CHAPTER 10

CODE OF POLICE LAWS

*To Amend and Consolidate the Police Laws**

10th June, 1854

Order-in-Council of the 30th of January, 1854, as amended by Ordinance: I of 1856, V of 1858, X of 1859, X of 1867, III of 1868, III of 1872, VIII of 1874, IV of 1875, IV of 1876, II and VII of 1880, VI of 1881, XIV of 1885, V and VI of 1886, XVIII of 1888, VII of 1889, II of 1890, XVII of 1893, II and VIII of 1897, I and XIII of 1898, I and IX of 1899, III, IV, IX, XI and XIII of 1900, III, XII and XV of 1904, VIII of 1908, XI of 1910; Government Notices: No. 64 of 1910, No. 347 of 1911; Ordinances: II of 1911, IV of 1912, XIII of 1913, II of 1915, XIII of 1918, XV of 1919, I and XV of 1920, XIII of 1921; Government Notices: Nos. 75 and 205 of 1921, Nos. 161 and 257 of 1922; Acts: XIX of 1926, XIII of 1929; Ordinances: VIII of 1930, I, VII and XVI of 1931, VIII and XIV of 1932; Acts: VII of 1932, VI of 1933; Ordinance: XI of 1933; Act: XXXIV of 1933; Government Notices: Nos. 287 and 291 of 1933; Ordinances: XXIII and XXV of 1934, XXV, XXVII and XXIX of 1935; Government Notice No. 247 of 1935; Ordinances: XI of 1936, VI, XIII, XVI, XX, XXVI and XXXVII of 1937, XII, XVII, XX and XXXIII of 1938, XXI of 1939; Government Notice: No. 218 of 1939; Ordinance: XXXV of 1940; Government Notices: No. 445 of 1941, Nos. 329 and 646 of 1942; Ordinance: VII of 1942. Incorporating also Ordinance XIII of 1888 as amended by Ordinances: VII of 1939, XXXIV of 1940 and III of 1941.

The Code was subsequently amended by Ordinances: XVIII of 1943, XX of 1944, VII of 1945, VIII, XVI, XX, XXXIII and XXXIX of 1946, I, XXX and XXXVI of 1947; Proc. IX of 17.10.1947; Acts: XXXVI, XL and XLIX of 1948, VI and XL of 1949, IV and X of 1950, XXII of 1952, X of 1956, II, X and XX of 1957, II of 1958; Emergency Ordinances: XIV of 1958, I and VII of 1959; Ordinances: V of 1960, III, XIII, XV and XXV of 1962; Legal Notices: 2 and 4 of 1963; Acts: IV and XVII of 1963, III of 1965; Legal Notice: 46 of 1965; Acts: XLII of 1965, XI and XVI of 1966, I, XII and XXXI of 1967, II of 1968, XIV, XXII and XXV of 1969, IV, IX and XVI of 1971, III and XXX of 1972, XI and XXIII of 1973, II, XXX, XXXIII, XLII and L of 1974, XL, LIV and LV of 1975; Legal Notice: 148 of 1975; Acts: XIII, XXII and XLII of 1976, XI and XIII of 1977; Legal Notices: 105 and 139 of 1977; Acts: XXIII of 1978, XVII of 1980, XIV and XLIX of 1981, VIII and IX of 1982, XIII of 1983, XV of 1985, XIV and XLII of 1986, X of 1988, VIII of 1990; Legal Notice: 161 of 1990; Acts: V and XVII of 1991, I of 1992, XXVIII of 1994, VI, XXIV of 1995, XIX of 1996, XXIII of 2000, II, XXIV, XXV and XXVII of 2001, and III and XXXI of 2002; Legal Notice 181 of 2006; Act III of 2006; Legal Notice 407 of 2007; Acts II and XV of 2009, and VII of 2010; Legal Notice 376 of 2012; and Act XVIII of 2012.

*This Code under the Title of "Laws and Regulations of Police for the Island of Malta and its Dependencies" was enacted by Order-in-Council of the 30th January, 1854, promulgated in Malta by Proclamation I of the 10th of March, 1854. The Title was subsequently, by Ordinance No. III of 1872, altered into "The Police Laws for the Island of Malta and its Dependencies".

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1. The title of this Code is Code of Police Laws. Title.

2. In this Code, the following expressions shall have the meanings hereby assigned to them respectively, unless there is something in the subject or context inconsistent with such construction or unless it is therein otherwise expressly provided - Interpretation. *Amended by: VII. 1889.8,10; IX. 1900.21; XIII. 1913.9; XV.1920.14; XVI.1931.43,47, 48; XX.1957.2; I.1959.8; V.1960.2; L.N. 4 of 1963; XIV.1969.19; L.1974.2; XI.1977.2; L.N. 161 of 1990; XVII.1991.82; XXIII. 2000.30; XXVII. 2001.33; XV. 2009.49, 52.* Cap. 44.

the expression "architect" means any person authorized to practise the profession of architect and civil engineer under the provisions of the Architects Ordinance;

the expression "cattle-pen" means any place in which there are more than two animals of the bovine species;

the expression "cellar" means any part of a house the floor of which is more than one metre below the level of the nearest street;

the expression "cemetery" means any cemetery, tomb or other site destined for the burial of dead bodies, wherever situate;

the expression "common tenement-house" means any house where more than two families reside and there is not in the room or apartment occupied by each family a separate privy and a separate water supply;

the expression "court-yard" includes any court-yard, garden or other uncovered space;

the expression "General Services Board" means the Board constituted under article 41 of the Department of Health (Constitution) Ordinance; Cap. 94.

the expression "harbour" means any harbour, port, bay, cove, creek or seashore;

the expression "house" means any house properly so called, and includes any mezzanine, room, store or other building made chiefly of stone or other material used in building construction;

the expression "inhabited area" means any area in which there is an aggregation of houses inhabited or capable of being inhabited by more than one hundred persons;

the expression "Authority for Transport in Malta" means the Authority for Transport in Malta established under the Authority for Transport in Malta Act; Cap. 499.

the expression "mason" means any person who constructs wholly or in part, any stone or brick building not built without mortar, even though the work done or commenced by such person consists merely in the erection of a wall intended to form part of a building, or in the formation of a cistern, privy, sink or cesspool or of a conduit for the passage of filthy water or sewage matter;

the expression "owner", used with reference to immovable property, includes any person representing the owner in the administration of the property concerned, or acting on behalf of the owner or assuming the character of owner, according to circumstances;

the expression "person" includes an association or body of persons;

the expression "pigsty" means any place in which there are more than two pigs;

the expression "place of the privy" means the closet or other enclosed place in which the privy is situate;

the expression "privy" includes any latrine, or other fixed receptacle intended for the immediate use of man for his natural wants, and any aperture communicating with a sewer, cesspool, pit, or other place for the deposit of filth or sewage matter, intended for the use and wants as aforesaid, even though such receptacle or aperture be also intended for other purposes;

the expression "sanitary authority" includes the General Services Board, the Superintendent of Public Health, a Medical Officer of Health, a Sanitary Engineer, a Health Inspector, and any other person appointed by the Minister responsible for public health to ensure the observance of this Code so far as it relates to public health;

the expression "sheep-pen" means any place in which there are more than four sheep or goats;

the expression "street" means any street and includes any road, alley, square, fortification or other place of public passage;

Cap. 499.

the expression "vehicle" has the same meaning assigned to it by article 2 of the Authority for Transport in Malta Act;

the expression "vessel" means any ship or boat or any other description of vessel used in navigation.

Added by: II.1897.1. Amended by: VI.1937.2. Substituted by: XV.1962.2. Repealed by: I.1992.63.

PART I *

TOWN AND COUNTRY PLANNING SCHEMES

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*Articles 3 to 19, both inclusive, were repealed by Act No. I of 1992.

PART II

OF STREETS

20. (*Repealed by XV. 2009.52.*)

Width of new streets.
Amended by:
II.1880.1;
VII.1889.1;
XVII.1893.1,2;
I.1920.2;
XIII.1921.2;
VI. 1937.3;
XLIX.1948.5;
IV. 1950.2;
XIV.1958;
VII. 1959.2;
XV.1962.14;
XXV. 1962;
L.N. 2 of 1963;
III. 1965.3;
LVIII.1974.68;
XIV.1981.2;
XXIII. 2000.30;
XV. 2009.49.

21. (*Repealed by XV. 2009.52.*)

Power in connection with painting of names of streets, etc.
Amended by:
II. 1880.1;
XIII. 1921.2;
VI. 1937.3;
XXIII. 2000.30;
XV. 2009.49.

22. (*Repealed by XV. 2009.52.*)

Naming of streets.
Amended by:
II. 1880.1;
XIII. 1921.2;
VI.1937.3;
L.N. 4 of 1963;
VIII.1982.2;
XXIII. 2000.30;
XV. 2009.49.

23. (*Repealed by XV. 2009.52.*)

Destruction, obliteration or defacement of name of street, suburb or village.
Amended by:
II. 1880.2;
XIII. 1921.3.

24. (*Repealed by XV. 2009.52.*)

Closing of streets during repairs.
Amended by:
XXIII. 2000.30;
XV. 2009.49.

25. (*Repealed by XV. 2009.52.*)

Works causing obstruction or danger in streets.
Amended by:
XXVII. 2001.33.

25A. (*Repealed by XV. 2009.52.*)

Tanks, etc., on or part of walls.
Added by:
XV. 1985.2.

Projections on street.
Amended by: XXIII. 2000.30; XV. 2009.49.

26. (*Repealed by XV. 2009.52.*)

Notice to Authority for Transport in Malta before commencing buildings or making excavations.
Amended by: XVII. 1893.12; VI. 1937.4; XXIII. 2000.30; XV. 2009.49.

27. (*Repealed by XV. 2009.52.*)

Court may prohibit erection of buildings encroaching upon public way.

Power of Authority for Transport in Malta to order demolished buildings to be reconstructed on line of street.
Amended by: L.N. 4 of 1963; XXIII. 2000.30 XV. 2009.49.

28. (*Repealed by XV. 2009.52.*)

Permit from Authority for Transport in Malta for breaking up footway or surface of street.
Amended by: VI. 1937.5; XXIII. 2000.30; XXVII. 2001.33; L.N. 407 of 2007; XV. 2009.49.

29. (*Repealed by XV. 2009.52.*)

Precautions during construction or repair of streets, etc.

30. (*Repealed by XV. 2009.52.*)

Propping up of houses during repairs.

31. (*Repealed by XV. 2009.52.*)

Fences to be set up during repairs.

32. (*Repealed by XV. 2009.52.*)

Light at night-time to be placed on or near materials in street.

33. (*Repealed by XV. 2009.52.*)

Prohibition to leave materials or other obstruction in street longer than necessary.

34. (*Repealed by XV. 2009.52.*)

35. (*Repealed by XV. 2009.52.*)

Openings in surface or footway leading to cellars, etc., to be covered.

36. (*Repealed by XV. 2009.52.*)

Rebuilding of walls fallen on the street.
Amended by: XVII. 1893.3; XXIII. 2000.30; XV. 2009.49.

37. (*Repealed by XV. 2009.52.*)

No red or white soil to be dug up without permission.
Amended by: XVII.1893.12; XXIII. 2000.30; XV. 2009.49.

38. (*Repealed by XXV. 2001.50.*)

Prohibition of certain acts and omissions.
Amended by: X.1859.1; V.1886.1; XVIII.1888.12; II. 1890.1,2; XVII. 1893.4; IX. 1900.1; XII.1904.48; XI.1910.1,2; XIX.1926.2; XL.1948.2; L.N. 4 of 1963; XXXI. 1967.37.

39. (*Repealed by XXVII. 2001.33.*)

Authorization to act as scavenger.
Added by: IX. 1899.5. Amended by: XII. 1938.2; XIV.1958; XXV.1962; L.N. 4 of 1963; XI.1977.2;

40. (*Repealed by XXV. 2001.50.*)

Acts and omissions wherefrom damage, obstruction, danger or inconvenience to persons may result.
Amended by: IX.1900.2.

41. (1) No person shall sound or play on any musical or noisy instrument or sing, or for the purpose of hawking, selling, distributing or advertising any article, shout in any street, shop or other public place, after being required to desist by any occupant or inmate of any premises in the neighbourhood on account of the illness of any person in such premises or for other reasonable cause, or after being so required by the Police.

Playing musical instruments, singing or shouting in street or shops.
Amended by: III.1872.3; XXV. 1935.2.

(2) No person shall -

(*a*) in any street, shop or other public place; or

(*b*) upon any other premises,

by operating or causing or suffering to be operated any wireless loud speaker, gramophone, amplifier or similar instrument, make or cause or suffer to be made any noise which shall be so loud as to cause a nuisance to occupants or inmates of any premises in the neighbourhood.

Added by: I. 1947.2.

PART III

OF THE LAW COURTS

Definition. *Added by: I. 1947.2. Amended by: L.N. 181 of 2006.*

42. For the purpose of this Part of this Code the expression "tout" means any person who, not being a duly qualified advocate or legal procurator or notary public in accordance with the laws of Malta, undertakes in return for any fee, reward or remuneration, whether in cash or in kind or for any other consideration, to do any of the following acts:

(*a*) to draft or prepare, otherwise than on direct instructions and on the responsibility of an advocate or legal procurator or notary public any affidavit, testament, deed of sale, deed of emphyteusis or lease, transfer, compromise, promise of sale, or any other contract or document under private signature or any sworn application or libel or statement of pleas or petition or reply or application or any other judicial or extra judicial document;

(*b*) to give legal advice whether oral or in writing to any person;

(*c*) to find clients for any advocate or any legal procurator or any notary public.

Touting is an offence. *Added by: I. 1947.2.*

43. It shall be an offence for any person -

(*a*) to act as a tout on behalf of any advocate or legal procurator or notary public or on his own account; or

(*b*) to induce or to endeavour to induce any client or prospective client of any advocate or of any legal procurator or of any notary public to cease to be the client of such advocate or legal procurator or notary public in order to become the client of the advocate or legal procurator or notary public, whom such person serves as secretary, clerk, or in any other capacity; or

(*c*) maliciously to decry the professional ability of an advocate or of a legal procurator or of a notary public for the purpose of diverting professional work to another advocate or to another legal procurator or to another notary public.

List of touts and appeals against inclusion of names therein.
Added by: I. 1947.2. Amended by: L.N. 148 of 1975; VIII. 1990.3; XXIV.1995.362; XXXI. 2002.255.

44. (1) The Registrar of Courts, the registrar of the Court of Magistrates (Malta) or the registrar of the Court of Magistrates (Gozo) shall, each in respect of the court to which he is attached, frame and publish in the Gazette lists of persons proved to their respective satisfaction to have acted or attempted to act as touts or unauthorised advisers to suitors or prospective suitors subsequently to the enactment of this provision and may, from time to time, alter and amend such lists.

(2) No person's name shall be included in any such list until he has had an opportunity over a period of not less than four working days of showing cause against such inclusion. The registrar's final decision to include a name in any such list shall be conveyed to the person concerned by registered letter, which shall be deemed to have been received by the addressee on proof that it was delivered at the addressee's last known place of residence.

(3) An appeal shall lie against the Registrar's decision to include a person's name in any such list, by application made within twenty days after the receipt of the Registrar's final decision. The appeal shall lie to the Court of Magistrates in its superior jurisdiction.

(4) A copy of every such list shall be kept prominently displayed near the main entrance door of the court house to which it relates and another copy shall be kept prominently displayed in every court room of the court to which it relates.

Exclusion of touts from law courts.
Added by: I. 1947.2. Amended by: L.N. 148 of 1975.

45. (1) Any of the judges or any magistrate may, by general or special order, exclude from any part of the law court and from the precincts of any court house any person whose name is included in any such list, except when such person is a party to or witness in proceedings in such court, when he shall be allowed to remain only for such time as is necessary to transact his business therein.

Enforcement.

(2) It shall be the duty of the marshal of the court and of every member of the Police force to enforce every order made by any of the judges or by any magistrate in accordance with sub-article (1) and for that purpose shall be entitled if necessary to remove from any part of any law court and from its precincts any person who is present therein in contravention of any such order as aforesaid.

Restriction of employment of touts.
Added by: I.1947.2. Amended by: XIII. 1983.5; L.N. 407 of 2007.

46. (1) No advocate, legal procurator or notary public shall employ as a clerk or as a secretary or in any other capacity whatsoever any person whose name at the time of initial employment or within one year previously appears or appeared on any list issued under article 44; and no advocate, legal procurator or notary public shall retain in any employment whatsoever for more than eighteen consecutive days from the date of publication in the Gazette of the list concerned any employee whose name, subsequently to his initial employment, appears on any list issued under article 44.

Penalty.

(2) Any advocate or legal procurator or notary public who fails to comply with any of the provisions contained in sub-article (1) shall be punishable with a fine (*multa*) not exceeding fifty-eight euro and twenty-three cents (58.23) in respect of each default and concurrently, where applicable, by a fine in terms of article 377(3) of the Criminal Code.

Cap. 9.

Sanctions.
Added by: I.1947.2. Amended by: XIII. 1983.5; VIII. 1990.3; L.N. 407 of 2007.

47. (1) Any person who -

(*a*) offends against the provisions contained in article 43; or

(*b*) contravenes any exclusion order made against him under sub-article (1) of article 45; or

(*c*) resists any marshal of the court or any member of the Police force when such marshal or member of the Police force, in pursuance of the authority conferred by sub-article (2) of article 45, is engaged in removing him from any part of any law court or from its precincts,

shall be liable to a fine (*multa*) of not more than fifty-eight euro and twenty-three cents (58.23) or to imprisonment for not longer than three months or to both such fine and such imprisonment without prejudice to any heavier penalty that may be applicable under any other provision of law.

Jurisdiction.

(2) Any offence against any provision contained in this Part shall, irrespectively of the punishment applicable thereto, be within the jurisdiction of the Courts of Magistrates sitting as a court of criminal judicature.

PART IV

OF VEHICLES

Articles 48 to 94 deleted by XXIII. 2000.30).

Amended by: II. 1880.10.

PART V

OF INHABITED AREAS, HOUSES AND OTHER TENEMENTS

Licence to act as mason.
Amended by: II.1880.10; VI.1881.1; VI. 1949.2; II.1974.2; VIII.1990.3.

95. (1) It shall not be lawful to exercise the trade of mason without a licence from the Director of Public Works.

Qualifications for obtaining licence.

(2) Such licence shall not be granted except to persons of good conduct who shall have proved their skill in an examination to be conducted by the Masons Board constituted under article 96.

(3) Licences issued under this article shall be valid for twelve months to be reckoned from the 1st day of January of the year in which they are issued but they may be renewed by the Director of Public Works for subsequent periods not exceeding twelve months each.

(4) Every mason applying for a licence under this article, shall produce to the Director of Public Works a recent and suitable photograph in duplicate, of himself; one of the photographs shall be affixed to the licence.

(5) The Director of Public Works may withdraw or refuse the renewal of a licence of any mason whenever he is satisfied that such mason has not worked in that capacity for a period of nine consecutive months or for different periods in any one year which cumulatively amount to nine months: in the case of any withdrawal of or refusal to renew a licence under this sub-article, however, the licence shall be returned to the mason if the latter undertakes to work forthwith in that capacity.

Execution of any one work to constitute the exercise of trade of mason.

(6) For the purposes of this article, any person executing even one single work appertaining to the trade of mason, shall be deemed to exercise such trade.

Power of court to interdict mason from exercise of trade.

(7) If any mason, through unskilfulness, imprudence or carelessness, shall, in the construction of any work entrusted to him, and appertaining to his trade, cause any injury to any person or property, it shall be lawful for the Court of Magistrates to interdict such mason from the exercise of his trade for any time to be stated in the sentence, ordering, at the same time, the withdrawal of the licence.

Constitution of Masons Board. *Added by: II.1974.3.*

96. (1) There shall be a Board, to be called the Masons Board, to examine such persons as shall apply for the licence of mason.

(2) Such Board shall consist of not less than three persons appointed from time to time by the Minister responsible for public works, one of whom shall be appointed chairman by the said Minister.

(3) Not less than two of the members of the said Board shall be architects and civil engineers.

Rules to be observed in the construction of houses.
Amended by: XVII.1893.6 to 15; IV.1912.1,2; XV.1919.2; XIX.1926.6; XVI.1931.2 to 20; XXIX.1935.2; XXVI.1937.2; XVI.1946.2, 3. 4; I.1959.8; V.1960.3; III. 1962.2; L.N. 4 of 1963; L.1974.3; XL.1975.2; LV. 1975.2; XIII.1976.2. Revoked by: XXV. 2001.50. Re-enacted by: III. 2002.157. Amended by: L.N. 376 of 2012.

97. (1) In the construction of any house or part of a house, the owner as well as the mason and the architect employed thereon, shall, unless otherwise provided by any regulations made under article 102, observe the rules contained in the following paragraphs:

(*a*) (i) in every wall, or where the wall has the cavity prescribed in paragraph (*b*), in the internal and in the external face of such wall, there shall be a layer of asphalt, sheets of lead, vitrified bricks, or any other substance impervious to dampness, approved by the General Services Board or prescribed in the said regulations;

(ii) the upper surface of such layer shall be at least ten centimetres above the level of the street, if the wall be adjacent to a street, or of the courtyard, if it be adjacent to a courtyard or at the level of the floor under the pavement, if any, of the room on the ground-floor, in the case of an internal wall;

(iii) any wall between two rooms, on the ground floor, the floors of which are not on the same level, shall, moreover, have a layer of any of the said substances, at the level of the floor of the lower room; and such wall shall, from the said layer to the upper surface of the floor of the room situate at the higher level or of the floor of the ventilated underground place, if any, under such room, on the side of it towards the one or the other room, as the sanitary authority shall, according to circumstances, direct, be covered with asphalt or other substance approved by the General Services Board or prescribed in the said regulations;

(*b*) (i) every wall of any room, exposed to the rain, shall be of such thickness as the Minister responsible for public works may from time to time establish by order under this paragraph and, towards the middle of its thickness, there shall be left throughout its extent from the level of the room at ground floor or, if there is a cellar, from the floor of such cellar, up to the last course of the said wall a cavity of eight centimetres crossed only for solidity of the wall, and closed on the last course with a layer of asphalt, sheets of lead, vitrified bricks or any other substance impervious to dampness approved by the General Services Board, or with stone covered with such substance;

(ii) in the external face of such wall, there shall be such holes as the sanitary authority shall deem necessary for the passage of air into the said cavity;

(iii) as regards one of the faces of the said wall, the bonds, if they are not of iron, or other substance impervious to dampness approved by the General

Services Board, shall be introduced into grooves in the stones of such face; and the surface of the grooves, or of such parts of the bonds as are introduced into them, shall be covered with asphalt or other impervious substance approved by the General Services Board;

(iv) the said cavity, however, shall not be necessary, where, towards the middle of the thickness of the wall, there is introduced or applied throughout the extent of such wall, hydraulic cement-concrete or other impervious substance approved by the General Services Board, save, as regards the bonds, the observance of the last preceding provision; and, in any such case, the thickness of the wall may be reduced to sixty centimetres;

(v) stone used in the building of any wall shall not exceed those dimensions as the said Minister may from time to time establish by order under this paragraph;

(vi) the said Minister may grant exemption from compliance with or permit departures from any provision of any order made by him under this paragraph, either with respect to any building or to any class or group of buildings, under such conditions as he may deem fit to impose;

(*c*) (i) the surface of the floor of any room on the ground-floor, not including the pavement, shall be at least fifteen centimetres higher than the level of the courtyard and of the level of the nearest street;

(ii) in any inclined street, such height shall be measured from the central line of the frontage, and if any portion thereof be below the prescribed height, such portion shall be separated from the street, as provided in article 108(2)(*d*);

(iii) the floor itself, if it has no ventilated underground place of a height of at least sixty centimetres, shall be formed or covered with a layer of asphalt, hydraulic cement-concrete, or other substance impervious to dampness approved by the General Services Board, the upper surface of which shall be in continuation of the impervious layer of the walls of the room; and if the room has any such underground place, there shall be, in the arches or pillars supporting the pavement of the room, immediately under such pavement, a layer of asphalt, sheets of lead, vitrified bricks, or other substance impervious to dampness approved by the General Services Board;

(*d*) every room shall, from the floor to the beams supporting the roof, or, if the roof be supported by arches, to half the height of each arch, be at least two

point seven five metres high, in every part of it;

(*e*) every part of a house shall be constructed in such a manner as to secure, in the opinion of the sanitary authority, sufficient light and a free circulation of air; and there shall be in every room and in the place of the privy, such ventilators as the sanitary authority may consider necessary for the renewal of the air, even with doors and windows closed;

(*f*) (i) (*Repealed by Legal Notice 376 of 2012*);

(ii) the roof of any house shall be paved with such materials and drained in such a manner as to prevent the stagnation of water on such roof or the percolation of water into any part of the house;

(*g*) (i) every house shall be provided with a privy and such privy shall be communicated with the public sewer:

Provided that the Superintendent of Public Health may exempt any owner from communicating the privy with the public sewer under the condition that the owner provides, in respect of that house,

(*a*) a cesspool, or

(*b*) a septic tank, or

(*c*) a sewage treatment and disposal plant,

at the option of, and under such conditions as may be imposed by, the said Superintendent;

(ii) where the privy is at a lower level than the public sewer, the owner of the house shall provide means of pumping or lifting the material towards the public sewer;

(iii) the privy, cesspool, septic tank or sewage treatment and disposal plant, as well as their conduit, shall be constructed in such manner, with such materials, in such parts of the house or so distant from the house, and with such traps or other means to prevent any exhalations or infiltrations as the superintendent may, in any case, direct;

(iv) in the case of a shop, this paragraph shall not apply if the Superintendent of Public Health is satisfied that it is impracticable to provide it with a privy.

For the purposes of this paragraph, of sub-article (2) and of article 102(2) -

"house" includes any premises used, or intended to be used, either wholly or partially for habitation purposes, or for purposes of animal husbandry, any hotel or catering establishment as defined in the Malta Travel and Tourism Services Act, and any shop other than a stall or a kiosk;

Cap. 409.

"owner" shall not include a person holding the house under temporary emphyteusis for a period of not more than seventeen years;

(*h*) (i) every sink, wash-basin, bath or other similar appliance shall be of the proper pattern and material and shall not communicate directly with the drains but shall be provided with a waste pipe made to discharge on a gully-trap situated in the open air and connected with regular drains;

(ii) it shall be lawful for the Superintendent of Public Health to allow the waste pipe of any sink, washbasin, bath or other similar appliance to discharge in any other manner which he may consider suitable in any particular case;

(*i*) the pipes or conduits for communication with the public sewer, with a cesspool, with a septic tank or with a sewage treatment and disposal plant shall be formed of glazed stoneware or other impervious substance approved by the General Services Board; such pipes or conduits shall be at such a distance from the cistern as the sanitary authority may deem necessary for the prevention of exhalations or infiltrations; and they shall, as far as practicable, be laid in such a manner as to allow of their being, without much difficulty, opened by a mason;

(*j*) the privies shall have ventilators made in such a manner as, in the opinion of the sanitary authority, will prevent exhalations;

(*k*) every sink, wash-basin, bath or other similar appliance mentioned in paragraph (*h*), shall also have ventilators as provided in the last preceding paragraph, if the sanitary authority shall deem such ventilators to be necessary for preventing exhalations;

(*l*) (i) no external wall of any house adjacent to a new street shall be of a height, measured from the surface of such street, greater than twice the width of the street;

(ii) nor shall any internal wall be raised to a height, measured from the said surface, greater than twice the distance between such wall and the wall existing or which may be erected on the border of the opposite side of the said street;

(iii) the provisions of this paragraph shall also apply to any house adjacent to any other street whether such house is a new building or whether any new storey is erected thereon:

Provided that in any such case the height of the walls may be three times the said width or distance respectively;

(iv) the provisions of this paragraph shall not apply to any church, or other building constructed and

perpetually destined for divine worship, or to any public building, or to any other work constructed and destined for the defence of Malta;

(*m*) saving the provisions of paragraph (*g*), the cesspool of any house or building shall be made or re-made, placed and ventilated in accordance with the directions which shall, in each case, be given by the Superintendent of Public Health, or be generally established by regulations made under article 102;

(*n*) (i) every house shall have at its back a court-yard exclusively belonging to it; and such court-yard shall be of the length of the wall of such house, and of a width not less than three metres, or half the height of the house, if such house be higher than six metres; one privy or more privies, one above the other, may be constructed in any such court-yard; but in any such case the surface of the court-yard shall be enlarged in proportion to the space thus occupied;

(ii) nevertheless, if the yard of a house be at the back of the yard of another house, the minimum width of each of such yards may be reduced to not less than two-thirds of the width as aforesaid, provided the width of the two yards together be not less than six metres, and provided the owners of the yards in question bind themselves by a notarial deed to be registered in the Public Registry by the notary by whom the deed has been received, not to raise the wall separating the yards to a height exceeding three point five metres from the surface of the yards or of the higher yard if the yards are not at the same level; and whosoever shall at any time raise, or keep raised, any such wall to a greater height shall be guilty of a contravention against this Code;

(iii) if the width of the yard corresponds to one or more storeys, in accordance with the foregoing rules, the sanitary authority will permit the construction of new storeys, provided that, on the upper storey already constructed, in contiguity to the yard, there be left an open space with an iron fence towards the yard, of a width not less than one-half the height of the new storey;

(iv) the foregoing provisions of this paragraph shall not apply to such houses as are situate at the corner of two streets or between two streets, provided that, in the latter case, at least one of the two streets be of a width not less than one-half of the height of the building or be adjacent to the sea-shore;

(v) it shall be lawful for the competent authority to dispense with the formation of a yard as provided

in the foregoing rules, where the site on which the building is to be erected, be of a width so small as not to allow the formation of such yard, and where each of the rooms and the stairs of the building be directly lighted at least through a window opening on the public street or any other open space;

(vi) if, owing to the configuration of the site on which the house is to be constructed, the yard cannot be of the prescribed length or width, the Superintendent of Public Health may permit a smaller length or width, provided, in his opinion, such smaller length or width, having regard to the particular circumstances of the place, is sufficient to secure such light and ventilation as are required for the wholesome condition of the house;

(vii) the yard or yards of any house shall be paved and drained in the manner prescribed in the regulations made under article 102;

(viii) (*Repealed by Legal Notice 376 of 2012*);

(*o*) (i) thirty days at least before the commencement of the building or re-building of any house, or part of a house, or, in the case of the communication of a privy with the public sewer, before such communication is covered up, the architect or mason, or the owner, shall give notice thereof to the Superintendent of Public Health, together with a drawing of the work proposed to be carried out;

(ii) where, in the opinion of the Superintendent of Public Health, the work proposed to be carried out is such as to require technical direction in order to prevent, during or after the execution of the work, injury to property or danger to the men employed on the work or to passers-by or other persons, it shall be lawful for the said Superintendent of Public Health to require a written declaration by an architect assuming the direction and responsibility of the work, saving in all cases any civil or criminal liability of any other person, according to law;

(iii) the Superintendent of Public Health shall, upon the demand of the architect, mason, or owner, within thirty days, from the delivery of the drawing, or forty days, if the matter has to be considered by the General Services Board, communicate to him the approval or disapproval thereof by the sanitary authority;

(iv) in all cases it shall not be lawful for any person to commence any work before the approval of the sanitary authority shall have been communicated to him in writing within the aforesaid time, or, during the execution of the work, to depart,

without the sanction of the Superintendent of Public Health, from the plan as approved by the sanitary authority;

(v) such approval shall be deemed to be null and void if any information or specification contained in the said notice or in the drawing accompanying it is proved to be inaccurate or misleading;

(vi) it shall be lawful for any official of the Department of Health, in the course or after the completion of the work, to inspect the place in order to ascertain whether the work, both as regards the materials used and the mode of its execution, conforms to the provisions of the law or regulations;

(*p*) on the application of the architect in charge of the building or re-building of a house for an exemption in respect of such house from the provisions of paragraph (*l*) or of paragraph (*n*)(i), the Superintendent of Public Health may -

(i) in any case not specified in paragraph (*n*)(v) and (vi); and

(ii) if the General Services Board consider that such an exemption may be granted without detriment to the wholesome condition of the house or of other houses in its vicinity,

exempt such house from any or all of those provisions, subject to such conditions as he thinks fit, and no appeal shall lie from a decision of the Superintendent of Public Health under this paragraph;

(*q*) (i) this paragraph applies to any house the height of which, measured from the lowest damp proof course to the highest point of the house, exceeds twenty-four metres;

(ii) before the commencement of the building or re-building of any house to which this paragraph applies, the architect in charge shall submit to the Director of Public Works plans and specifications together with such other particulars relating to the building or re-building of the house as may be required by the Director of Public Works, who shall advise the Superintendent of Public Health in writing whether he is satisfied that the house when built or re-built, as the case may be, in accordance with such plans, specifications and particulars will be stable and safe;

(iii) the advice of the Director of Public Works given under the last preceding sub-paragraph shall not affect the liability of the architect or of any other person in respect of the stability or safety of the house;

(iv) the provisions of this paragraph shall be in

addition to, and not in derogation of, any of the provisions of this Part applicable to houses, and in particular but without prejudice to the generality of the foregoing, the provisions of paragraph (*o*) shall apply to any house to which this paragraph applies as if the reference to the specification and drawing contained in sub-paragraph (v) thereof included a reference to the plans, specifications and any particulars referred to in sub-paragraph (ii), and as if the reference to any official of the Department of Health contained in sub-paragraph (vi) thereof included a reference to any official of the Public Works Department:

Provided that the times mentioned in paragraph (*o*)(i) and (iii) shall not run in any case to which this paragraph applies.

(2) When any house is to be connected with the public sewer in accordance with the provisions of sub-article (1)(*g*), the Director of Public Works may, if he deems it fit and practicable, lay the connection between the public sewer and the intercepting chamber relative to such house, and the owner of such house shall, within thirty days of an intimation by the said Director, pay to the latter such connection fee as the Minister responsible for public works may establish by regulations made under this sub-article, and, in default of payment within the said term of thirty days, interest shall be due by the said owner at the rate of six per cent *per annum* as from the date of intimation.

(3) Where, pursuant to regulations made under article 102(2), the Director of Public Works or any other person has carried out any works for or in connection with the provisions of sub-article (1)(*g*) and such works are carried out for or in the interest of other persons liable to carry out the same works in accordance with the said paragraph (*g*), the said Director or other person who will have carried out the above works shall have a privileged claim in his favour on the property in respect of which the works will have been carried out for the amount due to him in accordance with any regulations made as aforesaid, provided such claim is registered in the Public Registry within two months from the completion of the works, and such privileged claim shall have priority over all other claims, whether privileged or hypothecary, on such property, notwithstanding any other provision of law to the contrary.

Cutting of *franka* stone.
Added by: LV. 1975.3.

98. No person shall cut, or cause or allow to be cut, from any quarry any *franka* stone of any dimension exceeding those, or any of those which the Minister responsible for public works may from time to time establish by order under this article:

Provided that the said Minister may permit any person, under such conditions as the said Minister may deem fit to impose, to cut *franka* stone of different dimensions.

Artificial lighting and mechanical ventilation.
Added by: XXVI. 1937.3. Amended by: L.N. 4 of 1963; XXXI. 1967.37; XI. 1977.2; XIII. 1983.5; L.N. 407 of 2007.

99. (1) It shall be lawful for the Minister responsible for public health to permit any part of a building which the Superintendent of Public Health considers may be so constructed to be furnished with suitable means of artificial lighting and a suitable system of mechanical ventilation according to such conditions as shall be imposed in the permit.

System to be continuously operated while premises are occupied.

(2) The owner of any such building shall cause the said system of mechanical ventilation to be continuously used and operated while the premises are occupied, and if he makes default in this respect or fails at any time to comply with any of the conditions imposed in the permit, he shall be liable for every such offence to a fine (*multa*) of eleven euro and sixty-five cents (11.65), and in the case of a continuing offence, to a further fine of four euro and sixty-six cents (4.66) for each day the offence continues.

Applicability of certain provisions of s.97 to houses constructed before 1st January, 1880.
Amended by: XVI.1931.21; XXIX. 1935.3; L. 1974.4.

100. (1) The provisions contained in article 97(1)(*f*), (*g*), (*h*), (*i*), (*j*), (*k*), (*m*) and (*n*)(vii) shall apply also to houses existing before the first of January, eighteen hundred and eighty.

(2) The provisions of paragraph (*e*) of the said article, shall likewise apply to such houses, whenever the rooms or the stairs can, without being entirely demolished, be made to conform to those provisions, and the cost, in the opinion of an architect appointed by the Director of Public Works, does not exceed the rent or the letting value of the tenement for one year; in any such case the owner may carry out the necessary work over a period of four years, provided the work can be so divided, and in each year he performs as much of it as can be done with at least one-fourth of the rent or letting value, commencing and prosecuting the work according to the directions of the said architect:

Provided that the owner may demand that the work be carried out by the Director of Public Works, upon paying to the latter in advance a sum equal to the estimate made by the said architect, without any obligation to pay any supplement, should that sum prove insufficient, or any right to reimbursement, should it exceed the expense actually incurred.

(3) It shall be lawful for the Superintendent of Public Health at any time to order any of the provisions of sub-articles (1) and (2) and of any regulations made under article 102 to apply, as far as may be practicable, to any house or part of a house referred to therein.

(4) The provisions contained in article 97, with the exception of sub-article (1)(*l*) thereof, shall apply to such houses, so far as regards any part thereof which may have to be reconstructed, unless the observance of such provisions is dispensed with by the sanitary authority.

101. (1) The owner of any house constructed after the first of January eighteen hundred and eighty, shall constantly keep such house in conformity with the plan originally approved by the Superintendent of Public Health, without making any addition or alteration thereto except with the written approval of the said Superintendent.

Rules as to houses constructed after 1st January, 1880. *Added by: XVI.1931.22. Amended by: XXIX. 1935.4.*

(2) It shall be lawful for the Superintendent of Public Health at any time to order any such house or part of such house to be made to conform, as far as may be practicable, to any other provision of this Code or of any regulation made under article 102.

102. (1) The Minister responsible for public health may, on the advice of the General Services Board, make regulations respecting the manner in which the provisions contained in articles 97 and 100 are to be carried out, and the materials to be used.

Power of Minister responsible for public health to make regulations. *Amended by: XVI.1931.23,24; XXIX.1935.5; I.1959.8; L.N.4 of 1963; L. 1974.5; XI.1977.2.*

(2) Saving the provision of sub-article (1), the Minister responsible for public works may make regulations to provide -

(*a*) for facilities to be made in favour of owners of houses to comply with the provisions of article 97(1)(*g*);

(*b*) for empowering the Director of Public Works to make arrangements and enter into agreements with the said owners in respect of such facilities, including the contribution, if any, by the Government of part of the expenditure involved in such compliance;

(*c*) for establishing the apportionment among the several owners of the expenditure so involved;

(*d*) for empowering any owner of a house who, pursuant to arrangements made with the Director of Public Works, shall have laid a part of the public sewer, to claim from the owner of any other house the privy of which is, or is to be communicated with such sewer, such portion of the expenditure incurred by the former owner as shall be established as aforesaid;

(*e*) for any other consequential matter relating or incidental to such compliance.

(3) If any question shall arise as to whether a work is in conformity with any of the said provisions or regulations, such question shall be settled by the General Services Board.

Questions to be settled by General Services Board.

(4) In all cases an appeal shall lie to the General Services Board from any order or decision of any other sanitary authority, within one month from the date on which such order or decision shall have been communicated to the party concerned. If the General Services Board affirms the order or decision of that authority, the appellant shall pay to the Superintendent of Public Health, if extraordinary sittings shall have been held by the General Services Board, a sum corresponding to the costs, that is, to the fee due to the members of the Board for each sitting held in respect of such appeal and to the transport expenses, where any one or more of such members shall have inspected the place.

Appeal to General Services Board.

Superintendent of Public Health may refer matter to General Services Board.

(5) It shall be lawful for the Superintendent of Public Health to submit for the consideration of the General Services Board any matter relating to buildings and habitations.

Appeal from decision of General Services Board.

(6) From any decision of the General Services Board an appeal shall lie to the Court of Appeal, within one month from the day on which such decision shall have been notified to the party concerned; such appeal shall be brought by an application in contestation with the Superintendent of Public Health.

Criminal liability of owner, architect or mason.
Amended by: XVI. 1931.25; XII.1938.3.

103. (1) The owner shall be held responsible for any contravention of the provisions of articles 97 and 100 or of any regulations made under the last preceding article unless an architect or mason has been entrusted with the execution of the work, and the contravention is not due to an act of the owner, in which case the architect or mason, or both, as the case may be, shall be held responsible.

Owner may not oppose execution of order of court.

(2) In the case of any contravention referred to in sub-article (1), the provisions of article 321 shall apply against the offender and it shall not be lawful for the owner to oppose the abatement of the nuisance or the execution of any other order of the court although he may not be a party to the proceedings.

Opposition to constitute a contravention.

(3) Any opposition on the part of the owner to the execution of any work ordered by the court shall constitute a contravention and shall be punishable as such according to this Code.

Where work has not been carried out on account of death, etc., of owner, etc.

(4) Where any work ordered by a judgment of the court has not been carried out on account of the death or absence from Malta of the owner or other party responsible, or on account of such owner or other party ceasing for any cause whatsoever to own or administer the property in which the work is to be carried out, the person succeeding in the ownership or administration of such property shall be bound to carry out such work as if he were the person against whom the said judgment was given.

Duty of owner of house to free other house from easement on account of conduits to sewer.
Amended by: XVI. 1931.26; IX. 1982.2.

104. (1) The owner of any house from which the matter going into the privy, sink, or other drains for slop water, is carried into the public sewer or a cesspool through conduits formed or laid under another house, is bound, where practicable in the opinion of the sanitary authority, to free such other house from such easement by making other conduits for the carrying of the said matter directly into such sewer or cesspool, and where the houses belong to different owners the total expense shall be apportioned between the owners as the court shall, in each case, determine.

Duties of owner or occupier of upper part of house, of lower part of house,

(2) The owner or occupier of the upper part of a house is bound to permit the formation, from the lower part of the house up to the roof of such house, of such ventilators as may be necessary according to the provisions of article 97, and the owner or occupier of the lower part is bound to permit the formation, in such part of the house, of communication pipes or conduits from the upper part to the public sewer.

of neighbouring house.

(3) The owner or occupier of a house is also bound to permit the ventilators of a neighbouring house to be fixed to the walls of

the former house, in order that such ventilators may be of such height as the sanitary authority may deem necessary.

(4) In all cases, the conduits, pipes, or ventilators shall be formed or fixed in such a manner as to cause the least possible inconvenience to the occupier of the house, or part of the house, in or to which they are formed or fixed, and the least possible prejudice to such house or part thereof.

Conduits, etc., to be formed or fixed so as to cause least inconvenience.

(5) Where the said conduits, pipes, or ventilators do not diminish the value of the house or of the part of the house in or to which they are formed or fixed, no indemnity shall be payable except such as may be due in respect of any repairs which may be necessary in consequence of the formation or fixing of such conduits, pipes or ventilators:

Where indemnity is payable.

Provided that the mere creation of any easement under this article shall not give rise to any claim for indemnity.

(6) The owner or occupier may in no case demand the suspension of works above mentioned, on the ground of any indemnity to which he may be entitled.

Claim for indemnity not to be a ground for suspension of works.

105. The owner or occupier of any house is bound to permit the Director of Public Works to fix to any external wall of such house, any such ventilator to the public sewer as the General Services Board may deem necessary, or where, in view of the narrowness of the street or for any other reason, the said Director deems it so expedient, to form such ventilator, wholly or in part, within that wall; in any such case, the provisions of the last preceding article relating to indemnity shall apply.

Owner of house to allow Director of Public Works to fix ventilators to public sewer, to or within external wall of house. *Amended by: XVII. 1893.12; I. 1959.8.*

106. It shall not be lawful for the owner to use or suffer to be used as a dwelling any premises not provided with a regular privy or which in the opinion of the Superintendent of Public Health are so unhealthy as to be unfit for habitation:

Premises unfit for habitation. *Amended by: XVI.1931.27. Substituted by: II.1957.2.*

Provided that non-compliance by the owner with this article shall not induce or be deemed to have at any time heretofore induced, as against any tenant or occupier any nullity of the agreement of tenancy or occupation or entitle the owner to evict the tenant or occupier unless the Superintendent of Public Health certifies that the premises cannot be provided with a privy or made fit for habitation. Nor shall any such non-compliance affect the owner's obligations under article 97(1)(*g*) or any other provisions of this Code.

107. It shall not be lawful to use or suffer to be used for habitation, separately from the building of which it forms part, any cellar constructed or reconstructed after the first of January eighteen hundred and eighty, or which, in the course of the year previous to that date, was not used for habitation:

Cellars used for habitation. *Amended by: XXIX. 1935.6.*

Provided that it shall not be lawful to use any cellar for sleeping purposes.

Conditions for the occupation of cellar as dwellings. *Amended by: XV.1920.3; I. 1959.8.*

108. (1) No person shall, except with a licence from the sanitary authority, use or suffer to be used for habitation, separately from the building of which it forms part, any cellar, although constructed before the first of January eighteen hundred and eighty, and used, up to that time, for habitation.

(2) Such licence shall not be granted unless -

(*a*) the cellar, from the floor to the beams supporting the roof, or, if the roof be supported by arches, to half the height of each arch, is not less than two metres high, with at least one metre above the surface of the adjacent street; and

(*b*) the cellar has its entrance door or at least a window, of a size not less than one square metre, on the street; and

(*c*) if the cellar consists of two or more rooms, each room has an entrance door or window, as aforesaid; and

(*d*) between the street and the external wall of the cellar, along the entire frontage of such wall, from fifteen centimetres below the surface of the ground of the cellar up to the surface of the street, there is an entirely open area, at least thirty centimetres wide and, where necessary in the opinion of the sanitary authority, communicated with the public conduits, in order to avoid any deposit of water in it; - the ground of such area, as well as the external wall of the cellar to the height of at least thirty centimetres from the surface of such ground, are coated with asphalt or any other substance impervious to dampness approved by the General Services Board; - such area, in two or more parts of its length, to be determined by the sanitary authority, and forming together at least one-half of such length, is only covered with gratings which, in the opinion of the said authority, allow the free passage of air; - every other side of the cellar, not being in its entirety a wall between the cellar itself and another room or a court-yard, is, up to not less than ten centimetres above the upper line of the rock or materials of such side, formed of, or covered with, any of the said substances; - in each wall, internal or external, there is a layer of any such substance, the upper surface of which is at least twenty-five millimetres above the surface of the ground of the cellar; and

(*e*) the ground of the cellar is covered with a layer of asphalt, hydraulic cement-concrete or any other substance approved by the General Services Board, in continuation of the impervious layer in the walls; and

(*f*) the cellar has such ventilators as the sanitary authority may consider necessary for the renewal of the air, even with closed doors and windows.

109. (1) The open area prescribed in sub-article (2)(*d*) of the last preceding article, may be formed in the street, provided the person applying for permission to the Director of Public Works, gives his consent for the work to be carried out, at his expense, by the Director of Public Works, and makes a deposit with the said Director of a sum corresponding to the estimate, made by three architects, of whom two shall be appointed by the Director of Public Works and the other by such person, of the expense necessary for the formation of such area, for coating it and covering it up as provided in the said paragraph, for the carrying out of any work required for the solidity of the street, and for restoring the surface of the street to the state in which it was before the commencement of the work, without any obligation on the part of such person to pay any supplement should that sum prove insufficient, or any right to reimbursement should it exceed the expense actually incurred.

Formation of open area between cellar dwelling and street by Director of Public Works. *Amended by: XVII.1893.12; XVI.1931.28.*

(2) The Director of Public Works is not bound to grant the said permission for any width exceeding thirty centimetres.

110. (1) The owner or part owner of a common tenement-house shall not permit the use for habitation of any room or apartment in such house without having previously obtained a licence from the Superintendent of Public Health.

Common tenement-houses to be licensed by Superintendent of Public Health. *Amended by: XV.1920.4; XVI.1931.29, 30; I.1959.8.*

(2) Such licence shall not be granted unless the Superintendent of Public Health is satisfied that such house is in good structural and hygienic condition, with regular drains and a sufficient number of sanitary conveniences, and a proper supply of wholesome water.

Conditions.

(3) It shall be the duty of the owner of any such house at all times to keep such house and every part thereof in good structural and hygienic condition with regular drains and a sufficient number of sanitary conveniences, and a proper supply of wholesome water, to the satisfaction of the sanitary authority, and if required by such authority, to wall up and provide the mouth of the cistern with a pump with pipes of iron or other substance approved by the General Services Board.

Duties of owner.

(4) No person shall use for habitation any room, apartment or part of a common tenement-house declared by the sanitary authority to be unfit for such use.

Common tenement-houses declared unfit for habitation.

111. (1) The owner of any common tenement-house shall paint and keep legible, a number over the entrance door of each room or apartment let, or intended to be let, separately; and every such room or apartment shall be indicated in the licence by its number.

Number to be painted over entrance door of rooms.

(2) It shall not be lawful to deface, cancel, or alter the number of any of such doors.

Number of persons who may occupy rooms in common tenement-houses. *Amended by: XV. 1920.5; XVI.1931.31.*

112. No room in any common tenement-house or in any apartment therein shall be used for habitation by a number of persons in excess of the following limitations, that is to say -

(*a*) where the room has at least the height prescribed in article 97(1)(*d*), there must be a surface of at least three point seven five square metres for each person older than seven years, and of two point seven five square metres for each person of seven years of age or under; or

(*b*) where the room has a lesser height, there must be a surface of at least four point seven five square metres and three point seven five square metres respectively.

Presumption *juris tantum* against persons letting cellars, etc. *Amended by: XV. 1920.6.*

113. (1) For the purposes of the provisions contained in articles 106, 107, 108, 110, 111 and 112 the person who under any title whatsoever shall have granted to others the enjoyment of a cellar, room or apartment, shall be deemed to have permitted the use thereof for habitation, or for the habitation of a number of persons greater than that allowed under the last preceding article, unless it is shown that he has expressly prohibited the tenant or other grantee from making such use thereof.

(2) In regard to any common tenement-house, such prohibition shall be deemed to have been made if a notice legibly written containing such prohibition is posted up on the door.

Power of court in case of second or subsequent conviction.

(3) In the case of a second or subsequent conviction of the owner, the court may, besides awarding the punishment established in this Code, order the closing of the cellar, room or apartment for a period of not less than three months, nor more than one year, causing, where it deems it expedient, the doors of such cellar, room or apartment to be barred at his expense.

(4) In regard to a common tenement-house there shall be deemed to be a second or subsequent conviction, whether the previous contravention was or was not committed in respect of the same room or apartment.

Painting of number over external doors.

114. (1) The owner of any house shall, within seven days of a notice by the Police, paint over each external door, the number appertaining to such door, regard being had to the numbers of the other doors, if any, in the same street; and, where it is necessary to mark two or more doors with the same number, he shall add to each repeated number an alphabetical letter, in alphabetical order, commencing with the first letter; he shall also renew such number or letter, as the case may be, whenever such number or letter is no longer easily legible.

Size of number, etc.

(2) Each number or letter shall be of a size not less than that prescribed by the Police.

Number, etc., not to be defaced.

(3) It shall not be lawful to deface or destroy the number or letter of any door.

115. Where, owing to the construction of new houses, or the opening of new doors, or for any other reason, the Minister responsible for public works shall order that the numbers of the doors of houses in any street be altered, or that a new name be given to a portion of any street, every such order shall be published in the Gazette either by a Government Notice, or by a notice signed by the Director of Public Works; and in either case, where the numbers are altered, such notice shall state the previous numbers of the doors of the houses, as well as the numbers substituted therefor.

Alteration of number of street doors.
Amended by: XVII. 1893.12; L.N. 4 of 1963.
Publication of order concerning such alteration.

116. The provisions of article 114 shall not apply to any church or other building constructed and perpetually destined for divine worship.

Provisions regarding painting of number of street doors not to apply to churches, etc.

117. (1) The owner of any building shall keep in a good state of repair, the cistern, privy, sink or drain for slop water, cesspool, if any, as well as the respective pipes or other means of communication and the ventilators prescribed by this Code.

Duty of owner to keep cistern, etc., in good repair,
Amended by: II. 1890.4; XVI. 1931.32; XXIX. 1935.7.

(2) He shall also take all necessary steps to prevent any flow or infiltration from any privy, sink, or drain for slop water or cesspool, or from the respective pipes or conduits, and to prevent any nuisance in his own or in any other tenement.

and to prevent flow or infiltration.

(3) Nevertheless, the expense of removing any stoppage in the disconnecting syphon trap or in the pipes connecting the privy with the main, and of the cleansing of any pipe or drain consequent on such stoppage, shall be incumbent on the occupier of the house, unless it is shown that the stoppage existed before he occupied the house, or that it was due to defective construction, or that the drains are common to more than one tenement.

Expense of removing stoppage in disconnecting syphon trap to rest on occupier of house.

118. (1) The occupier of any building or other tenement shall at all times keep in good condition, on any open cistern, well or pit, a sufficiently solid fence or parapet not less than one metre high.

(2) The occupier of any such building or other tenement shall in no case remove the fence or parapet, unless such removal is necessary for drawing more easily water from such cistern, well or pit, or for any other purpose, and, in any such case, he shall replace the fence or parapet as soon as any such operation is completed or interrupted.

Duty of occupier of building, etc., to keep in good condition fence over open cistern, etc.
Amended by: XI. 1910.4; XVI.1931.33.

119. The Minister responsible for agriculture may, on the advice of the Board of Agriculture, make, amend or repeal regulations relating to the preservation and cultivation of carob trees as well as of any other kind of trees as the House of Representatives shall, by resolution, direct.

Power of Minister responsible for agriculture to make regulations relating to the preservation of trees.
Added by: XV.1920.7.
Amended by: XIV. 1958; L.N. 4 of 1963.

Damage to external part of house.
Amended by: IV.1912.3. Affixing of notices to external part of house,

120. (1) It shall not be lawful, without the consent of the owner, or, if the house is occupied by any other person, without the consent of such other person, to do anything which soils any external part of the house, or its whitewashing, or to hang or affix on or to any such part of the house any paper or other thing.

or to any other place.

(2) It shall likewise be unlawful to hang or affix any paper or other thing on or to any place with regard to which an express prohibition to that effect has been made by the owner or occupier, as the case may be.

Occupier, etc., to keep parts of house clean.
Amended by: VI. 1881.2; II. 1890.5; XVI.1931.34, 35,36; XII.1938.4; XIV.1958; L.N. 4 of 1963; II.1968.2; XI.1977.2.

121. (1) The occupier of any house or, where there is no occupier, the owner, shall keep clean all the internal and external parts of the house.

No person to keep accumulation of refuse.

(2) (i) Subject to the provisions of this Code, no person may throw or dump in any place any refuse or rubbish or may keep or suffer to be kept in any place any accumulation of refuse, of rubbish, or of dirty, polluted or stagnant water, or of sewage, dung or other foul matter:

Provided that the provisions of this paragraph shall not apply to any refuse thrown or dumped by any scavenger or collector of refuse in the employment of the Government, in the proper exercise of his duties, in any place provided for the purpose by the Superintendent of Public Health or to any refuse kept in any such place.

(ii) No person may dump or keep or suffer to be dumped any other material in any open space unless such space is surrounded by a wall at least two point five metres high and is covered by a licence, issued by the Commissioner of Police, who, in granting such licence, may impose any such conditions as he may deem fit:

Provided that no such licence shall be granted unless the dumping of such material forms part of or is ancillary to the business of the applicant.

Power of Superintendent of Public Health to order removal, destruction, etc., of accumulation of refuse.

(3) It shall be lawful for the Superintendent of Public Health to order any such accumulation as, in his opinion, is likely to cause a nuisance or be injurious to health or become a breeding place or harbourage for rats, insects or other vermin injurious to health, to be immediately removed or destroyed or dealt with or treated in such a manner as to abate the nuisance or prevent injury to health.

(4) If the occupier or owner, as the case may be, fails to comply with any such order of the said Superintendent, he shall be guilty of a contravention and the court shall make an order directing such accumulation to be forthwith destroyed or dealt with or treated to the satisfaction of the said Superintendent, without any right on the part of the occupier or owner to compensation, and where the contravention is in respect of an open space in an inhabited area, the court may make an order requiring the offender to protect such space by raising and keeping around it a wall or other suitable fence not less than two point five metres high.

Default of occupier, etc., in complying with order of Superintendent of Public Health. Where contravention is in respect of an open space.

(5) Where the owner of such open space is unknown or absent from Malta, the court may, on the application of the Police, make an order empowering the Government to raise such wall or fence notwithstanding that there has been no conviction against the owner, and the expense thereby incurred shall be recoverable as a civil debt.

Where owner of open space is unknown, etc.

(6) The Minister responsible for public health may make regulations in respect of the following matters:

Power of Minister responsible for public health to make regulations.

(*a*) for the inspection of houses and other places;

(*b*) for the removal from any house or other place of refuse and rubbish or of any dirty, stagnant or polluted water, or of sewage, dung or other foul matter;

(*c*) for anything connected with the keeping, removal and disposal of any such matter or liquid;

(*d*) for the cleansing of privies and cesspools belonging to any premises;

(*e*) for imposing the duty of such cleansing on the occupier or owner of such premises; and

(*f*) generally, for the proper working of any service that may be established for any of the above purposes.

(7) Where any person obstructs any other person employed in carrying out any of the provisions of this article or of any regulation made thereunder, the competent court may, on the application of the Police, issue a warrant, authorizing the use of force for the carrying out of any of such provisions.

Obstruction.

122. (1) The Superintendent of Public Health may allow material for composting into manure to be kept in such places and for such time and under such conditions as he may consider necessary for preventing nuisance or injury to health.

Material for composting into manure. *Amended by: XV.1920.9; XII.1938.5.*

(2) In default of compliance with any order of the said Superintendent for preventing nuisance or injury to health, the person responsible shall be guilty of a contravention, and the material causing the said nuisance or injury shall be dealt with in accordance with the provisions of the last preceding article.

Default of compliance with order of Superintendent of Public Health.

Duties of owner and manager of bathing establishment. *Added by: XV.1920.8.*

123. The owner and the manager of any bathing establishment shall keep in a good state of cleanliness and decency the rooms, appurtenances, privies, baths and fixtures, furniture, utensils, toilet requisites, towels and all other linen and clothes used in such establishment.

Duty of owner or occupier to whitewash house when ordered by sanitary authority. *Amended by: XV. 1920.10; I. 1959.8.*

124. The owner or occupier of any house is bound to whitewash and purify such house, within a reasonable time, regard being had to the size of the house, whenever he is so ordered by the sanitary authority, for preventing or checking the spreading of any disease which is, in the opinion of the General Services Board, epidemic or communicable by contagion or infection, saving the right, if any, of the person defraying the necessary expense, to recover such expense from the other, according to law.

Prohibition to keep animals of the bovine species, etc., in common tenement-houses, *Amended by: XIV.1885.1; XI.1910.5; XIX. 1926.8; XVI. 1931.37,38; XXXVII. 1937.2.*

125. (*Repealed by XXV. 2001.50.*)

Prohibition to keep animals of the bovine species, etc., in certain localities, without licence of sanitary authority. *Amended by: XIV. 1885.2; XI.1910.5; XV.1920.11,12; XVI.1931.39,40, 41; XII.1938.6; XIV. 1958.4; I.1959.8; XXV. 1962; L.N. 4 of 1963; XI. 1977.2.*

126. (1) No person shall, without a licence from the sanitary authority, the duration of which shall not exceed one year, keep on any premises within the limits mentioned in sub-article (2) of the last preceding article, any animal of the bovine species, or any pig, goat, sheep, horse, mule or donkey.

Conditions of licence.

(2) The sanitary authority shall not grant any licence for the keeping of any of such animals in any cellar within the said limits; or for the keeping of any such animal in any other place within such limits, unless the floor thereof is of hard stone, asphalt or any other impervious material, and is connected with the public sewer in a manner approved by the sanitary authority and unless such place is provided with such ventilators as the sanitary authority may consider necessary.

Power of Superintendent of Public Health.

(3) The Superintendent of Public Health may refuse to grant or renew any such licence whenever, in his opinion, the keeping of any of the said animals may cause a nuisance.

Power of Minister responsible for public health to extend application of this article.

(4) The Minister responsible for public health may from time to time, on the advice of the General Services Board, direct, by means of a notice published in the Gazette, that all or any of the provisions of this article shall apply to any other locality not mentioned in sub-article (2) of the last preceding article.

127. (*Repealed by XXV. 2001.50.*)

Prohibition to keep sheep-pens etc., in certain localities, *Amended by: XIV. 1885.3; XIII. 1913.2; XV. 1920.13; XVI. 1931.42.*

128. It shall not be lawful -

Chimneys, ovens or forges. *Amended by: XXIX. 1935.8.*

(*a*) to construct any chimney, oven, or forge, against a party wall, even though such party wall be entirely one's own, between tenements belonging to different owners;

(*b*) to construct or make use of any oven, hearth, or forge, in any place from which, owing to the absence of a chimney for the emission of the smoke on to the roof of the building, such smoke might pass into the street or into a neighbouring house, or to use such oven, hearth or forge in such a way as to cause a nuisance or annoyance to the neighbours;

(*c*) to manufacture any fireworks in any house situate in an inhabited area, or, without the consent of the occupiers of the neighbouring houses, in any other house situate elsewhere;

Manufacture of fireworks.

(*d*) to keep any combustible materials in any cellar, near any window or other aperture thereof, towards the street;

Combustible materials in cellars.

(*e*) to light any fire in one's own field, in the vicinity of some other field belonging to another person, in which there is any combustible produce.

Lighting of fire in fields.

129. Any person keeping an oven, chimney, or factory in which fire is used, shall keep such oven, chimney or factory clean and in good condition, so as to avoid all danger of fire.

Ovens, chimneys, etc., to be kept clean.

130. (*Repealed by XXVII. 2001.33.*)

Offensive trades. Licence. *Amended by: XVII. 1893.12; XII.1938.7; XL. 1949.8.*

131. (1) It shall be lawful for the Minister responsible for public works to appoint one or more engineers for the inspection and testing of boilers whatever their use.

Appointment of engineers for inspection of boilers. *Added by: VII. 1889.2. Amended by: II. 1915.1; L.N. 4 of 1963; XXXI. 1967.37; XIII. 1983.5; L.N. 407 of 2007.*

(2) Any engineer so appointed may after giving two days' notice enter any building in order to inspect any such boiler.

Power of engineer.

(3) Inspections shall be made half yearly, in the second and fourth quarter of each year, or at such other periods as may be

Periodical inspections.

prescribed by the Minister responsible for public works.

Fees for inspections.

(4) The fee for each inspection shall not exceed two euro and thirty-three cents (2.33), and shall be paid by the owner or user of the boiler.

Definition of "boiler".

(5) For the purposes of this article, the word "boiler" means any closed vessel used for generating steam, or for heating water or other liquids, or into which steam is admitted for heating, steaming, boiling, or other similar purposes.

Operation of steam-boilers on land.
Added by: XI.1910.6.
Amended by: L.N. 4 of 1963.

132. No steam-boiler shall be operated on land except under the constant supervision of a person duly licensed to act as an engine-driver, in accordance with such regulations as shall, from time to time, be made by the Minister responsible for public works.

Power of Police etc., to inspect premises.
Amended by: VI. 1881.3; L.N. 4 of 1963.

Power of court.

133. It shall be lawful for the Police, the sanitary authority, or any person appointed by the competent Minister, at any time, with the least possible inconvenience to the occupier, according to circumstances, to visit any house or other building or tenement, in order to ascertain that the provisions of this Part, or of the regulations made by a Minister are observed, and the court may, where necessary, issue a warrant authorizing the use of force, for the opening of any door:

Provided that any such warrant shall not be executed before notice thereof shall have been given, even orally, to the occupier of the house, building or tenement, not later than the day previous to the execution.

Stores.
Added by: VI. 1881.4.
Amended by: XVI.1931.44,45, 46; XXXIX.1935.9.

134. (1) The Superintendent of Public Health may, in the construction of any store intended for the preservation of goods or merchandise or in the construction of any building in any field or garden, intended for the keeping of animals or agricultural implements or produce, dispense with the observance of any of the provisions contained in this Code or of any regulation made under article 102, excepting the provisions of article 97(1)(*o*), provided such store or building is constructed on the ground level only.

(2) Such store or building shall not, either wholly or in part, be used for habitation or for any other purpose than those above-mentioned.

(3) Any owner or other administrator who shall let such store or building for habitation or for any other purpose than those above mentioned or who shall in any other manner suffer such store or building to be so used, shall be guilty of a contravention against this Code.

PART VI

OF CEMETERIES AND OF THE INTERMENT OF DEAD BODIES*

135. It shall not be lawful to construct any cemetery without a licence from the sanitary authority.

Construction of cemeteries. *Amended by: XV. 1920.15.*

136. (1) No cemetery shall be constructed at a distance less than one hundred and eighty-three metres from any house intended for habitation:

Provided that where, notwithstanding such distance, there may be a danger to public health or a nuisance to the neighbours, such distance shall be increased, and where considered expedient in the particular circumstances of a given case such distance shall be reduced, in each case as the General Services Board shall direct.

Distance to be observed in the construction of cemeteries. *Amended by: XVII. 1893.14; VIII. 1932.2; XXXIII. 1946.2; I.1959.8.*

(2) Nevertheless, it shall be lawful for the Superintendent of Public Health to allow an extension of any cemetery constructed before the first of January nineteen hundred and thirty-two, although the distance of any such cemetery or of such extension from any house intended for habitation be less than that mentioned in sub-article (1), if he considers such extension to be necessary for the exigencies of the district.

Power of Superintendent of Public Health to allow extension of existing cemeteries.

137. Any person having the charge of a cemetery shall surround such cemetery with a wall or other sufficient fence, to a height of at least three metres from the ground and shall keep such cemetery and the buildings, walls, or other fences thereof in good condition.

Boundary-walls and upkeep of cemeteries.

138. It shall not be lawful to enter into any cemetery without the permission of the person in charge.

Unlawful entry into cemetery.

139. It shall not be lawful to destroy or injure any building, wall, or fence belonging to a cemetery, or affix to any such building, wall, or fence any paper or other thing, or destroy or deface any monument, tablet, inscription, gravestone, tree, or plant within the cemetery, or do any other wilful damage therein.

Damage to cemeteries.

140. It shall not be lawful to play at any game or sport, or discharge any fire-arm, save at a military funeral, in any cemetery, or disturb any person who is lawfully in any cemetery for the purpose of burying any dead body therein.

Playing, and discharge of fire-arms in cemeteries.

141. It shall not be lawful to bury any dead body without the permission of the Police.

Burials.

142. It shall not be lawful to exhume any dead body or open any grave without the permission of the Police.

Exhumation of dead bodies. *Amended by: X.1859.2; I.1920.3.*

143. (1) No dead body shall be buried before the lapse of twenty-four hours of the death, in ordinary cases, or of forty-eight hours in cases of sudden death; and it shall not be lawful during

Time of burial. *Amended by: II. 1880.11.*

**See* also the Burials Ordinance (Cap.17) and the Addolorata Cemetery Ordinance (Cap.18).

such time, to place the dead body in such position as to prevent any possible manifestation of life or the necessary assistance in case of any such manifestation.

(2) Nevertheless, the Police may permit the burial before the lapse of the said time on the certificate of a medical practitioner, that there are signs of putrefaction, or other circumstances excluding all doubt as to the death of the person.

Burial in prohibited places. *Amended by: VIII.1874.1; XV.1920.16; XLII.1974.2.*

144. (1) It shall not be lawful to bury any dead body in any cemetery wherever situate in which the sanitary authority shall have prohibited burial, or without such sanitary precautions as may be prescribed by the sanitary authority.

Burial of persons dying of infectious disease.

(2) It shall not be lawful to convey to any church or chapel the body of any person who has died of plague, cholera, smallpox or typhus fever or such other disease communicable by contagion or infection as the Superintendent of Public Health may determine.

Burial in church or chapel, etc.

(3) It shall not be lawful to bury in any church or chapel or in the crypt of any church or chapel or in the appurtenances of any church or chapel the body of any person except with the special permission of the Superintendent of Public Health which shall be granted only in exceptional circumstances:

Provided that the provisions of this sub-article shall not apply to any church, chapel or crypt situated inside the Addolorata Cemetery.

Exposing dead body in state of incipient putrefaction.

(4) It shall not be lawful to expose, or leave exposed, in any place accessible to the public, any dead body in a state of incipient putrefaction.

Mode of burial of dead bodies. *Amended by: II. 1880.12.*

145. (1) Every dead body shall be buried with such covering as decorum and decency require.

(2) The dead body, or the coffin containing it, unless it be a metallic coffin hermetically closed, shall, in the grave, be covered with earth up to a height of at least forty-five centimetres.

(3) It shall not be lawful to bury, in the common vaults, any dead body in a coffin of any kind; and every dead body, in such vaults, shall be covered with earth up to the said height.

(4) If two or more dead bodies be laid in the same common vault, each of them shall be covered with earth up to a height of at least twenty-five centimetres, the body last laid being so covered up to a height of forty-five centimetres.

Power of Police and sanitary authority in regard to inspection of cemeteries. *Amended by: XV.1920.17.*

146. It shall be lawful for any officer of the Police or sanitary authority at all times to enter and inspect any cemetery, for the purpose of ascertaining whether the provisions contained in the preceding articles of this Part, and in any regulations made under the next following article relating to the orderliness of cemeteries, are properly observed.

147. The Minister responsible for public health may make regulations respecting the construction, position and extension of cemeteries, the mode of burial of dead bodies and, generally, the orderliness of such places.

Power of Minister responsible for public health to make regulations. *Amended by: L.N. 4 of 1963; XI. 1977.2.*

PART VII

OF AQUEDUCTS AND PUBLIC FOUNTAINS

148. No person shall take away, from any aqueduct, fountain, cistern, conduit, or other like place, public water, not provided for the gratuitous use of the public, without the permission of the officer in charge of the distribution of public waters.

Unlawful drawing of water from aqueduct, etc.

149. Every person allowed to take water by the officer mentioned in the last preceding article, shall make sure that the cistern which is to hold the water, and the conduits or tubes bringing the water to such cistern are not broken or damaged so as to prevent the water supplied from running considerably to waste.

Duty of person allowed to take water.

150. Every person shall avoid causing, through his negligence, the opening, breaking, or injuring of any lock, earthen pipe, tube, door, or other work of any reservoir or other receptacle of public water, or any other thing whereby such water shall be wasted.

Duty of avoiding damage to water works.

151. (1) Every person shall avoid causing, through his negligence, any rubbish, mud, or other noxious or offensive matter to enter into any fountain, aqueduct, or other like place destined for the preservation of public water; or any putrid water or other offensive matter to run into any such fountain, aqueduct or other place from any cesspool, conduit or other place; or any other thing whereby public water shall be rendered foul or unwholesome.

Fouling of public water. *Amended by: X. 1957.2.*

(2) No person shall throw or negligently allow to flow any rubbish, or any polluted or dirty water or any other offensive matter into the waste-water pit of any public stand-pipe.

PART VIII

OF ANIMALS

Articles 152 to 168, both inclusive, were repealed by Act XXV.2001.50.

152. For the purposes of this Part "animal" shall have the same meaning assigned to it in article 2 of the Animal Welfare Act.

Interpretation. *Added by: VII. 2010.38.* Cap.439.

153. Any person who keeps confined or causes or suffers any animal to be kept confined in any place shall take such precautions as may be required by the circumstances to prevent such animal from giving annoyance to the neighbourhood by howling or whimpering or otherwise.

Precautions. *Added by: VII. 2010.38.*

PART IX

OF HOTELS AND OTHER LODGING-HOUSES

Articles 169 to 180, both inclusive, were repealed by Act XXVII.2001.33.

PART X

OF SHOPKEEPERS AND OTHER TRADERS

Shopkeepers, hawkers and pedlars. *Amended by: XIII.1921.4; XIX.1926.10; VII.1931.2; XXXV.1940.2; XL.1949.9; XIV.1958; XXV.1962; L.N. 4 of 1963; L.N. 46 of 1965.*

181. (*Repealed by: XXVII. 2001.33.*)

Unlawful to retail wine, etc., without licence. *Ord. XIII of 1888 as amended by Ord. VII of 1939, XXXIV of 1940 and III of 1941, incorporated. Amended by: XL. 1949.11.*

182. (*Repealed by: XXVII. 2001.33.*)

Duration of licence for sale of wine, beer or spirituous liquor. *Amended by: II.1880.16; I.1898.1; XI.1910.11; II.1911.1; IV.1912.4; XV.1920.19; XX.1944.2; XXX.1947.2; XL.1949.12; XIV.1958; XXV.1962; L.N. 4 of 1963; XVI.1966.2; XXXIII.1974.2.*

183. (1) It shall be lawful for the Minister responsible for the Police to make regulations respecting the grant and cancellation of licences for the sale of wine, beer or spirituous liquor and respecting the sale of non-intoxicants, and for limiting the number of licences according to circumstances.

Power of Minister responsible for Police to make regulations respecting good order in shops.

(2) It shall also be lawful for the Minister responsible for the Police to make regulations for securing the maintenance of order and public decorum in or about shops licensed for the sale of wine, beer or spirituous liquor, or for the sale of non-intoxicants and in or about such restaurants or eating-houses as are not included in the class of shops above mentioned.

184. (*Repealed by: XXVII. 2001.33.*)

Opening and closing hours of shops.
Amended by: III. 1868.4; XI. 1910.12; I.1920.4; XL.1949.13; XIV.1958; XXV.1962; L.N. 4 of 1963.

185. (1) The keeper of any shop licensed for the sale by retail of wine, beer or spirituous liquor shall not -

Permitting drunkenness, etc.
Amended by. III.1872.13; XI.1910.13; XVII. 1938.4; II. 2009.7.

(*a*) permit drunkenness, or any violent or quarrelsome conduct to take place on his premises; or

(*b*) sell any wine, beer or spirituous liquor to a drunken person, or to any person apparently of unsound or weak mind, or under the age of seventeen years; or

(*c*) keep on his premises any arms proper, within reach of any other person; or

(*d*) harbour, or knowingly suffer to remain on his premises any Police sergeant or constable in uniform, unless for the purpose of keeping or restoring order, or in execution of his duty; or

(*e*) supply any wine, beer or spirituous liquor, whether by way of sale or gift, to any Police sergeant or constable in uniform, unless by authority of some superior officer of the sergeant or constable, or to any person belonging to the armed forces of Malta, in uniform, between the time of opening and eight o'clock in the morning.

(2) The provisions of article 175 shall apply to shopkeepers licensed for the sale by retail of wine, beer or spirituous liquor.

Applicability of s. 175.

186. (*Repealed by: XXVII. 2001.33.*)

Entry by Police.
Amended by: XI.1910.14. Substituted by: XLIX.1981.6.

187. (*Repealed by: XXVII. 2001.33.*)

Continuation of business by heir, etc.

188. (*Repealed by: XXVII. 2001.33.*)

Scales, weights and measures.

189. (*Repealed by: XXVII. 2001.33.*)

Keeping of unjust or unstamped scales, weights and measures.
Amended by: XXVIII.1994.45; XIX.1996.10.

190. (*Repealed by: XXVII. 2001.33.*)

Clean and wholesome condition of shops.

Exposing goods for sale in streets or markets beyond the limits assigned by Police.

191. ((*Repealed by: XXVII. 2001.33.*)

Power of Police to close shops in case of riot.

192. (*Repealed by: XXVII. 2001.33.*)

Permitting unlawful gaming in shops.
Amended by: III.1872.12.
Substituted by: XXIV. 2001.80.
Cap. 438.

193. (1) No shopkeeper shall suffer any sort of game of chance to be carried on in his premises unless licensed or authorised or permitted to do so in terms of or under the Lotteries and Other Games Act or any other law.

(2) No shopkeeper shall knowingly permit his premises to be the place of meeting of persons of notoriously bad character.

Added by: XL.1949.14.

PART XI

OF CERTAIN TRADES

Requirement of licence in respect of certain trades.
Added by: XL.1949.14.
Amended by: XLII. 1965.2; VI.1995.2.

194. (*Repealed by: XXVII. 2001.33.*)

Added by: XI.1920.20.

PART XII

OF CLUBS

Power of Minister responsible for the Police to make regulations respecting registration of clubs.
Added by: XV.1920.20.
Amended by: XXV. 1962; L.N. 4 of 1963; L.N. 46 of 1965.
Substituted by: XXVII. 2001.33.

195. (1) It shall be lawful for the Minister responsible for the Police to make regulations respecting the registration of club premises with the Commissioner to Police.

(2) Such registration may be refused on grounds of morality or public order or because of any lack of any requirement under the regulations, and subject to the provisions of any other enactment, such registration may only be cancelled either at the request of the secretary of that club made on its behalf or in accordance with a court order following an application therefor by the Commissioner of Police on the grounds of morality or public order or lack of compliance with the regulations:

Provided that it shall be lawful for the Commissioner of Police, for reasons of public order, to direct at any time the immediate temporary closing of any club:

Provided further that the registration of a club shall not dispense such club from holding any permit or licence that may be required by this or any other law for the carrying out of any activity by the club.

PART XIII

OF PUBLIC BILLIARD TABLES

Articles 196 to 200, both inclusive, were repealed by Act XXVII. 2001.33.

PART XIV

OF THEATRES AND PUBLIC ENTERTAINMENTS

Holding of shows, etc.

201. (*Repealed by: XXVII. 2001.33.*)

Prohibition of tobacco smoking in theatres and cinemas. *Added by: XLII. 1976.2.*

202. *Repealed by: XLII. 1986.20.*

Power of Minister responsible for the Police to make regulations. *Amended by: VIII. 1946.2. Substituted by: X.1950.2. Amended by: XIV.1958; XXV.1962; L.N. 4 of 1963; L.N. 46 of 1965; XIII. 1983.5; L.N. 407 of 2007; XVIII. 2012.3.*

203. (1) The Minister responsible for the Police may make and, when made, amend, repeal or repeal and re-enact regulations respecting public theatres, public cinematograph halls, public shows and entertainments, public balls and, in each case, the immediate approaches thereto. Without prejudice to the generality of this power such regulations may be provided in particular for -

(*a*) the issue and renewal by the Commissioner of Police of licences in respect of such places and the conditions governing such licences;

(*b*) fire-fighting appliances and other precautions against fire; the training, qualifications and licensing of firemen;

(*c*) the qualifications and licensing of the staff of cinematograph operating rooms;

(*d*) the means of promoting the ventilation and the sanitation in general of such places;

(*e*) (*Repealed by Act XVIII.2012.3*);

(*f*) the licensing of film importers; the responsibilities of the importers and the exhibitors; the minimum requirements of films for exhibition to the public, and the terms and conditions of supply of films by the importers to the exhibitors;

(*g*) the control of contracts between the purveyors of public performances and shows and the performers and other employees connected therewith;

(*h*) the duration of public performances, shows and exhibitions, and the composition of programmes therefor;

(*i*) admission to the said places, and restriction of admission thereto by age groups in respect of different classes of entertainments;

(*j*) accommodation in the said places and prices of admission in respect of different classes of seats, of

different localities and of different occasions;

(*k*) the control of behaviour in the said places and the right of the Police to expel persons from any such place during the course of a performance or exhibition or show;

(*l*) the right of entry into the said places of specified public authorities and the rights exercisable by any such authority upon such entry;

(*m*) the liability of a licensee for the acts of his agents and servants;

(*n*) establishing the penalties to which any offender against any of the regulations made under this article shall be liable; such penalties may include fines in an amount not in excess of eleven thousand and six hundred and forty-six euro and eighty-seven cents (11,646.87), either with or without a determined minimum and the suspension or the cancellation of any licence whether issued under any regulations made under this article or otherwise;

(*o*) the constitution of a Board of arbitration for the purpose of settling disputes between importers and exhibitors of films; the functions and powers of such Board, and the procedure to be followed in proceedings before it.

(2) Regulations made under sub-article (1) may be made to apply, to such extent as may be specified therein, to premises being clubs or institutions at which theatrical or cinematographic performances or shows or balls are staged or given, whether habitually or occasionally and whether on payment or otherwise, before or to any audience or attendance comprising thirty or more persons.

(3) Regulations made under this article shall be laid on the table of the House of Representatives as soon as may be after they are made; and if the House of Representatives, within a period of twenty days beginning with the day on which any such regulations are laid before it, resolve that they be annulled, or amended, the same shall cease to have effect, or shall be so amended but without prejudice to anything previously done thereunder or to the making of any new regulations. In reckoning any period for the purpose of this sub-article no account shall be taken of any time during which the House of Representatives is dissolved or prorogued or during which it is adjourned for more than four days.

Power of stopping and of suspending exhibitions.
Added by: X. 1950.2.

204. It shall be lawful for the Commissioner of Police for reasons of public order, public safety or public morality or by reason of the licensees' lack of compliance with the provisions of regulations made under article 203 hereof, to order the suspension forthwith of any public performance, exhibition, show or entertainment, and likewise to order the suspension of any licence and the closing of any premises concerned for a period not in excess of fifteen days.

PART XV

OF SPORTSMEN

Sporting licence. *Amended by: XI. 1910.15; XL. 1949.17. Substituted by: XVII. 1980.2. Amended by: V. 1991.50.*

205. (1) The use of guns and other firearms for sporting purposes is permitted but only as provided in the following provisions of this Part.

(2) No person shall use any gun or other firearm for the purpose of searching for, pursuing or killing game without a valid licence from the Police.

(3) A licence issued under sub-article (1) shall not be valid during such other period as may be specified in the licence.

Conditions for licence. *Amended by: XI. 1910.15; XVII.1963.4; XXVII. 2001.33.*

206. Such licence shall not be granted to any person -

(*a*) who has not attained the age of eighteen years; or

(*b*) who is not, in the opinion of the Commissioner of Police, of good character or a fit person to handle a gun or other firearm without danger; or

(*c*) who, in the preceding year, has been convicted of any contravention against any of the provisions of this Part, or against article 304(*a*) of the Criminal Code. Cap. 9.

Presumption as to pursuit of game. *Added by: XI.1910.15. Amended by: XVII.1980.3.*

207. *Repealed by: V.1991.50.*

Licence to be personal. *Added by: XI.1910.15.*

208. Such licence shall be personal and it shall not be lawful for the person having such licence to permit the use thereof to any other person.

Production of licence at request of Police. *Added by: XI. 1910.15. Amended by: XXII. 1952.2.*

209. Any person found in the actual search for or pursuit of game shall, if so required by any Police officer, state his name, surname and other particulars and produce his licence either on demand or within two days of such demand at such place as may be appointed by the Police officer.

Prohibition to enter field, etc., belonging to another person. *Amended by: XI. 1910.15.*

210. *Repealed by: V. 1991.50.*

Wanton discharge of firearms. *Added by: XI.1910.15. Substituted by: XVII.1980.4.*

211. *Repealed by: V. 1991.50.*

Taxidermy licence. *Added by: XVII.1980.5. Amended by: XXVII. 2001.33.*

212. (1) No person shall act as a taxidermist without a licence from the Minister responsible for the environment or from such other person or authority as may be designated by the said Minister.

(2) A licence granted under sub-article (1) may contain such conditions as the said Minister or such other person or authority as aforesaid may deem appropriate, and any licensee who acts in

contravention of any of those conditions shall be deemed to be acting without a licence.

(3) Any person convicted of cruelty to animals under any law, shall be disqualified from obtaining a licence under this article for a period of five years.

Bird-ringing licence.
Added by: XVII. 1980.5.

213. *Repealed by: V.1991.50.*

Power of Minister responsible for the environment to make regulations.
Added by: XI. 1910.15. Amended by: XXVII.1935.2; L.N. 4 of 1963; XXVII. 2001.33.

214. It shall be lawful for the Minister responsible for the environment from time to time to make, vary or revoke regulations for carrying out the provisions of this Part and in particular for the protection of game and wild birds.

PART XVI

OF SHEPHERDS AND GOATHERDS

Articles 215 to 217, both inclusive, were repealed by Act XXVII. 2001.33.

Amended by: VII. 1889.3.

PART XVII

Amended by: II.1958.

OF PORTERS

Licence to porters.
Amended by: VII.1889.3; XIII.1913.4; VI. 1933.1; II. 1958.5; IX. 1971.3; XVII.1991.82.

218. (*Repealed by: XXVII. 2001.33.*)

Power of Minister responsible for ports to make regulations and to fix charges payable to porters.
Amended by: II.1880.23; VII.1889.3; XIV.1932.2; VI.1933.1; XI.1933.2; II.1958.5; L.N. 4 of 1963; XVII. 1991.82.

219. (*Repealed by: XXVII. 2001.33.*)

Handling of luggage to be carried out by luggage porters.
Added by: VI.1933.1. Amended by: L.N. 4 of 1963; IX. 1971.3.

220. *Repealed by: XVII. 1991.82.*

221. *Repealed by: XVII. 1991.82.*

Service of luggage porters subject to supervision of Director of Ports. Government not liable for loss or damage.
Added by: VI. 1933.1.
Amended by: IX. 1971.3.

PART XVIII

Added by: XIII.1900.1.

OF SHOEBLACKS

222. (*Repealed by: XXVII. 2001.33.*)

Licence to shoeblacks.
Added by: XIII.1900.1.
Amended by: L.N. 4 of 1963.

PART XIX

Added by: VII. 1942.2.

OF BROKERS (*Pitkali*) AND VENDORS OF AGRICULTURAL PRODUCE

223.* The Minister responsible for agriculture may make regulations in regard to the sale, at auction or otherwise, of agricultural produce and in regard to the licensing of persons connected therewith. Such regulations may provide for special penalties to be inflicted in respect of default of compliance therewith.

Power of Minister responsible for agriculture to make regulations.
Added by: VII.1942.2.
Amended by: XIV. 1958; L.N. 4 of 1963.

PART XX

OF TERRITORIAL WATERS, HARBOURS AND WHARVES

Substituted by: XXX. 1972.2.

224. (*Repealed by XV. 2009.52.*)

Obstruction in harbours and on wharves.
Amended by: XV.1904.1; L.N. 4 of 1963; XVII. 1991.82.

225. (1) It shall not be lawful to allow any animal to approach any part of the seashore where any person is bathing, unless such place be expressly set apart for animals.

Taking animals into the sea.
Amended by: XIX. 1926.12.

(2) It shall be lawful for the Commissioner of Police to make regulations fixing the hours and places in which animals may be taken into the sea.

Power of Commissioner of Police to make regulations.

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*This article as originally enacted consisted of two sub-articles.
Sub-article (2) has been omitted because it has ceased to be in force.

Holding of regattas, etc.
Amended by: XV. 1920.21; XVII. 1991.82; XV. 2009.52.

226. It shall not be lawful to hold any regatta, greasy-pole, or any other public entertainment or show or let off any fire-works, or discharge any fire-arm in any harbour, without a licence from the Commissioner of Police granted with the consent of the Authority for Transport in Malta.

Throwing of noxious things in harbours.
Amended by: XV. 1904.2; XXX. 1972.3.

227. No person shall leave in any harbour or on any wharf anything which may cause injury to public health, or a nuisance; or throw into the waters of any harbour or into any part of the internal waters or of the territorial waters of Malta any rubbish or dirty liquid which may cause a nuisance.

Pollution of harbours and territorial waters by petroleum or other oils.
Added by: XIX. 1926.13. Substituted by: XXX. 1972.4. Amended by: XIII. 1983.5; XVII. 1991.81; L.N. 407 of 2007; XV. 2009.52.

228. (1) If any petroleum or other oil or any mixture containing petroleum or other oil is discharged, leaks or runs into the waters of any harbour or into any part of the internal waters or of the territorial waters of Malta from any vessel or any place afloat, or from any place on land, or from any apparatus used for transferring petroleum or other oils from or to any vessel (whether to or from a place on land or afloat), then -

(*a*) if the discharge, leakage or running is from a vessel, the owner or master of the vessel, or

(*b*) if the discharge, leakage or running is from an apparatus used for transferring petroleum or other oils from or to a vessel, or takes place while petroleum or other oils are being so transferred, the owner or person in charge of the apparatus, or

(*c*) if the discharge, leakage or running is from any other place, the occupier or other person in charge of such place,

shall be guilty of an offence against this article and shall be liable, on conviction, to a fine (*multa*) of not less than two hundred and thirty-two euro and ninety-four cents (232.94) and not more than four thousand and six hundred and fifty-eight euro and seventy- five cents (4,658.75), or to imprisonment from one to six months, or to both such fine and imprisonment.

(2) Any person found guilty of an offence under this article shall be liable for all damages caused and all costs occasioned by the facts constituting the offence, and the court shall, at the demand of the prosecution made at any time of the proceedings prior to final judgment, order in the same judgment the offender to make good and pay to the Authority for Transport in Malta all such damages and costs as shall be liquidated by the same court, which order shall be executable in the same manner as if it had been given in a civil action duly instituted by the Authority for Transport in Malta against the offender:

Provided that nothing in this sub-article shall affect the right of third parties to institute any civil action against the offender for any damage suffered by them.

229. (*Repealed by XV. 2009.52.*)

Sale of wines and spirituous liquors alongside vessels of war.
Amended by:
X. 1867.3;
IX. 1971.3;
XVII. 1991.82.

230. (*Repealed by XV. 2009.52.*)

Boarding ships or vessels.
Added by:
XIII.1913.5.

231. (*Repealed by XV. 2009.52.*)

Licence to retailers on sea.
Amended by:
VII. 1889.4;
XIII.1913.6;
XV.1920.21;
XL.1949.18;
XVII. 1991.82;
XXVII. 2001.33.

232. *Repealed by: XVII.1991.82.*

Loading, etc., of ballast.
Amended by:
IX.1971.3.

233. *Repealed by: XVII. 1991.82.*

Power of Minister responsible for ports to make regulations.
Amended by:
I.1856.1;
VII.1889.5;
XIII.1913.7;
I.1931.2;
XIII.1962.63;
L.N. 4 of 1963;
IX.1971.3;
XXIII.1973.2.

234. *Repealed by: XVII.1991.82.*

Minister responsible for ports enabled to make regulations.
Added by:
XXXVI. 1948.2.
Amended by:
XIV.1958;
XXV.1962;
L.N. 4 of 1963;
L.N. 46 of 1965.

PART XXI

OF MASTERS OF VESSELS

235. (*Repealed by XV. 2009.52.*)

Master not to permit boats to approach vessel.
Amended by:
VII.1889.6.

236. (*Repealed by XV. 2009.52.*)

Master not to communicate with any part of Malta other than the Grand Harbour or Marsamxett Harbour.

Dangerous cargo on board merchant vessels.
Amended by: X.1867.4; IV.1912.5; XXXVI.1947.2; L.N. 4 of 1963; IX.1971.3; XLIX. 1981.6; XVII.1991.82.

237. (*Repealed by XV. 2009.52.*)

Authority to search vessel unloading dangerous cargo.
Amended by: XXXVI.1947.3; IX. 1971.3; XVII. 1991.82.

238. (*Repealed by XV. 2009.52.*)

Power of Minister responsible for ports to make regulations.
Amended by: I.1856.3; III.1872.20; XIII.1962.63; L.N. 4 of 1963.

239. *Repealed by: XVII.1991.82.*

Careening of vessel.
Amended by: III.1872.21; IV.1912.6. Substituted by: XIII.1962.63. Amended by: IX.1971.3; XXII.1976.4.

240. *Repealed by: XVII. 1991.82.*

Master not to allow smoking, etc., whilst loading or unloading inflammable merchandise.
Amended by: VII.1889.7.

241. *Repealed by: XVII.1991.82.*

Boats of vessels to carry lights.

242. *Repealed by: XVII. 1991.82.*

PART XXII

OF BOATS

OF BOATS IN GENERAL

Articles 243 to 247, both inclusive, were repealed by Act No. XVII of 1991.

OF BALLAST BOATS

Articles 248 to 250, both inclusive, were repealed by Act No. XVII of 1991.

OF GOZO BOATS

Articles 251 to 253, both inclusive, were repealed by Act No. XVII of 1991.

OF PONTOONS

Articles 254 to 263, both inclusive, were repealed by Act No. XVII of 1991.

OF CARGO BOATS

Articles 264 and 265 were repealed by Act No. XVII of 1991.

OF WATER BOATS

Articles 266 to 269, both inclusive, were repealed by Act No. XVII of 1991.

OF PASSAGE BOATS

Articles 270 to 286 both inclusive, were repealed by Act No. XXIII of 2000.

OF CAIQUES AND OTHER SMALL BOATS

Articles 287 and 288 were repealed by Act No. XVII of 1991.

OF STEAM-BOATS

289. *Repealed by XXIII. 2000.30.*

Steam-boats plying as passenger boats or tugs.
Amended by: VII.1889.8; XIII. 1913.14; XVII.1991.82.

290. *Repealed by XXIII. 2000.30.*

Licence.
Amended by: VII. 1889.8; XV.1920.21; XL.1949.20; L.N. 161 of 1990; XVII. 1991.82.

291. *Repealed by: XVII. 1991.82.*

Safety valve.
Amended by: VII. 1889.8.

No undue weight to be placed on safety valve.
Amended by: VII. 1889.8.

292. *Repealed by: XVII.1991.82.*

Life buoys.
Amended by: VII.1889.8.

293. *Repealed by: XVII.1991.82.*

Shelter for deck passengers.
Amended by: VII. 1889.8; IX. 1971.3.

294. *Repealed by: XVII. 1991.82.*

Sanitary facilities on steam-boats.
Added by: XIII.1977.2.

295. *Repealed by XXIII. 2000.30.*

Surveyor of machinery. Certificate of survey.
Amended by: VII. 1889.8; XVII.1991.82.
Cap. 234.
Cap. 352.

296. *Repealed by XXIII. 2000.30.*

Survey of hull. Certificate of survey.
Amended by: VII. 1889.8; XL. 1949.21; XXIII. 1973.3; XVII. 1991.82.
Cap. 234.
Cap. 352.

297. *Repealed by XXIII. 2000.30.*

Lodgement of certificates with Public Transport Authority
Amended by: VII.1889.8; XV.1920.21; L.N. 161 of 1990; XVII.1991.82.
Cap. 234.
Cap. 352.

298. *Repealed by XXIII. 2000.30.*

Lights.
Amended by: VII.1889.8; XI.1973.377.

299. *Repealed by: XVII. 1991.82.*

Designation of steam-boats plying as tugs.
Amended by: VII.1889.8.

300. *Repealed by: XVII. 1991.82.*

Towing of pontoons in excess of licensed number.
Amended by: VII.1889.8.

301. *Repealed by: XVII. 1991.82.*

302. *Repealed by XXIII. 2000.30.*

Applicability of certain provisions to steam-boats, *Amended by: VII.1889.8; XI.1910.17.*

303. *Repealed by XXIII. 2000.30.*

and motor-boats. *Added by: XIII.1913.15.*

304. *Repealed by: XVII.1991.82.*

Power of Minister responsible for ports to fix rates. *Added by: XIII.1913.15. Amended by: L.N. 4 of 1963.*

PART XXIII

OF FISHING, SALE OF FISH AND FISHING BOATS

Amended by: XVI.1937.3.

305. *Repealed by Act II of 2001.*

Power of Minister responsible for fisheries to make regulations. *Amended by: VII.1889.9; XVI.1937.2; XIV.1958; XXV. 1962; L.N. 4 of 1963.*

306. *Repealed by Act II of 2001*

Forfeiture of fishing instruments in consequence of conviction. *Amended by: VII.1889.9.*

PART XXIV

OF BOATMEN

Amended by: VII.1889.10.

307. *Repealed by XXIII. 2000.30.*

Licence to boatmen. *Amended by: VII.1889.10; XV.1920.21; L.N. 161 of 1990. Substituted by: XVII.1991.82.*

308. *Repealed by XXIII. 2000.30.*

Conditions for grant of licence. *Amended by: VII.1889.10; XIII.1913.16; XV.1920.21; XXXVI.1948.3; L.N. 161 of 1990; Substituted by: XVII.1991.81.*

Duration of licence. Cancellation or suspension of licence. *Amended by: VII.1889.10; IV. 1912.8; XIX.1926.17; XL.1949.22; XVII.1991.82.*

309. *Repealed by XXIII. 2000.30.*

PART XXV

Amended by: IV. 1912.9.

OF DEALERS IN MARINE STORES AND OLD METALS

Articles 310 to 316, both inclusive, were repealed by XXVII. 2001.33.

Added by: XIV. 1986.2.

PART XXV A

OF VIDEO RECORDERS

Video recorder licence. *Added by: XIV. 1986.2.*

316A. (*Repealed by XXVII. 2001.33.*)

Licence fee and power to make regulations. *Added by: XIV. 1986.2.*

316B. (*Repealed by XXVII. 2001.33.*)

Added by: III. 2007.2.

PART XXV B

OF MINORS AND ALCOHOL

Sale, serving or procurement of alcohol to minors. *Added by: III. 2007.2.*

316C. It shall be unlawful for any person to:

(*a*) sell alcohol to, or purchase alcohol on behalf of, a minor; or

(*b*) serve, or in any manner supply, alcohol to a minor in any public place.

Prohibition of consumption of alcohol by minors. *Added by: III. 2007.2.*

316D. It shall be unlawful for a minor to:

(*a*) consume alcohol in any public place;

(*b*) procure or attempt to procure alcohol in any manner whatsoever in any public place;

(*c*) be in possession of alcohol in any public place; or

(*d*) falsely represent his age for the purpose of consuming, receiving, procuring or attempting to procure alcohol.

Power to stop and take particulars. *Added by: III. 2007.2.*

316E. It shall be lawful for any member of the Police Force to stop any person, whom he suspects to have acted in breach of articles 316C and 316D, for the purposes of identifying such person and taking his particulars.

316F. For the purposes of articles 316C to 316E and of article 319(9) to (11):

Definitions. *Added by: III. 2007.2. Amended by: II. 2009.8.*

(*a*) the expression "agency" means any agency designated for the purpose in the Gazette by the Minister responsible for social policy;

(*b*) the expression "alcohol" means any wine, beer, cider or spirituous liquor;

Provided that it shall be presumed that the liquid contains alcohol unless the person charged shall prove the contrary;

(*c*) the expression "minor" means any person under seventeen years of age;

(*d*) the expression "public place" means any place other than a private residential home and includes any premises that are leased and, or used for entertainment purposes.

PART XXVI

GENERAL PROVISIONS

Amended by: II.1880.29.

317. Any regulation made by the competent authority in virtue of the powers conferred on him by this Code or by any other law, the non-observance of which constitutes an offence, shall be published in the Gazette.

Regulations to be published in the Gazette. *Added by: II.1880.29. Amended by: VII.1889.12; L.N. 4 of 1963.*

318. Any person who commits any breach of the provisions of this Code or of any order or regulation given or made thereunder by the competent authority or any other public officer, whether by doing anything which he ought not to do or by omitting anything which he ought to do, or by preventing other persons from doing anything which they are enjoined or permitted to do or by undoing or frustrating anything which other persons may have done under the provisions of this Code or of any order or regulation thereunder, or in any other manner whatsoever, shall be guilty of a contravention.

Breach of any provision of this Code or of any order thereunder to constitute a contravention. *Amended by: L.N. 4 of 1963.*

Punishments.
Amended by:
III.1872.26;
VIII.1874.4;
XI.1910.19;
II.1968.3;
XXX.1972.7;
L. 1974.6;
LIV. 1975.2;
XIII.1976.3;
XLII.1976.3;
XIII.1977.3;
XXIII.1978.3;
XLIX.1981.4;
XIII.1983.5;
XV. 1985.3;
III. 2007.3;
L.N. 407 of 2007.
Cap. 9.

319. (1) Saving the provisions of articles 19 and 543 of the Criminal Code, the provisions of the next fol1owing sub-articles and any other special provision of this Code, any court of criminal judicature may in respect of any of the contraventions referred to in the last preceding article, award any of the punishments laid down in the Criminal Code for contraventions, either separately or cumulatively, or, if it is of opinion that the offence deserves a heavier punishment, award a fine (*multa*) or imprisonment for a term not exceeding one month.

(2) When any person is found guilty of a contravention of any of the provisions of article 38(1)(*a*), article 39 or any regulations made thereunder, or article 190, he shall be liable, on conviction, to a fine (*multa*) of not less than twenty-three euro and twenty-nine cents (23.29) and, moreover, if any vehicle or vessel has been used in, or for the purposes of, the commission of the offence, the court shall, at the demand of the prosecution, order the sequestration of such vehicle or vessel, as the case may be, for a term of not less than one month but not exceeding six months and the suspension for an equal term of any driving licence held by the offender, during which period the maintenance of and the repairs (if any) to the vehicle or vessel shall be at the expense of its licensee.

(2A) When any person is found guilty of a contravention of any of the provisions of article 121(2) or article 227, he shall be liable, on conviction, to a fine (*multa*) of not less than one hundred and sixteen euro and forty-seven cents (116.47) but not exceeding two hundred and thirty-two euro and ninety-four cents (232.94), and if any vehicle or vessel has been used in or for the purpose of the commission of the offence, the court shall at the demand of the prosecution, order the sequestration of such vehicle or vessel, as the case may be, for a term of not less than two months but not exceeding one year and, in the case of a vehicle, the suspension for an equal term of any driving licence held by the offender, during which period the vehicle or vessel shall be at the risk of the owner:

Provided that where any person who has not participated in the offence, has a claim to such vehicle the sequestration shall only be ordered if the court is satisfied that no such claim is thereby prejudiced.

(2B) When an offence referred to in sub-article (2A) relates to dumping, the court shall in addition to any penalty which may be imposed in accordance with this Code, also order the offender to remove from the place where the offence has taken place all the material, in respect of which he is found guilty, within a time sufficient for the purpose, to be fixed by the court, and that in default of compliance with that order such material be removed at the expense of the offender, in which case he may be made to refund the expense as a civil debt.

(2C) When in an offence to which sub-article (2A) applies an offender throws or dumps rubbish, refuse, litter or liquid of such size or in such quantity or accumulation as, taken by itself, is sufficient to lead to defacement of any place in the open air or of any part of the coastal waters, he shall be liable, on conviction, to a fine (*multa*) of not less than one thousand and one hundred and sixty-

four euro and sixty-nine cents (1,164.69) but not exceeding two thousand and three hundred and twenty-nine euro and thirty-seven cents (2,329.37) and where any vehicle or vessel has been used in or for the purpose of the commission of the offence, the provisions of sub-article (2A) as regards sequestration and suspension of driving licence shall apply.

(2D) When the offender is not the owner of the vehicle or vessel mentioned in sub-article (2A) or (2C) but has acted under the instructions or with the knowledge of such owner or where such owner had the power to prevent the commission of the offence did not do so, the owner shall be liable on conviction, to the same punishment laid down in subarticles (2A) and (2C), and the provisions of subarticle (2B) shall be applicable with regard to the owner of the vehicle or vessel.

(2E) If the circumstances in which any material unlawfully dumped or thrown is found, indicate the owner or other person responsible for such material immediately prior to its dumping, such owner or person shall be deemed to have deposited that material and shall be liable to the punishment laid down in subarticles (2A) and (2C) and the provisions of sub-article (2B) shall be applicable with regard to him, unless he proves that he did not know of the commission of the offence, or although he knew of it did not have the power to prevent it.

(3) Where any person is found guilty of an offence against any of the provisions of article 130 or of article 181 or of any regulations made under any of the said articles, he shall be liable -

(*a*) on a first conviction, to a fine (*multa*) of not less than forty-six euro and fifty-nine cents (46.59) but not exceeding four hundred and sixty-five euro and eighty-seven cents (465.87), and

(*b*) on a second or subsequent conviction, to a fine (*multa*) of not less than one hundred and sixteen euro and forty-seven cents (116.47) but not exceeding one thousand and one hundred and sixty-four euro and sixty-nine cents (1,164.69), or to imprisonment for a term not exceeding three months, or to both such fine and imprisonment.

(4) Where any person is found guilty of an offence against the provisions of article 97(1)(*g*) or of article 295 of this Code, he shall be liable to a fine (*multa*) of not less than forty-six euro and fifty-nine cents (46.59) but not exceeding one thousand and one hundred and sixty-four euro and sixty-nine cents (1,164.69) and moreover to a penalty of not less than four euro and sixty-six cents (4.66) but not exceeding one hundred and sixteen euro and forty-seven cents (116.47) per day from the date of the conviction to the date in which such person complies with the said provisions.

(5) Any person who is found guilty of a contravention against the provisions of article 202 shall be liable -

(*a*) on a first conviction, to a fine (*multa*) of not less than four euro and sixty-six cents (4.66), and

(*b*) on a second or subsequent conviction, to a fine (*multa*) of not less than eleven euro and sixty-five cents (11.65).

(6) (*a*) Any person who commits an offence against any of the provisions of articles 205 to 211 of this Code, or of any regulations made under article 214 of this Code, shall, in the case of a first conviction, be liable to a fine (*multa*) of not less than twenty-three euro and twenty-nine cents (23.29) or to imprisonment for a term not exceeding one month and, in the case of a second or subsequent conviction, to a fine (*multa*) of not less than one hundred and sixteen euro and forty-seven cents (116.47) or to imprisonment for a term not exceeding three months or to both such fine and imprisonment.

(*b*) When a person is found guilty of an offence as is referred to in paragraph (*a*), the court shall suspend the relative licence for a period not exceeding twelve months and shall, at the request of the prosecution, order the forfeiture of the gun, firearm, ammunition, weapon, or other article used in the commission of the offence.

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(*c*) The provisions of article 21 of the Criminal Code shall not apply in respect of any conviction for an offence as is referred to in paragraph (*a*).

Power of court to order sequestration of vehicle or boat.

(7) It shall also be lawful for the court, in the case of any contravention committed by the owner or driver of a vehicle, or by the owner of a boat, or by a boatman, in the exercise of his calling, to order the sequestration of the vehicle or boat, for a time not exceeding one month, at the expense of the owner.

Sequestration of vehicle to include sequestration of animal.

(8) The sequestration of the vehicle shall be deemed to include the sequestration of the animal which, at the time of the contravention, was attached to it.

(9) Without prejudice to any punishment that may be applicable under the provisions of any other law, any person found guilty of an offence against article 316C shall be liable:

(*a*) on a first conviction, to a fine (*multa*) of not less than two hundred and thirty-two euro and ninety-four cents (232.94) but not exceeding one thousand and one hundred and sixty-four euro and sixty-nine cents (1,164.69); and

(*b*) on a second or subsequent conviction to a fine (*multa*) of not less than one thousand and one hundred and sixty-four euro and sixty-nine cents (1,164.69) but not exceeding two thousand and three hundred and twenty-nine euro and thirty-seven cents (2,329.37).

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(10) Without prejudice to articles 36 and 37 of the Criminal Code, a minor who acts in breach of article 316D:

(*a*) for a first offence be formally warned by a Member of the Police Force that criminal proceedings will be taken against him if he is caught acting in breach of the same provisions of the law for a second time or more;

(*b*) for a second offence or more, shall, if convicted, be guilty of a contravention. The competent Court may

order such minor to participate in an educational programme which, if and as necessary, may be combined with counselling and which will be provided by an agency staff member:

Provided that in ordering the said programme and, or counselling, the competent court shall take into consideration the age of the minor and shall, in all cases, ensure that the programme shall not be in conflict with the minor's regular attendance at school or other educational institution.

(11) In addition to any penalty which may be imposed by the Court in accordance with subarticles (9) and (10), a minor who refuses to give, or untruthfully gives to any member of the Police Force in the exercise of his duties, his name, surname, address and other particulars that may be lawfully required, shall be guilty of a contravention.

Power of court to cancel or suspend licence of shopkeepers, etc.

320. In the case of a second or subsequent conviction for any contravention committed by any shopkeeper, vendor, or other person exercising any art, trade or other calling in virtue of a licence from the competent authority, in connection with the exercise of such art, trade or other calling, it shall be lawful for the court to cancel the licence, or to suspend the same for any time, in its discretion.

Power of court to order abatement of nuisance, etc.
Amended by: II.1880.30; X.1956.5; I. 1959.8; XXXI.1967.37; III.1972.3; XIII. 1983.5; L.N. 407 of 2007.

321. (1) In the case of any contravention, the court, besides awarding punishment, shall order the offender, where the occasion so requires, to abate the nuisance arising from the contravention, or, according to circumstances, to carry out the law within a time, sufficient for the purpose, to be fixed by the court; and, if the offender fails to comply with any such order within the time so fixed, he shall be liable to a fine (*ammenda*) not exceeding four euro and sixty-six cents (4.66) for every day the default continues after the expiration of the said time.

Court may authorize the Police to abate nuisance at the expense of the offender.

(2) The court may also order that the nuisance be abated, or that the law be carried out, by the Police, at the expense of the offender, in which case he may be made to refund the expense, under a warrant issued by the court.

(3) If the offender is, on account of mental disease or other physical incapacity, unable to appear in court or is absent from Malta or has absconded and a Police officer not below the rank of inspector certifies on oath that it is urgently required that the nuisance be abated or that the law be otherwise enforced, the court shall order the summons to be served on the lawful representative of the offender or on the person having the custody of the offender or on the person having the management of his property or in default of any known representative or person as aforesaid, on the offender's husband or wife or son or daughter. In any such case, if the nuisance or non-compliance with the law is proved, the court shall apply the provisions of sub-article (2) or, in appropriate cases, the provisions of sub-article (1).

(4) Where for any reason service of the summons as provided

in sub-article (3) cannot be effected or where the offender is not known or it is not known who is the person responsible for the nuisance or non-compliance with the law, the court may apply the provisions of sub-article (2) on the sole application of a Police officer not below the rank of inspector confirming on oath the existence of the nuisance or non-compliance and the urgency that the same be abated or the law enforced and on such additional evidence, if any, as the court may deem fit to require.

(5) In any of the cases dealt with in sub-articles (3) and (4), the court shall, so far as regards the application of any punishment for the offence, adjourn the proceedings until the offender is fit to stand trial or returns or becomes known and can appear before it.

Expense of undoing work, in proof of contravention, to be borne by Police if contravention is not proved.

(6) Where the court, on the demand of the Police, for the purpose of proving any contravention, shall have ordered any work to be undone wholly or in part, and neither such contravention, nor any other contravention arising from circumstances which could not have been ascertained without the undoing of such work, nor any contravention of the provisions of article 97(1)(*o*), is made to appear, the expense incurred as well as the expense necessary to restore such work to its former state, shall be at the charge of the Police.

Power of court in case of contraventions of sanitary authority.

(7) Where any summons has been issued in respect of a contravention of an order of the sanitary authority, either for making default in complying with such order, or for not properly carrying out such order, it shall be lawful for the court, where necessary, on the demand of the defendant, to require a report from the General Services Board, and also examine, on oath, the members of such Board, on the subject-matter of the order or the execution thereof; and in any such case, if the Board, or the majority of its members, shall concur in the opinion of the authority giving the order, the fee due to the members of the Board as well as the expenses incurred by them, shall be at the charge of the defendant.

Recovery of damages by civil process.

(8) Save as otherwise expressly provided in this Code, any damages arising from any contravention shall be recoverable by the injured party as a civil debt.

Offence by body of persons.
Added by: L. 1974.7.

322. Where any offence against the provisions of this Code or of any regulations or order made thereunder is committed by an association or body of persons, every person who, at the time of the commission of the offence, was a director, manager, secretary or other similar officer of such association or body of persons, or was purporting to act in any such capacity, shall be guilty of that offence unless he proves that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of the offence.