I assent.

(L.S.)

ĊENSU TABONE
President

26th January, 1993

ACT No. I of 1993

AN ACT to amend the probation of Offenders Act, Cap. 152.

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. This Act may be cited as the Probation of Offenders (Amendment) Act, 1993, and shall be read and construed as one with the Probation of Offenders Act, hereinafter referred to as "the principal Act".

Cap. 152.

Amendment of section 2 of the principal Act.

2. Section 2 of the principal Act shall be amended as follows:

(a) in the Maltese text thereof —

(i) immediately after the words "t-tifsir tal-kelma ma jfissirx xort'oħra —" there shall be inserted the words ""dikjarata ħatja ta' reat" tinkludi dikjarazzjoni ta' ħtija mill-Qorti ta' l-Appell Kriminali u l-konferma mill-imsemmija qorti ta' dikjarazzjoni ta' ħtija mill-qorti ta' l-ewwel grad jew ta' sejbien ta' ħtija mill-ġuri;"; and

(ii) the words from ""il-Qorti Kriminali" għandha titqies li tinkludi" to "dikjarazzjoni ta' ħtija mill-Qorti ta' l-Appell Kriminali;" shall be deleted; and

(b) in the English text thereof, for the words ""the Criminal Court" shall be deemed to include the Court of Criminal Appeal and any reference to a conviction by or before the Criminal Court shall be deemed to include a conviction or the affirmation of a conviction by the Court of Criminal Appeal;" there shall be substituted the words ""convicted of an offence" includes conviction by the Court of Criminal Appeal and the affirmation by the said court of a conviction by the court of first instance or of a finding of guilt by a jury;".

Amendment of section 4 of the principal Act.

3. Subsection (1) of section 4 of the principal Act shall be amended as follows:

(a) for paragraph (c) thereof there shall be substituted the following paragraph:

"(c) to report at least once every six months to the court as to the behaviour, mode of life and generally upon the progress, if any, of the probationer;"; and

(b) in paragraph (d) thereof for the words "befriend him," there shall be substituted the words "befriend the probationer,".

Amendment of section 5 of the principal Act.

4. Section 5 of the principal Act shall be amended as follows:

(a) in subsection (1) thereof, for the words "not being an offence which, " there shall be substituted the words "not being an offence punishable only with a fine *(multa* or *ammenda)* and not being an offence which,"; and

(b) in subsection (2) thereof, for the words "the commission of other offences:" there shall be substituted the words "the commission of other offences, and the court may also give to the probation officer such directions as it may deem necessary for securing these purposes:"; and

(c) in subsection (4) thereof —

(i) for the words "twelve months" there shall be substituted the words "twenty six months"; and

(ii) for the words "direction of a medical practitioner" there shall be substituted the words "direction of a medical practitioner or other suitably qualified person"; and

(iii) for the words "under the direction of such medical practitioner" there shall be substituted the words "under the direction of such medical practitioner or other suitably qualified person"; and

(iv) for the words "application made by the medical practitioner" there shall be substituted the words "application made by the medical practitioner or other suitably qualified person".

Amendment of section 6 of the principal Act.

5. For subsection (2) of section 6 of the principal Act there shall be substituted the following subsection:

"(2) The court shall not appoint the principal probation officer to supervise an offender, and, where the circumstances permit, shall appoint a probation officer experienced in dealing with children or young persons to supervise an offender who is under the age of sixteen years.".

Amendment of section 7 of the principal Act.

6. In subsection (2) of section 7 of the principal Act, for the words "upon application made" there shall be substituted the words "upon receipt of a report from the probation officer or upon application made".

Amendment of section 8 of the principal Act.

7. Section 8 of the principal Act shall be amended as follows:

(a) in subsection (1) thereof —

(i) for the words "Provided that no such summons" there shall be substituted the words "Provided that, except where the alleged failure is brought to the attention of the court in a report by the probation officer, no such summons"; and

(ii) for the words "by the Criminal Court," there shall be substituted the words "by the Criminal Court or by the Court of Criminal Appeal,"; and

(iii) for the words "by a court of judicial Police," there shall be substituted the words "by the Court of Magistrates (Malta), by the Court of Magistrates (Gozo) or by the Juvenile Court,"; and

(b) in subsection (2) thereof, for the words "ten liri," there shall be substituted the words "fifty Maltese liri,".

Amendment of section 9 of the principal Act.

8. In subsection (1) of section 9 of the principal Act, for the words "not being an offence which," there shall be substituted the words "not being an offence punishable only with a fine *(multa* or *ammenda)* and not being an offence which,".

Amendment of section 10 of the principal Act.

9. Section 10 of the principal Act shall be amended as follows:

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

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

"(2) Subject to the provisions of subsection (3), where a person is dealt with for the offence for which he was placed on probation or conditionally discharged, it shall not be lawful for the court to place him on probation or to make an order as provided in subsection (1) of section 9 of this Act in respect of that offence.

(3) Subsection (2) shall not apply where the offence, committed during the probation period or during the period of conditional discharge and for which the person is subsequently convicted, is a contravention or is a crime committed through imprudence or carelessness, or through unskilfulness in the exercise of any art or profession, or through non-observance of regulations.

(4) For the purposes of subsection (1) —

(a) the Court of Magistrates (Malta), the Court of Magistrates (Gozo) and the Juvenile Court shall be deemed to be the same court;

(b) the Court of Criminal Appeal in the determination of appeals from judgements of the Court of Magistrates (Malta), the Court of Magistrates (Gozo) and the Juvenile Court shall be deemed to be a different court from the Court of Criminal Appeal in the determination of appeals from decisions of the Criminal Court.".

Amendment of section 11 of the principal Act.

10. In subsection (1) of section 11 of the principal Act, for the words "two hundred liri." there shall be substituted the words "five hundred Maltese liri.".

Amendment of section 12 of the principal Act.

11. Subsection (3) of section 12 of the principal Act shall be amended as follows:

(a) for the words "The foregoing provisions of this section" there shall be substituted the words "The provisions of subsection (1) of section 5, of subsection (1) of section 9 and of subsections (1) and (2) of this section";

(b) for paragraph (c) thereof, there shall be substituted the following paragraph:

"(c) the operation of section 23 of the Criminal Cap. 9. Code and of any other provision of that Code or of any other law relating to the forfeiture of any property, and of any right in or over any property, whether movable or immovable, or the retention of any property by the registrar of any court or by any other officer authorised by law to seize or to retain any property connected with criminal proceedings; "; and

(c) for paragraph (g) thereof, there shall be substituted the following paragraph:

"(g) the operation of subsections (3), (5) and (6) of section 35 of the Criminal Code;".

Amendment of section 13 of the principal Act.

12. Immediately after subsection (3) of section 13 of the principal Act there shall be added the following subsection:

"(4) The provisions of the foregoing subsections shall apply, *mutatis mutandis,* to proceedings before the Court of Criminal Appeal.".

Passed by the House of Representatives at Sitting No. 96 of the 20th January, 1993.

LAWRENCE GONZI
Speaker

RICHARD J. CAUCHI
Clerk to the House of Representatives.

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