

## MEMORANDUM

for the Cabinet

by the Hon. Minister of Justice and Parliamentary Affairs  
on a Bill amending the Criminal Code

The attached draft Bill is intended to amend the Criminal Code with the following purposes:-

(a) Magistrates of the Court of Judicial Police will be empowered to dispense with the inquest in cases where minor crimes are involved;

(b) Magistrates will be empowered to authorize experts appointed by them to hear witnesses on oath. The present system whereby persons who have given evidence before experts are required to confirm on oath such evidence before the Court is very cumbersome and should be eliminated, saving the discretion of the Court to hear such witness if it deems it so proper in the interests of justice and the right of the accused to ask that the witness be heard again in Court if he so wishes.

(c) An inquest shall be held on the body of any person who dies in the Mount Carmel Hospital while he is there by an order of a Court of Criminal Justice. This provision will be parallel to another provision, already existing in the Criminal Code, whereby when a person dies while he is imprisoned or detained in any place of confinement contemplated in the Prisons Ordinance or while he is in Police custody an inquest is to be held on such person's body.

(d) The aggravating circumstance of amount in the crime of theft, which at present occurs where the value of the thing stolen exceeds £10 (an amount established at a time when it was considered a substantial amount), will

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occur where the value of the thing stolen exceeds £50. Analogous increases, more or less corresponding in proportion, are made in other cases where the amount involved in the crime affects the gravity of the crime or the scale of punishment which is applicable to the crime. The attached Appendix will enable Hon. Ministers to assess the extent of such increases in relation to the crime to which they refer.

Hon. Ministers are asked to approve that the Bill in question be introduced in the House of Representatives.

23 NOV 1970

## APPENDIX

Section	Offence and Punishment	Present Amount	Amount as increased
280 and 292(a)	Theft aggravated by amount: hard labour 5 months to 3 years	where value of thing stolen exceeds £10	where value of thing stolen exceeds £50
291(4)	Theft accompanied by aggravating circumstances including means: cases where Court may mitigate punishment and award from 5 to 9 months hard labour	where value of thing stolen does not exceed £1	where value of thing stolen does not exceed £5
292(b)	Theft aggravated by amount: 13 months to 7 years hard labour	where value of thing stolen exceeds £100	where value of thing stolen exceeds £500
295	Theft accompanied by aggravating circumstances excluding means and violence: hard labour for a term not exceeding three months	where value of thing stolen does not exceed £3	where value of thing stolen does not exceed £10
298 proviso	Simple theft: hard labour not exceeding three months	where value of thing stolen does not exceed £3	where value of thing stolen does not exceed £10
324(a)	Fraud: punishment increased by two or three degrees	where damage caused exceeds £100	where damage caused exceeds £500
324(b)	Fraud: punishment increased by one degree	where damage caused exceeds £10	where damage caused exceeds £50
324(c)	Fraud: hard labour or imprisonment not exceeding three months	where damage caused does not exceed £3	where damage caused does not exceed £10

Section	Offence and Punishment	Present amount	Amount as increased
324(d)	Fraud: imprisonment not exceeding 20 days, or multa (£5 to £20) or punishment for contraventions (detention not exceeding one month, or ammenda 2s.6d to £5, or reprimand or admonition)	where damage caused does not exceed £1	where damage caused does not exceed £5
335(2) (a)	Exhibition of false lights signals etc. with intent to cause loss or stranding of any ship: hard labour 5 to 9 years	where damage exceeds £10	where damage exceeds £50
	Exhibition of false lights etc. (as above): hard labour 4 to 6 years	where damage does not exceed £10	where damage does not exceed £50
339(a)	Wilful damage: hard labour or imprisonment 13 months to 4 years	where damage exceeds £100	if damage exceeds £500
339(b)	Wilful damage: hard labour or imprisonment 5 months to one year	where damage does not exceed £100 but exceeds £10	if damage does not exceed £500 but exceeds £50
339(c)	Wilful damage: six months (proceedings only on complaint of injured party)	where damage does not exceed £10 but exceeds £3	if damage does not exceed £50 but exceeds £10
339(d)	Wilful damage: imprisonment not exceeding three months or punishment for contraventions	where damage does not exceed £3	where damage does not exceed £10
383(3) (c)	Theft aggravated by means but not also by violence: six months hard labour	where value of thing stolen does not exceed £1	where value of thing stolen does not exceed £5

AN ACT further to amend the Criminal Code, Cap. 12.

BE IT ENACTED by the Queen's Most Excellent Majesty by and with the advice and consent of the House of Representatives of Malta in this present Parliament assembled and by the authority of the same as follows:-

Short title.

1. This Act may be cited as the Criminal Code (Amendment) Act, 1970, and shall be read and construed as one with the Criminal Code, hereinafter referred to as "the principal law".

Amendment of section 280 of the principal law.

2. In section 280 of the principal law, for the words "ten pounds sterling" there shall be substituted the words "fifty pounds".

Amendment of section 291 of the principal law.

3. In subsection (4) of section 291 of the principal law, for the words "one pound sterling" there shall be substituted the words "five pounds".

Amendment of section 292 of the principal law.

4. In paragraphs (a) and (b) of section 292 of the principal law, for the words "one hundred pounds sterling" there shall be substituted the words "five hundred pounds".

Amendment of section 295 of the principal law.

5. In section 295 of the principal law, for the words "three pounds sterling" there shall be substituted the words "ten pounds".

Amendment of section 298 of the principal law.

6. In section 298 of the principal law, for the words "three pounds sterling" there shall be substituted the words "ten pounds".

Amendment of section 324 of the principal law.

7. Subsection (1) of Section 324 of the principal law shall be amended as follows:-

(a) in paragraph (a) for the words "one hundred pounds sterling" there shall be substituted the words "five hundred pounds";

(b) in paragraph (b), for the words "exceeds ten pounds sterling but does not exceed one hundred pounds sterling" there shall be substituted the words "exceeds fifty pounds but does not exceed five hundred pounds";

(c) in paragraph (c), for the words "three pounds sterling" there shall be substituted the words "ten pounds";

(d) in paragraph (d), for the words "twenty shillings" there shall be substituted the words "five pounds".

Amendment of section 335 of the principal law.

8. In paragraph (a) of subsection (2) of section 335 of the principal law, for the words "ten pounds sterling", wherever they occur, there shall be substituted the words "fifty pounds".

Amendment of section 339 of the principal law.

9. Section 339 of the principal law shall be amended as follows:-

(a) in paragraph (a), for the words "one hundred pounds sterling" there shall be substituted the words "five hundred pounds";

(b) in paragraph (b), for the words "does not exceed one hundred pounds sterling but exceeds ten pounds sterling" there shall be substituted the words "does not exceed five hundred pounds but exceeds fifty pounds";

(c) in paragraph (c), for the words "does not exceed ten pounds sterling but exceeds three pounds sterling" there shall be substituted the words "does not exceed fifty pounds but exceeds ten pounds";

(d) in paragraph (d), for the words "three pounds sterling" there shall be substituted the words "ten pounds".

Amendment of section 383 of the principal law.

10. In paragraph (c) of subsection (3) of section 383 of the principal law, for the words "one pound sterling" there shall be substituted the words "five pounds".

Substitution  
of section 540  
of the princi-  
pal law.

11. For section 540 of the principal law there shall be substituted the following:-

"Investigation relating to the 'in genere'". 540. (1) Saving the provision of the next following subsection, upon the receipt of any report, information or complaint in regard to any offence in respect of which it shall be necessary to proceed to an inquiry, and if the subject-matter of the offence still exists, the state thereof, with each and every particular, shall be described, and the instrument, as well as the matter in which such instrument may have produced the effect, shall be indicated. For the purpose of any such investigation, an inquest on the spot shall be held.

(2) The holding of an inquest may be dispensed with by the Magistrate to whom the report, information or complaint referred to in the last preceding subsection is made in any of the following cases -

- (a) if the fact to be investigated is breaking for the purpose of paragraph (a) of section 276 as defined in the first paragraph of subsection (1) of section 277 and if the theft to which the breaking relates or may relate is not aggravated by amount, even if otherwise aggravated;
- (b) if the fact to be investigated is damage for the purpose of paragraph (c) or (d) of section 339 or of paragraph (d) of section 342;

Provided that the decision of a Magistrate not to hold an inquest under this subsection shall not preclude in respect of the fact or facts in relation to which such decision was taken the institution or continuation of criminal proceedings for an offence which is more serious, either owing to its nature or to the amount involved or for any reason whatsoever than any of the offences referred to under paragraphs (a) and (b) of this subsection."

Amendment of section 545 of the principal law.

12. Immediately after subsection (2) of section 545 of the principal law there shall be added the following new section:-

"(3) The provision of the last preceding subsection shall also apply whenever a person dies in the Mount Carmel Hospital while he is kept there under an order of a Court made pursuant to subsection (3) of section 519 or to subsection (1) of section 519 or for the purpose of his being examined by experts appointed by the Court to report on the plea of insanity".

Amendment of section 646 of the principal law.

13. There shall be added the following words at the end of subsection (5) of section 646 of the principal law:-

"The Court of Judicial Police, whether sitting as a Court of Criminal Jurisdiction or as a Court of Inquiry, may moreover empower the expert or the experts if more than one expert have been appointed, to receive documents and to examine witnesses on oath in the presence of the accused and, in any such case, the Court shall not require further evidence in respect of the documents so produced or further examine the witnesses so examined, unless the Court deems it necessary or unless the accused makes a request to that effect. Where more than one expert have been appointed, the Court shall designate the expert who is empowered to administer the oath".

Amendment of section 649 of the principal law.

14. There shall be added to subsection (3) of section 649 of the principal law the following proviso:-

"Provided that the above provision of this subsection shall not apply in regard to any person when the experts will have examined on oath under subsection (5) of section 646, saving, however, the re-examination of any such person by the Court as provided for in the said subsection".

Substitution of section 650 of the principal law.

15. For section 650 of the principal law there shall be substituted the following:-

"Official expert may advise the Court sur-Criminal Judicature, the expert may be called upon by the Court to be present at the hearing of the cause in order to advise the Court, provided that the advice is given in the presence of the accused".

Transitory provision.

16. Her Majesty's Criminal Court shall continue to have jurisdiction in regard to acts or omissions which constitute offences included in any indictment which is already filed in the Registry of that Court on the coming into force of this Act and which, but for the amendments made by this Act, would fall within such jurisdiction:

Provided that the said amendments shall otherwise apply in all respects to such acts or omissions:

Provided further that the accused or, where the number of the accused is two or more, any one of the accused in any such indictment may, by note filed in the Registry of the Criminal Court, at any time before the commencement of the trial declare that he wishes the trial to take place before the Court of Judicial Police as Court of Criminal Judicature and, in such case, the Registrar of the Criminal Court shall, within ten days of such declaration, transmit the records of the case to the said Court of Judicial Police which shall try and deal with the accused, if there is only one accused, or all the accused, if the number of the accused is two or more, in respect of the acts or omissions for which

he or they stand charged in the indictment.

Objects and Reasons

The object of this Bill is to amend the Criminal Code so as to enable Magistrates of the Courts of Judicial Police (1) to decide whether they are to hold an inquest or not in cases where the crime involved is not of a very serious nature and (2) to empower experts appointed by them to examine witnesses on oath.

The Bill also raises from an amount exceeding £10 to an amount exceeding £50 the amount which constitutes the aggravating circumstance of amount in the crime of theft and makes analogous increases in other cases where the amount involved in the crime affects the gravity of the crime or the scale of punishment which is applicable to the crime.

Finally, the Bill also provides for the holding of an inquest on the body of a person who dies in the Mount Carmel Hospital while he is there by order of a Court of Criminal Justice.

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