

CHAPTER 291

COMMISSIONERS FOR JUSTICE ACT

To provide for the establishment of a system for the depenalisation and trial of petty cases.

15th June, 1981

ACT XIX of 1981, as amended by Acts XXIII of 1981, I of 1982, XIII of 1983, I of 1985, XVII of 1989, VIII of 1990, XII of 1995; Legal Notice 107 of 1996; Act XXI of 1999; Legal Notices 254 of 2000, 295 of 2001, and 138 and 316 of 2002; Act XXXI of 2002; Legal Notices 337 of 2003, and 36, 292, 430 and 517 of 2004; Act I of 2005; Legal Notices 223 and 404 of 2005; Acts XIII of 2005 and XVI of 2006; and Legal Notices 394 and 423 of 2007, 502 of 2010 and 490 of 2011.

1. The short title of this Act is the Commissioners for Justice Act. Short title.
2. In this Act, unless the context otherwise requires -
- "authority" shall mean a body corporate or incorporate, as well as any association of persons by whatever name called;
- "Commissioner" means a Commissioner for Justice appointed according to article 3;
- "Court of Magistrates" means the Court of Magistrates (Malta) or the Court of Magistrates (Gozo), as the case may be, as a court of criminal judicature;
- "Electoral Register" shall have the same meaning as is assigned to it by the [General Elections Act](#);
- "Minister" means the Minister responsible for justice;
- "scheduled offence" means an offence set out in the Schedule to this Act;
- "scheduled offence specified in the charge" means an offence to which the charge issued by the Executive Police, or the local council or authority in accordance with the provisions of article 5 refers, and includes such other infringement in addition thereto or in substitution therefor as a Commissioner may, in accordance with article 5(5), authorise.
3. (1) There shall be appointed Commissioners for Justice who shall separately have the functions and powers assigned to them by this Act, or under the [Local Councils Act](#), or under any other Act including the functions and powers -
- (a) to consider any charge brought before them by the Executive Police in accordance with article 5 or by local councils under the [Local Councils Act](#) or by any other authority under any other Act;
- (b) to hear witnesses on oath or affirmation and to examine such evidence as may be produced before them;
- Interpretation.
Amended by:
VIII. 1990.3;
XII. 1995.2;
XXXI. 2002.214.
- Cap. 354.
- Commissioners for Justice.
Amended by:
XXIII. 1981. 2;
XII. 1995.3;
XXXI. 2002.215.
Cap. 363.

(c) to determine whether, on the evidence so produced, the scheduled offence specified in the charge has or has not been proved to have been committed by the person charged;

(d) to impose such penalty in accordance with the provisions of article 10(2), and

generally, for the purpose of exercising their functions and powers, the Commissioners shall have, *mutatis mutandis*, all such powers as are, by the provisions of Book Second of the [Criminal Code](#), vested in the Court of Magistrates.

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(2) An act or omission shall not, for the purposes of this Act, be considered to be a criminal act notwithstanding the provision of such law as is set out in the Schedule to this Act, but shall nevertheless be deemed to constitute an offence for which a Commissioner may, in accordance with the provisions of article 10(2), order the payment of the penalty therein specified.

(3) Saving the provisions of article 11, the Court of Magistrates shall not have jurisdiction to try a scheduled offence:

Provided that the Court of Magistrates shall have jurisdiction to try any scheduled offence which is charged together with any other offence over which the said court has jurisdiction.

4. (1) The Commissioners shall be appointed by the Prime Minister from persons of either sex.

(2) A Commissioner shall be appointed for a term of two years and shall vacate his office at the expiration of the term of his appointment.

(3) The Commissioners shall be re-eligible for appointment.

(4) During their tenure of office the Commissioners may not be removed except in the same manner and on the same grounds as a magistrate may be removed from office.

(5) In the exercise of his function a Commissioner shall not be subject to the direction or control of any other person or authority.

(6) The provisions of the [Criminal Code](#) regarding the abstention and challenge of magistrates shall apply to the abstention and challenge of a Commissioner.

(7) Where a Commissioner has been objected to or has abstained from sitting, or is otherwise unable to act, another Commissioner shall be surrogated in his stead by the Minister.

(8) *Repealed by XXI.1999.43.*

(9) Upon his appointment, a Commissioner shall take an oath to examine and decide the cases brought before him with impartiality and equity according to law. The oath shall be taken before the Attorney General.

(10) A Commissioner shall hold sittings on such days and at such time as the Minister may determine and such sittings may be held on Saturdays and outside the hours when the registries of the courts are considered closed.

Appointment of
Commissioners.
Amended by:
XVII.1989.2;
XII.1995.4;
XXI.1999.43.

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(11) The sittings shall be held in such place or places designated as Local Tribunals by the Minister.

(12) The warrants or orders shall be signed by a Commissioner.

(13) The oath to the witnesses shall be administered by a Commissioner.

(14) The Commissioners shall receive such remuneration as the Minister responsible for justice, in consultation with the Minister responsible for finance, may from time to time prescribe. Such remuneration may not be altered to the disadvantage of a Commissioner during his period of office.

5. (1) The Executive Police, local council or other authority, as the case may be, shall have the duty to collect evidence and to charge offenders before a Commissioner in respect of any scheduled offence over which a Commissioner, in accordance with the provisions of this Act, may exercise his functions.

Proceedings before a Commissioner.
Amended by:
I. 1982. 2;
XIII. 1983. 4,5;
XII.1995.5;
XXXI. 2002.216.

(2) Saving the provisions of article 14(4), the Executive Police, local council or other authority, as the case may be, shall, by an order in writing, summon the person charged with a scheduled offence to appear before a Commissioner on the day and at the time specified in the said order.

(3) The summons shall contain a clear designation of the person summoned and a brief statement of the facts of the charge together with such particulars as to time and place as it may be necessary or practicable to give. The summons shall also contain an intimation that in default of appearance the person summoned shall be deemed to have admitted the charge.

(4) The summons shall contain a form indicating the penalty to which the person charged may be liable if found to have committed the offence as well as the maximum additional penalty to which he may be liable under this Act, and the person charged may, up to three days before the hearing, settle the charge by paying only the penalty. In such a case such person need not appear before the Commissioner.

(5) A Commissioner may at any stage during the proceedings, authorise the addition of a fresh charge on a scheduled offence or the substitution of any charge contained in the summons by another charge on a scheduled offence:

Provided that the person charged shall be afforded a reasonable time within which to prepare for his defence:

Provided that any addition or substitution may only be effected before the prosecution closes its case.

6. (1) The Minister responsible for justice may make regulations to regulate the methods of service of judicial acts under this Act.

Service of judicial acts.
Added by:
I. 1982. 3.
Amended by:
XII.1995.6;
XXI.1999.43.
Substituted by:
XXXI. 2002.217.
Cap. 12.

(2) Until such regulations are made, the provisions of the [Code of Organization and Civil Procedure](#) and of any regulations made thereunder shall apply to service of judicial acts under this Act.

Failure to appear when summoned.

Added by:

I. 1982. 3.

Amended by:

XIII. 1983. 5.

Substituted by:

XII. 1995. 7.

Amended by:

XXXI. 2002.218;

XIII. 2005.25.

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7. Saving the provisions of article 5(4), if a person duly served with a summons or his representative as may be authorised in writing by him, fails to appear personally before a Commissioner he shall be deemed to have admitted the charge and, notwithstanding anything contained in the [Criminal Code](#), the Commissioner shall thereupon proceed to order the payment of the penalty and give such other orders, according to circumstances, as provided in article 10(2) in the absence of the person charged:

Provided that any person charged may instead of appearing before the Commissioner send to the Registry of the Commissioners representations in writing and, or a declaration on the facts of the case confirmed on oath contesting the charge against him, and the Commissioner shall, prior to deciding the case, take into account such representations and, or a declaration as if they had been made *viva voce* before him.

Provisions of the Criminal Code applicable to proceedings before a Commissioner.

Amended by:

XIII. 1981.3;

VIII. 1990.3;

XII. 1995.8;

XXXI. 2002.219;

XIII. 2005.26.

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8. The provisions of the [Criminal Code](#) relating to proceedings before the Court of Magistrates shall apply *mutatis mutandis* to proceedings before a Commissioner and a reference made to that court in that Code shall, for all intents and purposes of law, be deemed to be a reference made to a Commissioner:

Provided that a Commissioner may proceed with the hearing of the charge in the absence of the person charged:

Provided further that the person charged may instead of appearing before the Commissioner, appoint in writing a representative who shall for all intents and purposes of law be deemed to have the same rights and obligations as a person charged before the Commissioner.

Functions.

Amended by:

VIII. 1990.3;

XII. 1995.9.

Substituted by:

XXXI. 2002.220.

9. The Minister responsible for justice may by regulation designate the registrar and registry of each Local Tribunal and the functions thereof and by the same regulations may also designate such other officers as may be necessary for the operation of the Local Tribunal.

Decisions of the Commissioners.

Amended by:

XXIII. 1981. 4;

XIII. 1983. 5;

XVII. 1989.3;

XII.1995.10;

XXI.1999.43;

XXXI. 2002.221;

I. 2005.26;

L.N. 423 of 2007.

10. (1) Where a Commissioner decides that the person charged has not committed the scheduled offence specified in the charge, the person to whom such decision applies shall not, in respect of such offence, be subject to any further proceedings before a Commissioner or before any court.

(2) Where a Commissioner decides that the person charged has committed the scheduled offence specified in the charge, a Commissioner shall declare such person guilty of an infringement and shall order such person to pay a penalty in an amount not exceeding the maximum of the fine (*multa* or *ammenda*) prescribed by law for the offence and where such law provides for the sequestration of any object used in the commission of the offence, or for the revocation or suspension of any licence the Commissioner shall order such sequestration or such revocation or suspension in addition to the penalty:

Provided that where the Commissioner decides that the person charged committed the scheduled offence specified in the

charge, he shall order that where the person charged does not pay the fine (*multa* or *ammenda*) within one month from when the case is decided finally, the person charged shall pay a penalty of eleven euro and sixty-five cents (11.65) in addition to the fine (*multa* or *ammenda*).

(3) Where a Commissioner has made an order for the payment of such penalty, the Registrar of the Tribunal or other person designated by the Minister responsible for justice, shall, and in cases where the original penalty arising from the charge is due to a Local Council or to some other authority in terms of any act, that Local Council or authority shall as soon as such order is made, proceed to the collection of the penalty. The Registrar shall immediately inform the proper authorities in writing of any forfeiture of any object used in the commission of the offence, or of the revocation or suspension of any licence ordered by a Commissioner and shall send the authority a certified copy of the judgement of the Commissioner.

(4) Where due to the commission of an offence, any public authority, including a local council, has incurred expenses to remedy the consequences of the said offence, the Commissioner may also order the payment to such authority of a sum not exceeding two thousand and three hundred and twenty-nine euro and thirty-seven cents (2,329.37) that may be proved to his satisfaction to have been expended by such authority to remedy such consequences. Such amount shall be without prejudice to any other action before any court to recover any expense beyond the sum awarded by the Commissioner, and such amount shall be recoverable by such authorities as a civil debt, liquidated and certain.

(5) The amount of the penalty shall be due and owing to the Government or where the penalty is due to a Local Council in terms of the [Local Councils Act](#), the amount of the penalty shall be due and owing to that Local Council, as a civil debt, liquidated and certain, and may be collected by the Registrar of Courts or by the Local Council, as the case may be. The order referred to in subarticle (2) shall constitute an executive title within the meaning and for the purposes of Title VII of Part I of Book Second of the [Code of Organization and Civil Procedure](#).

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(6) The civil debt mentioned in sub-article (5) shall not pass on to the heirs of the person ordered to pay any such penalty.

11. (1) Any person who feels himself aggrieved by the decision of a Commissioner may, within thirty days from the day on which such decision is given, apply to the Court of Magistrates to have the judgment of a Commissioner revoked or varied, and the court aforesaid shall thereupon become vested with jurisdiction to decide upon the merits of the application.

Applications to
Court of
Magistrates.
Amended by:
XIII. 1983.4, 5;
XVII. 1989.4;
VIII. 1990.3;
XII. 1995.11;
XIII. 2005.27;
L.N. 423 of 2007;

(2) For the purpose of exercising its functions under this article, the Court of Magistrates shall proceed in accordance with the provisions of the [Criminal Code](#):

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Provided that the decision on the merits of the application to the Court of Magistrates shall not be subject to appeal before any

other court.

(3) The Court of Magistrates may, if it considers the application frivolous or vexatious, order the appellant to pay a penalty not exceeding one hundred and sixteen euro and forty-seven cents (116.47).

(4) The provisions of article 10(3), (5) and (6) shall apply to the decision of the Court of Magistrates confirming or varying a decision of the Commissioner, including an order made under subarticle (3).

Re-Trial.
Added by:
XIII. 2005.28.

11A. (1) Any person who has been found guilty of an infringement under article 10 may apply to the Court of Magistrates for a re-trial of his case on the ground that he was never duly served with the charge according to law.

(2) Such application shall be filed within fifteen days from the day such person acquired, or should have reasonably be expected to have acquired, knowledge of the decision against him.

Prescription.
Amended by:
XXXI. 2002.223.

12. (1) Action before a Commissioner shall be subject to the same rules of prescription which may from time to time be applicable to the criminal action taken in respect of an offence mentioned in the Schedule:

Provided that the period of prescription with respect to actions before a Commissioner shall be suspended from the date that a summons is served and shall remain so suspended for a period of six months.

(2) The period of prescription of the criminal action in respect of an offence mentioned in the Schedule shall be suspended by the proceedings before a Commissioner.

Power to make regulations.
Substituted by:
XII. 1995.12.
Amended by:
XXXI. 2002.224;
XIII. 2005.29;
XVI. 2006.32.

13. The Minister may make regulations:

- (a) prescribing, or relating to, the procedure to be followed by the Commissioners;
- (b) amending the Schedule by adding or removing therefrom offences; provided that no offence may be added to the Schedule by regulations under this article if the punishment for that offence exceeds the punishments established for contraventions;
- (c) for establishing any fees that may be payable in terms of this Act;
- (d) for the establishment, after consultation with the Local Councils Association, of a Board which shall be competent to hear and decide requests which may be made for the waiving or discontinuance of proceedings against any person for any infringement before a Commissioner for Justice, or for remission of the penalty awarded, for any valid reason under such conditions as may be prescribed;
- (e) for establishing any form to be used in terms of this Act;

- (f) for establishing the procedures to be followed in the Registry of Local Tribunals;
- (g) for establishing a local enforcement system and to determine its functions;
- (h) for establishing and determining the functions of the Registrar and other officials of the Local Tribunal;
- (i) to provide for rules of service of judicial acts in terms of this Act;
- (j) to establish rules regarding the manner in which penalties may be collected, the forfeiture of objects and the withdrawal and suspension of licences in terms of this Act; and

generally with regard to any thing that may be by him determined, ordered, directed or prescribed in accordance with the provisions of this Act and any other matter that may be expedient for the better carrying into effect of this Act.

(2) Without prejudice to the provisions of article 11 of the [Interpretation Act](#), any amendment to the Schedule made by regulations under the provisions of the foregoing sub-article shall not come into effect except after the lapse of thirty days from the date of publication of the said regulations in the Gazette.

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14. (1) Notwithstanding any other law providing for the trial and punishment of offences, where any person commits an offence which under this or any other law has been declared a scheduled offence, the following provisions of this article shall apply.

Special procedure
in certain cases.
Added by:
XII. 1995.13.
Amended by:
XXI. 1999.43;
XXXI. 2002.225;
L.N. 423 of 2007.

(2) Any Police Officer and any other officer, authority or person who in accordance with any law as aforesaid is charged with the responsibility for enforcement of such law, in whose opinion any such offence has been committed may hand over to the offender a notice containing a general description of the offence, the penalty to be paid, the place where he may pay such penalty, the period within which he may effect such payment and the consequences of non-payment:

Provided that if a motor vehicle, boat or other object has been used in the commission of an offence, such notice may be affixed to the windscreen or other part of such motor vehicle, boat or other object:

Provided also that where it is not practicable to hand over a notice, or to fix it as aforesaid, the notice may be served to the offender in the same manner that a summons may be served in terms of article 6.

(3) Where any notice has been handed over or is affixed as is provided in subarticle (2), the person referred to in the said notice may pay at the place mentioned in such notice within such time indicated in the notice, which in no case shall be less than seven days, a penalty in respect of each offence referred to in each such notice, provided that such penalty shall not exceed the minimum established in the law for each such offence or twenty-three euro and twenty-nine cents (23.29), whichever is the higher.

- (4) (a) Where any penalty imposed under subarticle (3) is not paid within the aforementioned period, ordinary proceedings in respect of the offence may be taken in accordance with the provisions of this Act or any other law.
- (b) In proceedings before the Commissioner no notice need be given the offender of any date to which a case which has been set down for hearing or has started to be heard is put off and it shall be the responsibility of the offender to verify such date.
- (5) The payment of any such penalty shall for all intents and purposes of law, be deemed to be an admission of the commission of the offence.
- (6) Data or other information retrieved from electronic or other apparatus used by a Police Officer or any other officer, authority or person who in accordance with any law as aforesaid is charged with the responsibility for the enforcement of such law shall be deemed to be proof of the contents thereof unless the defendant proves otherwise.
- (7) (a) Where the evidence to be given by any person refers to the registration of motor vehicles, boats or other objects which are required to be registered under any law, such evidence may be submitted by means of an affidavit.
- (b) Where evidence is submitted by photographs, video-film or other visual means, such evidence shall be authenticated by the person who is the author of such photograph, video-film or other visual means.
- (8) No proceedings before a Commissioner shall be deemed to be invalid because of the non-observance of any formalities or procedures if there has been substantial compliance with the provisions of this Act and any regulations made hereunder and the principles of natural justice have been observed.
- (9) The Commissioner shall hear and determine all cases brought before him on the first day of hearing and shall only exceptionally accept a request for postponement of the hearing.
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SCHEDULE
(Article 2)

Amended by:
I. 1985.2;
XVII. 1989.5.
XII. 1995.14;
L.N. 107 of 1996;
L.N. 254 of 2000;
L.N. 295 of 2001;
L.N. 138 of 2002;
L.N. 316 of 2002;
L.N. 337 of 2003;
L.N. 36 of 2004;
L.N. 292 of 2004;
L.N. 430 of 2004;
L.N. 517 of 2004;
L.N. 223 of 2005;
L.N. 404 of 2005;
L.N. 394 of 2007.
Substituted by:
L.N. 502 of 2010;
L.N. 490 of 2011.

**Offences, which become infringements and may be tried by the Commissioners,
against the following:**

Legislation	Cap. or S.L. number	Particular provisions, if any
<u>Traffic Regulation Ordinance</u>	Cap. 65	Articles 3, 30, 34(1) and 46; and the Second Schedule in respect of parking or waiting or stopping at prohibited place.
<u>Motor Vehicles Regulations</u>	S.L. 65.11	Regulations 59, 61, 65, 67 to 103, 105 to 110A, 114 to 118, 123 to 127 and 130.
<u>Clamping and Removal of Motor Vehicles and Encumbering Objects Regulations</u>	S.L. 65.13	Regulation 11.
<u>Traffic Signs and Carriageway Markings Regulations</u>	S.L. 65.05	Regulation 2.
<u>Litter Act</u>	Cap. 206	Articles 3, 4, 5, 8.
<u>Education Act</u>	Cap. 327	Article 129(1)(b).
<u>Motor Vehicles Insurance (Third-Party Risks) Ordinance</u>	Cap. 104	Article 8(1).
<u>Motor Vehicles (Wearing of Seat Belts) Regulations</u>	S.L. 65.12	
<u>Control of Dogs Regulations</u>	S.L. 312.01	
<u>Controlled Parking Schemes (Residents and Commercial) Regulations</u>	S.L. 363.80	

Legislation	Cap. or S.L. number	Particular provisions, if any
<u>Activities requiring Permit by Local Councils Regulations</u>	S.L. 441.04	
<u>Trenching Works requiring Permit by Local Council Regulations</u>	S.L. 441.05	
<u>Placing of Billboards and Advertising on the Road Regulations</u>	S.L. 499.32	Regulations 4, 8, 9, 10, 12.
<u>Registration and Licensing of Motor Vehicles Regulations</u>	S.L. 368.02	Regulations 8, 13(1), 14(3), 17(1), (2), 18, 20, 21(1), 24, 32(3), (4), (5), (7), 33, 35, 44(7)(b), (c), (d), (e), (f), (g), (h), (i) and (j).
<u>Abandonment, Dumping and Disposal of Waste in Streets and Public Places or Areas Regulations</u>	S.L. 504.67	
<u>Environmental Management Construction Site Regulations</u>	S.L. 504.83	
<u>Motor Vehicles (Carriage of Goods by Road) Regulations</u>	S.L. 65.19	Regulations 5, 68, 69, 72.
<u>Motor Tractors Regulations</u>	S.L. 65.08	Regulation 3.
<u>Pedal and Low-Powered Cycles Regulations</u>	S.L. 65.26	Regulations 4(1), 5(1), 6, 7, 9 to 11, 13, 14, 17(6), 19, 21 to 24, 26.
<u>Motor Vehicles (Driving Licences) Regulations</u>	S.L. 65.18	Regulations 3, 4, 27, 56, 57, 58, 69, 76.
<u>Valletta Pedestrian Zones Regulations</u>	S.L. 499.54	Regulation 9.
<u>Mdina (Restriction of Access and Transit of Vehicles) Regulations</u>	S.L. 65.27	Regulation 2.
<u>Hygiene of Food Regulations</u>	S.L. 449.31	Paragraph 2 of Part VIII of the Schedule.
<u>Tobacco (Smoking Control) Act</u>	Cap. 315	Article 14.
<u>Smoking in Public Places Regulations</u>	S.L. 315.04	

Legislation	Cap. or S.L. number	Particular provisions, if any
<u>Motor Vehicles (Weights, Dimensions and Equipment) Regulations</u>	S.L. 65.21	Regulations 8, 11.
<u>New Roads and Road Works Regulations</u>	S.L. 499.57	Regulations 24, 25, 39 to 42.
<u>Taxi Services Regulations</u>	S.L. 499.59	Regulations 16(2), 21(1), 27, 29(6), 49, 50, 53, 55, 57 and 65(3), (4), (5) and (6).
Management of Bathing Water Quality Regulations	S.L. 465.09	Regulations 19(1) and (2).
