Verżjoni Elettronika

I assent.

(L.S.) **GEORGE VELLA**
President

2nd February, 2024

ACT No. III of 2024

AN ACT to amend various laws relative to police arrest and detention of persons suspected of having committed serious crimes.

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 relating to Police Arrest and Detention (Amendment) Act, 2024. Short title.

Part I
Amendment to the Constitution

2. This Part amends the Constitution and it shall be read and construed as one with the Constitution, hereinafter in this Part referred to as "the Constitution". Amendment to the Constitution.

3. In sub-article (3) of article 34 of the Constitution, the words "proceedings preliminary to trial." shall be substituted by the words "proceedings preliminary to trial:" and immediately after there shall be added the following new proviso: Amendment of article 34 of the Constitution.

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"Provided that Parliament may by law provide for the extension, subject to adequate procedural safeguards and to the authorisation of a Magistrate, of the period of forty-eight (48) hours within which the person arrested or detained shall be brought before a court, by another period not exceeding a further forty-eight (48) hours if the person who is arrested or detained is reasonably suspected to have committed a crime liable to a maximum punishment exceeding twelve (12) years imprisonment.".

Part II
Amendment to the Criminal Code

Amendment to the Criminal Code. Cap. 9.

4. 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".

Amendment of article 355AJ of the Code.

5. Immediately after sub-article (3) of article 355AJ of the Code there shall be added the following new sub-articles:

"(4) Notwithstanding the provisions of sub-article (3) where the arresting police officer has sufficient reasons for believing that the person arrested has committed a crime liable to a maximum punishment exceeding twelve (12) years imprisonment and that the continuation of the arrest of the person beyond forty-eight (48) hours is necessary to obtain relevant evidence or to preserve relevant evidence, the arresting officer may by means of an application confirmed on oath and supported by information request a Magistrate to issue a warrant authorising the keeping of the person arrested under further detention:

Provided that for the purposes of this sub-article:

"arresting police officer" and "arresting officer" mean a police officer in the grade of Inspector or higher who is in charge of the investigation of the person arrested;

"a crime liable to a maximum punishment exceeding twelve (12) years imprisonment" means a crime liable to a maximum punishment exceeding twelve (12) years imprisonment without considering any increase in punishment due to concurrent crimes and punishments, aggravating circumstances, aggravation of the punishment, any previous conviction or the continuous nature of the crime;

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"information" means information about:

(a) the time of arrest and the nature of the crime for which the person under arrest has been arrested;

(b) the evidence on which that person was arrested; and

(c) the special reasons for believing the continued detention of that person to be necessary.

(5) A Magistrate shall not accede to a request filed in accordance with sub-article (4) unless:

(a) the person arrested has been furnished with the information and has been brought before the Magistrate for a hearing; and

(b) the Magistrate is satisfied that the investigation is being conducted diligently and expeditiously.

(6) An application for a warrant in accordance with sub-article (4) may be made at any time before the expiry of the first thirty-six (36) hours from the time of arrest if the person is still under arrest.

(7) Where upon an application in accordance with sub-article (4) the Magistrate is not satisfied that there are sufficient reasons to believe that the further detention of the person arrested beyond forty-eight (48) hours is justified he may refuse the application or adjourn the hearing until a time not later than forty-eight (48) hours from the time of the arrest.

(8) Where the Magistrate is satisfied that there are sufficient reasons to believe that the further detention of the person arrested is justified he shall issue a warrant of further detention for such period not exceeding a further forty-eight (48) hours as the Magistrate deems fit.

(9) A person released after a warrant for further detention is issued or has expired in his respect, shall not be re-arrested without a warrant to be issued by a Magistrate for the offence for which he was previously arrested unless, since the person’s release, fresh evidence has been discovered or an examination or analysis of existing evidence has been made which could not reasonably have been made before his release.

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(10) (a) At the hearing held for the purposes of sub-article (4), the person under arrest shall have the right to be assisted by an advocate or by a legal procurator and that hearing shall:

(i) be held with closed doors;

(ii) be subject to such orders as the Magistrate may give to all persons present at the said hearing for the purpose of protecting the confidentiality of information on the investigation;

(iii) be held summarily in such manner that, in all, the period of the first forty-eight (48) hours provided in sub-article (3) is not exceeded;

(iv) end with the decree of the Magistrate which shall be delivered at the end of the hearing.

(b) The decision of the Magistrate given in accordance with this sub-article shall not be subject to appeal and shall be executable forthwith.".

Part III
Amendment to the Police Act

Amendment to the Police Act. Cap. 164.

6. 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".

Amendment of article 64 of the principal Act.

7. In paragraph (a) of article 64 of the principal Act, immediately after the words "of forty-eight hours from his arrest" there shall be added the words:

", or of such period of further detention as may have been authorised according to article 355AJ of the Criminal Code,".

Cap. 9.

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Passed by the House of Representatives at Sitting No. 201 of the 30th January, 2024.

ANĠLU FARRUGIA
Speaker

ELEANOR SCERRI
Clerk of the House of Representatives

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