

MALTA

ATT Nru. XIII ta' l-2005

ACT No. XIII of 2005

ATT mahrug b'ligi mill-Parlament ta' Malta.

AN ACT enacted by the Parliament of Malta.

ATT biex jemenda diversi ligijiet.

AN ACT to amend various laws.

I assent.

(L.S.)

EDWARD FENECH ADAMI
President

29th July, 2005

ACT No. XIII of 2005

An Act to amend various laws.

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:-

1. The short title of this Act is the Various Laws (Amendment) Act, 2005. Short title.

PART I

2. (1) This part amends the Criminal Code and shall be read and construed as one with the same Code, hereinafter in this Part referred to as “the Code”. Amendment of the Criminal Code, Cap. 9.

(2) This Part shall come into force on such date as the Minister responsible for justice may by notice in the Gazzette establish and different dates may be so established for different provisions and different purposes thereof.

3. Immediately after article 33 of the Code there shall be inserted the following new article: Addition of new article 33A to the Code.

“Increase in punishment for offences committed by prisoners in prison.

33A (1) Where an offence is committed by a person who is a prisoner the punishment for the offence shall in case of a conviction be increased by one or two degrees and the provisions of articles 21 and 28 of the Probation Act shall not apply.

(2) For the purposes of this article “prisoner” has the same meaning assigned to it by article 2 of the Prisons Act and includes a prisoner deemed to be confined in a prison

according to the provisions of subarticle (3) of article 3 of the same Act.”.

Amendment of
article 533 of the
Code.

4. In subarticle (1) of article 533 of the Code the words “and if a request to that effect is made by the prosecutor” shall be deleted and immediately after the words “of any expert or referee,” there shall be added the words “including such experts as would have been appointed in the examination of the process verbal of the inquiry,”.

Amendment of
article 650 of the
Code.

5. For the proviso to subarticle (2) of article 650 of the Code there shall be substituted the following:

“Provided that the Minister responsible for Justice may, after consultation with the Chief Justice, appoint one or more persons as official experts for the purpose of reporting on matters required by other provisions of this Code requiring special technical skill or knowledge, and when such persons are appointed, the court shall choose such experts from among those persons who may be on a roster system.”.

PART II

Amendment of the
Code of
Organisation and
Civil Procedure,
Cap. 12.

6. This Part amends, and shall be read and construed as one with, the Code of Organisation and Civil Procedure, hereinafter in this Part referred to as “the Code”.

Amendment of
article 231 of the
Code.

7. In subarticle (1) of article 231 of the Code, immediately after the words “within six days from such judgement” there shall be inserted the words “and when such leave to appeal from such separate judgements is granted the time for the filing of the appeal in respect thereof shall commence to run from the day on which the said leave is read out in open court”.

PART III

Amendment of the
Civil Code, Cap. 16.

8. This Part amends, and shall be read and construed as one with, the Civil Code, hereinafter in this Part referred to as “the Code”.

Amendment of
article 251 of the
Code.

9. Immediately after subarticle (3) of article 251 of the Code there shall be added the following proviso:

“Provided that the words “illegitimate father” wherever they occur in an act of civil status registered before the 1st March, 2005 shall not be reproduced in any copy or extract of such act issued by the Directors mentioned in subarticle (1) of this article, except as may be otherwise explicitly ordered or authorised by a Court.”.

PART IV

10. This Part amends, and shall be read and construed as one with, the Addolorata Cemetery Ordinance, hereinafter referred to in this Part as “the principal law”.

Amendment of the Addolorata Cemetery Ordinance, Cap. 18.

11. Article 6 of the principal law shall be amended by substituting paragraph (c) thereof as follows:

Amendment of article 6 of the principal Act.

“(c) a wife or a husband may be buried in the grave of his or her family, or in that of the respective spouse or of his or her family.”.

PART V

12. This Part amends, and shall be read and construed as one with, the Customs Ordinance, hereinafter referred to in this Part as “the principal law”.

Amendment of the Customs Ordinance, Cap. 37.

13. In article 18 of the principal law, for the words “a fine (*multa*) equivalent to the aggregate of the amount of duty payable on the goods contained in such package and double the value of such goods, or to twenty-five liri, whichever is the greater”, there shall be substituted the words “a fine (*multa*) equivalent to three times the amount of duty payable on the goods contained in such package or two hundred and fifty liri, whichever is the greater, so however that one third of the said amount shall be considered as a civil debt owed and payable to the department of customs”.

Amendment of article 18 of the principal Act.

14. In article 62 of the principal law:

Amendment of article 62 of the principal Act.

(a) for the words “a fine (*multa*) equivalent to the aggregate of the amount of duty payable on the goods and double the value of the goods, or to a fine (*multa*) of twenty-five liri, whichever is the greater”, there shall be substituted the words “a fine (*multa*) equivalent to three times the amount of duty payable on the goods or two hundred and fifty liri, whichever is the greater, so however that one third of this amount shall be deemed as a civil debt owed and payable to the department of customs, ”; and

(b) the second proviso thereof shall be deleted.

15. In article 63 of the principal law, the words “of small importance” shall be deleted and immediately after the words “loss of customs duty” there shall be added the words “not exceeding five hundred liri”.

Amendment of article 63 of the principal Act.

PART VI

Amendment to the
Notarial Profession
and Notarial
Archives Act, Cap.
55.

16. (1) This Part amends the Notarial Profession and Notarial Archives Act and shall be read and construed as one with the same Act, hereinafter in this Part referred to as “the principal Act”.

(2) This Part shall come into force on such date as the Minister responsible for justice may by notice in the Gazette establish and different dates may be so established for different provisions and different purposes thereof.

Amendment of
article 22 of the
principal Act.

17. In subarticle (1) of article 22 of the principal Act, for the words “one or two Notaries to Government” there shall be substituted the words “one or more Notaries to Government”.

Amendment of
article 40 of the
principal Act.

18. At the end of article 40 of the principal Act, there shall be added the following proviso:

“Provided that, without prejudice to the rights already acquired by third parties, the Minister may by regulations provide that a notarial act duly enrolled having one or more of the defects mentioned in paragraphs (a) to (g) of this article and which had been received by a Notary who is no longer alive shall be deemed to be valid notwithstanding such defect or defects, and in making such regulations the Minister may also subject the said validity to such terms and conditions as he may consider appropriate.

Amendment of
Article 43 of the
principal Act.

19. In article 43 of the principal Act, for the words “The execution of an act is not deemed” there shall be substituted the words “Without prejudice to anything that may be provided by regulations made in accordance with the proviso to article 40, the execution of an act is not deemed”.

PART VII

Amendment of the
Financial
Administration and
Audit Act, Cap.
174.

20. This Part amends, and shall be read and construed as one with, the Financial Administration and Audit Act hereinafter in this Part referred to as “the principal Act”.

Addition of new
article 72 to the
principal Act.

21. Immediately after article 71 of the principal Act, there shall be added the following new article:

“72. (1) The Minister responsible for finance, or any person, body or unit delegated on his behalf, may, notwithstanding any other law, issue directives as provided in subarticle (2) to any authority, board, foundation, corporation, institute, agency, commission, company or any

other entity 51 per cent or more of which is held in ownership by the Government or over which the Government has effective control, or where 51 per cent of its income comes from public monies or from monies it receives by virtue of any law.

(2) The directives referred to in subarticle (1) may regulate:

(a) the recruitment of employees and, or their remuneration;

(b) the procurement of fixed assets, services, consultancies, contracts of whatever type or nature relating to operational and, or administrative expenses,

and, where such directives are issued, the Board of Directors or other Board responsible for the affairs of the entity shall ensure that the decisions taken at Board and at management level respect such directives.”.

PART VIII

22. This Part amends the Immigration Act and shall be read and construed as one with the same Act hereinafter in this Part referred to as “the principal Act”. Amendment of Immigration Act, Cap. 217.

23. In article 26 of the principal Act for the words “a public officer not below the rank of a Head of Department” there shall be substituted the words “another Minister, a public officer not below the rank of a Head of Department, or a body corporate established by law,”. Amendment of article 26 of the principal Act.

PART IX

24. (1) This Part amends the Commissioners for Justice Act and shall be read and construed as one with the same Act hereinafter in this Part referred to as “the principal Act”. Amendment of the Commissioners for Justice Act, Cap. 291.

(2) This Part shall come into force on such date as the Minister responsible for justice may by notice in the Gazette establish and different dates may be so established for different provisions and different purposes thereof.

25. Article 7 of the principal Act shall be amended as follows: Amendment of article 7 of the principal Act.

(a) for the words “if a person duly served with a summons fails to appear”, there shall be substituted the words “if a person

duly served with a summons or his representative as may be authorised in writing by him, fails to appear”; and

(b) for the words “in the absence of the person charged.” there shall be substituted the words “in the absence of the person charged:

Provided that any person charged may instead of appearing before the Commissioner send to the Registry of the Commissioners representations in writing and, or a declaration on the facts of the case confirmed on oath contesting the charge against him, and the Commissioner shall, prior to deciding the case, take into account such representations and, or a declaration as if they had been made *viva voce* before him.”

Amendment of article 8 of the principal Act.

26. In article 8 of the principal Act immediately after the proviso to the article there shall be added the following new proviso:

“Provided further that the person charged may instead of appearing before the Commissioner, appoint in writing a representative who shall for all intents and purposes of law be deemed to have the same rights and obligations as a person charged before the Commissioner.”.

Amendment of article 11 of the principal Act.

27. In subarticle (1) of article 11 of the principal Act, for the words “six working days”, there shall be substituted the words “thirty days”.

Addition of article 11A to the principal Act.

28. Immediately after article 11 of the principal Act, there shall be added the following new article:

“Re-Trial.

11A. (1) Any person who has been found guilty of an infringement under article 10 may apply to the Court of Magistrates for a re-trial of his case on the ground that he was never duly served with the charge according to law.

(2) Such application shall be filed within fifteen days from the day such person acquired, or should have reasonably be expected to have acquired, knowledge of the decision against him.”.

Amendment of article 13 of the principal Act.

29. Subarticle (1) of article 13 of the principal Act shall be amended as follows:

(a) paragraphs (d) to (h) thereof shall be renumbered as paragraphs (e) to (i) respectively;

(b) immediately after paragraph (c) thereof there shall be added the following new paragraph:

“(d) for the establishment, after consultation with the Local Councils Association, of a Board which shall be competent to hear and decide requests which may be made for the waiving or discontinuance of proceedings against any person for any infringement before a Commissioner for Justice, or for remission of the penalty awarded, for any valid reason under such conditions as may be prescribed;”.

30. The provisions of articles 25 to 29 (both inclusive) of this Part shall also apply to any proceedings before the Commissioners for Justice which have not been finally determined in accordance with the Commissioners for Justice Act. Transitory provision.

PART X

31. (1) This Part shall be read, and construed as one with the Social Security Act, hereinafter referred to as “the principal Act”. Amendment to the Social Security Act, Cap. 318.

(2) This Part shall come into force as follows:

(a) this article and article 32 shall come into force on the 1st March, 2005;

(b) article 33 shall be construed to have come into force on the 1st May, 2004.

32. For subarticle (5) of article 30 of the principal Act, there shall be substituted the following:— Amendment of article 30 of the principal Act.

“(5) A head of household who:—

(a) is registered under Part Two of the Register kept in accordance with the provisions of the Employment and Training Services Act; or

(b) has in terms of article 13 (3) of the Employment and Training Services Act, forfeited his right to register under Part Two of the said Register,

and who, had he been registered under Part One of the said Register, would have been entitled in accordance with this article to social assistance, shall nonetheless be entitled to apply for social assistance and have his application referred by the Director to the

Board established under article 128 of this Act, and if the Board shall determine that social assistance is due to any person on behalf of that household as provided in article 129 of this Act, then the person so designated by the Board shall become entitled to social assistance at such rate as the Board may, in accordance with the provisions of the said article 129, determine:

Provided that, no such claim will be accepted unless the head of household proves to the satisfaction of the Director, in such manner as the Director may determine, that such head of household is not gainfully occupied.”.

Amendment of
article 134 of the
principal Act.

33. Article 134 of the principal Act shall be amended as follows:

(a) for the marginal note thereto there shall be substituted the words “Reciprocal and multilateral agreements.”; and

(b) immediately after subarticle (2) there shall be added the following new subarticle:

“(3) The Minister may make regulations to provide for the transposition and implimentation of any directive or other legal instrument of the European Union or of any decision of the European Court of Justice on matters of social security.”.

PART XI

Amendment of the
Import Duties Act,
Cap. 337.

34. This Part amends, and shall be read and construed as one with, the Import Duties Act, hereinafter referred to in this Part as “the principal Act”.

Amendment of
article 18A of the
principal Act.

35. In subarticle 18A (5) of the principal Act, immediately after the words “under this article,” there shall be inserted the words “and where the duty endangered does not exceed five hundred liri,”.

PART XII

Amendment of the
Private Guards and
Local Wardens Act,
Cap. 389.

36. (1) This Part amends the Private Guards and Local Wardens Act, and shall be read and construed as one with the same Act, hereinafter referred to as “the principal Act”.

(2) This Part shall come into force on such date as the Minister responsible for home affairs may by notice in the Gazzette establish and different dates may be so established for different provisions and different purposes thereof.

37. Article 2 of the principal Act shall be amended as follows: Amendment of article 2 of the principal Act.

(a) in the definition “local warden services” for the words “provision of similar services” there shall be substituted the words “provision of similar services whether by uniformed or plain clothes local wardens”; and

(b) immediately after the definition “Minister” there shall be added the following definition:

“ “plain clothes local warden” means a local warden without uniform whose services are rendered in the provision of specific duties, or parts of legislation, which are listed in the First Schedule to this Act.”.”.

38. Immediately after article 19 of the principal Act there shall be added the following new article. Addition of article 19A to the principal Act.

“Plain clothes local wardens. **19A.** A plain clothes local warden shall only be entitled to enforce the provisions of legislation listed in the First Schedule to this Act, which schedule may be amended by virtue of a notice made by the Minister.”.

39. Immediately after article 25 of the principal Act, there shall be added the following schedule:– Addition of First Schedule to the Act.

“FIRST SCHEDULE

(Article 19A)

Laws or Regulations which may be enforced by Plain Clothes Local Wardens

Abandonment, Dumping and Disposal of Waste in Streets and Public Places or Areas Regulations, 2005.”.

PART XIII

40. This Part amends, and shall be read and construed as one with, the Value Added Tax Act, 1998, hereinafter in this Part referred to as “the principal Act”. Amendment of the Value Added Tax Act, Cap. 406.

41. Subarticle (4) of article 15 of the principal Act shall be deleted and subarticle (5) thereof shall be renumbered as subarticle (4) thereof. Amendment of article 15 of the principal Act.

Amendment of
article 21 of the
principal Act.

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

(a) in subarticle (3) of article 21 thereof, for the words “of the month following that during which he is required to deliver the notice specified in article 15(4)” there shall be substituted the words “of the second month next following either the date of invoice or of the month during which the consignment or the supply of services is received, as the case may be, whichever is the earlier”; and

(b) in subarticle (4) thereof, for the words “as may be prescribed.” there shall be substituted the words “as may be prescribed:” and immediately thereafter there shall be inserted the following proviso:

“Provided that the running of interest on any amount of tax due which is the merit of an appeal before the Board of Appeal, shall be suspended for the period that exceeds two months from the date of the last sitting of the Board of Appeal relating to such appeal and the date when a decision is given by the Board or a final judgement is delivered by the Court of Appeal (Inferior Jurisdiction), as the case may be.”.

Amendment of
article 24 of the
principal Act.

43. In subarticle (3) of article 24 of the principal Act, for the words “that person by the Commissioner.” there shall be substituted the words “that person by the Commissioner:” and immediately thereafter there shall be inserted the following proviso:

“Provided that no interest shall be due for any period during which such person fails to produce information and, or documentation as may be requested by the Commissioner, for the verification of the amount claimed.”.

Amendment of
article 32 of the
principal Act.

44. In subarticle (1) of article 32 of the principal Act, immediately after the words “from the end of the said tax period” there shall be inserted the words “or from the date in which the tax return for that tax period is submitted, whichever date is the later”.

Amendment of
article 37 of the
principal Act.

45. Immediately after subarticle (3) of article 37 of the principal Act, there shall be inserted the following new sub-article:

“(4) Where, during the course of an investigation, a person co-operates with the Commissioner, accepts an agreement and within one month from the signing of the agreement pays the amount of tax due, the agreed administrative penalty and the interest due, that person shall be liable to an administrative penalty in an amount equivalent to 10 per cent of the amount of tax due.”.

- 46.** Article 38 of the principal Act shall be amended as follows: Amendment of article 38 of the principal Act.

(a) in subarticle (1) thereof, for the words “it is furnished to the Commissioner.” there shall be substituted the words “ it is furnished to the Commissioner:” and immediately thereafter there shall be inserted the following proviso:

“Provided that such administrative penalty shall in no case exceed two hundred and fifty liri for every return submitted late.”; and

(b) in subarticle (2) thereof, for the words “it is furnished to the Commissioner.” there shall be substituted the words “ it is furnished to the Commissioner:” and immediately thereafter there shall be inserted the following proviso:

“Provided that such administrative penalty shall in no case exceed two hundred and fifty liri for each such declaration or statement.”

- 47.** In subarticle (3) of article 39 of the principal Act, for the words “given to the Commissioner.” there shall be substituted the words “given to the Commissioner:” and immediately thereafter there shall be inserted the following proviso: Amendment of article 39 of the principal Act.

“Provided that such administrative penalty shall in no case exceed two hundred and fifty liri for each such notice.”.

- 48.** In article 40 of the principal Act, for the words “cancelled by the Commissioner.” there shall be substituted the words “cancelled by the Commissioner:” and immediately thereafter there shall be added the following proviso: Amendment of article 40 of the principal Act.

“Provided that such administrative penalty shall in no case exceed five hundred liri.”.

- 49.** In article 42 of the principal Act, for the words “administrative penalty” there shall be substituted the words “administrative penalty, in whole or in part,”. Amendment of article 42 of the principal Act.

- 50.** Immediately at the end of subarticle (2) of article 59 of the principal Act there shall be added the words “Upon the lapse of the period of two days mentioned in this sub-article the Commissioner shall be entitled to register in the public registry or land registry, as the case may be, a note of privilege for the amount demanded in the judicial act which note of privilege shall be registered by any advocate or notary.”. Amendment of article 59 of the principal Act.

Amendment of
article 76 of the
principal Act.

51. In article 76 of the principal Act, for the words “not less than one hundred liri and not exceeding three hundred liri” there shall be substituted the words “not less than three hundred liri and not exceeding one thousand five hundred liri”.

Amendment of
article 77 of the
principal Act.

52. Article 77 of the principal Act, shall be amended as follows:

(a) immediately after paragraph (n) there shall be added the following new paragraph:

“(o) supplies or offers to supply to another person and, or puts up for sale goods, without being in possession of a fiscal cash register or manual fiscal receipt books as issued or approved by the Commissioner,”; and

(b) for the words “not less than one hundred and fifty liri and not exceeding one thousand liri” there shall be substituted the words “not less than three hundred liri and not exceeding one thousand five hundred liri”.

Amendment of
article 78 of the
principal Act.

53. Article 78 of the principal Act shall be amended as follows:

(a) in subarticle (1) thereof, for the words “be less than three hundred liri” there shall be substituted the words “be less than five hundred liri”; and

(b) in subarticle (2) thereof, immediately after the words “on the latest of the said convictions” there shall be added the words “impose a fine (*multa*) of not less than one thousand liri”.

Amendment of
article 80 of the
principal Act.

54. In subarticle (1) of article 80 of the principal Act, for the words from “to the aggregate of the amount of tax” to the words “whichever shall be the greater” there shall be substituted the words “to three times the tax payable or to a fine (*multa*) of one hundred and fifty liri, whichever shall be the greater, so however that one third of the said amount shall be deemed as a civil debt due to the Commissioner”.

Amendment of
article 84 of the
principal Act.

55. In subarticle (3) of article 84 of the principal Act, immediately after the words “against the provisions” there shall be inserted the words “of paragraph (b) of article 76 or”, and for the words from “a fine (*multa*) of fifty liri” to the words “within fifteen days” there shall be substituted the words “one hundred liri in the case of a first offence, two hundred liri in the case of a second offence and four hundred liri in the case of a third offence, within fifteen days”.

PART XIV

56. This Part amends the Value Added Tax Act, 1994, and shall be read and construed as one with the Value Added Tax Act, hereinafter referred to in this Part as “the principal Act”.

Amendment of the Value Added Tax Act, 1994, Act No. XII of 1994.

57. In subarticle (1) of article 29 of the principal Act, immediately after the words “from the end of the said tax period” there shall be inserted the words “or from the date in which the tax return for that tax period is submitted, whichever date is the later”.

Amendment of article 29 of the principal Act.

58. Immediately at the end of subarticle (2) of article 48 of the principal Act, there shall be added the words “Upon the lapse of the period of two days mentioned in this sub-article the Commissioner shall be entitled to register in the public registry or land registry, as the case may be, a note of privilege for the amount demanded in the judicial act which note of privilege shall be registered by any advocate or notary.”.

Amendment of article 48 of the principal Act.

PART XV

59. This Part amends, and shall be read and construed as one with, the Customs and Excise Tax Act, 1997, hereinafter referred to in this part as “the principal Act”.

Amendment of the Customs and Excise Tax Act, 1997, Act No. XII of 1997.

60. In subarticle (1) of article 45 of the principal regulations, for the words “in respect of which the return was or should have been furnished.” there shall be substituted the words “or six years from the date when the return is furnished for that tax period, whichever date is the later.”.

Amendment of article 45 of the principal Act.

61. Immediately at the end of subarticle (2) of article 50 of the principal Act, there shall be added the words “Upon the lapse of the period of two days mentioned in this sub-article the Director shall be entitled to register in the public registry or land registry, as the case may be, a note of privilege for the amount demanded in the judicial act which note of privilege shall be registered by any advocate or notary.”.

Amendment of article 50 of the principal Act.

PART XVI

62. (1) This Part amends the Malta Communications Authority Act, and it shall be read and construed as one with the Malta Communications Authority Act, hereinafter in this Part referred to as “the principal Act”.

Amendment of the Malta Communications Authority Act, Cap. 418.

(2) This Part shall come into force on such date as the Minister responsible for communications may by notice in the Gazette

appoint and different dates may be so appointed for different provisions and different purposes thereof.

Amendment of
article 2 of the
principal Act.

63. In article 2 of the principal Act in the definition “decision”, for the words “includes any determination, direction,” there shall be substituted the words “includes any determination, direction, licence condition,”.

Amendment of
article 33 of the
principal Act.

64. In sub-article (1) of article 33 of the principal Act, for the words “the lapse” there shall be substituted the words “the beginning”.

Amendment of
article 36 of the
principal Act.

65. In paragraph (b) of sub-article (2) of article 36 of the principal Act, the words “from amongst panels of persons” there shall be substituted the words “from amongst a panel of persons”.

PART XVII

Amendment of the
Refugees Act, Cap.
420.

66. (1) This Part amends the Refugees Act and shall be read and construed as one with such Act hereinafter referred to as “the principal Act.”

(2) This Part shall come into force on such date as the Minister responsible for immigration may by notice in the Gazette establish, and different dates may be so established for different provisions and different purposes thereof.

Amendment of
article 5 of the
principal Act.

67. Article 5 of the principal Act shall be amended as follows:

(a) in subarticle (1) thereof, for the words “consist of a chairperson and two other members” there shall be substituted the words “consist of one Appeals Commissioner”, and the proviso thereto shall be deleted;

(b) in subarticle (2) thereof, for the words “The members of the Board” shall there be substituted the words “The Appeals Commissioner”;

(c) for subarticle (3) thereof there shall be substituted the following:

“(3) The Minister may also appoint a substitute appeal commissioner to sit on the Board whenever the Appeals Commissioner is for some valid reason unable temporarily to attend and participate in the sittings of the Board.”;

(d) in sub-paragraph (c) of subarticle (4) thereof, for the words “composed of a chairperson and two other members” there shall be substituted the words “composed of an Appeals Commissioner”.

68. In article 6 of the principal Act for the words “a member of the Board” wherever they occur there shall be substituted the words “an Appeals Commissioner”. Amendment of article 6 of the principal Act.

69. In subarticle (8) of article 7 of the principal Act for the words “the Chairperson” there shall be substituted the words “the Appeals Commissioner”. Amendment of article 7 of the principal Act.

70. In article 18 of the principal Act the words “the Chairman of the Refugee Appeals Board” wherever they occur, shall be substituted with the words “the Appeals Commissioner”. Amendment of article 18 of the principal Act.

71. The provisions of articles 67 to 70 (both inclusive) of this Part shall also apply to proceedings which are pending before the Refugee Appeals Board, as constituted prior to the coming into force of this Act or any chamber thereof, which have not been finally determined in accordance with the Refugees Act; so however that the Minister may make regulations in order to assign any pending appeal applications which have already been filed before the coming into force of this Act to different chambers of the Board presided over by different Appeal commissioners. Transitory provision.

PART XVIII

72. (1) This Part amends, and shall be read and construed as one with, the Electronic Commerce Act, hereinafter in this Part referred to as “the principal Act”. Amendment of the Electronic Commerce Act, Cap. 426.

(2) This Part shall come into force on such date as the Minister responsible for communications may by notice in the Gazette appoint and different dates may be so appointed for different provisions and different purposes thereof.

73. Article 2 of the principal Act shall be amended as follows: Amendment of article 2 of the principal Act.

(a) immediately before the definition “addressee” there shall be inserted the following new definition:

“ “the Act ” means the Electronic Commerce Act and includes, unless the context otherwise requires, any regulations made thereunder;” and

(b) in the definition “competent authority” for the words “in terms of article 17” there shall be substituted the words “in terms of subarticle (3) of article 25”.

Amendment of
article 17 of the
principal Act.

74. Article 17 of the principal Act shall be amended as follows:

(a) subarticle (1) thereof shall be deleted;

(b) subarticle (2) thereof shall be renumbered as the whole article; and

(c) for the words “The Minister may prescribe on any of the following matters-” there shall be substituted the words “The Minister may, in the context of the supervision of signature certification service providers established in Malta, prescribe on any of the following matters-”.

Amendment of
article 25 of the
principal Act.

75. After subarticle (2) of article 25 of the principal Act there shall be added the following new subarticle:

“(3) The Minister shall by Order designate a competent authority which shall be responsible for monitoring and ensuring compliance with the provisions of this Act and for the undertaking of any such other functions as the Minister may from time to time consider necessary.”.

PART XIX

Amendment of the
Healthcare
Professions Act,
Cap. 464.

76. This Part amends and shall be read and construed as one with the Healthcare Professions Act, hereinafter referred to in this Part as “the principal Act.”.

Amendment of
article 29 of the
principal Act.

77. Immediately after subarticle (1) of article 29 of the principal Act, there shall be inserted the following proviso:

“Provided that a dentist shall be entitled to practice in all fields of dentistry insofar as he holds a licence issued for that purpose by the President of Malta and his name is entered in the Councils Principal Register of Dental Surgeons.”.

Amendment of
article 30 of the
principal Act.

78. Article 30 of the principal Act shall be amended by substituting for sub-paragraph (i) of paragraph (a) of subarticle (6) the following:—

“(i) to issue certificates of completion of specialist training in the specialities listed in the relevant part of the Fifth Schedule, upon the fulfillment of criteria recommended by the relevant professional associations listed in the Fourth Schedule within three months from the date of receipt of the application or from the day any documentation which the Committee may request, whichever is the later;”.

79. For article 44 of the principal Act there shall be substituted the following:–

Substitution of article 44 of the principal Act.

“44. Where a citizen of a Member State, who holds a diploma, certificate or other evidence of formal qualification obtained outside the European Union which has been recognised by a Member State and who has acquired experience in a Member State or third countries which has also been recognised in a Member State, applies to be registered under this Act, the relevant Council shall within three months from the day the request is received, or from the day the documentation referred to has been fully submitted, whichever is the later, examine such diploma, certificate or other evidence of formal qualification before recognising it, and shall forthwith inform the applicant of its decision by registered post.”.

80. Article 49 of the principal Act shall be amended by substituting subarticle (3) with the following:

Amendment of article 49 of the principal Act.

“(3) The Appeals Committee shall have the following functions:

(a) upon an application to this effect by the person concerned, to hear and decide upon a decision of the relevant Council whereby registration of a healthcare professional in the appropriate register is refused;

(b) upon an application to this effect by the person concerned, to hear and decide upon a decision of the relevant Specialist Accreditation Committee whereby the award of a specialist certificate to a healthcare professional is refused;

(c) upon an application to this effect by the person concerned, aggrieved by a default of the relevant Council to decide upon an application for registration, within the time referred to in article 42;

(d) to levy such fees as may be prescribed.”.

Amendment of
article 23 of the
principal Act.

81. Article 23 of the principal Act shall be amended by adding immediately after subarticle (3) thereof the following new subarticle:

“(4) Notwithstanding the provisions of subarticle (1), the Council for Nurses and Midwives shall keep a register in which, following an applicaiton to that effect by the person concerned, these shall be registered for a period not exceeding one year the names of any citizen of Malta or of a Member State who has qualified for the qualificaitons listed in paragraphs (a) or (b) or (c) or, subject to the provisions of subarticle (2), in paragraph (d), but has not yet obtained such qualification.”.

Amendment of
article 27 of the
principal Act.

82. Article 27 of the principal Act shall be amended by substituting for subarticle (1) thereof the following:

“(1) Where a citizen of a Member State, who holds a diploma, certificate or other evidence of formal qualification obtained outside the European Union which has been recognised by a Member State and who has acquired experience in a Member State or third countries which has also been recognised in a Member State, applies to be registered under this Act, the relevant Council shall within three months from the day the request is received, or from the day the documentation referred to has been fully submitted, whichever is the later, examine such diploma, certificate or other evidence of formal qualificaiton before recognising it, and shall forthwith inform the applicant of its decision by registered post.”.

Passed by the House of Representatives at Sitting No. 292 of 18th July, 2005.

ANTON TABONE
Speaker

RICHARD J. CAUCHI
Clerk to the House of Representatives