Verżjoni Elettronika

A 1132

I assent.

(L.S.) GEORGE ABELA
President

21st December, 2010

ACT No. XXIV of 2010

AN ACT to amend the Conduct Certificates Ordinance (Cap. 77).

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same, as follows:-

Short title and commencement.

Cap. 77.

1. (1) The short title of this Act is the Conduct Certificates Ordinance (Amendment) Act, 2010, and this Act shall be read and construed as one with the Conduct Certificates Ordinance, hereinafter referred to as "the Ordinance".

(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 purposes and for different provisions of this Act.

Amendment of article 3 of the Ordinance.

2. Article 3 of the Ordinance shall be re-numbered as subarticle (1) thereof, and immediately after subarticle (1), as re-numbered, there shall be added the following:

"(2) Notwithstanding the provisions of article 4(2), it shall be lawful for the competent national authorities and entities listed in the Fourth Schedule and designated by the Minister responsible for the Police for this purpose, to request, with the consent in writing of the person to whom the record of criminal convictions relates, the Commissioner of Police to submit a complete record of criminal convictions of the person to whom they relate.

(3) The request made in accordance with subarticle (2) shall be connected with:

(a) the recruitment or continued employment of a person as an employee; or

(b) the issue or renewal of a licence or permit.

(4) The Commissioner of Police may also, on the basis of Malta's international commitments, disclose information on criminal convictions to an overseas competent authority; the Commissioner of Police may likewise record criminal convictions received from an overseas competent authority.

For the purpose of this subarticle "overseas competent authority" means an authority which, in a country or territory outside Malta, exercises any function corresponding to the functions of the Commissioner of Police under this Ordinance.".

3. Article 4 of the Ordinance shall be amended as follows:

Amendment of article 4 of the Ordinance.

(a) in paragraph (b) of subarticle (1) thereof, for the words "by any court of law," there shall be substituted the words "by any court of law, whether in Malta or abroad,"; and

(b) in subarticle (2) thereof, for the words "shall be entitled to be given a certificate of good conduct in accordance with Form A in the First Schedule to this Ordinance" there shall be substituted the words "shall be entitled to be given a declaration to the effect that the person has no recordable offences under the terms of this Ordinance".

4. Article 6 of the Ordinance shall be amended as follows:

Amendment of article 6 of the Ordinance.

(a) for the words "or from the date of the payment of the fine (*multa*)," there shall be substituted the words "or from the date of the payment of the fine (*multa*):";

(b) the words from "provided that during such interval"

to the words "shall be entered in such certificate." shall be deleted; and

(c) immediately after the words "or from the date of the payment of the fine (*multa*):", there shall be added the following two provisos:

"Provided that if during such period that person is again sentenced in respect of any other crime, including a suspended sentence, any previous conviction or convictions which have not expired according to Second Schedule, shall continue to be recorded in the Conduct Certificate issued in accordance with Form B of the First Schedule until the expiration of the period required for the non-registration of the last conviction:

Provided further that if the period for non-registration of the last conviction is less than that of any previous conviction, then the period for non-registration of the last conviction shall be extended up to the expiration of the longer period of non-registration of any previous conviction.".

Amendment of article 7A of the Ordinance.

5. Article 7A of the Ordinance shall be amended as follows:

(a) for the words "the date of the expiration of the punishment of imprisonment shall be deemed to be the date when the order under subarticle (1) of the said article 28A shall have been made." there shall be substituted the words "the period required for non-registration shall elapse at the end of the operational period mentioned in the order made under sub-article (1) of the said article 28A:"; and

(b) immediately thereafter there shall be added the following proviso:

"Provided that in the cases referred to in article 28B(2)(b) of the Criminal Code, the period for non-registration shall elapse at the end of the varied operational period which is to run from the date of the variation ordered by the Court.".

Amendment of article 8 of the Ordinance.

6. Article 8 of the Ordinance shall be amended as follows:

(a) for the words "the court may, in passing sentence, or at any time thereafter, on the application of the person convicted" there shall be substituted the words "the court may, in passing sentence, and the Criminal Court, at any time

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thereafter, whether the sentence is handed down by the Court of Magistrates or by the Criminal Court, on the application of the person convicted, set the hearing of the application within thirty days of the filing of the application,";

(b) for the words "the court deems it proper so to direct." in paragraph (b) thereof, there shall be substituted the words "the court deems it proper so to direct:"; and

(c) immediately after the article there shall be added the following provisos:

"Provided that the provisions of this article shall not apply to the exceptions mentioned in article 7:

Provided further that the Criminal Court may, upon an application from the convicted person, after having been found guilty by the court, order that the conviction be not entered on the conduct certificate in those cases, notwithstanding the provisions of article 7, and under those conditions as may be prescribed by the Minister responsible for home affairs.".

Addition of new article to the Ordinance.

7. Immediately after article 9 of the Ordinance there shall be added the following new article:

"Power of Minister to make regulations.

10. The Minister responsible for the Police may by regulations amend, revoke, add to or substitute the Schedules annexed to this Ordinance and may also make regulations for the better carrying out of the provisions of this Ordinance.".

Amendment of Third Schedule to the Ordinance.

8. Immediately after paragraph 3 of the Third Schedule to the Ordinance, there shall be added the following new paragraphs:

"4. Crimes against the Good Order of Families contemplated in Sub-title II of Title VII of Part II of Book First of the Criminal Code (articles 198 to 209).

5. Crimes against the Person contemplated in Sub-title I of Title VII of Part II of Book First of the Criminal Code (articles 211 to 213).".

Addition of new Schedule to the Ordinance.

9. Immediately after the Third Schedule to the Ordinance, there shall be added the following new Schedule:

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"FOURTH SCHEDULE

[Article 3(2)]

List of competent authorities with the right to request complete record of criminal convictions from the Commissioner of Police

The Authority for Transport in Malta".

Passed by the House of Representatives at Sitting No. 294 of the 7th December, 2010.

MICHAEL FRENDO
Speaker

PAULINE ABELA
Clerk to the House of Representatives