

I assent.

(L.S.)

GEORGE VELLA
President

4th June, 2021

ACT No. XXVIII of 2021

AN ACT to further amend the Criminal Code, Cap. 9.

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

1. The short title of this Act is the Criminal Code (Amendment No. 5) Act, 2021 and this Act shall be read and construed as one with the Criminal Code, hereinafter referred to as "the Code".

Short title.
Cap. 9.
2. In sub-article (2) of article 30 of the Code, immediately after the words "after hearing the" there shall be added the words "Attorney General or".

Amendment of
article 30 of the
Code.
3. In Title I of Book Second of the Code, immediately after the words "and duties of the" there shall be added the words "Attorney General and the".

Amendment of
Title I of Book
Second of the
Code.
4. Immediately after article 347 of the Code there shall be added

Addition of new
article to the
Code.

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the following new article:

"Powers of the
Attorney
General.

347A. Without prejudice to the two preceding articles, the Attorney General shall have the following functions and powers:

(a) to delegate to the Commissioner of Police prosecutorial functions vested in the Attorney General; and

(b) notwithstanding anything provided in any other law, and in his discretion, to prosecute any offence, alone or together with the Executive Police or together with any other authority having prosecution powers."

Amendment of
article 350 of
the Code.

5. In sub-article (1) of article 350 of the Code, immediately after the definition "appropriate consent" there shall be added the following new definition:

Cap. 90. " "Attorney General" shall have the same meaning as assigned to it in article 2 of the Attorney General Ordinance and includes the Deputy Attorney General and other officers of the Attorney General."

Substitution of
article 375 of
the Code.

6. Article 375 of the Code shall be substituted by the following new article:

"Proceedings
by the
Attorney
General or the
Executive
Police *ex
officio*.

375. In proceedings instituted by the Attorney General or the Executive Police, the following provisions shall apply:

(a) the accused shall appear personally. He may, however, be assisted by advocates or legal procurators;

(b) in the case of contraventions, the provisions of paragraph (b) of the last preceding article shall apply as regards the accused;

(c) the Attorney General or the officer of the Executive Police in charge of the prosecution and the accused or his advocate or legal procurator shall be heard in the order set out in paragraph (i) of the last preceding article;

(d) it shall be lawful for the court to require that the charges be read out by the Attorney General or the officer of the Executive Police and the report is confirmed on oath by the officer of the Executive Police;

(e) the accused may cross-examine the said officer."

- 7.** Sub-article (1) of article 390 of the Code shall be substituted by the following new sub-article: Amendment of article 390 of the Code.

"(1) The court shall hear the charges read by the Attorney General or the officer of the Executive Police and the report of the Police officer on oath, shall examine, without oath the party accused and shall hear the evidence in support of the charges read. Everything shall be reduced to writing."

- 8.** In sub-article (3) of article 397 of the Code, immediately after the words "at the request of" there shall be added the words "the Attorney General or". Amendment of article 397 of the Code.

- 9.** Sub-article (5) of article 405 of the Code shall be substituted by the following new sub-article: Amendment of article 405 of the Code.

"(5) The provisions of the preceding sub-articles of this article shall apply in the case of witnesses whom the accused may wish to examine or re-examine. In such case, the demand shall be communicated to the Attorney General who, not later than the day following, shall forward to the court the record of inquiry. The court shall then cause the Attorney General or the Commissioner of Police to be notified of the day appointed for the hearing of the witnesses in order that they or any other officer under their charge may if they so desire, appear and cross-examine the witnesses."

- 10.** In sub-article (1) of article 410 of the Code, immediately after the words "instituted by the" there shall be added the words "Attorney General or by the". Amendment of article 410 of the Code.

- 11.** In sub-article (1) of article 412A of the Code, immediately after the words "is not in custody" there shall be added the words "the Attorney General or the". Amendment of article 412A of the Code.

- 12.** Sub-article (1) of article 430 of the Code shall be substituted by the following new sub-article: Amendment of article 430 of the Code.

"(1) The Attorney General may, along with the Executive Police, prosecute before the Court of Magistrates, and shall be the prosecutor before the Criminal Court."

- 13.** In sub-article (3) of article 517 of the Code, immediately after the words "If the" there shall be added the words "Attorney General or the". Amendment of article 517 of the Code.

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Amendment of
article 533 of
the Code.

14. In sub-article (1) of article 533 of the Code, immediately after the words "proceedings instituted by" there shall be added the words "the Attorney General or by the".

Amendment of
article 550 of
the Code.

15. In sub-article (2) of article 550 of the Code, immediately after the words "shall be lawful for the" there shall be added the words "Attorney General or the".

Amendment of
article 597 of
the Code.

16. In sub-article (4) of article 597 of the Code, the words "the report of the Police officer" shall be substituted by the words "the charges being read".

Passed by the House of Representatives at Sitting No. 467 of the 31st May, 2021.

ANĠLU FARRUGIA
Speaker

RAYMOND SCICLUNA
Clerk of the House of Representatives

