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I assent.

(L.S.)

GEORGE ABELA
President

18th March, 2014

ACT No. IV of 2014

AN ACT further to amend various laws related to criminal matters.

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 Various Laws (Criminal Matters) (Amendment) Act, 2014.

PART I

Amendments to the Criminal Code

Amendment of
the Criminal
Code.
Cap. 9.

2. (1) 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".

(2) The provisions of the new article 534AF of the Code, as added by article 23 of this Act, shall come into force on such date as the Minister responsible for Justice may, by order in the Gazette, establish.

Amendment of
article 23D of
the Code.

3. Article 23D of the Code shall be amended as follows:

(a) for sub-article (2) thereof there shall be substituted the following:

"(2) Whosoever is required by the Registrar to provide information for the purpose of sub-article (1) shall comply with the demand within thirty days from the day of receipt of the demand."; and

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

"(3) The demand made by the Registrar, and any reply thereupon in terms of this article, may be made by electronic mail."

4. Article 202 of the Code shall be amended as follows:

Amendment of
article 202 of
the Code.

(a) for the words "shall be increased by one degree" there shall be substituted the words "shall be increased by one to two degrees";

(b) in paragraph (g) thereof for the words "has not completed the age of nine years" there shall be substituted the words "is a minor";

(c) in paragraph (i) thereof for the words "of a minor." there shall be substituted the words "of a minor;"; and

(d) immediately after paragraph (i) thereof, there shall be added the following new paragraphs:

"(j) the offence, or related offences, were committed repeatedly;

(k) the offence was committed against a vulnerable person within the meaning of article 208AC(2);

(l) the offence was committed with the threat of a weapon;

(m) the offence resulted in severe physical or psychological harm for the victim;

(n) the offender has been previously convicted of offences of a similar nature."

5. Article 204 of the Code shall be amended as follows:

Amendment of
article 204 of
the Code.

(a) in sub-article (1) thereof, for the words "eighteen months to four years" there shall be substituted the words "two to five years"; and

(b) in the proviso to sub-article (1) thereof, for the words "two to six years" there shall be substituted the words "three to nine years".

Amendment of
article 204A of
the Code.

6. Article 204A of the Code shall be amended as follows:

(a) in sub-article (1) thereof, for the words "two to six years" there shall be substituted the words "three to twelve years";

(b) in paragraph (a) of sub-article (1) thereof, for the words "violence compels" there shall be substituted the words "violence, threats, coercion or force compels"; and

(c) in paragraph (c) of sub-article (2) thereof, for the words "meaning of article 83A(1)." there shall be substituted the words "meaning of article 83A(1);" and immediately thereafter there shall be added the following new paragraph:

"(d) when the offender abuses of a recognised position of trust, authority or influence over the person under age."

Amendment of
article 204B of
the Code.

7. Article 204B of the Code shall be amended as follows:

(a) for sub-article (1) thereof, there shall be substituted the following:

"(1) Whosoever in order to gratify the lust of any other person engages, recruits or causes a person under age to practice prostitution, or to participate in pornographic performances, or profits from or otherwise exploits a person under age for such purposes, shall, on conviction, be liable to imprisonment for a term from two to nine years, with or without solitary confinement.";

(b) in sub-article (2) thereof, for the words "two to six years" there shall be substituted the words "three to twelve years"; and

(c) in paragraph (c) of sub-article (2) thereof, for the words "meaning of article 83A(1)." there shall be substituted the words "meaning of article 83A(1); and immediately thereafter there shall be added the following new paragraph:

"(d) when the offender abuses of a recognised position of trust, authority or influence over the person under age."

8. Article 204C of the Code shall be amended as follows:

Amendment of
article 204C of
the Code.

(a) in sub-article (1) thereof, for the words "exceeding two years" there shall be substituted the words "exceeding five years";

(b) sub-article (2) thereof, shall be amended as follows:

(i) for the words "two to six years" there shall be substituted the words "four to twelve years";

(ii) in paragraph (a) thereof for the words "with violence" there shall be substituted the words "with violence, coercion, force or threats";

(iii) in paragraph (c) thereof the words "and any of the circumstances mentioned in paragraph (d) occurs" shall be deleted; and

(iv) in paragraph (d) thereof the words "and (c)" shall be deleted."

9. Article 204D of the Code shall be amended as follows:

Amendment of
article 204D of
the Code.

(a) for the words "eighteen months to five years" there shall be substituted the words "three to ten years";

(b) in paragraph (a) thereof for the words "compels a person" there shall be substituted the words "compels, coerces, forces or threatens a person";

(c) article 204D shall be renumbered as article 204D(1);
and

(d) immediately after article 204D(1), as renumbered, there shall be added the following new sub-article:

"(2) The punishment for the offence in sub-article (1) shall be increased by one degree, with or without solitary confinement, in each of the following cases:

(a) when the offender wilfully or recklessly endangered the life of the person under age;

(b) when the offence involves violence or grievous bodily harm on such person;

(c) when the offence is committed with the

involvement of a criminal organisation within the meaning of article 83A(1);

(d) when the offender abuses of a recognised position of trust, authority or influence over the person under age."

Amendment of
article 205 of
the Code.

10. Article 205 of the Code shall be amended as follows:

(a) for the words "for a term not exceeding two years, with or without solitary confinement" there shall be substituted the words "for a term not exceeding five years, with or without solitary confinement"; and

(b) in the proviso thereof, for the words "imprisonment for a term from one to four years" there shall be substituted the words "imprisonment for a term of two to seven years."

Amendment of
article 208A of
the Code.

11. In sub-article (1) of article 208A of the Code, immediately after the word "sells," there shall be added the words "supplies,".

Amendment of
article 208AA
of the Code.

12. Article 208AA of the Code shall be amended as follows:

(a) article 208AA thereof shall be renumbered as article 208AA(1);

(b) in article 208AA(1) thereof, as renumbered, for the words "shall, where the proposal is followed by material acts leading to such a meeting, be liable on conviction to imprisonment for a term from twelve months to four years" there shall be substituted the words "shall, where the proposal is followed by material acts leading to such a meeting, be liable on conviction to imprisonment for a term from two to five years"; and

(c) immediately after article 208AA(1) thereof, as renumbered, there shall be added the following new sub-article:

"(2) The punishment for the offence in sub-article (1) shall be increased by one degree, with or without solitary confinement, in each of the following cases:

(a) when the offender wilfully or recklessly endangered the life of the person under age;

(b) when the offence involves violence or grievous bodily harm on such person;

(c) when the offence is committed with the involvement of a criminal organisation within the meaning of article 83A(1);

(d) when the offender abuses of a recognised position of trust, authority or influence over the person under age."

13. Article 208AB of the Code shall be amended as follows:

Amendment of
article 208AB
of the Code.

(a) article 208AB thereof shall be renumbered as article 208AB(1);

(b) in article 208AB(1) thereof, as renumbered, for the words "shall, on conviction, be liable to imprisonment for a term from twelve months to two years" there shall be substituted the words "shall, on conviction, be liable to imprisonment for a term from two to five years"; and

(c) immediately after article 208AB(1) thereof, as renumbered, there shall be added the following new sub-article:

"(2) The punishment for the offence in sub-article (1) shall be increased by one degree, with or without solitary confinement, in each of the following cases:

(a) when the offender wilfully or recklessly endangered the life of the person under age;

(b) when the offence involves violence or grievous bodily harm on such person;

(c) when the offence is committed with the involvement of a criminal organisation within the meaning of article 83A(1);

(d) when the offender abuses of a recognised position of trust, authority or influence over the person under age."

14. Sub-article (1) of article 208AC of the Code shall be amended as follows:

Amendment of
article 208AC
of the Code.

(a) for the words "208A(1) and 208(1A)," there shall be substituted the words "208A(1) to 208AB, both inclusive,";

(b) in paragraph (a) thereof, immediately after the

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words "where the offence" there shall be added the words "involved the use of violence or"; and

(c) in paragraph (f) thereof, for the words "this sub-title." there shall be substituted the words "this sub-title;" and immediately thereafter there shall be added the following new paragraphs:

"(g) where the offence is committed by a member of the child's family, a person cohabiting with the child or a person who has abused a recognised position of trust or authority;

(h) where the offence was committed within the framework of a criminal organisation within the meaning of Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organised crime;

(i) where the offender has deliberately or recklessly endangered the life of a child:

Provided that where an aggravation of punishment in respect of the circumstances mentioned in this article is already provided for under this Code or any other law, the higher punishment shall be applied."

Amendment of article 208B of the Code.

15. In sub-article (1) of article 208B, immediately after the words "208A(1), (1A)," there shall be added the words "(1B),".

Addition of new article to the Code.

16. Immediately after article 208B of the Code there shall be added the following new article:

"Aiding and abetting.

208C. Whosoever aids, abets or instigates any offence under articles 204, 204A to 204D, both inclusive, and articles 208A to 208AB, both inclusive, shall be guilty of an offence and shall be liable on conviction to the punishment laid down for the offence aided, abetted or instigated."

Addition of new article to the Code.

17. Immediately after article 209 of the Code there shall be added the following new article:

"Non-applicability of article 21

209A. The provisions of article 21 shall not apply in the case where a person is found guilty of an offence under this subtitle.

Amendment of article 350 of the Code.

18. Sub-article (1) of article 350 of the Code shall be amended as follows:

(a) in the definition "non-intimate sample" the word "means" shall be substituted by the word "includes"; and

(b) immediately after subparagraph (e) thereof there shall be added the following new subparagraph:

"(f) a voice sample;".

19. Article 363 of the Code shall be substituted by the following: Substitution of article 363 of the Code.

"Time and place for service of summons.

363. The summons shall be executed between seven o'clock in the morning and seven o'clock in the evening in any residential home excluding Sundays or Public Holidays or in the case where the summons is being executed in a commercial property or office at any day or any time that that commercial property or that office is open to the public or where the case merits expediency at those times duly authorised by the Court."

20. For sub-article (6) of article 370 of the Code there shall be substituted the following: Amendment of article 370 of the Code.

"(6) The provisions of article 392A shall also apply, *mutatis mutandis*, to offences which fall within the competence of the Court of Magistrates as a court of criminal judicature in accordance with the provisions of this article."

21. Article 392A of the Code shall be amended as follows: Amendment of article 392A of the Code.

(a) in sub-article (1) thereof, immediately after the words "in answer to the question in article 392(1)(b)" there shall be added the words "or in any stage of the proceedings"; and for the words "the provisions of article 453(1) shall, *mutatis mutandis*, apply subject to the following provisions of this article." there shall be substituted the words "the court shall warn him in the most solemn manner about the legal consequences of that reply, and shall allow him a period of time for him to reply.";

(b) in sub-article (2) thereof, immediately after the words "of the offence charged" there shall be added the words ", such reply shall be registered, and";

(c) in sub-article (3) thereof, for the words "notwithstanding the confession of the accused, order that the

inquiry be proceeded" there shall be substituted the words "notwithstanding the confession of the accused, order that the proceedings be continued";

(d) for sub-article (5) thereof, there shall be substituted the following:

"(5) At any stage of the proceedings, the accused and the Attorney General may agree and may request the court by means of an application, so that in the case where the accused pleads guilty, the Court of Magistrates as a court of criminal judicature, shall apply such sanction or measure or, where it is so provided by law, a combination of sanctions and measures, of the type and quantity agreed upon between them, and in respect of which the accused may be sentenced when he is found guilty for the offence or the offences with which he has been charged."; and

(e) immediately after sub-article (5) thereof, as substituted, there shall be added the following new sub-articles:

"(6) If the court is satisfied that the sanction or the measure, or the combination of sanctions or measures requested, as provided for in the preceding sub-article, are such that it shall be lawful for it to impose upon finding the accused guilty of the offence for which the accused has pleaded guilty, and the court feels that it should not order that the case continues in accordance with the provisions of sub-article (3) or for any other reason that it should dismiss the request, and after having clearly explained to the accused the consequences of his request, the court shall, where an admission of guilt is made by the accused, proceed to award the sentence indicated to it by the parties wherein it shall be declared in its decision that the sentence which is being awarded is being so awarded on the request of the parties.

(7) The provisions of article 453A(3) to (5), both sub-articles inclusive, shall, *mutatis mutandis*, apply to the proceedings under this article."

Addition of new
article to the
Code.

22. Immediately after article 392A of the Code there shall be added the following new article:

"Admission of
guilt.

392B. (1) If the accused, in answer to the question in article 392(1)(b) or in any stage of the proceedings, states that he is guilty of the offence charged and the said offence is liable to a punishment exceeding ten years imprisonment, the court shall, after recording the admission of guilt:

(a) order the record of the inquiry, together with all the exhibits in the case, to be, within three working days, transmitted to the Attorney General; and

(b) notify the Registrar of the Criminal Court that an admission of guilt has been made.

(2) The Attorney General shall be allowed the term of one month for the filing of the indictment, to run from the day of the receipt of the record referred to in the last preceding article. The said term shall, on the demand of the Attorney General, be extended by the court to an additional period of fifteen days, and, on the expiration of this other period, by the President of Malta to a further additional period of fifteen days, and, where the matter is such that the determination of the true nature of the offence necessarily depends upon the lapse of a longer period of time, to such longer period:

Provided that the Attorney General shall have the right, instead of filing the bill of indictment, in accordance with this subarticle, to present a note in the Criminal Court by which note he shall declare that the indictment presented before the Court of Magistrates as a court of inquiry and to which the accused person has admitted guilt, shall be considered as a bill of indictment and, in this case, such option by the Attorney General shall not in any way give rise to any nullity or other defect in the proceedings notwithstanding the other provisions of this Code and of any other law.

(3) Notwithstanding the provisions of the proviso to subarticle (2) where the Attorney General opts to file a bill of indictment in accordance with the provisions of subarticle (2), the provisions of Title V of Part II of Book Second shall, *mutatis mutandis*, apply to an indictment filed following an admission of guilt made under this article.

(4) Where the Criminal Court is notified by the Court of Magistrates as a court of inquiry, about the admission of guilt in accordance with paragraph (b) of subarticle (1), the Criminal Court shall, within two months from the date of notification, appoint the date of hearing."

Amendment of
article 500 of
the Code.

23. Immediately after sub-article (2) of article 500 of the Code, there shall be added the following new sub-articles:

"(3) On any appeal against all acquittal, whether in respect of the whole or part of the indictment, the Court of Criminal Appeal shall allow an appeal by the Attorney General if it considers that there has been an irregularity during the proceedings, or a wrong interpretation or application of the law, which could have had a bearing on the verdict:

Provided that the Court may, notwithstanding that it is of opinion that the point raised in the appeal under this sub-article might be decided in favour of the Attorney General, dismiss the appeal if it considers that no miscarriage of justice has actually occurred.

(4) The Court of Criminal Appeal shall, upon an appeal made in terms of sub-article (3) affirm, vary or reverse the verdict from which an appeal has been filed."

Addition of new
article to the
Code.

24. Immediately after article 526 of the Code there shall be added the following new article:

"Procedural documents.

526A. Pursuant to and in accordance with any treaty, convention, agreement or understanding between Malta and another country or which applies to both such countries or to which both such countries are a party, procedural documents or any act of the proceeding may be sent directly by post to a person who is in the territory of the foreign country in a language which that person understands:

Provided that procedural documents shall be accompanied by a report indicating to the said person the remedies available and that information about his rights and obligations concerning the document may be obtained from the issuing authority or from another competent authority in Malta."

25. Immediately after article 534 of the Code there shall be added the following new Title and articles:

Addition of new Title and articles to the Code.

"Title VI

Of the Rights of Suspects and Accused

Rights of suspect and accused.

534A. The provisions of this Title shall apply to a person from the time that he is made aware by the Executive Police that he is suspected of having committed an offence (hereinafter in this title referred to as the "suspect") and to a person charged or accused of having committed an offence (hereinafter in this title referred to as the "accused") until the conclusion of the criminal proceedings, including, where applicable, the passing of sentence and the determination of an appeal:

Provided that "criminal proceedings" shall include investigations by the Executive Police and extradition proceedings.

Right to information and Letter of Rights.

534AB. (1) Saving the provisions of articles 355AC, 355AS, 392 and 445, it shall be the duty of the Police or of the Court, as the case may be, to inform the suspect or the accused without undue delay of the following procedural rights:

(a) the right of access to a lawyer;

(b) any entitlement to free legal advice and the conditions for obtaining such advice;

(c) the right to be informed, in such detail as is necessary to safeguard the fairness of the proceedings and the effective exercise of his rights of defence, of the offence he is suspected or accused of having committed:

Provided that the suspect or accused shall be promptly informed of any changes in the information given in accordance with this article where this is necessary to safeguard the fairness of the proceedings;

(d) the right to interpretation and translation;

(e) the right to remain silent.

(2) The information provided for under sub-article (1) shall be given orally or in writing, in simple and accessible language, taking into account any particular needs of vulnerable suspected or accused persons within the meaning of 208AC(2).

(3) It shall be the duty of the Police to provide a person arrested or detained promptly with the Letter of Rights set out in Schedule E and the Police shall give the said person an opportunity to read it and to retain same in his possession throughout the time that he is detained. The Letter of Rights shall be written in a language that the person understands:

Provided that where the Letter of Rights is not available in the appropriate language, the suspect or the accused shall be informed of his rights orally in a language that he understands and the Letter of Rights shall subsequently, and without undue delay, be provided to him in a language that he understands.

(4) Information provided in accordance with this article shall be recorded by the Police or by the Court, as the case may be.

Right to interpretation.

534AC. (1) Saving the provisions of articles 355AC, 451 and 516(2) where the suspect does not speak or understand the language of the criminal proceedings, as the case may be, he shall be provided, without unreasonable delay, with interpretation in the course of the said proceedings, including during police questioning.

(2) Interpretation shall be made available for communications between the suspect or the accused and their legal counsel in direct connection with any questioning or hearing during the proceedings or with the lodging of an appeal or other procedural applications.

(3) The right to interpretation under sub-articles (1) and (2) shall apply to persons suffering from hearing or speech impediments.

(4) It shall be the duty of the Executive Police and of the Court, as the case may be, to ascertain whether the suspect or the accused speak and understand the language of the criminal proceedings and whether they need the assistance of an interpreter.

(5) Nothing in this article shall be construed as precluding the suspect or the accused to demand that any decision finding, at any stage of the criminal proceedings, that there is no need for interpretation be reviewed and, when interpretation has been provided, the possibility to complain that the quality of the interpretation is not sufficient to safeguard the fairness of the proceedings.

(6) Interpretation provided under this article shall be of a quality sufficient to safeguard the fairness of the proceedings, in particular by ensuring that the suspect or the accused has knowledge of the case against him and is able to exercise his right of defence.

Right to
translation of
essential
documents.

534AD. (1) Where the suspect or the accused does not understand the language of the criminal proceedings concerned, he shall, within a reasonable period of time, be provided with a written translation of all documents which are essential to ensure that he is able to exercise their right of defence and to safeguard the fairness of the proceedings.

(2) The decision determining what constitutes an essential document shall be taken by the Executive Police or by the Court, as the case may be, and the suspect or the accused or his legal counsel may submit a reasoned request to that effect:

Provided that essential documents shall include any decision depriving a person of his liberty, any charge or indictment, and any judgment:

Provided further that it shall not be required to translate passages of essential documents which are not relevant for the purposes of enabling the suspect or the accused to have knowledge of the case against him.

(3) Nothing in this article shall be construed as precluding the suspect or the accused to demand that any decision finding, at any stage of the criminal proceedings, that there is no need for the translation of documents or passages thereof be reviewed and, when a translation has been provided, the possibility to complain that the quality of the translation is not sufficient to safeguard the fairness of the proceedings.

(4) Notwithstanding the preceding provisions of this article, an oral translation or oral summary of essential documents may be provided instead of a written translation on condition that such oral translation or oral summary does not prejudice the fairness of the proceedings.

(5) Where the suspect or the accused waives the right to translation of documents referred to in this article such waiver shall be recorded in writing and only after the Executive Police or the Court, as the case may be, is satisfied that the suspect or accused has received prior legal advice or has otherwise obtained full knowledge of the consequences of such a waiver, and that the waiver was unequivocal and given voluntarily.

(6) Translation provided under this article shall be of a quality sufficient to safeguard the fairness of the proceedings, in particular by ensuring that suspected or accused persons have knowledge of the case against them and are able to exercise their right of defence.

Costs and
quality of
interpretation
and translation.

534AE. (1) Notwithstanding the provisions of article 533, the services of interpretation and translation resulting from the application of articles 534AB to 534AD, both inclusive, shall be free of charge.

(2) The registrar shall keep a register of translators and interpreters who are appropriately qualified. Once established, such register shall, where appropriate, be made available to legal counsel and other relevant authorities.

Rights of
access to the
materials of the
case.

534AF. Where a person is arrested and detained at any stage of the criminal proceedings, any documents in the possession of the Police which are related to the specific case and which are essential to challenge effectively the lawfulness of the arrest or detention, shall be made available to the arrested person or to his lawyer.

(2) The person suspected or accused shall have access, which shall be free of charge, to all material evidence in the possession of the Police, whether for or against the said suspect or the accused, or to his lawyers in order to safeguard the fairness of the proceedings and to prepare his defence.

(3) Without prejudice to sub-article (1), access to the material referred to in sub-article (2) shall be granted in due time to allow the effective exercise of the rights of the defence and at the latest upon submission on the merits of the accusation. Where further material evidence comes into the possession of the Police, access shall be granted to it in due time to allow for it to be considered by the suspect or the accused or by his lawyer.

(4) Notwithstanding the provisions of sub-article (2) and (3) and provided that this does not prejudice the right to a fair trial, after hearing the prosecution, a court nor magistrate may refuse access to certain materials if such access may lead to a serious threat to the life or the fundamental rights of another person or if such refusal is strictly necessary to safeguard an important public interest or where it could prejudice an ongoing investigation or national security.

Records.

534AG. When a suspect or an accused in any criminal proceedings has been assisted by an interpreter or when an oral translation or an oral summary of essential documents has been provided in accordance with law, or when the said suspect or accused has waived the right to translation of essential documents as provided for in article 534AD(5), a record of this fact shall be made in the acts of the relevant criminal proceedings."

Amendment of article 636 of the Code.

26. In paragraph (c) of article 636 of the Code, for the words "of the suit.", there shall be substituted the words "of the suit; or" and immediately thereafter there shall be added the following new paragraph:

"(d) that, in the case of a witness who has been admitted to benefit under a witness protection programme set up in terms of Title IV of Part III of the Police Act, the witness was either charged with the same offence in respect of which his deposition is required or that he is liable to be prosecuted in the future in respect of the said offence or of a related offence."

Amendment of article 649 of the Code.

27. Immediately after sub-article (5A) of article 649 of the Code, there shall be added the following new sub-article:

"(5B) The proceedings referred to in this article shall, as nearly as may be, be conducted as if they were an inquiry relating to the *"in genere"*."

28. Immediately after Schedule D to the Code there shall be added the following new Schedule:

Addition of new Schedule to the Code.

"Schedule E

[Article 534AB]

PART I

Letter of Rights

You have the following rights when you are arrested or detained:

A. ASSISTANCE OF A LAWYER/ENTITLEMENT TO LEGAL AID

You have the right to speak confidentially to a lawyer or to a legal procurator, face to face or by telephone for not more than an hour before your interrogation.

A police officer in the grade of Superintendent or higher may authorise the delay for you to exercise this right, however this period cannot exceed more than 36 hours.

The police may immediately proceed to interrogate you during this period, however you will still retain the right to remain silent.

Ask the police if you need help to get in contact with a lawyer or a legal procurator. The police will help you.

However the police will not indicate to you the name of the lawyer or of the legal procurator that you may engage during your detention.

In certain cases assistance may be free of charge. Ask the police for more information.

B. INFORMATION ABOUT THE ACCUSATION

If you are arrested, the police shall have the duty to inform you that you are in fact under arrest, even if the arrest appears evident.

You have the right to be informed, at the time of your arrest or your detention, in a language you understand, the reasons for your

arrest or detention.

If you have been arrested by a warrant issued by a Magistrate, you shall have the right to a copy of that warrant which shall be signed by the Magistrate who issued the said warrant.

C. INTERPRETATION AND TRANSLATION

If you do not speak or understand the language spoken by the police or other competent authorities, you have the right to an interpreter, free of charge. The interpreter may help you to talk to your lawyer and must keep the content of that communication confidential. You have the right to translation of at least the relevant passages of the essential documents, including any order by a Judge or Magistrate allowing your arrest or keeping you in custody, any charge or indictment and any judgment. You may in some circumstances be provided with an oral translation or summary.

D. RIGHT TO REMAIN SILENT

While questioned by the police or by other competent authorities, you have the right to remain silent. Your lawyer can help you in your decision.

E. ACCESS TO DOCUMENTS

When you are arrested and detained, you, or your lawyer, have the right to access essential documents you need to challenge the arrest or detention.

If your case goes to court, you or your lawyer have the right to access the material evidence for or against you.

F. INFORMING SOMEONE ELSE ABOUT YOUR ARREST OR DETENTION/INFORMING YOUR CONSULATE OR EMBASSY

When you are arrested or detained you may, if you want to, ask the police to inform a relative or a friend of yours of your detention.

In certain cases according to law, the right to inform another person of your detention may be temporarily restricted. Such delay may not be more than six hours from the time of arrest.

In such cases the police will inform you of this.

If you are a foreigner, inform the police if you want your consular authority or embassy to be informed of your detention.

You may choose to also inform the police if you want to contact an official of your consular authority or embassy.

G. URGENT MEDICAL ASSISTANCE

When you are arrested or detained, you shall have the right, on your request, to a doctor of your choice, as long as such doctor may be easily contacted.

Please inform the police if you are in need of urgent medical assistance.

H. PERIOD OF DEPRIVATION OF LIBERTY

After your arrest you may be deprived of liberty or detained for a maximum period of 48 hours.

Ask your lawyer or the judge for information about the possibility to challenge your arrest, to review the detention or to ask for provisional release.

PART II

Letter of Rights for persons arrested on the basis of a European Arrest Warrant

You have been arrested on the basis of an European Arrest Warrant. You have the following rights:

A. INFORMATION ABOUT THE EUROPEAN ARREST WARRANT

You have the right to be informed about the content of the European Arrest Warrant on the basis of which you have been arrested.

B. ASSISTANCE OF A LAWYER

You have the right to speak confidentially to a lawyer or to a legal procurator, face to face or by telephone for not more than an hour before your interrogation.

A police officer in the grade of Superintendent or higher may authorise the delay for you to exercise this right, however this period cannot exceed more than 36 hours.

The police may immediately proceed to interrogate you during this period, however you will still retain the right to remain silent.

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Ask the police if you need help to get in contact with a lawyer or a legal procurator. The police will help you.

However the police will not indicate to you the name of the lawyer or of the legal procurator that you may engage during your detention.

In certain cases assistance may be free of charge. Ask the police for more information.

C. INTERPRETATION AND TRANSLATION

If you do not speak or understand the language spoken by the police or other competent authorities, you have the right to be assisted by an interpreter, free of charge. The interpreter may help you to talk to your lawyer and must keep the content of that communication confidential. You have the right to a translation of the European Arrest Warrant in a language you understand. You may in some circumstances be provided with an oral translation or summary.

D. POSSIBILITY TO CONSENT

You may consent or not consent to being surrendered to the State seeking you. Your consent would speed up the proceedings. This decision is irrevocable. Ask the authorities or your lawyer for more information.

E. HEARING

If you do not consent to your surrender, you have the right to be heard by a judicial authority."

PART II

Amendments to the Dangerous Drugs Ordinance

Amendment of
the Dangerous
Drugs
Ordinance.
Cap. 101.

29. This Part amends the Dangerous Drugs Ordinance, and it shall be read and construed as one with the Dangerous Drugs Ordinance, hereinafter in this Part referred to as "the Ordinance".

Amendment of
article 22 of the
Ordinance.

30. Immediately after sub-article (3B) of article 22 of the principal Ordinance there shall be added the following new sub-article:

"(3BA) Title IV of Part III of Book Second of the Criminal Code shall *mutatis mutandis* apply to proceedings for offences under this Ordinance."

31. Immediately after sub-article (6) of article 22A of the Ordinance there shall be added the following new sub-articles:

Amendment of article 22A of the Ordinance.

"(7) Where the court does not proceed forthwith to make an order as required under sub-article (1), the court shall forthwith make a temporary freezing order having the same effect as an order made under this article, which temporary order shall remain in force until such time as the court makes the order required by the said article.

(8) Where for any reason whatsoever the court denies a request made by the prosecution for an order under sub-article (1), the Attorney General may, within three working days from the date of the court's decision, apply to the Criminal Court to make the required order and the provisions of this article shall apply *mutatis mutandis* to the order made by the Criminal Court under this sub-article as if were an order made by the court under sub-article (1). The temporary freezing order made under sub-article (7) shall remain in force until the Criminal Court determines the application.

(9) The person charged may within three working days from the date of the making of the order under sub-article (7) apply to the Criminal Court for the revocation of the order, provided that order shall remain in force unless revoked by the Criminal Court."

32. Immediately after article 22A of the Ordinance there shall be added the following new article:

Addition of new article to the Ordinance.

"Registrar to conduct inquiries.

22AB. (1) Where the court makes any order as is referred to in article 22A, it shall order the Registrar to conduct inquiries to trace and ascertain the whereabouts of any moneys or other property, due or pertaining to or under the control of the person charged or accused or convicted, as the case may be.

(2) Whosoever is required by the Registrar to provide information for the purpose of sub-article (1) shall comply with the demand within thirty days from the day of receipt of the demand.

(3) The demand made by the Registrar, and any reply thereupon in terms of this article, may also be made by electronic mail."

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Amendment of
article 24A of
the Ordinance.

33. Article 24A of the Ordinance shall be amended as follows:

(a) in sub-article (9) thereof, the words "not below the rank of inspector" shall be deleted; and

(b) in sub-article (11) thereof, for the words "thirty days" wherever they occur, there shall be substituted the words "forty-five days".

PART III

Amendments to the Police Act

Amendment of
the Police Act.
Cap. 164.

34. This Part amends the Police Act and it shall be read and construed as one with the Police Act, hereinafter in this Part referred to as "the principal Act".

Addition of new
article to the
principal Act.

35. Immediately after article 61 of the principal Act there shall be added the following new article:

"Letter of
rights.

Cap. 9.

61A. Any person who is arrested shall be promptly provided with the Letter of Rights as set out in Schedule E to the Criminal Code and the said person shall be given the opportunity to read it and to retain same in his possession throughout the time that he is detained. The Letter of Rights shall be written in a language that the person understands:

Provided that where the Letter of Rights is not available in the appropriate language, the person arrested shall be informed of his rights orally in a language that he understands and the Letter of Rights shall, subsequently and without undue delay, be provided to him in a language that he understands."

Amendment of
article 75 of the
principal Act.

36. Article 75 of the principal Act shall be amended as follows:

(a) in sub-article (1) thereof, immediately after the words "and that person is concerned for his safety" there shall be added the words "or there exist concerns over that person's safety"; and

(b) in sub-article (2) thereof, for the words "evidence is indispensably required" there shall be substituted the words "evidence is required".

37. Article 81 of the principal Act shall be substituted by the following:

Substitution
article 81 of the
principal Act.

"Criminal
proceedings in
respect of a
protected
witness.

81. (1) A protected witness who took part in the fact which constitutes a crime for which others are being or are to be prosecuted, shall not be prosecuted for any crime arising from the same fact before the proceedings in which he is or will be a witness shall have become *res judicata*:

Provided that no objection to the competence of a protected witness shall be admitted on the ground that the said witness was either charged with the same offence in respect of which his deposition is required or that he is liable to be prosecuted in the future in respect of the said offence or of a related offence.

(2) In criminal proceedings instituted against a protected witness for any crime arising from the same fact on which the protected witness would have given evidence, the court shall take into due account the fact that the protected witness gave evidence against any principal or accomplice in such manner as it deems appropriate and the punishment of such protected witness may be mitigated or remitted and the court shall expressly refer to the provisions of this article in its judgement.

(3) In any civil proceedings instituted against a protected witness based on the fact that the said witness was the perpetrator or was an accomplice in the crime on which he tendered evidence, the court shall, if it finds that the protected witness is responsible for the payment of damages, only hold him liable for such part of the damage as he may have caused and shall, notwithstanding the provisions of articles 1049, 1050 and 1051A of the Civil Code or of any other law, hold him not liable jointly and severally with others:

Cap. 16.

Provided that the exemption from joint and several liability provided for in this sub-article shall not apply in the case of damages resulting from wilful homicide or from grievous bodily harm.

(4) Notwithstanding the provisions of sub-article (2), where in criminal proceedings as provided for in sub-article (1) instituted against a protected witness -

(a) the prosecution declares in the records of the proceedings that the accused has tendered evidence on facts constituting a criminal offence liable to a punishment of imprisonment of more than one year which has helped the police to apprehend the person or persons who committed the said criminal offence; or

(b) the protected witness proves to the satisfaction of the court that his evidence has so helped the police,

the punishment for such crime shall be diminished as regards imprisonment by one or two degrees and as regards any pecuniary penalty by one-third or one-half:

Provided that the court may, if it considers that the circumstances of the case so merit, after hearing all the evidence and after convicting the protected witness, either further reduce the punishment or exempt the protected witness from punishment completely:

Provided further that, when it applies the above proviso to exempt the protected witness from punishment completely, the court shall make a report to the President of Malta stating the reasons for its action and shall expressly refer to the provisions of this article in its report."

PART IV**Amendments to the Lotteries and Other Games Act**

38. This Part amends the Lotteries and Other Games Act and it shall be read and construed as one with the Lotteries and Other Games Act, hereinafter in this Part referred to as "the principal Act".

Amendment of the Lotteries and Other Games Act. Cap. 438.

39. In the first proviso to sub-article (1) of article 67 of the principal Act for the words "is a recidivist" there shall be substituted the words "is a recidivist of an offence against this Act".

Amendment of article 67 of the principal Act.

PART V**Amendments to the Probation Act**

40. This Part amends the Probation Act and it shall be read and construed as one with the Probation Act, hereinafter in this Part referred to as "the principal Act".

Amendment of the Probation Act. Cap. 446.

41. Article 21 of the principal Act shall be amended as follows:

Amendment of article 21 of the principal Act.

(a) in sub-article (1) thereof, for the words "Criminal Court" there shall be substituted the words "Court of Magistrates"; and

(b) in the first proviso to sub-article (1) thereof, for the words "Criminal Court" there shall be substituted the words "Court of Magistrates".

PART VIII**Transitory Provision**

42. The provisions of articles 24 and 35 of this Act shall also have effect in respect of all criminal proceedings pending before any Court at the time of the coming into force of this Act even if the said proceedings are at appeal stage.

Transitory provision.

Passed by the House of Representatives at Sitting No. 129 of the 12th March, 2014.

ANĠLU FARRUGIA

Speaker

RAYMOND SCICLUNA
Clerk to the House of Representatives