of the opinion that the offender intended to consume the drug on the spot with others, the court may decide not to apply the provisions of this subarticle:

Provided further that an offender may only benefit once from the provisions of the above proviso.”; and

(b) in subarticle (1) of article 30D thereof, for the words “receives a request made by a judicial or prosecuting authority” there shall be substituted the words “receives, or is informed about, a request made by or on behalf of a judicial, prosecuting, law enforcement or other competent authority”.

30. The Police Act shall be amended as follows:

(a) immediately after subarticle (5) of article 48 thereof, there shall be added the following new sub-articles:

“(6) The Board shall have the power exercisable through its Chairperson –

(a) to summon witnesses who shall be heard on oath;

(b) to administer an oath to any witness and to any person concerned in the investigation of the complaint, and require them to give evidence.

(7) Summonses for attendance of witnesses may be in such form as decided by the Board and shall be signed by the Chairperson or Secretary of the Board.

(8) A summons may be served either by hand or by post. Where it is served by hand it shall be sufficient to prove service by evidence that the summons was left with a person over the age of sixteen years at the place of residence or of business of the person summoned and if served by post it shall be sufficient to prove service by evidence that the summons was properly addressed and posted.

(9) Any person summoned as aforesaid who refuses, or without sufficient cause fails, to attend at the time and place mentioned in the summons, or refuses without sufficient cause, to answer or to answer fully and satisfactorily, to the best of his knowledge and belief, all questions put to him by or with the concurrence of the Board, or refuses or fails, without sufficient cause, to produce any document he was required to produce by or with the concurrence of the Board, shall be liable on conviction to a fine (*multa*) not exceeding one hundred liri or to imprisonment not exceeding one month or to both such fine and imprisonment:

Provided that, without prejudice to the generality of the provisions of subarticle (6)(b), no person giving evidence before the Board may be compelled to answer any question which tends to expose him to any criminal prosecution, and every such person shall, in respect of any evidence given by him before the Board be entitled to the same privileges to which a witness giving evidence before a court of law is entitled.

(10) No proceedings shall be commenced in respect of any offence against subarticle (9) without the concurrence of the Attorney General.”; and

(b) immediately after article 49 thereof there shall be added the following new article:

“Time limit
for
complaint.

49A. Any complaint to the Board shall be submitted within six months from the date of the occurrence of the incident complained of and the Board may refuse to consider any complaint submitted after such period.”.

Amendment of the
Press Act, Cap. 248.

31. Article 11 of the Press Act shall be substituted by the following:

“11. Save as otherwise provided in this Act, whosoever shall, by any means mentioned in article 3, libel any person, shall be liable on conviction to a fine (*multa*).”.

Amendment of the
Commissioners for
Justice Act,
Cap. 291.

32. Article 13 of the Commissioners for Justice Act shall be amended as follows:

(a) paragraphs (g) to (i) thereof, both inclusive, shall be renumbered as paragraphs (h) to (j) respectively; and

(b) immediately after paragraph (f) thereof there shall be inserted the following new paragraph:

(g) for establishing a local enforcement system and to determine its functions;”.

Passed by the House of Representatives at Sitting No. 428 of 28th July, 2006.

ANTON TABONE
Speaker

RICHARD J. CAUCHI
Clerk to the House of Representatives