

MALTA

ATT Nru. XVI ta' l-1996

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

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

ACT No. XVI of 1996

AN ACT enacted by the Parliament of Malta.

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

Naghti l-kunsens tiegħi.

(L.S.)

UGO MIFSUD BONNICI
President

5 ta' Lulju, 1996

ATT Nru. XVI ta' l-1996

ATT li jemenda l-Ordinanza dwar il-Medicini 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' jissejjaħ l-Att ta' l-1996 li jemenda l-Ordinanza dwar il-Medicini Perikolużi, u għandu jinqara u jiftiehem haġa waħda ma' l-Ordinanza dwar il-Medicini Perikolużi, hawnhekk iżjed 'il quddiem imsejha "il-liġi prinċipali".

Titolu
fil-qosor.

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

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

(a) fis-subparagrafu (i) tal-paragrafu (a) tas-subartikolu (1C) tiegħu, minflok il-kliem "jew fil-paragrafu (a) tas-subartikolu (1D)" għandhom jidhlu l-kliem "jew fil-paragrafu (a) tas-subartikolu (1D) jew fis-subartikolu (1E)";

(b) minnufih wara s-subartikolu (1D) tiegħu, għandu jizdid dan is-subartikolu ġdid li ġej:

"(1E) Persuna tkun ukoll hatja ta' reat kontra din l-Ordinanza jekk timmanifattura, tittrasporta jew tqassam xi tagħmir jew materjali meta tkun taf li dawn ikunu sejrin jintużaw għall-koltivazzjoni, produzzjoni jew manifattura ta' xi medicina kontra d-dispożizzjonijiet ta' din l-Ordinanza u kull għemil projbit taht dan is-subartikolu għandu għall-finijiet

ta' din l-Ordinanza jitqies li jkun jikkostitwixxi reat ta' bejgh jew traffikar ta' mediċina kontra din l-Ordinanza.”;

(ċ) is-subartikolu (2) tieghu ghandu jiġi emendat kif ġej:

(i) minflok is-subparagrafu (i) tal-paragrafu (a) tieghu ghandu jidhol dan li ġej:

“(i) meta r-reat ikun reat taht l-artikolu 4 jew taht il-paragrafu (ċ) ta' l-artikolu 8 jew ikun jikkonsisti fil-bejgh jew traffikar ta' mediċina bi ksur tad-dispożizzjonijiet ta' din l-Ordinanza jew ikun reat taht il-paragrafu (f) tas-subartikolu (1), jew ikun reat ta' pussess ta' mediċina, bi ksur tad-dispożizzjonijiet ta' din l-Ordinanza, taht tali ċirkostanzi li l-qorti tkun sodisfatta li dak il-pussess ma kienx għall-użu esklussiv tal-hati, jew ikun reat imsemmi fis-subartikoli (1Ċ) jew (1D) jew (1E), prigunerija għall-ghomor:

Iżda:

(aa) meta l-Qorti tkun tal-fehma li, meta tqis l-età tal-hati, il-kondotta ta' qabel tal-hati, il-kwantità tal-mediċina u x-xorta u l-kwantità tat-tagħmir jew materjali, jekk ikun il-każ, involuti fir-reat u ċ-ċirkostanzi l-oħra kollha tar-reat, il-piena ta' prigunerija għall-ghomor ma tkunx dik xierqa; jew

(bb) meta l-verdett tal-ġuri ma jkunx unanimu,

f'każijiet bħal dawn il-Qorti tista' tikkundanna lill-persuna misjuba hatja għall-piena ta' prigunerija għal żmien ta' mhux inqas minn erba' snin iżda mhux iżjed minn tletin sena u multa ta' mhux inqas minn elf lira Maltija iżda mhux iżjed minn hamsin elf lira Maltija; u”;

(ii) fis-subparagrafu (i) tal-paragrafu (b) tieghu, minflok il-kliem “fis-subartikolu (1Ċ) jew (1D)” għandhom jidhlu l-kliem “fis-subartikolu (1Ċ) jew (1D) jew (1E)”, minflok il-kliem “mhux iżjed minn hames snin” għandhom jidhlu l-kliem “mhux iżjed minn għaxar snin” u minflok il-kliem “mhux iżjed minn elfejn lira Maltija” għandhom jidhlu l-kliem “mhux iżjed minn hamest elef lira Maltija”; u

(d) is-subartikolu (3A) tieghu ghandu jigi emendat kif ġej:

(i) minflok il-kliem “jkun jew jirreferi għall-bejgh jew traffikar ta’ mediċina,” sa “b’żieda ma’ kull piena ohra—” ghandhom jidhlu l-kliem “jkun xi wiehed mir-reati msemmija fis-subartikolu (1) ta’ l-artikolu 24A il-Qorti ghandha, b’żieda ma’ kull piena ohra, fis-sentenza tagħha jew f’kull żmien wara, fuq it-talba tal-prosekuzzjoni —”;

(ii) fis-subparagrafu (a) tieghu, minflok il-kliem “meta xi proprjetà immobbli” ghandhom jidhlu l-kliem “meta xi proprjetà immobbli, f’Malta jew f’xi post barra minn Malta,”;

(iii) fis-subparagrafu (ċ) tieghu, minflok il-kliem “dwar xi biċċa tal-baħar jew vettura” ghandhom jidhlu l-kliem “dwar xi biċċa tal-baħar jew vettura, f’Malta jew f’xi post barra minn Malta,”; u

(iv) fis-subparagrafu (d) tieghu, minflok il-kliem “għaddiet għand terzi persuni.” ghandhom jidhlu l-kliem “għaddiet għand terzi persuni, u anke jekk l-imsemmija flejjes, proprjetà mobbli jew proprjetà immobbli jkunu qeghdin f’xi post barra minn Malta.”.

3. L-artikolu 24A tal-liġi prinċipali ghandu jigi emendat kif ġej:

Emenda ta’
l-artikolu 24A
tal-liġi prinċipali.

(a) fis-subartikolu (1) tieghu, minflok il-kliem “sabiex jagħmlu tfittxija għal dak il-materjal.” ghandhom jidhlu l-kliem “sabiex jagħmlu tfittxija għal u jaqbd u dak il-materjal.”; u

(b) minnufih wara s-subartikolu (6) tieghu ghandu jiddied dan is-subartikolu ġdid li ġej:

“(6A) Meta jkun sar jew ikun intalab ordni ta’ sekwestru, kull min, meta jkun jaf jew ikollu suspett li l-ordni ta’ sekwestru jkun hekk sar jew intalab, jikxef xi haġa li tista’ tippregudika l-effikaċja ta’ l-imsemmi ordni jew xi investigazzjoni konnessa miegħu ikun hati ta’ reat u jehel, meta jinsab hati, multa ta’ mhux iżjed minn ħamest elef lira Maltija jew prigunerija ta’ mhux iżjed minn tnax-il xahar, jew dik il-multa u prigunerija flimkien:

Iżda fi proċedimenti għal reat taht 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 jew l-effikaċja ta’ l-ordni ta’ sekwestru.”.

Żieda ta' l-artikoli ġodda 24B, 24C u 24D mal-liġi prinċipali.

4. Minnufih wara l-artikolu 24A tal-liġi prinċipali għandhom jiżiedu dawn l-artikoli ġodda li ġejjin :

“Setgħat ta' investigazzjoni dwar reati fil-kompetenza ta' Qrati barra minn Malta.

24B. (1) Meta l-Avukat Ġenerali jirċievi talba magħmula minn awtorità ġudizzjarja jew prosekuttriċi ta' xi post barra minn Malta sabiex isiru investigazzjonijiet f'Malta dwar persuna (hawnhekk iżjed 'il quddiem imsejha “il-persuna suspettata”) suspettata minn dik l-awtorità b'att jew ommissjoni li jekk isiru f'dawn il-Gżejjer, jew f'ċirkostanzi korrispondenti, ikunu jikkostitwixxu xi wiehed mir-reati msemmija fil-paragrafi (a), (b), (ċ) u (d) tas-subartikolu (1) ta' l-artikolu 24A, l-Avukat Ġenerali jista' jitlob lill-Qorti Kriminali għal ordni ta' investigazzjoni jew ordni ta' sekwestru jew għat-tnejn u d-dispożizzjonijiet ta' l-artikolu 24A għandhom *mutatis mutandis* japplikaw għal dik it-talba u għall-persuna suspettata u għal kull ordni ta' investigazzjoni jew ta' sekwestru magħmul mill-Qorti bħala riżultat ta' dik it-talba.

(2) Il-kliem “ordni ta' investigazzjoni” fis-subartikoli (2) u (5) ta' l-istess artikolu 24A għandhom jinqraw u jiftiehemu bħala li jinkludu ordni ta' investigazzjoni magħmul taht id-dispożizzjonijiet ta' dan l-artikolu.

Iffriżar ta' proprjetà ta' persuna akkużata b'reati fil-kompetenza ta' Qrati barra minn Malta.

24C. (1) Meta l-Avukat Ġenerali jirċievi talba magħmula minn awtorità ġudizzjarja jew prosekuttriċi ta' xi post barra minn Malta għall-qbid temporanju ta' kull jew xi flejjes jew proprjetà, mobbli jew immobbli, ta' persuna (hawnhekk iżjed 'il quddiem f'dan l-artikolu msejha “l-akkużat”) imputata jew akkużata fi proċedimenti quddiem il-qrati ta' dak il-post b'reat li jkun jikkonsisti f'att jew ommissjoni li jekk isiru f'dawn il-Gżejjer, jew f'ċirkostanzi korrispondenti, ikunu jikkostitwixxu xi wiehed mir-reati msemmija fil-paragrafi (a), (b), (ċ) u (d) tas-subartikolu (1) ta' l-artikolu 24A, l-Avukat Ġenerali jista' jitlob lill-Qorti Kriminali għal ordni (hawnhekk iżjed 'il quddiem imsejjah “ordni ta' iffriżar”) li jkollu l-istess effett bhal ordni kif imsemmi fis-subartikolu (1) ta' l-artikolu 22A u d-dispożizzjonijiet ta' l-imsemmi artikolu 22A għandhom, bla hsara għad-dispożizzjonijiet li ġejjin ta' dan l-artikolu, japplikaw *mutatis mutandis* għal dak l-ordni.

(2) L-ewwel proviso tas-subartikolu (1) ta' l-artikolu 22A ma għandux japplika għal ordni ta' iffriżar magħmul taht dan l-artikolu hlief jekk:

(a) l-akkużat ikun preżenti f'Malta fid-data li fiha jsir l-ordni; jew

(b) l-Avukat Ġenerali jew xi persuna interessata ohra preżenti f'Malta jitlob jew titlob lill-Qorti, qabel jew wara li jsir l-ordni, li jiġi applikat dak il-proviso f'liema każ il-Qorti ghandha biss tapplika l-proviso safejn tkun sodisfatta li jkun mehtieg li jiġi applikat dak il-proviso sabiex lill-akkużat u lill-familja tiegħu jithallilhom ghixien deċenti.

(3) Fil-każ ta' ordni ta' iffriżar taht dan l-artikolu jkun biżżejjed li l-ordni jkun fih ta' mill-anqas erbgha mill-partikolaritajiet imsemmija fis-subartikolu (4) ta' l-artikolu 22A u jista' jkun fih ukoll kull partikolarità ohra, inkluż innumru tal-passaport, ta' l-akkużat li tkun utili għall-identifikazzjoni ta' l-akkużat.

(4) Bla hsara għad-dispożizzjonijiet tas-subartikolu (5), ordni ta' iffriżar taht dan l-artikolu ghandu jibqa' fis-sehh għal perijodu ta' sitt xhur mid-data li fiha jsir iżda ghandu jiġi mġedded mill-Qorti għal perijodi ohra ta' sitt xhur fuq talba għal dak il-ghan mill-Avukat Ġenerali u wara li l-Qorti tkun sodisfatta li:

(a) il-kondizzjonijiet li jkunu wasslu għall-ghemil ta' l-ordni jkunu għadhom jeżistu; jew

(b) li l-akkużat ikun instab hati ta' reat kif imsemmi fis-subartikolu (1) ta' dan l-artikolu fil-proċedimenti msemmija fl-istess subartikolu u ma tkunx giet esegwita s-sentenza rigward l-akkużat f'dawk il-proċedimenti jew ma jkunx gie esegwit xi ordni ta' konfiska konsegwenzjali jew aċċessorju għal dik is-sentenza kemm jekk dak l-ordni jkun sar fi proċedimenti ċivili jew kriminali:

Iżda meta l-akkużat ikun instab hati kif imsemmi qabel iżda ma jkun sar ebda ordni ta' konfiska fis-sentenza dwar dik id-dikjarazzjoni ta' htija l-ordni ta' iffriżar ghandu madankollu jiġi mġedded kif mitlub mill-Avukat Ġenerali meta l-Qorti tkun sodisfatta li l-proċedimenti ċivili jew kriminali għall-ghemil ta' ordni bhal dak ikunu pendenti jew imminenti.

(5) Kull ordni ta' iffriżar taht dan l-artikolu jista' jiġi revokat mill-Qorti qabel jaghlaq il-perijodu stabbilit fis-subartikolu (4) ta' dan l-artikolu:

(a) fuq it-talba ta' l-Avukat Ġenerali; jew

(b) fuq it-talba ta' xi persuna interessata u wara li tisma' lill-Avukat Ġenerali meta l-Qorti tkun sodisfatta:

(i) li l-kondizzjonijiet li jkunu wasslu għall-ghemil ta' l-ordni ma jkunux għadhom jeżistu; jew

(ii) li kien hemm deċiżjoni finali fil-proċedimenti msemmija fis-subartikolu (1) ta' dan l-artikolu li bis-saħħa tagħha l-akkużat ma jkunx instab hati ta' xi reat kif hemm imsemmi fl-istess subartikolu.

(6) L-artikolu 22B għandu wkoll japplika għal kull persuna li taġixxi bi ksur ta' ordni ta' iffriżar taht dan l-artikolu.

Esekużzjoni ta' ordnijiet ta' konfiska magħmulin minn Qrati barra minn Malta wara kundanna għal reati fil-kompetenza ta' dawk il-Qrati.

24D. (1) Ordni ta' konfiska magħmul minn qorti barra minn Malta jista' jiġi esegwit f'Malta skond id-dispożizzjonijiet li ġejjin ta' dan l-artikolu.

(2) Meta l-Avukat Ġenerali jirċievi talba magħmula minn awtorità ġudizzjarja jew prosekutrici ta' xi post barra minn Malta għall-esekuzzjoni f'Malta ta' ordni ta' konfiska magħmul minn qorti kompetenti f'dak il-post (hawnhekk iżjed 'il quddiem imsejjaħ "ordni esteru ta' konfiska") l-Avukat Ġenerali jista' jibda azzjoni fil-Prim'Awla tal-Qorti Ċivili permezz ta' rikors li fih jitlob li tiġi ordnata l-esekuzzjoni f'Malta ta' l-ordni esteru ta' konfiska.

(3) L-Avukat Ġenerali għandu jehmeż mar-rikors kopja ta' l-ordni esteru ta' konfiska rilevanti flimkien mad-dokumenti kollha li huwa jkun jista' jipproduċi b'sustenn għat-talba tiegħu u għandu jaghti fir-rikors tiegħu l-ismijiet tax-xhieda kollha li jkun bi hsiebu jġib, fejn jgħid dwar kull wiehed il-prova li jkun bi hsiebu jagħmel.

(4) Ir-rikors għandu jiġi notifikat lill-persuna li l-proprietà tagħha l-ordni esteru ta' konfiska jidher li jkun se jikkonfiska, liema persuna għandha tippreżenta r-risposta

taghha fi żmien hmistax-il jum wara d-data tan-notifika tar-rikors. Ir-risposta ghandu jkun fiha lista tax-xhieda li l-intimat ikun bi hsiebu jgib, fejn jghid dwar kull wiehed il-prova li jkun bi hsiebu jaghmel u l-intimat ghandu jehmeż mar-risposta d-dokumenti kollha li huwa jkun jista' jipproduci u li jkun bi hsiebu jgib bhala prova.

(5) Il-Qorti ghandha, minghajr dewmien, tqiegħed ir-rikors għas-smiġħ f' data kmieni, liema data ma għandha f' ebda każ tkun iżjed tard minn tletin jum mid-data tal-preżentata tar-rikors.

(6) Il-Qorti ma għandhiex tordna l-esekuzzjoni f'Malta ta' l-ordni esteru ta' konfiska jekk:

(a) l-intimat ma kienx gie notifikat bil-proċedimenti li kienu wasslu għall-ghemil ta' l-ordni esteru ta' konfiska rilevanti hekk li ma kellux opportunità biżżejjed biex jikkontesta l-ghemil ta' l-istess ordni;

(b) l-ordni esteru ta' konfiska jkun inkiseb bi frodi daparti ta' xi persuna bi preġudizzju għall-intimat;

(ċ) l-ordni esteru ta' konfiska jkun fih xi dispożizzjoni kuntrarja għall-ordni pubbliku jew għall-igi pubblika lokali li tkun isseħħ f'Malta;

(d) l-ordni esteru ta' konfiska jkun fih dispożizzjonijiet kontradittorji.

(7) Deciżjoni mill-qorti li biha tiġi ordnata l-esekuzzjoni ta' ordni esteru ta' konfiska għandu jkollha l-effett li tikkonfiska favur il-Gvern ta' Malta kull haġa u proprjetà tkun li tkun li tkun tinsab f'Malta li l-konfiska tagħhom tkun giet ordnata fl-ordni esteru ta' konfiska sugġett għal kull direttiva li l-Gvern ta' Malta jista' jagħti sabiex jiddisponi ulterjorment mill-istess hwejjeġ u proprjetà hekk konfiskati.

(8) Id-deciżjoni li biha tiġi ordnata l-esekuzzjoni ta' ordni esteru ta' konfiska li jkun jipprovdi għall-konfiska ta' proprjetà immobbli jew ta' xi titolu għal proprjetà bħal dik ikollha l-effett li titrasferixxi dik il-proprjetà immobbli jew dak it-titolu lill-Gvern ta' Malta u għall-finijiet ta' l-artikolu 239 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili l-Avukat Ġenerali għandu jitqies li hu l-parti interessata li tista' tikseb ir-registrazzjoni ta' dak it-trasferiment. Kap. 12

(9) Id-deċiżjoni li biha tiġi ordnata l-esekuzzjoni ta' ordni esteru ta' konfiska li jkun jipprovdi għall-konfiska ta' proprjetà mhux speċifikata li l-valur tagħha jkun jikkorrispondi għar-rikavat għandha, kif tiġi irregistrata fl-Uffiċċju tar-Registru Pubbliku, tipproduċi minn dak in-nhar li tiġi hekk registrata ipoteka għall-kreditu li jkun jammonta għall-imsemmi valur.

(10) Meta l-Avukat Ġenerali jirċievi talba kif imsemmija fis-subartikolu (2) ta' dan l-artikolu l-Avukat Ġenerali jista', sabiex iqiegħed fiż-żgur xi proprjetà jew il-proprjetà kollha li l-ordni esteru ta' konfiska jidher li jkun qed jikkonfiska jew itellef, jitlob lill-Prim'Awla tal-Qorti Ċivili għall-hruġ ta' kull jew ta' xi att kawtelatorju msemmi fl-artikolu 830 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili:

Izda s-subartikolu (2) ta' l-artikolu 830 imsemmi hawn qabel u l-paragrafi (ċ), (d) u (e) tas-subartikolu (1) ta' l-artikolu 836 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili ma għandhomx japplikaw għal xi att kawtelatorju mahruġ bis-sahha ta' dan l-artikolu.

(11) Bla hsara għad-dispożizzjonijiet preċedenti ta' dan l-artikolu, id-dispożizzjonijiet tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili dwar proċedimenti quddiem il-Prim'Awla tal-Qorti Ċivili għandhom japplikaw għal kull rikors taht dan l-artikolu.

(12) Għall-finijiet ta' dan l-artikolu:

“ordni ta' konfiska” tinkludi kull sentenza, deċiżjoni, dikjarazzjoni, jew ordni iehor magħmul minn qorti kemm ta' ġurisdizzjoni kriminali jew ċivili li jkun jipprovdi jew jidher li jkun jipprovdi għall-konfiska jew telfien ta':

- (i) rikavat;
- (ii) proprjetà li fiha r-rikavat ikun ġie trasformat jew konvertit;
- (iii) proprjetà li magħha jkun ġie mhallat ir-rikavat;
- (iv) *income* jew benefiċċji oħra derivati minn (i), (ii) u (iii) ta' hawn fuq;
- (v) proprjetà li l-valur tagħha jikkorrispondi għar-rikavat; jew

(vi) medicini perikolużi, materjali u tagħmir jew strumentalitajiet oħra wżati jew mahsuba biex jintużaw b'xi mod f'reat rilevanti;

“rikavat” tfisser kull vantaġġ ekonomiku u kull proprjetà derivata minn jew miksuba, direttament jew indirettament, mill-ghemil ta' reat rilevanti u tinkludi kull *income* jew benefiċċji oħra derivati minn dik il-proprjetà;

“proprjetà” tfisser attiv ta' kull xorta, kemm jekk korporali jew inkorporali, mobbli jew immobbli, tangibbli jew intangibbli, u dokumenti jew istrumenti legali li huma prova ta' titolu għal, jew interess fi, dak l-attiv;

“reat rilevanti” tfisser kull reat li jkun jikkonsisti f'xi att jew ommissjoni li jekk isiru f'dawn il-Gzejjer, jew f'ċirkostanzi korrispondenti, ikunu jkkostitwixxu xi wiehed mir-reati msemmija fil-paragrafi (a), (b), (ċ) u (d) tas-subparagrafu (1) ta' l-artikolu 24A.”.

5. Minnufih wara l-artikolu 30B tal-liġi prinċipali għandhom jiżiedu dawn l-artikoli ġodda li ġejjin:

“Persuni trasferiti għal Malta mill-esteru sabiex jixhdu jew jghinu f'investigazzjoni eċċ.

30Ċ. (1) Bla hsara għad-dispożizzjonijiet tas-subartikolu (2), meta xhud, espert jew persuna oħra f'pajjiż barrani jaqblu, dwar reat kontra d-dispożizzjonijiet ta' din l-Ordinanza, li jixhdu fi proċediment jew li jghinu f'investigazzjoni, prosekuzzjoni jew proċediment ġudizzjarju f'Malta wara talba għal assistenza ta' dik ix-xorta magħmula mill-awtorità kompetenti f'Malta lill-awtorità kompetenti f'dak il-pajjiż barrani dak ix-xhud, espert jew persuna oħra ma għandhomx, waqt li jkunu f'Malta, jiġu proċessati, detenuti, jingħataw piena jew jiġu assoġġettati għal xi restrizzjoni oħra fuq il-libertà personali tagħhom dwar atti, ommissjonijiet jew kundanni ta' qabel it-tluq tagħhom mill-pajjiż barrani.

(2) Id-dispożizzjonijiet tas-subartikolu (1) ma jibqgħux japplikaw meta x-xhud, espert jew persuna oħra:

(a) jonqsu li jtilqu minn Malta, wara li kellhom l-opportunità li jagħmlu dan, fi żmien perijodu ta' hmistax-il jum konsekuttivi mid-data li fiha huma jkunu ġew notifikati mill-Avukat Ġenerali b'avviż li jinformatom li l-preżenza tagħhom f'Malta ma tkunx għadha mehtieġa; jew

(b) wara li jkunu telqu minn Malta, jirritornaw minn jeddom.

Zieda ta' l-artikoli ġodda 30Ċ u 30D mal-liġi prinċipali.

Kooperazzjoni
fit-trażżin
ta' reati
rilevanti
fuq il-baħar,

30D. (1) Meta l-Avukat Ġenerali jirċievi talba magħmula minn awtorità ġudizzjarja jew prosekutriċi ta' xi post barra minn Malta (hawnhekk iżjed 'il quddiem imsejha "l-awtorità li tagħmel it-talba") għal awtorizzazzjoni biex l-awtoritajiet kompetenti ta' dak il-post jieħdu l-miżuri xierqa dwar biċċa tal-baħar rilevanti raġonevolment suspettata li tkun qed twettaq reat rilevanti l-Avukat Ġenerali jista' bil-qbil tal-Prim Ministru, jawtorizza t-tehid ta' l-imsemmija miżuri mill-awtoritajiet kompetenti hawn qabel imsemmija suġġett għal dawk il-kondizzjonijiet li jistgħu jiġu miftiehma bejn l-awtorità li tagħmel it-talba u l-Avukat Ġenerali, bil-qbil tal-Prim Ministru.

(2) Meta tkun inġatata l-awtorizzazzjoni mill-Avukat Ġenerali kif imsemmi qabel l-awtoritajiet kompetenti msemmija fis-subartikolu (1), suġġett għall-kondizzjonijiet li jistgħu ikunu ġew miftiehma kif provdut fl-istess subartikolu, ikunu awtorizzati li jieħdu l-miżuri xierqa u li jeżerċitaw abbord il-biċċa tal-baħar li dwarha jkunu ġew awtorizzati l-miżuri xierqa taht dan l-artikolu dawk is-setgħat kollha ta' arrest, dhul, perkwiżizzjoni u qbid li huma mogħtija lill-pulizija eżekuttiva ta' Malta.

(3) Għall-finijiet ta' dan l-artikolu:

"reat rilevanti" għandha l-istess tifsir kif mogħti lilha bis-subartikolu (12) ta' l-artikolu 24D;

"biċċa tal-baħar rilevanti" tfisser bastiment jew kull inġenji oħra li jzommu f' wiċċ l-ilma ta' kull deskrizzjoni, inklużi *hovercrafts* u inġenji sommerġibbli, li jtajru l-bandiera Maltija jew juru l-marki ta' reġistrazzjoni ta' Malta waqt li jkunu jeżerċitaw il-libertà ta' navigazzjoni skond id-dritt internazzjonali; u

"miżuri xierqa" dwar biċċa tal-baħar tinkludi t-tluġh abbord fuq u l-perkwizzjoni ta' dik il-biċċa tal-baħar kif ukoll kull azzjoni xierqa oħra dwar dik il-biċċa tal-baħar, persuni u tagħbija abbord dik il-biċċa tal-baħar jekk tinsab prova li dik il-biċċa tal-baħar tkun involuta f'reat rilevanti."

6. (1) Fil-paragrafu (b) ta' l-artikolu 17 tal-Kodiċi Kriminali, minflok il-kliem "hamsa u ghoxrin sena" għandhom jidhlu l-kliem "hamsa u tletin sena".

(2) Is-subartikolu (1) ta' l-artikolu 31 tal-Kodiċi Kriminali, ghandu jiġi emendat kif ġej:

(a) is-subparagrafi (i) sa (xiii) tal-paragrafu (b) tiegħu ghandhom jiġu enumerati mill-ġdid bhala (ii) sa (xiv) rispettivament;

(b) minnufih qabel is-subparagrafu (ii), kif enumerat mill-ġdid, tal-paragrafu (b) tiegħu ghandu jiżdied dan is-subparagrafu ġdid li ġej:

“(i) minn tmien snin sa tletin sena,”; u

(ċ) fil-paragrafi (c) u (d) tiegħu, minflok il-kliem “mittlettax-il grad” kull fejn dawn jinsabu ghandhom jidhlu l-kliem “mill-erbatax-il grad”.

Mghoddi mill-Kamra tad-Deputati fis-Seduta Nru. 555 ta' l-Erbgha, 19 ta' Ġunju, 1996.

LAWRENCE GONZI
Speaker

RICHARD J. CAUCHI
Skrivan tal-Kamra tad-Deputati

I assent.

(L.S.)

UGO MIFSUD BONNICI
President

5th July, 1996

ACT No. XVI of 1996

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, 1996 and shall be read and construed as one with the Dangerous Drugs Ordinance, hereinafter referred to as “the principal law”.

Amendment of
section 22
of the principal
law.

2. Section 22 of the principal law shall be amended as follows:

(a) in subparagraph (i) of paragraph (a) of subsection (1C) thereof, for the words “or paragraph (a) of subsection (1D)” there shall be substituted the words “or paragraph (a) of subsection (1D) or in subsection (1E)”;

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

“(1E) A person shall also be guilty of an offence against this Ordinance who manufactures, transports or distributes any equipment or materials knowing that they are to be used in or for the cultivation, production or manufacture of any drug contrary to the provisions of this Ordinance and any such conduct as is prohibited under this subsection shall be

deemed for the purposes of this Ordinance as constituting an offence of selling or dealing in a drug against this Ordinance.”;

(c) subsection (2) thereof shall be amended as follows:

(i) for subparagraph (i) of paragraph (a) thereof there shall be substituted the following:

“(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) or (1E), to imprisonment for life:

Provided that:

(aa) where the Court is of the opinion that, when it takes into account the age of the offender, the previous conduct of the offender, the quantity of the drug and the nature and quantity of the equipment or materials, if any, involved in the offence and all other circumstances of the offence, the punishment of imprisonment for life would not be appropriate; or

(bb) where the verdict of the jury is not unanimous,

then the Court may sentence the person convicted to the punishment of imprisonment for a term of not less than four years but not exceeding thirty years and to a fine (*multa*) of not less than one thousand Maltese liri but not exceeding fifty thousand Maltese liri; and”;

(ii) in subparagraph (i) of paragraph (b) thereof, for the words “in subsections (1C) or (1D)” there shall be substituted the words “in subsection (1C) or (1D) or (1E)”, for the words “not exceeding five years” there shall be substituted the words “not exceeding ten years” and for the words “not exceeding two thousand Maltese liri” there shall be substituted the words “not exceeding five thousand Maltese liri”; and

(d) subsection (3A) thereof shall be amended as follows:

(i) for the words from “consists in or refers to the selling or dealing in a drug,” to “in addition to any other punishment –” there shall be substituted the words “consists in any of the offences referred to in subsection (1) of section 24A the Court shall, in addition to any other punishment, in its sentence or at any time thereafter, at the request of the prosecution –”;

(ii) in subparagraph (a) thereof, for the words “where any immovable property” there shall be substituted the words “where any immovable property, in Malta or in any place outside Malta,”;

(iii) in subparagraph (c) thereof, for the words “in respect of any vessel or vehicle” there shall be substituted the words “in respect of any vessel or vehicle, in Malta or in any place outside Malta,”; and

(iv) in subparagraph (d) thereof, for the words “passed into the hands of third parties.” there shall be substituted the words “passed into the hands of third parties, and even if the said moneys, movable property or immovable property are situated in any place outside Malta.”.

Amendment of section 24A of the principal law.

3. Section 24A of the principal law shall be amended as follows:

(a) in subsection (1) thereof, for the words “for the purpose of searching for such material.” there shall be substituted the words “for the purpose of searching for and seizing such material.”; and

(b) immediately after subsection (6) thereof there shall be added the following new subsection:

“(6A) Where an attachment order has been made or applied for, whosoever, knowing or suspecting that the attachment order has been so made or applied for, makes any disclosure likely to prejudice the effectiveness of the said order or any investigation connected with it 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 or the effectiveness of the attachment order.”.

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

Addition of new sections 24B, 24C and 24D to the principal law.

“Powers of investigation in connection with offences cognizable by Courts outside Malta.

24B. (1) Where the Attorney General receives a request made by a judicial or prosecuting authority of any place outside Malta for investigations to take place in Malta in respect of a person (hereinafter referred to as “the suspect”) suspected by that authority of an act or omission which if committed in these Islands, or in corresponding circumstances, would constitute any of the offences mentioned in paragraphs (a), (b), (c) and (d) of subsection (1) of section 24A, the Attorney General may apply to the Criminal Court for an investigation order or an attachment order or for both and the provisions of section 24A shall *mutatis mutandis* apply to that application and to the suspect and to any investigation or attachment order made by the Court as a result of that application.

(2) The words “investigation order” in subsections (2) and (5) of the same section 24A shall be read and construed as including an investigation order made under the provisions of this section.

Freezing of property of person accused with offences cognizable by Courts outside Malta.

24C. (1) Where the Attorney General receives a request made by a judicial or prosecuting authority of any place outside Malta for the temporary seizure of all or any of the moneys or property, movable or immovable, of a person (hereinafter in this section referred to as “the accused”) charged or accused in proceedings before the courts of that place of an offence consisting in an act or an omission which if committed in these Islands, or in corresponding circumstances, would constitute any of the offences mentioned in paragraphs (a), (b), (c) and (d) of subsection (1) of section 24A, the Attorney General may apply to the Criminal Court for an order (hereinafter referred to as a “freezing order”) having the same effect as an order as is referred to in subsection (1) of section 22A and the provisions of the said section 22A shall, subject to the following provisions of this section, apply *mutatis mutandis* to that order.

(2) The first proviso of subsection (1) of section 22A shall not apply to a freezing order made under this section unless:

(a) the accused is present in Malta on the date the order is made; or

(b) the Attorney General or any other interested person present in Malta applies to the Court, before or after the order is made, for the application of that proviso in which case the Court shall only apply the proviso to the extent that it is satisfied that the application of the proviso is necessary to allow the accused and his family a decent living.

(3) In the case of a freezing order under this section it shall be sufficient that the order contains at least four of the particulars referred to in subsection (4) of section 22A and may also contain any other particulars, including the passport number, of the accused as may be useful to identify the accused.

(4) Subject to the provisions of subsection (5), a freezing order under this section shall remain in force for a period of six months from the date on which it is made but shall be renewed by the Court for further periods of six months upon an application for that purpose by the Attorney General and upon the Court being satisfied that:

(a) the conditions which led to the making of the order still exist; or

(b) that the accused has been convicted of an offence as is referred to in subsection (1) of this section in the proceedings referred to in the same subsection and the sentence in regard to the accused in those proceedings or any confiscation order consequential or accessory thereto, whether made in civil or criminal proceedings, has not been executed:

Provided that where the accused has been convicted as aforesaid but no confiscation order has been made in the sentence in respect of that conviction the freezing order shall nevertheless be renewed as requested by the Attorney General where the Court is satisfied that civil or criminal proceedings for the making of such an order are pending or are imminent.

(5) Any freezing order under this section may be revoked by the Court before the expiration of the period laid down in subsection (4) of this section:

(a) at the request of the Attorney General; or

(b) at the request of any interested person and after hearing the Attorney General upon the Court being satisfied:

(i) that the conditions which led to the making of the order no longer exist; or

(ii) that there has been a final decision in the proceedings referred to in subsection (1) of this section by virtue of which the accused has not been found guilty of any offence as is referred to in the same subsection.

(6) Section 22B shall also apply to any person who acts in contravention of a freezing order under this section.

Enforcement
of confisca-
tion orders
made by
Courts
outside Malta
following
conviction
for offences
cognizable
by those
Courts.

24D. (1) A confiscation order made by a court outside Malta shall be enforceable in Malta in accordance with the following provisions of this section.

(2) Where the Attorney General receives a request made by a judicial or prosecuting authority of any place outside Malta for the enforcement in Malta of a confiscation order made by a competent court in that place (hereinafter referred to as a "foreign confiscation order") the Attorney General may bring an action in the First Hall of the Civil Court by an application containing a demand that the enforcement in Malta of the foreign confiscation order be ordered.

(3) The Attorney General shall attach to the application a copy of the relevant foreign confiscation order together with all such documents in support of the demand as it may be in his power to produce and shall indicate in his application the names of all the witnesses he intends to produce, stating in respect of each the proof which he intends to make.

(4) The application shall be served on the person whose property the foreign confiscation order purports to confiscate who shall file his reply within fifteen days after the date of the service of the application. The reply shall contain a list of the witnesses which the respondent intends to produce stating in respect of each the proof which he intends to make and the respondent shall attach to the reply all such documents he intends to produce in evidence as it may be in his power to produce.

(5) The Court shall without delay, set down the application for hearing at an early date, which date shall in no case be later than thirty days from the date of the filing of the application.

(6) The Court shall not order the enforcement in Malta of the foreign confiscation order if:

(a) the respondent had not been notified of the proceedings which led to the making of the relevant foreign confiscation order so as not to have had an adequate opportunity to contest the making of the same order;

(b) the foreign confiscation order was obtained by fraud on the part of any person to the prejudice of the respondent;

(c) the foreign confiscation order contains any disposition contrary to the public policy, or the internal public law in force in Malta;

(d) the foreign confiscation order contains contradictory dispositions.

(7) A decision by the court ordering the enforcement of a foreign confiscation order shall have the effect of forfeiting in favour of the Government of Malta all things and property whatsoever situated in Malta the confiscation of which had been ordered in the foreign confiscation order subject to any directions which the Government of Malta may give providing for the further disposal of the same things and property so forfeited.

(8) The decision ordering the enforcement of a foreign confiscation order which provides for the forfeiture of immovable property or of any title to such property shall

have the effect of transferring that immovable property or that title to the Government of Malta and for the purposes of section 239 of the Code of Organization and Civil Procedure Cap. 12 the Attorney General shall be considered as the interested party that may obtain the registration of such transfer.

(9) The decision ordering the enforcement of a foreign confiscation order which provides for the forfeiture of unspecified property the value of which corresponds to proceeds shall, upon being registered in the Public Registry Office, create as from the day of registration a hypothec in regard to the debt amounting to the said value.

(10) Where the Attorney General receives a request as is referred to in subsection (2) of this section the Attorney General may, for the purpose of securing any or all of the property which the foreign confiscation order purports to confiscate or forfeit, apply to the Civil Court, First Hall, for the issue of all or any of the precautionary acts referred to in section 830 of the Code of Organization and Civil Procedure:

Provided that subsection (2) of the aforesaid section 830 and paragraphs (c), (d) and (e) of subsection (1) of section 836 and of the Code of Organization and Civil Procedure shall not apply to any precautionary act issued by virtue of this section.

(11) Saving the preceding provisions of this section, the provisions of the Code of Organization and Civil Procedure relating to proceedings before the Civil Court, First Hall, shall apply in relation to any application under this section.

(12) For the purposes of this section:

“confiscation order” includes any judgement, decision, declaration, or other order made by a court whether of criminal or civil jurisdiction providing or purporting to provide for the confiscation or forfeiture of:

(i) proceeds;

(ii) property into which proceeds have been transformed or converted;

(iii) property with which proceeds have been intermingled;

(iv) income or other benefits derived from (i), (ii), and (iii) above;

(v) property the value of which corresponds to proceeds; or

(vi) dangerous drugs, materials and equipment or other instrumentalities used in or intended for use in any manner in a relevant offence;

“proceeds” means any economic advantage and any property derived from or obtained, directly or indirectly, through the commission of a relevant offence and includes any income or other benefits derived from such property;

“property” means assets of every kind, whether corporeal or incorporeal, movable or immovable, tangible or intangible, and legal documents or instruments evidencing title to, or interest in, such assets;

“relevant offence” means any offence consisting in any act or omission which if committed in these Islands, or in corresponding circumstances, would constitute any of the offences mentioned in paragraphs (a), (b), (c) and (d) of subsection (1) of section 24A.”.

Addition of new sections 30C and 30D to the principal law.

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

“Persons transferred to Malta from abroad for the purposes of giving evidence or assisting in an investigation etc.

30C. (1) Subject to the provisions of subsection (2), where a witness, expert or other person in a foreign country consents, in respect of an offence contrary to the provisions of this Ordinance, to give evidence in a proceeding or to assist in an investigation, prosecution or judicial proceeding in Malta following a request for assistance to that effect made by the competent authority in Malta to the competent authority in that foreign country that witness, expert or other person shall not, while in Malta, be prosecuted, detained, punished or subjected to any other restriction of his personal liberty in respect of acts, omissions or convictions prior to his departure from the foreign country.

(2) The provisions of subsection (1) shall cease to apply when the witness, expert or other person:

(a) fails to leave Malta, after having had the opportunity to do so, within a period of fifteen consecutive days from the date on which he has been served by the Attorney General with a notice informing him that his presence in Malta is no longer required; or

(b) having left Malta, has returned of his own free will.

Co-operation
in the
suppression
of relevant
offences
at sea.

30D. (1) Where the Attorney General receives a request made by a judicial or prosecuting authority of any place outside Malta (hereinafter in this section referred to as the “requesting authority”) seeking authorization for the competent authorities of that place to take appropriate measures in regard to a relevant vessel reasonably suspected to be engaged in the commission of a relevant offence the Attorney General may, with the concurrence of the Prime Minister, authorise the taking of the said measures by the aforesaid competent authorities subject to such conditions as may be agreed between the requesting authority and the Attorney General, with the concurrence of the Prime Minister.

(2) Where authorisation has been given by the Attorney General as aforesaid the competent authorities referred to in the subsection (1), subject to the conditions as may have been agreed upon as provided in the same subsection, shall be authorised to take the appropriate measures and to exercise on board the vessel in regard to which appropriate measures have been authorised under this section all such powers of arrest, entry, search and seizure as are vested in the executive police of Malta.

(3) For the purposes of this section:

“relevant offence” shall have the same meaning assigned to it by subsection (12) of section 24D;

“relevant vessel” means a ship or any other floating craft of any description, including hovercrafts and submersible crafts, flying the flag of Malta or displaying the marks of registry of Malta and exercising freedom of navigation in accordance with international law; and

“appropriate measures” with regard to a vessel include the boarding of and carrying a search on such vessel as well as such other appropriate action with respect to the vessel, persons and cargo on board such vessel if evidence of involvement of the vessel in a relevant offence is found.”.

Amendment of
the Criminal
Code, Cap. 9.

6. (1) In paragraph (b) of section 17 of the Criminal Code, for the words “twenty-five years” there shall be substituted the words “thirty-five years”.

(2) Subsection (1) of section 31 of the Criminal Code shall be amended as follows:

(a) subparagraphs (i) to (xiii) of paragraph (b) thereof shall be renumbered (ii) to (xiv) respectively;

(b) immediately before subparagraph (ii), as renumbered, of paragraph (b) thereof there shall be added the following new subparagraph:

“(i) from eight years to thirty years;” and

(c) in paragraphs (c) and (d) thereof, for the words “from the thirteenth degree” wherever they occur there shall be substituted the words “from the fourteenth degree”.

Passed by the House of Representatives at Sitting No. 555 of Wednesday,
19th June, 1996.

LAWRENCE GONZI
Speaker

RICHARD J. CAUCHI
Clerk to the House of Representatives