

MALTA

ATT Nru. VI ta' l-1994

ATT maħruġ b'ligi mill-Parlament ta' Malta.

ATT biex jemenda l-Ordinanza dwar il-Mediċini Perikolużi, Kap. 101.

ACT No. VI of 1994

AN ACT enacted by the Parliament of Malta.

AN ACT to amend the Dangerous Drugs Ordinance, Cap. 101.

Naghti l-kunsens tiegħi.

(L.S.)

JIMMY FARRUGIA
Agent President
22 ta' Frar, 1994

ATT Nru. VI ta' l-1994

ATT biex jemenda l-Ordinanza dwar il-Mediċini Perikolużi, Kap. 101.

IL-PRESIDENT, bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqgħa f'dan il-Parlament, u bl-awtorità ta' l-istess, hareġ b'liġi dan li ġej:—

1. Dan l-Att jista' jissejjah l-Att ta' l-1994 li jemenda l-Ordinanza dwar il-Mediċini Perikolużi, u għandu jinqara u jiftiehem haġa waħda ma' l-Ordinanza dwar il-Mediċini Perikolużi, hawnhekk iżjed 'il quddiem imsejha "il-liġi prinċipali".

Titolu
fil-qosor.

2. L-artikolu 2 tal-liġi prinċipali għandu jiġi emendat kif ġej:

Emenda ta'
l-artikolu 2
tal-liġi
prinċipali.

(a) l-artikolu kif inhu bħal issa għandu jiġi enumerat mill-ġdid bħala s-subartikolu (1);

(b) fit-test Ingliz tas-subartikolu (1) tiegħu, kif enumerat mill-ġdid —

(i) minnufih wara t-tifsira ta' "coca leaves" għandha tiżdied din it-tifsira li ġejja:

“ “export”, with its grammatical variations and cognate expressions, in relation to Malta, means to take or cause to be taken out of Malta in any manner whatsoever;”;

(ii) minflok it-tifsiriet ta' "the Geneva Convention (No. 1)", "the Geneva Convention (No. 2)" u "the Hague Convention" għandu jidhol dan li ġej:

“ “import”, with its grammatical variations and cognate expressions, in relation to Malta, means to bring or cause to be brought into Malta in any manner whatsoever;”; u

(iii) minnufih wara t-tifsira ta’ “raw opium”, ghandha tizzied it-tifsira li gejja:

“ “the Single Convention” means the Single Convention on Narcotic Drugs adopted at New York on the 30 March, 1961 as subsequently amended by the Protocol adopted in Geneva on the 25 March, 1972;”; u

(c) fit-test Malti tas-subartikolu (1) tieghu, kif enumerat mill-gdid, minflok it-tifsiriet ta’ “il-Konvenzjoni ta’ l-Aja”, “il-Konvenzjoni (Nru. 1) ta’ Ġinevra”, u “il-Konvenzjoni (Nru. 2) ta’ Ġinevra” ghandu jidhol dan li gej:

“ “esportazzjoni”, bil-varjazzjonijiet grammatikali taghha u bl-espressjonijiet imnisslin minnha, tfisser, rigward Malta, tiehu jew iggieghel li jittiehed barra minn Malta b’kull mod li jkun;

“importazzjoni”, bil-varjazzjonijiet grammatikali taghha u bl-espressjonijiet imnisslin minnha, tfisser, rigward Malta, iggib jew iggieghel li jingieb f’Malta b’kull mod li jkun;

“il-Konvenzjoni Singola” tfisser il-Konvenzjoni Singola dwar Narkotiċi adottata fi New York fit-30 ta’ Marzu, 1961, kif sussegwentement emendata bil-Protokol adottat f’Ġinevra fil-25 ta’ Marzu, 1972;”; u

(d) minnufih wara s-subartikolu (1) tieghu, ghandu jizzied dan is-subartikolu gdid li gej:

“(2) F’din l-Ordinanza, kemm-il darba r-rabta tal-kliem ma tehtiegx xort’ohra, kull riferenza ghal din l-Ordinanza ghandha titqies li tinkludi riferenza ghar-regolamenti maghmula taħtha.”.

Emenda ta’
l-artikolu 10
tal-liġi
prinċipali.

3. Fis-subartikolu (4) ta’ l-artikolu 10 tal-liġi prinċipali, minflok il-kliem “illi l-Organizzazzjoni tal-Ġnus Magħquda għarraf lill-partijiet fil-Konvenzjoni (Nru. 1) ta’ Ġinevra skond l-artikolu 8 ta’ dik il-Konvenzjoni,” għandhom jidhlu l-kliem “illi s-Segretarju Ġenerali ta’ l-Organizzazzjoni tal-Ġnus Magħquda għarraf lill-partijiet fil-Konvenzjoni Singola,”.

Emenda ta’
l-artikolu 11
tal-liġi
prinċipali.

4. Fis-subartikolu (3) ta’ l-artikolu 11 tal-liġi prinċipali, minflok il-kliem “illi, skond l-artikolu 11 tal-Konvenzjoni (Nru. 2) ta’ Ġinevra, giet ikkomunikata deċiżjoni dwar xi prodott imsemmi fis-subartikolu (1) ta’ dan l-artikolu mis-Segretarju Ġenerali ta’ l-Organizzazzjoni tal-Ġnus Magħquda lill-partijiet fil-Konvenzjoni hawn fuq imsemmija,” għandhom jidhlu l-kliem “illi giet ikkomunikata deċiżjoni dwar xi prodott imsemmi fis-subartikolu (1) ta’ dan l-artikolu mis-Segretarju Ġenerali ta’ l-Organizzazzjoni tal-Ġnus Magħquda lill-partijiet fil-Konvenzjoni Singola,”.

5. L-artikolu 13 tal-liġi prinċipali għandu jiġi emendat kif ġej:
- (a) fis-subartikolu (1) tiegħu, il-kliem “Meta l-esportazzjoni tkun sejra ssir għal pajjiż li ma jkunx parti fil-Konvenzjoni (Nru. 2) ta’ Ġinevra, ma jkunx jinhtieg li jingieb ċertifikat ta’ importazzjoni kif jinghad hawn fuq.” għandhom jithassru;
- (b) is-subartikoli (2) u (5) tiegħu għandhom jithassru; u
- (ċ) is-subartikoli (3) u (4) tiegħu kif inhuma bhal issa għandhom jiġu enumerati mill-ġdid bħala s-subartikoli (2) u (3) rispettivament.
6. L-artikolu 14 tal-liġi prinċipali għandu jiġi emendat kif ġej:
- (a) fis-subartikolu (2) tiegħu, fit-test Inġliż, minflok il-kliem “to whom an important authorization is issued” għandhom jidhlu l-kliem “to whom an import authorization is issued”;
- (b) fis-subartikolu (4) tiegħu il-kliem “minn pajjiż li huwa parti fil-Konvenzjoni (Nru. 1) ta’ Ġinevra” għandhom jithassru; u
- (ċ) is-subartikolu (5) tiegħu għandu jithassar.
7. L-artikolu 15 tal-liġi prinċipali għandu jiġi emendat kif ġej:
- (a) fil-paragrafu (b) tas-subartikolu (1) tiegħu, il-kliem “barra minn meta l-medicina tkun ġejja minn pajjiż li ma hux parti fil-Konvenzjoni (Nru. 1) ta’ Ġinevra,” għandhom jithassru;
- (b) is-subartikolu (3) tiegħu għandu jithassar;
- (ċ) is-subartikoli (4) u (5) tiegħu kif imhuma bhal issa għandhom jiġu enumerati mill-ġdid bħala subartikoli (3) u (4) rispettivament; u
- (d) fis-subartikolu (4) tiegħu, kif enumerat mill-ġdid, il-kliem “fil-kors tal-vjaġġ bil-posta jew” għandhom jithassru.
8. Minnufih wara l-artikolu 15 tal-liġi prinċipali għandu jiżdied dan l-artikolu ġdid li ġej:
- 15A. (1) Hadd ma jista’ jimporta jew jesporta, jew iġieghel li tiġi importata jew esportata, jew jagħmel xi haġa biex tkun tista’ tiġi importata jew esportata, medicina perikoluża f’Malta jew minn Malta hlief taht u skond id-dispożizzjonijiet ta’ din l-Ordinanza.
- (2) Għall-finijiet ta’ dan l-artikolu, il-kliem “importazzjoni” u “esportazzjoni” u l-varjazzjonijiet grammatikali tagħhom u l-espressjonijiet imnislin minnhom għandu jkollhom it-tifsir mogħti lilhom fis-subartikolu (1) ta’ l-artikolu 2 ta’ din l-Ordinanza.”

Emenda ta’
l-artikolu 13
tal-liġi
prinċipali.

Emenda ta’
l-artikolu 14
tal-liġi
prinċipali.

Emenda ta’
l-artikolu 15
tal-liġi
prinċipali.

Zieda ta’
artikolu ġdid
15A mal-liġi
prinċipali

“Projbiz-
zjoni
ġenerali
fuq l-im-
portazzjoni
u l-espor-
tazzjoni ta’
medicini
perikolużi.

Emenda ta' l-artikolu 16 tal-liġi prinċipali.

9. L-artikolu 16 tal-liġi prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (2) tiegħu minflok il-kliem “lill-Kontrullur tad-Dwana awtorizzazzjoni ta’ esportazzjoni jew ċertifikat ta’ tibdil ta’ destinazzjoni validi u li jkunu għadhom isehħu, iżda jekk il-mediċina tkun ġejja minn pajjiż li mhux parti fil-Konvenzjoni (Nru. 1) ta’ Ġinevra, dan is-subartikolu ma jgħoddx.” għandhom jidhlu l-kliem “lill-Kontrullur tad-Dwana awtorizzazzjoni ta’ esportazzjoni jew ċertifikat ta’ tibdil ta’ destinazzjoni validi u li jkunu għadhom isehħu.”; u

(b) is-subartikolu (3) tiegħu għandu jithassar.

Emenda ta' l-artikolu 18 tal-liġi prinċipali.

10. Fis-subartikolu (2) ta’ l-artikolu 18 tal-liġi prinċipali, il-kliem “jekk dak il-pajjiż ma jkunx parti fil-Konvenzjoni (Nru. 1) ta’ Ġinevra,” għandhom jithassru.

Emenda ta' l-artikolu 22 tal-liġi prinċipali.

11. L-artikolu 22 tal-liġi prinċipali għandu jiġi emendat kif ġej:

(a) fil-paragrafu (a) tas-subartikolu (1) tiegħu, minflok il-kliem “ta’ din l-Ordinanza jew ir-regolamenti magħmulin taħtha; jew” għandhom jidhlu l-kliem “ta’ din l-Ordinanza; jew”;

(b) fil-paragrafu (d) tas-subartikolu (1) tiegħu, minflok il-kliem “ta’ xi liġi korrispondenti li tkun issehħ f’dak il-post,” għandhom jidhlu l-kliem “ta’ xi liġi korrispondenti li tkun issehħ f’dak il-post, jew jassoċja ruħu ma’ xi persuna jew persuni oħra f’Malta sabiex jagħmel tali reat,”;

(ċ) fis-subartikolu (1A) tiegħu, minflok il-kliem “fil-paragrafu (f)” għandhom jidhlu l-kliem “fil-paragrafi (d) u (f)”;

(d) minflok is-subartikolu (1B) tiegħu għandu jidhol dan li ġej:

“(1B) Għall-finijiet ta’ din l-Ordinanza l-kelma “jittraffika” (bil-varjazzjonijiet grammatikali u bl-espressjonijiet imnisslin minnha) b’riferenza għal traffikar f’medicina, tinkludi l-koltivazzjoni, l-importazzjoni, il-manifattura, l-esportazzjoni, id-distribuzzjoni, il-produzzjoni, l-amministrazzjoni, il-provvista, li wiehed joffri li jagħmel xi wiehed minn dawn l-atti, u l-għoti ta’ informazzjoni intiża biex twassal għax-xiri ta’ tali medicina bi ksur ta’ din l-Ordinanza.”;

(e) minnufih wara s-subartikolu (1B) tiegħu għandhom jiżdiedu dawn is-subartikoli godda li ġejjin:

“(1Ċ) (a) Persuna tkun ukoll hatja ta’ reat kontra din l-Ordinanza jekk tuża, tittrasferixxi l-pussess ta’, tibgħat jew tikkonsenja lil xi persuna jew post, takkwista, tirċievi, iżżomm, tittrasporta, tittrasmetti, toltera, tiddisponi minn jew b’xi mod ieħor tinneogħja, bi kwalunkwe mod jew bi

kwalunkwe mezz, xi flus, proprjetà (kemm jekk mobbli jew immobbli) jew xi rikavat minn dawk il-flus jew minn dik il-proprjetà bil-hsieb li taħbi jew tikkonverti dawk il-flus jew dik il-proprjetà jew dak ir-rikavat u tkun taf jew ikollha suspett li dawk il-flus jew proprjetà kollha jew parti minnhom, jew dak ir-rikavat kollu jew parti minnu, ikunu ġew miksuba jew riċevuti, direttament jew indirettament, bħala riżultat ta' —

(i) l-ghemil ta' reat imsemmi fis-subartikolu (1) jew fil-paragrafu (a) tas-subartikolu (1D); jew

(ii) xi att ta' kommissjoni jew ommissjoni f'xi post barra minn dawn il-Gżejjer li jekk isir f'dawn il-Gżejjer ikun jikkostitwixxi reat taħt is-subartikolu (1) jew il-paragrafu (a) tas-subartikolu (1D).

(b) Fi proċedimenti għal reat taħt il-paragrafu (a) ta' dan is-subartikolu, meta l-prosekuzzjoni ġgħib prova li l-imputat jew akkużat ma jkun ta ebda spjegazzjoni raġonevoli li turi li dawk il-flus, proprjetà jew rikavat ma kenux flus, proprjetà jew rikavat kif deskritti fl-imsemmi paragrafu, l-oneru li jipprova l-provenjenza leċita ta' dawk il-flus, proprjetà jew rikavat tkun tinkombi fuq il-persuna imputata jew akkużata.

(1D) (a) Persuna tkun ukoll hatja ta' reat kontra din l-Ordinanza jekk tbiegħ jew xort'ohra tittraffika f'sustanza msemmija fit-Tielet Skeda li tinsab ma' din l-Ordinanza meta tkun taf jew ikollha suspett illi s-sustanza tkun sejra tintuża fi jew għall-produzzjoni ta' medicina kontra d-dispożizzjonijiet ta' din l-Ordinanza; u t-tifsira ta' "jittraffika" fis-subartikolu (1B) għandha tapplika, *mutatis mutandis*, għal dan is-subartikolu.

(b) Il-Ministru responsabbli għas-saħha pubblika jista' jagħmel regolamenti biex jikkontrolla l-manifattura, il-bejgħ, il-pussess, id-distribuzzjoni, l-importazzjoni u l-esportazzjoni ta' kull waħda mis-sustanzi msemmija fit-Tielet Skeda li tinsab ma' din l-Ordinanza u partikolarment, iżda mingħajr hsara tas-setgħa ġenerali hawn fuq imsemmija, għal kull wiehed mill-finijiet imsemmija fil-paragrafi (a) sa (e) tas-subartikolu (1) ta' l-artikolu 9, safejn ikun applikabbli, bir-riferenza għall-medicini f'dawk il-paragrafi mifhuma bħala riferenza għall-imsemmija sustanzi.”;

(f) minflok is-subartikolu (2) tiegħu għandu jidhol dan li ġej:

“(2) Kull persuna akkużata b'reat kontra din l-Ordinanza għandha titressaq jew quddiem il-Qorti Kriminali jew quddiem il-Qorti tal-Maġistrati (Malta) jew il-Qorti tal-Maġistrati (Għawdex), skond kif jordna l-Avukat Ġenerali, u jekk tinsab hatja tehel, għal kull reat —

(a) meta tinsab hatja mill-Qorti Kriminali —

(i) meta r-reat ikun reat taht l-artikolu 4 jew taht il-paragrafu (c) ta' l-artikolu 8 jew ikun jikkonsisti fil-bejgh jew traffikar ta' medicina bi ksur tad-dispozizzjonijiet ta' din l-Ordinanza jew ikun reat taht il-paragrafu (f) tas-subartikolu (1), jew ikun reat ta' pussess ta' medicina, bi ksur tad-dispozizzjonijiet ta' din l-Ordinanza, taht tali cirkostanzi li l-qorti tkun sodisfatta li dak il-pussess ma kienx għall-użu esklussiv tal-ħati, jew ikun reat imsemmi fis-subartikolu (1C) jew (1D), prigunerija għal żmien ta' mhux inqas minn erba' snin iżda mhux iżjed minn għoxrin sena u multa ta' mhux inqas minn elf lira Maltija iżda mhux iżjed minn ħamsin elf lira Maltija; u

(ii) għal kull reat ieħor, prigunerija għal żmien ta' mhux inqas minn tnax-il xahar iżda mhux iżjed minn għaxar snin u multa ta' mhux inqas minn mitejn lira Maltija iżda mhux iżjed minn għaxart elef lira Maltija; jew

(b) meta tinsab ħatja mill-Qorti tal-Magistrati (Malta) jew mill-Qorti tal-Magistrati (Għawdex) —

(i) meta r-reat ikun reat taht l-artikolu 4 jew taht il-paragrafu (c) ta' l-artikolu 8 jew ikun jikkonsisti fil-bejgh jew traffikar ta' medicina bi ksur tad-dispozizzjonijiet ta' din l-Ordinanza jew ikun reat taht il-paragrafu (f) tas-subartikolu (1), jew ikun reat ta' pussess ta' medicina, bi ksur tad-dispozizzjonijiet ta' din l-Ordinanza, taht tali cirkostanzi li l-qorti tkun sodisfatta li dak il-pussess ma kienx għall-użu esklussiv tal-ħati, jew ikun reat imsemmi fis-subartikolu (1C) jew (1D), prigunerija għal żmien ta' mhux inqas minn sitt xhur iżda mhux iżjed minn ħames snin u multa ta' mhux inqas minn mitejn lira Maltija iżda mhux iżjed minn elfejn lira Maltija; u

(ii) għal kull reat ieħor, prigunerija għal żmien ta' mhux inqas minn tliet xhur iżda mhux iżjed minn tnax-il xahar jew multa ta' mhux inqas minn mitejn lira Maltija iżda mhux iżjed minn elf lira Maltija jew dik il-prigunerija u multa flimkien,

u f'kull każ li persuna tinsab ħatja ta' reat kontra din l-Ordinanza, l-oġġetti kollha li dwarhom ikun sar ir-reat jiġu konfiskati favur il-Gvern, u kull oġġett hekk konfiskat għandu, jekk il-qorti hekk tordna, jiġi distrutt jew isir minnu xort'ohra kif jista' jiġi provdut fl-ordni:

Kap. 287.

Iżda, għall-finijiet ta' dan is-subartikolu, meta l-persuna akkużata ma tkunx għalqet l-età ta' sittax-il sena u kemm-il darba ma tkunx akkużata flimkien ma' persuna oħra li tkun għalqet l-età ta' sittax-il sena, kull riferenza għall-Qorti tal-Maġistrati (Malta) jew għall-Qorti tal-Maġistrati (Għawdex) għandha tiftiehem bhala riferenza għall-Qorti tal-Minorenni:

Iżda wkoll meta persuna tinsab hatja kif provdut fis-subparagrafu (i) tal-paragrafu (a) jew fis-subparagrafu (i) tal-paragrafu (b) u r-reat ikun sar fi, jew gewwa distanza ta' 100 metru mill-perimetru ta', skola, *club* jew centru taż-żgħażaġh, jew xi post ieħor simili fejn normalment jiltaqgħu iż-żgħażaġh, jew ir-reat ikun jikkonsisti fil-bejgħ, fil-provvista, fl-amministrazzjoni jew f'li wiehed joffri li jagħmel xi wiehed minn dawn l-atti, lil minuri, lil mara tqila jew lil persuna li tkun qed issegwi programm ta' kura jew ta' riabilitazzjoni mid-dipendenza mid-drogi, il-piena tizzied bi grad.”;

(g) fil-proviso għas-subartikolu (3) tiegħu, minflok il-kliem “u tkun għand min jagħmel ir-reat b'xi titolu ieħor,” għandhom jidhlu l-kliem “u tkun għand min jagħmel ir-reat b'xi titolu ieħor, kemm jekk reali jew xort'oħra,”;

(h) fis-subartikolu (7) tiegħu, minflok il-kliem “l-konfiska ta' xi titolu ta' proprjetà immobbli” għandhom jidhlu l-kliem “l-konfiska ta' proprjetà immobbli jew ta' xi titolu ta' dik il-proprjetà”; u

(i) minflok is-subartikolu (8) tiegħu għandhom jidhlu dawn is-subartikoli li ġejjin:

“(8) Meta jirrizulta lill-qorti li l-hati, li ma jkunx persuna li tkun instabet hatja ta' reat kif hemm imsemmi fis-subparagrafu (i) tal-paragrafu (a) jew fis-subparagrafu (i) tal-paragrafu (b) tas-subartikolu (2), ikun jinhtieg kura u għajnuna għar-rijabilitazzjoni tiegħu mid-dipendenza fuq xi medicina perikoluża (kif imfissra fl-artikolu 12), il-qorti tista', minflok ma tapplika xi waħda mill-pieni provduti fis-subartikoli ta' qabel dan, tqiegħed lill-hati fuq *probation* skond id-dispożizzjonijiet ta' l-Att dwar il-*Probation* ta' Hatjin, hekk iżda li dak l-ordni ta' *probation* jista' jsir minkejja li l-hati, li jkun għalaq l-erbatax il-sena, ma jkunx wera r-rieda tiegħu li jhars il-htigiet ta' l-ordni kif provdut fis-subartikolu (5) ta' l-artikolu 5 ta' dak l-Att.

Kap. 152.

(9) Id-dispożizzjonijiet ta' l-artikoli 21 u 28A tal-Kodiċi Kriminali u d-dispożizzjonijiet ta' l-Att dwar il-*Probation* ta' Hatjin ma jkunux applikabbli dwar xi persuna misjuba hatja ta' reat kif imsemmi fis-subparagrafu (i) tal-paragrafu (a) jew fis-subparagrafu (i) tal-paragrafu (b) tas-subartikolu (2).

Kap. 9.

Kap. 152.

(10) Meta, fil-każ ta' persuna misjuba hatja ta' reat imsemmi fis-subartikolu (9), il-qorti tkun sodisfatta li dik il-persuna tkun tehtieg kura għar-rijabilitazzjoni tagħha mid-dipendenza fuq xi mediċina perikoluża (kif imfissra fl-artikolu 12) u —

(a) il-Ministru responsabbli għas-saħħa pubblika jiċcertifika bil-miktub li dik il-kura tista' tingħata fil-habs, u

(b) il-persuna hekk misjuba hatja taqbel li toqghod għal dik il-kura,

il-qorti tista', fl-ghoti tas-sentenza, tordna li l-persuna tingħatalha dik il-kura fil-habs (hawnhekk iżjed 'il quddiem imsejjah "ordni għal kura") għal dak il-perijodu ta' żmien (hawnhekk iżjed 'il quddiem imsejjah "il-perijodu ta' kura") li jiġi speċifikat fl-ordni (li ma jkunx itwal mill-perijodu ta' żmien, kif imnaqqas skond dan is-subartikolu, li l-persuna misjuba hatja jkollha tiskonta fil-habs) u l-piena ta' prigunerija li, kieku ma kienx għad-dispożizzjonijiet ta'dan is-subartikolu, kienet tingħata (hawnhekk iżjed 'il quddiem imsejha "il-piena originali"), u li għandha tiġi espressament imsemmija fis-sentenza, għandha titnaqqas mill-qorti b'mhux iżjed minn terz.

(11) Jekk matul il-perijodu ta' kura, il-qorti li tkun għamlet l-ordni għal kura tkun sodisfatta, fuq rikors ta' l-Avukat Ġenerali, li l-persuna li għaliha jirreferi l-ordni tkun, mingħajr raguni valida (li l-prova ta' dan tinkombi fuq dik il-persuna), irrifjutat il-kura jew tkun gābet ruhha b'mod li tagħmel il-kura tagħha, jew dik ta' prigunieri oħra, diffiċli jew ineffettiva, hija għandha tirrevoka dak l-ordni u tordna li tiġi skontata l-piena originali.

(12) Il-qorti li tkun għamlet l-ordni għal kura għandha, fuq rikors magħmul f'kull żmien matul il-perijodu ta' kura mill-persuna li għaliha jirreferi l-ordni u li jkun jitlob ir-revoka ta' dak l-ordni, tirrevoka dak l-ordni u tordna li tiġi skontata l-piena originali.

(13) Il-qorti li tkun għamlet l-ordni għal kura tista', fuq rikors magħmul f'kull żmien matul il-perijodu ta' kura mill-persuna li għaliha jirreferi l-ordni jew mill-Avukat Ġenerali, tneħhi dak l-ordni jekk tkun sodisfatta li l-kura ma tkunx aktar xierqa.

(14) Għall-finijiet tas-subartikoli (10) sa (13) —

(a) kull deċiżjoni tal-qorti li tirrevoka ordni għal kura u tordna li għandha tiġi skontata l-piena originali ma tkunx sugġetta għal appell;

(b) meta ordni għal kura jiġi konfermat jew mibdul mill-Qorti ta' l-Appell Kriminali, l-ordni għandu jitqies li jkun sar mill-imsemmija qorti;

(c) ordni għal kura għandu, kemm-il darba ma jkunx ġie revokat jew imneħhi jew ikun spiċċa milli jkollu seħh aktar kmieni, jispiċċa milli jkollu seħh minn dak in-nhar li tkun giet skontata jew mahfura l-piena ta' prigunerija għar-reat li dwaru jkun sar l-ordni.”.

12. Fl-artikolu 22B tal-liġi prinċipali, minflok il-kliem “tehel meta tinsab hatja ammenda ta' mhux iżjed minn hames mitt lira Maltija,” għandhom jidhlu l-kliem “tehel meta tinsab hatja multa ta' mhux iżjed minn hamest elef lira Maltija, jew prigunerija għal żmien ta' mhux iżjed minn tnax-il xahar, jew dik il-multa u prigunerija flimkien,”.

Emenda ta' l-artikolu 22B tal-liġi prinċipali.

13. Fis-subartikolu (1) ta' l-artikolu 22C tal-liġi prinċipali, minflok il-kliem “mill-egħmil tar-reat” għandhom jidhlu l-kliem “mill-egħmil ta' xi reat taħt din l-Ordinanza (kemm jekk ikun jew ma jkunx hekk aġġudikat minn qorti tal-gustizzja kriminali)”.

Emenda ta' l-artikolu 22C tal-liġi prinċipali.

14. Minnufih wara s-subartikolu (6) ta' l-artikolu 22E tal-liġi prinċipali għandhom jiżiedu dawn is-subartikoli ġodda li ġejjin:

Emenda ta' l-artikolu 22E tal-liġi prinċipali.

“(7) Id-dispożizzjonijiet tas-subartikolu (2) ma għandhomx japplikaw meta l-mediċina tkun diġà giet fotografata u analizzata minn periti nominati fil-kors ta' l-inkjesta dwar l-*in genere*, kemm il-darba l-qorti, fiċ-ċirkostanzi partikolari tal-każ, ma tħossx il-ħtieġa li l-mediċina terġa' tiġi fotografata u analizzata.

(8) In-nuqqas ta' xi kawtela jew formalità msemmija f'dan l-artikolu ma jkunx ta' impediment li ssir il-prova, b'kull mod permess bil-liġi, tal-fatti li dwarhom din il-kawtela jew formalità tkun tirreferi.”.

15. Minflok l-artikolu 23 tal-liġi prinċipali għandu jidhol dan li ġej:

Sostituzzjoni ta' l-artikolu 23 tal-liġi prinċipali.

“Tifsir tal-kelmiet “liġi korrispondenti”.

23. Għall-finijiet ta' l-artikoli 22 u 30B, il-kelmiet “liġi korrispondenti” ifissru liġi msemmija f'ċertifikat li jidher mahruġ minn jew f'isem ta' Gvern ta' pajjiż barra minn Malta bħala liġi li ttiprovdi, kemm esklussivament jew xort'oħra, għall-kontroll jew għar-regolament f'dak il-pajjiż tal-manifattura, bejgħ, użu, pussess, trasferiment, esportazzjoni, importazzjoni jew traffikar ta' mediċini perikolużi, narkotiċi jew sustanzi psikotropiċi; u kull dikjarazzjoni f'dak iċ-ċertifikat dwar l-effett tal-liġi msemmija fiċ-ċertifikat, jew kull dikjarazzjoni f'ċertifikat bħal dan illi ċerti fatti huma reat kontra dik il-liġi, hija finali.”.

16. Minnufih wara l-artikolu 24 tal-liġi prinċipali għandu jiżied dan l-artikolu ġdid li ġej:

Żieda ta' artikolu ġdid 24A mal-liġi prinċipali.

“Setgħat
addizzjonali
ta’ investi-
gazzjoni.

24A. (1) Meta, wara informazzjoni li tasallu, l-Avukat Ġenerali jkollu raġuni biżżejjed biex jissuspetta li persuna (hawnhekk iżjed ‘il quddiem imsejha “il-persuna suspettata”):

(a) tkun hatja ta’ bejgh jew traffikar ta’ xi medicina kontra d-dispożizzjonijiet ta’ din l-Ordinanza, jew

(b) tkun hatja ta’ xi reat imsemmi fil-paragrafi (e) jew (f) tas-subartikolu (1) ta’ l-artikolu 22, jew

(c) tkun hatja ta’ reat imsemmi fil-paragrafu (d) tas-subartikolu (1) ta’ l-artikolu 22 b’riferenza għal xi reat imsemmi fil-paragrafi ta’ qabel dan ta’ dan is-subartikolu, jew

(d) tkun hatja ta’ reat imsemmi fis-subartikolu (1C) ta’ l-artikolu 22,

huwa jista’ jitlob lill-Qorti Kriminali għal ordni (hawnhekk iżjed ‘il quddiem imsejjah “ordni ta’ investigazzjoni”) biex persuna (inkluż korp jew għaqda ta’ persuni, sew jekk persuna ġuridika jew le) imsemmija fl-ordni li tidher li għandha fil-pussess tagħha materjal partikolari jew materjal ta’ deskrizzjoni partikolari li x’aktarx li jkun ta’ siwi sostanzjali (kemm jekk waħdu jew flimkien ma’ materjal ieħor) għall-investigazzjoni ta’, jew in konnessjoni ma’, il-persuna suspettata, turi jew tagħti aċċess għal dak il-materjal lill-persuna jew persuni indikati fl-ordni; u l-persuna jew persuni hekk indikati jkollhom, bis-saħħa ta’ l-ordni ta’ investigazzjoni, is-setgħa li jidhlu f’kull dar, bini jew reċint ieħor sabiex jagħmlu tfittxija għal dak il-materjal.

(2) Meta jkun sar jew ikun intalab ordni ta’ investigazzjoni, kull min, meta jkun jaf jew ikollu suspett li tkun qed issir l-investigazzjoni, jikxef xi haġa li tista’ tippregudika l-imsemmija investigazzjoni ikun ħati ta’ reat u jehel, meta jinsab ħati, multa ta’ mhux iżjed minn ħamest elef lira Maltija jew prigunerija għal mhux iżjed minn tnaħ-il xahar, jew dik il-multu u prigunerija flimkien:

Iżda fi proċedimenti għal reat taħt dan is-subartikolu, l-akkużat ikun jista’ jiddefendi ruhu billi jipprova illi huwa ma kienx jaf jew jissuspetta li l-kxif seta’ jippregudika l-investigazzjoni.

(3) Ordni ta’ investigazzjoni:

(a) ma jagħti ebda jedd għall-produzzjoni ta’, aċċess għal, jew tiftix għal komunikazzjonijiet bejn avukat jew prokuratur legali u l-klijent tiegħu li fi

Kap. 9. proċedimenti legali jkunu protetti kontra l-kxif bis-subartikolu (1) ta' l-artikolu 642 tal-Kodiċi Kriminali jew bis-subartikolu (1) ta' l-artikolu 588 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili;

Kap. 12.

(b) għandu, mingħajr preġudizzju għad-dispożizzjonijiet tal-paragrafu ta' qabel dan, ikollu seħħ minkejja kull obbligu dwar is-segretezza jew restrizzjoni fuq il-kxif ta' informazzjoni imposti minn kull liġi jew xort'oħra; u

(ċ) jista' jsir dwar materjal fil-pussess ta' dipartiment tal-gvern.

(4) Meta l-materjal li dwaru tkun tirreferi talba taht is-subartikolu (1) ikun jikkonsisti f'informazzjoni li tkun f'*computer*, l-ordni ta' investigazzjoni għandu jkollu seħħ bħala ordni għall-produzzjoni tal-materjal, jew għall-ghoti ta' aċċess għal dak il-materjal, f'għamla li wiehed jista' jieħdu miegħu u li jkun viżibbli u legibbli.

(5) Kull persuna li, wara li tkun giet ordnata biex tipproduċi jew tagħti aċċess għal materjal kif provdut fis-subartikolu (1), mingħajr raġuni valida (ji l-prova tagħha tkun tinkombi fuqha) volontarjament tonqos jew tirrifjuza li tobdi dak l-ordni ta' investigazzjoni, jew li volontarjament timpedixxi jew tostakola xi tfittxija għal dak il-materjal, tkun hatja ta' reat u tehel, meta tinsab hatja, multa ta' mhux iżjed minn ħamest elef lira Maltija jew prigunerija għal mhux iżjed minn tna-x-il xahar, jew dik il-multu u prigunerija flimkien.

(6) Flimkien ma', jew separatament minn, talba għal ordni ta' investigazzjoni, l-Avukat Ġenerali jista', fiċ-ċirkostanzi msemmija fil-paragrafi (a) sa (d) tas-subartikolu (1), jitlob lill-Qorti Kriminali għal ordni (hawnhekk iżjed 'il quddiem imsejjah "ordni ta' sekwestru") —

(a) li jissekwestra f'idejn dawk il-persuni (hawnhekk iżjed 'il quddiem imsejha "is-sekwestratarji") li jkunu msemmijin fit-talba l-flus u l-proprjetà mobbli oħra kollha li jkunu dovuti jew jgħajtu jew jappartjenu lill-persuna suspettata,

(b) li jordna lis-sekwestratarju biex jiddikjara bil-miktub lill-Avukat Ġenerali, mhux aktar tard minn erba' u għoxrin siegħa mill-hin tan-notifika ta' l-ordni, ix-xorta u l-provenjenza tal-flus u l-proprjetà mobbli oħra kollha hekk sekwestrati, u

(ċ) li jipprojbixxi lill-persuna suspettata milli tittrasferixxi jew b'xi mod ieħor tiddisponi minn xi proprjetà mobbli jew immobbli.

(7) Qabel ma taghmel ordni ta' investigazzjoni jew ordni ta' sekwestru, il-qorti tista' titlob li tisma' lill-Avukat Ġenerali bil-magħluq u ma taghmilx dak l-ordni —

(a) kemm-il darba ma taqbilx ma' l-Avukat Ġenerali li hemm raġuni biżżejjed kif provdut fis-subartikolu (1); u

(b) fil-każ ta' ordni ta' investigazzjoni, kemm-il darba l-qorti ma tkunx sodisfatta li jkun hemm raġuni biżżejjed biex wiehed jissuspetta li l-materjal li għalih tirreferi t-talba —

(i) x'aktarx li jkun ta' siwi sostanzjali (kemm jekk waħdu jew flimkien ma' materjal ieħor) għall-investigazzjoni li għaliha tkun saret it-talba, u

(ii) ma jkunx jikkonsisti f'komunikazzjonijiet imsemmija fil-paragrafu (a) tas-subartikolu (3).

Kap. 12. (8) Id-dispożizzjonijiet tal-paragrafi (a), (b) u (e) tas-subartikolu (1) ta' l-artikolu 381 u tas-subartikolu (1) ta' l-artikolu 382 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili għandhom japplikaw, *mutatis mutandis*, għall-ordni ta' sekwestru.

(9) Ordni ta' sekwestru għandu jiġi notifikat lis-sekwestratarju u lill-persuna suspettata minn uffiċjal tal-Pulizija Eżekuttiva li ma jkunx taħt il-grad ta' spettur.

(10) Kull persuna li tikser ordni ta' sekwestru tkun haġta ta' reat u tehel, meta tinsab haġta, multa ta' mhux iżjed minn ħamest elef lira Maltija jew prigunerija għal żmien ta' mhux iżjed minn tnaħ-il xahar, jew dik il-multa u prigunerija flimkien:

Iżda meta r-reat ikun jikkonsisti fil-ħlas jew konsenja lil xi persuna mis-sekwestratarju ta' xi flus jew proprjetà mobbli oħra sekwestrata kif provdut fil-paragrafu (a) tas-subartikolu (6) jew ikun jikkonsisti fit-trasferiment jew tneħħija ta' xi proprjetà mobbli jew immobbli mill-persuna suspettata bi ksur tal-paragrafu (ċ) tas-subartikolu (6), il-multa għandha dejjem tkun mill-inqas id-doppju tal-valur tal-flus jew proprjetà in kwistjoni.

(11) Ordni ta' sekwestru għandu, kemm-il darba ma jiġix revokat aktar kmieni mill-Avukat Ġenerali b'avviż bil-miktub notifikat lill-persuna suspettata u lis-sekwestratarju bil-mod provdut fis-subartikolu (9), jispicċa milli jkollu seħħ ma' egħluq tletin jum mid-data li fiha jkun sar; u l-qorti ma taghmilx ordni ieħor ta' sekwestru dwar dik il-persuna suspettata kemm-il darba ma tkunx sodisfatta li hemm informazzjoni sostanzjalment għdida dwar xi atti msemmija fil-paragrafi (a) sa (d) tas-subartikolu (1).

Iżda l-imsemmi perijodu ta' tletin jum ghandu jitwaqqaf ghal dak iż-żmien li l-persuna suspettata tkun tinsab barra minn dawn il-Gzejjer u l-Avukat Ġenerali javża b'dan il-fatt lis-sekwestratarju b'avviż bil-miktub notifikat bil-mod provdut fis-subartikolu (9).

(12) Waqt li tkun qed issir investigazzjoni ta' reat kontra din l-Ordinanza, il-Pulizija Esekuttiva tista' titlob lil magistrat biex jisma' bil-ġurament lil kull persuna li hija taħseb li ghandha informazzjoni dwar dak ir-reat; u l-magistrat ghandu minnufih jisma' lil dik il-persuna bil-ġurament.

(13) Għall-fini tas-smiġh bil-ġurament ta' persuna kif provdut fis-subartikolu (12) il-magistrat ikollu l-istess setgħat li bil-liġi għandha l-Qorti tal-Magistrati (Malta) jew il-Qorti tal-Magistrati (Għawdex) bhala Qorti Istrutturja kif ukoll is-setgħat imsemmija fl-artikolu 554 tal-Kodiċi Kriminali; iżda dak is-smiġh ghandu dejjem isir bil-magħluq.

(14) Ebda qorti ma tista' toħroġ mandat ta' inibizzjoni għall-waqfien ta' l-esekuzzjoni ta' ordni ta' investigazzjoni.”.

17. L-artikolu 26 tal-liġi prinċipali ghandu jiġi emendat kif ġej:

Emenda ta' l-artikolu 26 tal-liġi prinċipali.

(a) l-artikolu kif inhu bħal issa ghandu jiġi enumerat mill-ġdid bhala subartikolu (1); u

(b) minnufih wara s-subartikolu (1) tiegħu, kif enumerat mill-ġdid, ghandu jidhol dan is-subartikolu ġdid li ġej:

“(2) Meta r-reat li bih persuna tkun akkużata ikun dak ta' pussess ta', jew bejgħ jew traffikar ta', medicina kontra d-dispożizzjonijiet ta' din l-Ordinanza l-akkużat ma jkunx jista' jiddefendi ruħu kontra dik l-akkuża billi jipprova illi huwa haseb li kellu fil-pussess tiegħu, jew li kien qed ibiegh jew jittrafika, xi haġa li ma kenitx il-medicina msemmija fl-akkuża jekk il-pussess ta', jew il-bejgħ jew traffikar ta', dik il-haġa ohra kien ikun, fiċ-ċirkostanzi, bi ksur ta' xi dispożizzjoni ta' din l-Ordinanza jew ta' xi liġi ohra.”.

18. L-artikolu 27 tal-liġi prinċipali ghandu jiġi emendat kif ġej:

Emenda ta' l-artikolu 27 tal-liġi prinċipali.

(a) minflok il-kliem “taht il-paragrafu (f) tas-subartikolu (1) ta' l-artikolu 22” għandhom jidhlu l-kliem “taht il-paragrafu (f) tas-subartikolu (1) ta' l-artikolu 22 jew bir-reat imsemmi fis-subartikolu (1C) ta' l-imsemmi artikolu 22”; u

(b) minflok il-kliem “il-Qorti tista' tagħti l-libertà proviżorja skond id-dispożizzjonijiet ta' dak il-Kodiċi.” għandhom jidhlu l-kliem “il-qorti tista' tagħti l-libertà proviżorja skond id-dispożizzjonijiet ta' dak il-Kodiċi:

Kap. 9.

Zieda ta' artikoli godda mal-ligi principali.

Izda jekk iż-żmien tal-kumpilazzjoni jiġi mwaqqaf għar-raġuni speċifikata fil-paragrafu (ċ) tas-subartikolu (1) ta' l-artikolu 402 tal-Kodiċi Kriminali, il-qorti tista' madankollu tagħti l-libertà proviżorja wara li jkunu għaddew għoxrin jum minn meta dik il-persuna titressaq il-qorti.”.

19. Minnufih wara l-artikolu 30 tal-ligi principali għandhom jiżdiedu dawn l-artikoli godda li ġejjin:

“Dikjarazzjoni tista' tingieb bhala prova.

30A. Minkejja d-dispożizzjonijiet ta' l-artikolu 661 tal-Kodiċi Kriminali, meta persuna tkun involuta f'xi reat kontra din l-Ordinanza, kull dikjarazzjoni magħmula minn dik il-persuna u li tiġi konfermata bil-ġurament quddiem magħstrat u kull xiehda mogħtija minn dik il-persuna quddiem xi qorti tista' tingieb bi prova kontra kull persuna oħra akkużata b'reat kontra l-imsemmija Ordinanza, kemm-il darba jinsab li dik id-dikjarazzjoni jew xiehda tkun saret jew ingħatat volontarjament, u ma ġietx imġieghla jew meħuda b'theddid jew b'biża, jew b'wegħdiet jew bi twebbil ta' vantaġġi.

Konsenja u xiri kontrollati.

30B. (1) Minkejja kull haġa li tinsab f'kull ligi oħra, il-Pulizija Esekuttiva, u fejn ikun il-każ, l-Awtoritajiet tad-Dwana, jistgħu, bil-kunsens ta' l-Avukat Ġenerali jew ta' magħstrat, iħallu li ssir konsenja kontrollata.

(2) Għall-finijiet ta' dan l-artikolu, konsenja kontrollata tfisser it-teknika li biha konsenja illeċita jew suspettata ta' medicina perikoluża (kif imfissra fl-artikolu 12) tithalla toħroġ minn Malta, tghaddi minn Malta jew tidhol Malta, jew tithalla tghaddi minn post jew minghand persuna f'Malta għal post ieħor jew persuna oħra f'Malta, jew tithalla tidhol fit-territorju ta' pajjiż ieħor bil-kunsens u taħt is-sorveljanza tal-Pulizija Esekuttiva u, fejn tkun il-każ, ta' l-Awtoritajiet tad-Dwana u ta' l-awtoritajiet kompetenti ta' dak il-pajjiż ieħor, bil-għan li jiġu identifikati l-persuni involuti fl-eġhmil tar-reati taħt din l-Ordinanza jew taħt il-ligi korrispondenti li tkun isseħħ fit-territorju ta' dak il-pajjiż ieħor.

(3) Il-Pulizija Esekuttiva tista', bil-kunsens ta' l-Avukat Ġenerali jew ta' magħstrat, bil-għan li tidentifika persuni involuti fl-eġhmil tar-reati taħt din l-Ordinanza, takkwista jew tippokura medicina perikoluża (kif imfissra fl-artikolu 12) minghand kull persuna u minn kull post.”.

Emenda tat-Tieni Skeda li tinsab mal-ligi principali.

20. It-Tieni Skeda li tinsab mal-ligi principali għandha tiġi emendata kif ġej:

(a) minflok il-Formula A tagħha għandu jidhol dan li ġej:

"FORMULA A

(Artikolu 14(2))

ORDINANZA DWAR IL-MEDIĊINI PERIKOLUŻI
(KAPITOLU 101)

Ċertifikat għall-Importazzjoni Nru. tas-Serje
mahruġ mill-Gvern ta' Malta Nru. tal-File

ĊERTIFIKAT TA' APPROVAZZJONI UFFIĊJALI
GHALL-IMPORTAZZJONI

Jien, il-persuna nkarigata mill-amministrazzjoni tal-ligi
dwar il-mediċini perikolużi li ghalihom tghodd il-Konvenzjoni
Singola 1961, b'dan niċċertifika illi jien approvajt l-
importazzjoni minn*

ta'†

minn‡

taht il-kondizzjonijiet illi —

(i) il-merkanzija ghandha tigi mportata qabel
il-

(ii) il-merkanzija ghandha tigi mportata f'partita
wahda; u

(iii) jekk l-importazzjoni tal-mediċini kollha
specifikati hawn fuq ma ssirx qabel id-data specifika fil-
kondizzjoni Nru. (i) din l-awtorizzazzjoni ghandha
tinghata lura minnufih lit-Tabib Principali tal-Gvern

u li jien sodisfatt illi l-merkanzija li sejra tigi mportata hija
mehtiega —

(1) ¶għal skopijiet legittimi (*fil-każ ta' oppju mhux
mahdum jew ta' werqa tal-koka*).

(2) ¶għal skopijiet mediċinali jew xjentifiċi biss (*fil-
każ ta' mediċini perikolużi minn barra l-oppju mhux
mahdum u l-weraq tal-koka*).

(Data)

(Firma u timbru tat-Tabib
Principali tal-Gvern).

Dan id-dokument huwa biss biex jiġi ipprezentat lill-
Gvern tal-pajjiż li minnu l-mediċina sejra tingieb.

*Isem, indirizz u negozju ta' l-importatur.

†Deskrizzjoni eżatta u kwantità tal-mediċini li sejrjn jiġu importati.

‡Isem u indirizz tad-ditta fil-pajjiż ta' l-esportazzjoni minn fejn il-mediċina tkun sejra
tingieb.

¶Hassar il-kelmiet li ma jghoddux għall-każ.”;

(b) minflok il-Formula B tagħha ghandu jidhol dan li ġej:

“FORMULA B

(Artikolu 13(1))

ORDINANZA DWAR IL-MEDIĊINI PERIKOLUŻI
(KAPITOLU 101)

Nru. tal-File
Nru. tar-Riferenza.
ta' l-Applikant

Nru. tas-Serje

AWTORIZZAZZJONI GHALL-ESPORTAZZJONI

Bis-sahha ta' l-Ordinanza dwar il-Mediċini Perikolużi
(Kapitolu 101), it-Tabib Prinċipali tal-Gvern b'din jawtorizza
(iżjed 'il quddiem imsejjaħ “l-esportatur”)

li jesporta minn —

- | | |
|--------------------|------------------------|
| (1) *mill-port ta' | bil-vapur |
| (2) *minn Malta f | Pakk (i) Postali mill- |
| sa | skond iċ- |

Ċertifikat ta' Importazzjoni Nru. li jgħib id-data
mahruġ minn
il-mediċini li ġejjin, jiġifieri —

Din l-awtorizzazzjoni hija mahruġa taht il-kondizzjonijiet
li ġejjin:

1. Din l-awtorizzazzjoni mhix liċenza biex wiehed
jakkwista jew ikollu l-pussess tal-mediċini msemmijin
hawnhekk.

2. Din l-awtorizzazzjoni tiswa biss għal mediċini ta' l-
istess kwantità, kwalità u forma msemmijin hawn fuq.

3. Din l-awtorizzazzjoni ma tehlisx lill-esportatur milli
jhares ir-regolamenti tad-dwana li jkunu jsehhu f'dak iż-żmien
dwar l-esportazzjoni ta' oġġetti minn Malta u lanqas mid-
disposizzjonijiet ta' l-Att dwar l-Uffiċċju tal-Posta (Kapitolu
254), jew tar-regolamenti tal-posta li jkunu jsehhu f'dak iż-
żmien u lanqas minn regoli jew regolamenti dwar it-
trasmissjoni ta' oġġetti bil-posta li f'dak iż-żmien ikunu jsehhu,
sew f'Malta jew xi mkien ieħor.

4. Jekk il-mediċini jkunu awtorizzati biex jiġu esportati
b'bastiment il-kopja duplikata, li jkun hemm magħhom,
għandha takkumpanja l-merkanzija għal-lok ta' destinazzjoni
u għal dan l-iskop l-esportatur għandu jiehu hsieb li tiġi
kkunsinnata lill-kaptan tal-bastiment li bih il-merkanzija
tinbagħat.

* Hassar il-kelmiet li ma jghoddux.

5. Jekk il-mediċini jkunu awtorizzati biex jiġu esportati bil-posta, il-kopja duplikata li jkun hemm magħhom għandha titqiegħed ġewwa l-qoxra ta' barra tal-pakk li jkun fih il-mediċini. Jekk il-mediċini jkunu f'aktar minn pakk wieħed, il-kopja duplikata għandha titqiegħed ġewwa l-qoxra ta' barra ta' wieħed minnhom; il-pakki għandhom ikunu innumerati wieħed wara l-iehor fuq il-qoxra ta' barra, u fuq kull pakk għandu jkun hemm indikat b'mod li jista' jinqara n-numru tal-pakk li fih tkun tinsab il-kopja duplikata. [*Ara nota (2) hawn taħt.*]

6. L-esportatur, meta mitlub mill-Kontrullur tad-Dwana, għandu jgħibli, fiż-żmien li jagħtih, prova sodisfaċenti illi l-mediċini hawn fuq imsemmija ġew regolarment ikkunsinnati fid-destinazzjoni msemmija f'din l-awtorizzazzjoni, u kemm-il darba din il-kundizzjoni ma tiġix imharsa, l-awtorizzazzjoni għandha titqies bħala nulla u mingħajr effett.

7. L-esportatur għandu jagħti lit-Tabib Prinċipali tal-Gvern ir-rapport ta' l-oġġetti esportati minnu skond din l-awtorizzazzjoni kif minn żmien għal iehor jiġi mitlub.

8. Din l-awtorizzazzjoni tghodd biss għall-esportatur imsemmi hawn fuq u tista' tiġi mħassra, f'kull żmien li jkun, mit-Tabib Prinċipali tal-Gvern. Għandha tingieb għall-ispezzjoni meta mitluba minn persuna awtorizzata għalhekk.

9. Din l-awtorizzazzjoni, jekk ma tkunx giet imħassra qabel, tibqa' ssehh għal tliet xhur minn din id-data. Għandha tiġi ippreżentata meta ssir l-esportazzjoni, lil ufficjal —

- (1) *tad-Dipartiment tad-Dwana,
- (2) *tal-Posta,

li jzommha. Jekk ma jsirx użu minnha għandha tinghata lura lit-Tabib Prinċipali tal-Gvern fi żmien sebat ijiem mid-data li tkun għalqet.

(Data)

.....
(Firma u timbru tat-Tabib
Prinċipali tal-Gvern).

* Hassar il-kelmiet li ma jghoddux.

Nota:

(1) Jekk f'din l-awtorizzazzjoni jkun jinhtieg xi tibdil, hija ghandha tintbaghat lura b'talba biex isir dan it-tibdil u b'dikjarazzjoni tar-ragunijiet ta' dan it-tibdil. Ma jista' jsir ebda tibdil minghajr ma tinghata s-setgħa għaldaqshekk.

(2) Fil-każ ta' mediċini esportati bil-posta n-nuqqas tat-tħaris ta' din il-kondizzjoni jista' jgħib dewmien jew konfiska tal-pakki fil-pajjiż tad-destinazzjoni.”; u

(ċ) minflok il-Formula E tagħha għandu jidhol dan li ġej:

“FORMULA E

(Artikolu 18 (1))

ORDINANZA DWAR IL-MEDIĊINI PERIKOLUŻI
(Kapitolu 101)

CERTIFIKAT TA' TIBDIL TA' DESTINAZZJONI

Jien, b'dan niċċertifika illi awtorizzajt illi d-destinazzjoni tal-partita tal-mediċini, li hawn taħt jinsabu dettalji dwarhom, tiġi mibdula f'dik imsemmija hawn taħt —

Deskrizzjoni u kwantitajiet tal-mediċini
Isem tal-bastiment li bih il-merkanzija ngiebet f'Malta
Isem u indirizz ta' l-esportatur
Numru u data ta' l-awtorizzazzjoni għall-esportazzjoni u minn min mahruġa l-awtorizzazzjoni
Isem u indirizz tad-destinatarju oriġinali msemmi fl-awtorizzazzjoni għall-esportazzjoni
Isem u indirizz tad-destinatarju li lilu skond it-tibdil ta' destinazzjoni kif awtorizzat ser tintbagħat il-merkanzija
Numru u data taċ-ċertifikat ta' l-importazzjoni (u minn min mahruġa l-awtorizzazzjoni) li bih ġie awtorizzat it-tibdil ta' destinazzjoni
Isem tal-bastiment li fuqu l-merkanzija hija awtorizzata li tiġi mehuda barra minn Malta

Zmien li fih il-merkanzija ghandha
tingarr minn Malta

Dan ic-certifikat huwa mahrug taht il-kondizzjonijiet li
gejjin:

(1) Il-kopja duplikata ta' dan ic-certifikat ghandha
takkumpanja l-merkanzija ghall-post ta' destinazzjoni, u
ghal dan l-iskop ghandha tinghata lill-kaptan tal-
bastiment li mieghu tintbaghat il-merkanzija.

(2) Dan ic-certifikat ma jehles lil ebda persuna li
jkollha x'taqsam mal-garr tal-partita tal-medicini
specifikata hawn fuq li thares ir-regolamenti tad-dwana li
jkunu jsehhu f'dak iz-zmien dwar l-esportazzjoni ta'
merkanzija minn Malta.

(3) Dan ic-certifikat jiswa biss ghall-merkanzija u
ghaz-zmien imsemmijin hawn fuq, u jista' jithassar f'kull
zmien.

(4) Jekk il-partita tal-medicini ma tingarrx minn
Malta fiz-zmien imsemmi hawn fuq, dan ic-certifikat
ghandu jinghata lura lit-Tabib Principali tal-Gvern.

(5) Dan ic-certifikat ghandu jingieb f'kull zmien
meta mitlub minn persuna awtorizzata ghalhekk.

(Data)

.....
(Firma u timbru tat-Tabib
Principali tal-Gvern)

Nota:

(1) Meta ghandu jsir xi tibdil f'din l-awtorizzazzjoni din
ghandha tinbaghat lura flimkien ma' talba biex isir dan it-tibdil
u dikjarazzjoni tar-ragunijiet ta' dan it-tibdil. Ma jista' jsir
ebda tibdil minghajr awtorizzazzjoni.

(2) Dan id-dokument ghandu jingieb quddiem l-
awtoritajiet kompetenti tal-pajjiż li minnu l-merkanzija
tghaddi, sew jekk tigi trasbordata jew le. In-nuqqas tat-tharis
ta' din il-kondizzjoni jista' jgib dewmien jew konfiska tal-
merkanzija.”

Zieda tat-Tielet
Skeda tal-liġi
prinċipali.

21. Minnufih wara t-Tieni Skeda li tinsab mal-liġi prinċipali
għandha tiżdied din l-iskeda għida li ġejja:

“IT-TIELET SKEDA

(Artikolu 22(1D))

TABELLA I

EPHEDRINE
ERGOMETRINE
ERGOTAMINE
LYSERGIC ACID
1-PHENYL-2-PROPANONE
PSEUDOEPHEDRINE
N-ACETYLANTHRANILIC ACID
3, 4-METHYLENEDIOXYPHENYL-2-PROPANONE
SAFROLE
ISOSAFROLE
PIPERONAL

Il-melħ tas-sustanzi mnizzlin f'din it-Tabella kull meta jkun
possibbli li jeżisti dak il-melħ.

TABELLA II

ACETIC ANHYDRIDE
ACETONE
ANTHRANILIC ACID
ETHYL ETHER
PHENYLACETIC ACID
PIPERIDINE
METHYL ETHYL KETONE
TOLUENE
POTASSIUM PERMANGANATE
SULPHURIC ACID
HYDROCHLORIC ACID

Il-melħ tas-sustanzi mnizzlin f'din it-Tabella kull meta jkun
possibbli li jeżisti dak il-melħ.”.

Mghoddi mill-Kamra tad-Deputati fis-Seduta Nru. 231 tas-16 ta' Frar, 1994.

LAWRENCE GONZI
Speaker

RICHARD J. CAUCHI
Skrivan tal-Kamra tad-Deputati.

I assent.

(L.S.)

JIMMY FARRUGIA
Acting President
22nd February, 1994

ACT No. VI of 1994

AN ACT to amend the Dangerous Drugs Ordinance, Cap. 101.

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

Short title.

1. This Act may be cited as the Dangerous Drugs Ordinance (Amendment) Act, 1994, and shall be read and construed as one with the Dangerous Drugs Ordinance, hereinafter referred to as the “principal law”.

Amendment
of section 2
of the
principal law.

2. Section 2 of the principal law shall be amended as follows:

(a) the present section shall be renumbered as subsection (1);

(b) in the English text of subsection (1) thereof, as renumbered —

(i) immediately after the definition of “coca leaves”, there shall be added the following definition:

“ “export”, with its grammatical variations and cognate expressions, in relation to Malta, means to take or cause to be taken out of Malta in any manner whatsoever;”;

(ii) for the definitions of “the Geneva Convention (No. 1)”, “the Geneva Convention (No. 2)” and “the Hague Convention” there shall be substituted the following:

“ “import”, with its grammatical variations and cognate expressions, in relation to Malta, means to bring or cause to be brought into Malta in any manner whatsoever;” and

(iii) immediately after the definition of “raw opium”, there shall be added the following definition:

“ “the Single Convention” means the Single Convention on Narcotic Drugs adopted at New York on the 30 March, 1961 as subsequently amended by the Protocol adopted in Geneva on the 25 March, 1972;” and

(c) in the Maltese text of subsection (1) thereof, as renumbered, for the definitions of “il-Konvenzjoni ta’ l-Aja”, “il-Konvenzjoni (Nru. 1) ta’ Ġinevra”, and “il-Konvenzjoni (Nru. 2) ta’ Ġinevra” there shall be substituted the following:

“ “esportazzjoni”, bil-varjazzjonijiet grammatikali tagħha u bl-espressjonijiet imnislin minnha, tfisser, rigward Malta, tiegħu jew iġġieghel li jittiehed barra minn Malta b’kull mod li jkun;

“importazzjoni” bil-varjazzjonijiet grammatikali tagħha u bl-espressjonijiet imnislin minnha tfisser, rigward Malta, iġġib jew iġġieghel li jingieb f’Malta b’kull mod li jkun;

“il-Konvenzjoni Singola” tfisser il-Konvenzjoni Singola dwar Narkotiċi adottata fi New York fit-30 ta’ Marzu, 1961, kif sussegwentement emendata bil-Protokol adottat f’Ġinevra fil-25 ta’ Marzu, 1972;” and

(d) immediately after subsection (1) thereof, there shall be added the following new subsection:

“(2) In this Ordinance, unless the context otherwise requires, any reference to this Ordinance shall be deemed to include a reference to rules made thereunder.”.

3. In subsection (4) of section 10 of the principal law, for the words “has in pursuance of Article 8 of the Geneva Convention (No. 1) been communicated by the United Nations Organisation to the parties to the said Convention,” there shall be substituted the words “has been communicated by the Secretary-General of the United Nations Organisation to the parties to the Single Convention,”.

Amendment
of section 10
of the
principal law.

4. In subsection (3) of section 11 of the principal law, for the words “has in pursuance of Article 11 of the Geneva Convention (No. 2) been communicated by the Secretary-General of the United Nations Organisation to the parties to the said Convention,” there shall be substituted the words “has been communicated by the Secretary-General of the United Nations Organisation to the parties to the Single Convention,”.

Amendment
of section 11
of the
principal law.

Amendment of section 13 of the principal law.

5. Section 13 of the principal law shall be amended as follows:

(a) in subsection (1) thereof, the words "Where the intended exportation is to a country which is not a party to the Geneva Convention (No. 2), it shall not be necessary to produce an import certificate as aforesaid." shall be deleted;

(b) subsections (2) and (5) thereof shall be deleted; and

(c) the present subsections (3) and (4) thereof shall be renumbered as subsections (2) and (3) respectively.

Amendment of section 14 of the principal law.

6. Section 14 of the principal law shall be amended as follows:

(a) in subsection (2) thereof, in the English text, for the words "to whom an important authorization is issued" there shall be substituted the words "to whom an import authorization is issued";

(b) in subsection (4) thereof the words "from a country which is a party to the Geneva Convention (No. 1)" shall be deleted; and

(c) subsection (5) thereof shall be deleted.

Amendment of section 15 of the principal law.

7. Section 15 of the principal law shall be amended as follows:

(a) in paragraph (b) of subsection (1) thereof, the words "except where the drug comes from a country not a party to the Geneva Convention (No. 1)," shall be deleted;

(b) subsection (3) thereof shall be deleted;

(c) the present subsections (4) and (5) thereof shall be renumbered as subsections (3) and (4) respectively; and

(d) in subsection (4) thereof, as renumbered, the words "in transit by post or" shall be deleted.

Addition of new section 15A to the principal law.

8. Immediately after section 15 of the principal law, there shall be added the following new section:

"General prohibition on importation and exportation of dangerous drugs.

15A. (1) No person shall import or export, or cause to be imported or exported, or take any steps preparatory to importing or exporting, any dangerous drug into or from Malta except in pursuance of and in accordance with the provisions of this Ordinance.

(2) For the purposes of this section the words "import" and "export" and their grammatical variations and cognate expressions shall have the meaning assigned to them in subsection (1) of section 2 of this Ordinance."

9. Section 16 of the principal law shall be amended as follows: Amendment
of section 16
of the
principal law.

(a) in subsection (2) thereof, for the words “to the Comptroller of Customs, save that where the drug has come from a country not a party to the Geneva Convention (No. 1) this subsection shall not apply.” there shall be substituted the words “to the Comptroller of Customs.”; and

(b) subsection (3) thereof shall be deleted.

10. In subsection (2) of section 18 of the principal law, the words “if that country is not a party to the Geneva Convention (No. 1)” shall be deleted. Amendment
of section 18
of the
principal law.

11. Section 22 of the principal law shall be amended as follows: Amendment
of section 22
of the
principal law.

(a) in paragraph (a) of subsection (1) thereof, for the words “of this Ordinance or any rule made thereunder; or” there shall be substituted the words “of this Ordinance; or”;

(b) in paragraph (d) of subsection (1) thereof, for the words “of any corresponding law in force in that place,” there shall be substituted the words “of any corresponding law in force in that place, or who with another one or more persons conspires in Malta for the purpose of committing such an offence,”;

(c) in subsection (1A) thereof, for the words “in paragraph (f)” there shall be substituted the words “in paragraphs (d) and (f)”;

(d) for subsection (1B) thereof shall be substituted the following:

“(1B) For the purposes of this Ordinance the word “dealing” (with its grammatical variations and cognate expressions) with reference to dealing in a drug, includes cultivation, importation, manufacture, exportation, distribution, production, administration, supply, the offer to do any of these acts, and the giving of information intended to lead to the purchase of such a drug contrary to the provisions of this Ordinance.”;

(e) immediately after subsection (1B) thereof shall be added the following new subsections:

“(1C) (a) A person shall also be guilty of an offence against this Ordinance who uses, transfers the possession of, sends or delivers to any person or place, acquires, receives, keeps, transports, transmits, alters, disposes of or otherwise deals with, in any manner or by any means, any money, property (whether movable or immovable) or any proceeds of any such money or property with intent to conceal or convert that money or property or those proceeds and knowing or

suspecting that all or a part of that money or property, or of those proceeds, was obtained or received, directly or indirectly, as a result of —

(i) the commission of any of the offences mentioned in subsection (1) or paragraph (a) of subsection (1D); or

(ii) any act of commission or omission in any place outside these Islands which if committed in these Islands would constitute an offence under subsection (1) or paragraph (a) of subsection (1D).

(b) In proceedings for an offence under paragraph (a) of this subsection, where the prosecution produces evidence that no reasonable explanation was given by the person charged or accused showing that such money, property or proceeds was not money, property or proceeds described in the said paragraph, the burden of showing the lawful origin of such money, property or proceeds shall lie with the person charged or accused.

(1D) (a) A person shall also be guilty of an offence against this Ordinance who sells or otherwise deals in a substance mentioned in the Third Schedule hereto knowing or suspecting that the substance is to be used in or for the production of a drug contrary to the provisions of this Ordinance; and the definition of “dealing” in subsection (1B) shall apply, *mutatis mutandis*, to this subsection.

(b) The Minister responsible for public health may make rules for controlling the manufacture, sale, possession, distribution, importation and exportation of any of the substances mentioned in the Third Schedule hereto and in particular, but without prejudice to the generality of the foregoing, for any of the purposes mentioned in paragraphs (a) to (e) of subsection (1) of section 9, in so far as applicable, the reference to drugs in those paragraphs being construed as a reference to the said substances.”;

(f) for subsection (2) thereof there shall be substituted the following:

“(2) Every person charged with an offence against this Ordinance shall be tried in the Criminal Court or before the Court of Magistrates (Malta) or the Court of Magistrates (Gozo), as the Attorney General may direct, and if he is found guilty shall, in respect of each offence, be liable —

(a) on conviction by the Criminal Court —

(i) where the offence is one under section 4 or under paragraph (c) of section 8 or consists in selling or dealing in a drug contrary to the provisions of this Ordinance or in an offence under paragraph (f) of subsection (1), or of the offence of possession of a drug, contrary to the provisions of this Ordinance,

under such circumstances that the court is satisfied that such possession was not for the exclusive use of the offender, or of the offences mentioned in subsections (1C) or (1D), to imprisonment for a term of not less than four years but not exceeding twenty years and to a fine (*multa*) of not less than one thousand Maltese liri but not exceeding fifty thousand Maltese liri; and

(ii) for any other offence to imprisonment for a term of not less than twelve months but not exceeding ten years and to a fine (*multa*) of not less than two hundred Maltese liri but not exceeding ten thousand Maltese liri; or

(b) on conviction by the Court of Magistrates (Malta) or the Court of Magistrates (Gozo) —

(i) where the offence is one under section 4 or under paragraph (c) of section 8 or consists in selling or dealing in a drug contrary to the provisions of this Ordinance or in an offence under paragraph (f) of subsection (1), or of the offence of possession of a drug, contrary to the provisions of this Ordinance, under such circumstances that the court is satisfied that such possession was not for the exclusive use of the offender, or of the offences mentioned in subsections (1C) or (1D), to imprisonment for a term of not less than six months but not exceeding five years and to a fine (*multa*) of not less than two hundred Maltese liri but not exceeding two thousand Maltese liri; and

(ii) for any other offence to imprisonment for a term of not less than three months but not exceeding twelve months or to a fine (*multa*) of not less than two hundred Maltese liri but not exceeding one thousand Maltese liri or to both such imprisonment and fine,

and in every case of conviction for an offence against this Ordinance, all articles in respect of which the offence was committed shall be forfeited to the Government, and any such forfeited article shall, if the court so orders, be destroyed or otherwise disposed of as may be provided in the order:

Provided that, for the purposes of this subsection, when the person charged has not attained the age of sixteen years and unless he is charged jointly with any other person who has attained the age of sixteen years, any reference to the Court of Magistrates (Malta) or to the Court of Magistrates (Gozo) shall be construed as a reference to the Juvenile Court:

Provided further that where a person is convicted as provided in subparagraph (i) of paragraph (a) of subparagraph (i) of paragraph (b) and the offence has taken place in, or within 100 metres of the perimeter of, a school, youth club or centre, or such other place where young people habitually meet, or the offence consists in the sale, supply, administration or offer to do any of these acts, to a minor, to a woman with child or to a person who is following a programme for cure or rehabilitation from drug dependence, the punishment shall be increased by one degree.”;

(g) in the proviso to subsection (3) thereof, for the words “and the offender holds it on any other title,” there shall be substituted the words “and the offender holds it on any other title, whether real or otherwise,”;

(h) in subsection (7) thereof, for the words “the forfeiture of any title to immovable property” there shall be substituted the words “the forfeiture of immovable property or of any title to such property”; and

(i) for subsection (8) thereof, there shall be substituted the following subsections:

“(8) Where it results to the court that the offender, other than an offender convicted of an offence as is referred to in subparagraph (i) of paragraph (a) or subparagraph (i) of paragraph (b) of subsection (2), is in need of care and assistance for his rehabilitation from dependence on any dangerous drug (as defined in section 12), the court may, instead of applying any of the punishments provided for in the foregoing subsections, place the offender on probation in accordance with the provisions of the Probation of Offenders Act, so however that such probation order may be made notwithstanding that the offender, who has attained the age of fourteen years, has not expressed his willingness to comply with the requirements thereof as provided in subsection (5) of section 5 of that Act.

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(9) The provisions of sections 21 and 28A of the Criminal Code and the provisions of the Probation of Offenders Act shall not be applicable in respect of any person convicted of an offence as is referred to in subparagraph (i) of paragraph (a) or subparagraph (i) of paragraph (b) of subsection (2).

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(10) Where, in the case of a person convicted of an offence referred to in subsection (9), the court is satisfied that such person is in need of treatment for his rehabilitation from dependence on any dangerous drug (as defined in section 12) and—

(a) the Minister responsible for public health certifies in writing that such treatment may be given in prison, and

(b) the person so convicted agrees to submit to that treatment,

the court may, in passing sentence, order that he be given such treatment in prison (hereinafter referred to as an "order for treatment") and for such period of time (hereinafter referred to as the "treatment period") as may be specified in the order (being not more than the period of time, as reduced in accordance with this subsection, which the person convicted is to serve in prison) and the punishment of imprisonment which would, but for the provisions of this subsection, have been awarded (hereinafter referred to as the "original punishment"), and which shall be expressly mentioned in the sentence, shall be reduced by the court by not more than one third.

(11) If during the treatment period, the court which made the order for treatment is satisfied, on an application by the Attorney General, that the person to whom the order refers has, without valid reason (the proof whereof shall lie on such person), refused the treatment or has conducted himself in a manner as to make his treatment, or that of other prisoners, difficult or ineffective, it shall revoke such order and shall direct that the original punishment be served.

(12) The court which made the order for treatment shall, on an application made at any time during the treatment period by the person to whom the order refers requesting the revocation of that order, revoke such order and shall direct that the original punishment be served.

(13) The court which made the order for treatment may, on an application made at any time during the treatment period by the person to whom the order refers or by the Attorney General, discharge such order if it is satisfied that the treatment is no longer appropriate.

(14) For the purposes of subsections (10) to (13) —

(a) any decision of the court which revokes an order for treatment and directs that the original punishment be served shall not be subject to appeal;

(b) where an order for treatment is confirmed or varied by the Court of Criminal Appeal, the order shall be deemed to have been made by the said court;

(c) an order for treatment shall, unless it has been revoked or discharged or has ceased to have effect earlier,

cease to have effect upon the expiration or remission of the punishment of imprisonment for the offence in respect of which the order was made.”.

Amendment of section 22B of the principal law.

12. In section 22B of the principal law, for the words “liable to a fine (*ammenda*) not exceeding five hundred Maltese liri,” there shall be substituted the words “liable to a fine (*multa*) not exceeding five thousand Maltese liri, or to imprisonment for a period not exceeding twelve months, or to both such fine and imprisonment,”.

Amendment of section 22C of the principal law.

13. In subsection (1) of section 22C of the principal law, for the words “the commission of the offence” there shall be substituted the words “the commission of any offence under this Ordinance (whether or not so adjudged by a court of criminal justice)”.

Amendment of section 22E of the principal law.

14. Immediately after subsection (6) of section 22E of the principal law, there shall be added the following new subsections:

“(7) The provisions of subsection (2) shall not apply where the drug has already been photographed and analysed by experts appointed in the course of the inquiry relating to the *in genere*, unless the court, in the particular circumstances of the case, shall deem it necessary to have the drug photographed and analysed again.

(8) The omission of any of the precautions or formalities referred to in this section shall be no bar to proving, in any manner allowed by law, the facts to which such precaution or formality relates.”.

Substitution of section 23 of the principal law.

15. For section 23 of the principal law there shall be substituted the following:

“Definition of expression corresponding law.

23. For the purposes of sections 22 and 30B the expression “corresponding law” means any law stated in a certificate purporting to be issued by or on behalf of the Government of any country outside Malta to be a law providing, whether exclusively or otherwise, for the control or regulation in that country of the manufacture, sale, use, possession, transfer, export or import of, or dealing in, dangerous drugs, narcotics or psychotropic substances; and any statement in any such certificate as to the effect of the law mentioned in the certificate, or any statement in any such certificate that any facts constitute an offence against that law, shall be conclusive.”.

Addition of new section 24A to the principal law.

16. Immediately after section 24 of the principal law there shall be added the following new section:

“Additional powers of investigation.

24A. (1) Where, upon information received, the Attorney General has reasonable cause to suspect that a person (hereinafter referred to as “the suspect”):

(a) is guilty of selling or dealing in a drug contrary to the provisions of this Ordinance, or

(b) is guilty of any of the offences mentioned in paragraphs (e) or (f) of subsection (1) of section 22, or

(c) is guilty of an offence mentioned in paragraph (d) of subsection (1) of section 22 with reference to any of the offences referred to in the foregoing paragraphs of this subsection, or

(d) is guilty of the offence mentioned in subsection (1C) of section 22,

he may apply to the Criminal Court for an order (hereinafter referred to as an "investigation order") that a person (including a body or association of persons, whether corporate or unincorporate) named in the order who appears to be in possession of particular material or material of a particular description which is likely to be of substantial value (whether by itself or together with other material) to the investigation of, or in connection with, the suspect, shall produce or grant access to such material to the person or persons indicated in the order; and the person or persons so indicated shall, by virtue of the investigation order, have the power to enter any house, building or other enclosure for the purpose of searching for such material.

(2) Where an investigation order has been made or applied for, whosoever, knowing or suspecting that the investigation is taking place, makes any disclosure likely to prejudice the said investigation shall be guilty of an offence and shall, on conviction, be liable to a fine (multa) not exceeding five thousand Maltese liri or to imprisonment not exceeding twelve months, or to both such fine and imprisonment:

Provided that in proceedings for an offence under this subsection, it shall be a defence for the accused to prove that he did not know or suspect that the disclosure was likely to prejudice the investigation.

(3) An investigation order:

(a) shall not confer any right to production of, access to, or search for communications between an advocate or legal procurator and his client which would in legal proceedings be protected from disclosure by subsection (1) of section 642 of the Criminal Code or by subsection (1) of section 588 of the Code of Organisation and Civil Procedure;

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(b) shall, without prejudice to the provisions of the foregoing paragraph, have effect notwithstanding

any obligation as to secrecy or other restriction upon the disclosure of information imposed by any law or otherwise; and

(c) may be made in relation to material in the possession of any government department.

(4) Where the material to which an application under subsection (1) relates consists of information contained in a computer, the investigation order shall have effect as an order to produce the material or give access to such material in a form in which it can be taken away and in which it is visible and legible.

(5) Any person who, having been ordered to produce or grant access to material as provided in subsection (1) shall, without lawful excuse (the proof whereof shall lie on him) wilfully fail or refuse to comply with such investigation order, or who shall wilfully hinder or obstruct any search for such material, shall be guilty of an offence and shall, on conviction, be liable to a fine (multa) not exceeding five thousand Maltese liri or to imprisonment not exceeding twelve months, or to both such fine and imprisonment.

(6) Together with or separately from an application for an investigation order, the Attorney General may, in the circumstances mentioned in paragraphs (a) to (d) of subsection (1), apply to the Criminal Court for an order (hereinafter referred to as an “attachment order”) —

(a) attaching in the hands of such persons (hereinafter referred to as “the garnishees”) as are mentioned in the application all moneys and other movable property due or pertaining or belonging to the suspect,

(b) requiring the garnishee to declare in writing to the Attorney General, not later than twenty-four hours from the time of service of the order, the nature and source of all money and other moveable property so attached, and

(c) prohibiting the suspect from transferring or otherwise disposing of any moveable or immoveable property.

(7) Before making an investigation order or an attachment order the court may require to hear the Attorney General in chambers and shall not make such order —

(a) unless it concurs with the Attorney General that there is reasonable cause as provided in subsection (1); and

(b) in the case of an investigation order, unless the court is satisfied that there are reasonable grounds for suspecting that the material to which the application relates

(i) is likely to be of substantial value (whether by itself or together with other material) to the investigation for the purpose of which the application is made, and

(ii) does not consist of communications referred to in paragraph (a) of subsection (3).

(8) The provisions of paragraphs (a), (b) and (e) of subsection (1) of section 381 and of subsection (1) of section 382 of the Code of Organisation and Civil Procedure shall, *mutatis mutandis*, apply to the attachment order. Cap. 12.

(9) An attachment order shall be served on the garnishee and on the suspect by an officer of the Executive Police not below the rank of inspector.

(10) Any person who acts in contravention of an attachment order shall be guilty of an offence and shall, on conviction, be liable to a fine (multa) not exceeding five thousand Maltese liri or to imprisonment for a period not exceeding twelve months, or to both such fine and imprisonment:

Provided that where the offence consists in the payment or delivery to any person by the garnishee of any moneys or other moveable property attached as provided in paragraph (a) of subsection (6) or in the transfer or disposal by the suspect of any moveable or immovable property in contravention of paragraph (c) of subsection (6), the fine shall always be at least twice the value of the money or property in question.

(11) An attachment order shall, unless it is revoked earlier by the Attorney General by notice in writing served on the suspect and on the garnishee in the manner provided for in subsection (9), cease to be operative on the expiration of thirty days from the date on which it is made; and the court shall not make another attachment order with respect to that suspect unless it is satisfied that substantially new information with regards to any of the acts mentioned in paragraphs (a) to (d) of subsection (1) is available:

Provided that the said period of thirty days shall be held in abeyance for such time as the suspect is away from these Islands and the Attorney General informs of this fact the garnishee by notice in writing served in the manner provided for in subsection (9).

(12) In the course of any investigation of an offence against this Ordinance, the Executive Police may request a magistrate to hear on oath any person who they believe may have information regarding such offence; and the magistrate shall forthwith hear that person on oath.

(13) For the purpose of hearing on oath a person as provided in subsection (12) the magistrate shall have the same powers as are by law vested in the Court of Magistrates (Malta) or the Court of Magistrates (Gozo) as a Court of Criminal Inquiry as well as the powers mentioned in section 554 of the Criminal Code; provided that such hearing shall always take place behind closed doors.

(14) It shall not be lawful for any court to issue a warrant of prohibitory injunction to stop the execution of an investigation order.”.

Amendment of section 26 of the principal law.

17. Section 26 of the principal law shall be amended as follows:

(a) the present section shall be renumbered as subsection (1); and

(b) immediately after subsection (1) thereof, as renumbered, there shall be added the following new subsection:

“(2) When the offence charged is that of possession of, or of selling or dealing in, a drug contrary to the provisions of this Ordinance it shall not be a defence to such charge for the accused to prove that he believed that he was in possession of, or was selling or dealing in, some thing other than the drug mentioned in the charge if the possession of, or the selling or dealing in, that other thing would have been, in the circumstances, in breach of any other provision of this Ordinance or of any other law.”.

Amendment of section 27 of the principal law.

18. Section 27 of the principal law shall be amended as follows:

(a) for the words “under paragraph (f) of subsection (1) of section 22” there shall be substituted the words “under paragraph (f) of subsection (1) of section 22 or with the offence mentioned in subsection (1C) of the said section 22”; and

(b) for the words “the Court may grant temporary release from custody in accordance with the provisions of that Code.” there shall be substituted the words “the court may grant temporary release from custody in accordance with the provisions of that Code:

Provided that if the term of the inquiry is held in abeyance for the reason specified in paragraph (c) of subsection (1) of section 402 of the Criminal Code, the court may nonetheless grant temporary release from custody after the lapse of twenty days from the arraignment.”.

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19. Immediately after section 30 of the principal law there shall be added the following new sections:

Addition
of new sections
to the
principal law.

“State-
ment may
be admitted
as evidence.”
Cap. 9

30A. Notwithstanding the provisions of section 661 of the Criminal Code, where a person is involved in any offence against this Ordinance, any statement made by such person and confirmed on oath before a magistrate and any evidence given by such person before any court may be received in evidence against any other person charged with an offence against the said Ordinance, provided it appears that such statement or evidence was made or given voluntarily, and not extorted or obtained by means of threats or intimidation, or of any promise or suggestion of favour.

Controlled
delivery
and
purchase.

30B. (1) Notwithstanding anything contained in any other law, it shall be lawful for the Executive Police and, where appropriate, the Customs Authorities to allow, with the consent of the Attorney General or of a magistrate, a controlled delivery to take place.

(2) For the purposes of this section a controlled delivery means the technique of allowing an illicit or suspect consignment of a dangerous drug (as defined in section 12) to pass out of, through or into Malta, or from one place or person in Malta to another place or person in Malta, or into the territory of another country, with the knowledge and under the supervision of the Executive Police and, where appropriate, of the Customs Authorities and of the competent authorities of such other country, with a view to identifying persons involved in commission of offences under this Ordinance or under the corresponding law in force in the territory of such other country.

(3) It shall also be lawful for the Executive Police, with a view to identifying persons involved in the commission of offences under this Ordinance, and with the consent of the Attorney General or of a magistrate, to acquire or procure a dangerous drug (as defined in section 12) from any person or place.”.

20. The Second Schedule to the principal law shall be amended as follows:

Amendment of
the Second
Schedule to the
principal law.

(a) for Form A thereof there shall be substituted the following:

"FORM B

(Section 13(1))

DANGEROUS DRUGS ORDINANCE
(CHAPTER 101)File No.
Applicant's
Reference No.

Serial No.

EXPORT AUTHORIZATION

In pursuance of the Dangerous Drugs Ordinance
(Chapter 101), the Chief Government Medical Officer hereby
authorizes

(hereinafter called "the exporter")

to export from —

(1) * the port of _____ by s.s.
(2) * Malta by Parcel Post in _____
parcels from the _____
to _____
in virtue of import Certificate No. _____ dated _____
issued by _____
the following drugs, namely:

This authorization is issued subject to the following
conditions:

1. This authorization is not a licence to obtain or to be in possession of the drugs named herein.
2. This authorization is available only for drugs of the exact quantity, kind and form specified above.
3. This authorization does not relieve the exporter from compliance with any customs regulations in force for the time being relating to the exportation of goods from Malta nor from any provision of the Post Office Act (Chapter 254) or of any post office regulations for the time being in force, nor from any rules or regulations respecting the transmission of articles by post which may for the time being be in force, whether within Malta or elsewhere.
4. If the drugs are authorized to be exported by ship the duplicate copy, which is attached, shall accompany the consignment to the place of destination and for this purpose the exporter shall cause it to be delivered to the master of the vessel by which the consignment is despatched.
5. If the drugs are authorized to be exported by post the attached duplicate copy shall be placed inside the outer

* Strike out words not applicable.

wrapper of the parcel containing the drugs. If the drugs are contained in more than one parcel, the duplicate copy shall be placed inside the outer wrapper of one of them; the parcels shall be consecutively numbered on the outer wrapper, and on each parcel there shall be legibly stated the number of the parcel in which the duplicate copy is to be found. [See footnote (2).]

6. The exporter, if so required by the Comptroller of Customs, shall produce to him, within such time as he may allow, proof to his satisfaction that the said drugs were duly delivered at the destination named in this authorization, and in the event of non-compliance with this condition the authorization shall be deemed void and of no effect.

7. The exporter shall furnish to the Chief Government Medical Officer such returns of the goods exported by him in pursuance of this authorization as may from time to time be required.

8. This authorization is valid only for the exporter named above and may be revoked at any time by the Chief Government Medical Officer. It shall be produced for inspection when required by any duly authorized person.

9. This authorization, unless sooner revoked, shall continue in force for three calendar months from the date hereof. It must be produced at the time of export, to an officer of —

- (1) * the Customs Department,
- (2) * the Post Office,

who will retain it. If not used it shall be surrendered to the Chief Government Medical Officer within seven days of the date of its expiry.

Date

.....
(Signature and stamp of the
Chief Government Medical Officer).

* Strike out words not applicable.

Note:

(1) If any alteration is desired in this authorization it must be returned with a request for amendment and a statement of the reasons therefor. No unauthorized alteration is permissible.

(2) In the case of drugs exported by post failure to comply with this condition may lead to delay or confiscation of the parcels in the country of destination.”; and

(c) for Form E thereof there shall be substituted the following:

“FORM E

(Section 18 (1))

DANGEROUS DRUGS ORDINANCE
(CHAPTER 101)

DIVERSION CERTIFICATE

I, hereby certify that I have authorized the diversion of the consignment of drugs, of which particulars are given below, to the destination stated below:—

Description and quantities of drugs

Name of vessel on which the consignment was brought to Malta

Name and address of the exporter

Number and date of export authorization and authority by whom issued

Name and address of original consignee named in the export authorization

Name and address of consignee to whom the consignment is authorized to be diverted

Number and date of import certificate (and authority by whom issued) by virtue of which this diversion is authorized

Name of vessel on which the consignment is authorized to be carried from Malta

Period within which the consignment is to be carried from Malta

This certificate is issued subject to the following conditions:

(1) The duplicate copy of this certificate shall accompany the consignment to the place of destination,

and for this purpose shall be delivered to the master of the vessel by which the consignment is despatched.

(2) This certificate does not relieve any person who may be concerned with the carriage of the consignment of drugs specified above from compliance with any customs regulations in force for the time being relating to the exportation of goods from Malta.

(3) This certificate is valid only for the consignment and for the period specified above, and may be revoked at any time.

(4) If the consignment of drugs is not carried from Malta within the period specified above, this certificate shall be surrendered to the Chief Government Medical Officer.

(5) This certificate shall be produced at any time when required by a duly authorized person.

(Date)

.....
(Signature and stamp of the Chief
Government Medical Officer)

Note:

(1) If any alteration is desired in this authorization, it must be returned with a request for amendment and a statement of the reason therefor. No unauthorized alteration is permissible.

(2) This document is to be produced to the competent authorities of any country through which the consignment passes, whether it is transhipped or not. Failure to comply with the condition may lead to delay or confiscation of the consignment.”.

21. Immediately after the Second Schedule to the principal law there shall be added the following new schedule:

Addition
of Third
Schedule to
the principal
law.

"THIRD SCHEDULE

(Section 22(1D))

TABLE I

EPHEDRINE
 ERGOMETRINE
 ERGOTAMINE
 LYSERGIC ACID
 1-PHENYL-2-PROPANONE
 PSEUDOEPHEDRINE
 N-ACETYLANTHRANILIC ACID
 3, 4-METHYLENEDIOXYPHENYL-2-PROPANONE
 SAFROLE
 ISOSAFROLE
 PIPERONAL

The salts of the substances listed in this Table whenever the existence of such salts is possible.

TABLE II

ACETIC ANHYDRIDE
 ACETONE
 ANTHRANILIC ACID
 ETHYL ETHER
 PHENYLACETIC ACID
 PIPERIDINE
 METHYL ETHYL KETONE
 TOLUENE
 POTASSIUM PERMANGANATE
 SULPHURIC ACID
 HYDROCHLORIC ACID

The salts of the substances listed in this Table whenever the existence of such salts is possible."

Passed by the House of Representatives at Sitting No. 231 of 16th February, 1994.

LAWRENCE GONZI
Speaker

RICHARD J. CAUCHI
Clerk to the House of Representatives

