

MALTA

ATT Nru. XVII ta' l-1986

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

ATT biex ikompli jemenda l-Ordinanza dwar il-Professjoni Medika u l-Professjonijiet li għandhom xjaqsmu magħha, Kap. 51.

ACT No. XVII of 1986

AN ACT enacted by the Parliament of Malta.

AN ACT further to amend the Medical and Kindred Professions Ordinance, Cap. 51.

Naghti l-kunsens tiegħi.**(L.S.)****AGATHA BARBARA
President****16 ta' Mejju, 1986****ATT Nru, XVII ta' l-1986**

ATT biex ikowpli jemenda l-Ordinanza dwar il-Professjoni Medika u l-Professjonijiet li għandhom x'jaqsmu magħha, Kap. 51.

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

1. Dan l-Att jista' jissejjah l-Att ta' l-1986 li jemenda l-Ordinanza dwar il-Professjoni Medika u l-Professjonijiet li għandhom x'jaqsmu magħha, u għandu jinqara u jiftiehem haġa waħda ma' l-Ordinanza dwar il-Professjoni Medika u l-Professjonijiet li għandhom x'jaqsmu magħha, hawnhekk iżjed 'il quddiem imsejjha "il-ligi prinċipali". Titolu fil-qosor.
2. Fil-proviso għas-subartikolu (4) ta' l-artikolu 10 tal-ligi prinċipali minflok il-kliem "ta' l-artikolu 35A" għandhom jidhlu l-kliem "ta' l-artikolu 35B". Emenda ta' l-artikolu 10 tal-ligi prinċipali.
3. L-artikolu 89A tal-ligi prinċipali għandu jiġi emendat kif ġej: Emenda ta' l-artikolu 89A tal-ligi prinċipali.
 - (a) fis-subartikolu (1) tiegħu —
 - (i) minflok il-kliem "kontra xi regolamenti dawk," fil-paragrafu (d) tiegħu għandhom jidhlu l-kliem "kontra xi regolamenti bħal dawk; jew"; u
 - (ii) minflok il-kliem "ikun ħati ta' reat kontra dan l-artikolu." għandu jidhol dan li ġej:
 - “(e) tkun ċittadin ta' Malta jew resident permanenti f'Malta li f'xi post barra minn dawn il-Gzejjer tagħmel xi haġa li jekk issir f'dawn il-Gzejjer tikkostitwixxi reat ta'

bejgħ jew traffikar ta' medicina kontra dan l-artikolu jew reat taht il-paragrafu (f) ta' dan is-subartikolu; jew

(f) tassoċja ruħha ma' xi persuna jew persuni oħra f'dawn il-Gżejjer jew barra minn dawn il-Gżejjer sabiex tbiegħ jew tittraffika medicina f'dawn il-Gżejjer kontra d-dispożizzjonijiet ta' dan l-artikolu, jew li tippromovi, tik-kostitwixxi, torganizza jew tiffinanzja l-assoċjazzjoni,

tkun ħata ta' reat kontra dan l-artikolu.

Għall-finijiet tal-paragrafu (e) ta' dan is-subartikolu l-espressjoni "resident permanenti" tfisser persuna li favur tagħha jkun inħareġ permess ta' residenza skond id-dispożizzjonijiet li jnsabu fl-artikolu 7 ta' l-Att ta' l-1970 dwar l-Immigrazzjoni.

(1A) L-assoċjazzjoni ta' persuni msemija fil-paragrafu (f) tas-subartikolu preċedenti teżisti malli jiġu kkumbinati jew miftehma l-mezzi, ikunu li jkunu, li bihom daww il-persuni għandhom jimxu.

(1B) Għall-finijiet ta' din l-Ordinanza l-kelma "jittraffika" tinkludi "l-importazzjoni, il-manifattura, l-esportazzjoni u d-distribuzzjoni.";

(b) fis-subartikolu (2) tiegħu —

(i) minflok il-paragrafu (a) tiegħu għandu jidhol dan li ġej:

“(a) meta tinsab ħatja mill-Qorti Kriminali —

(i) meta r-reat ikun il-bejgħ jew traffikar ta' medicina imsemmija fil-Parti I tat-Tielet Skeda li tinsab ma' din l-Ordinanza bi ksur tad-dispożizzjonijiet ta' dan l-artikolu, jew il-promozzjoni, kostituzzjoni, organizzazzjoni jew finanzjament ta' assoċjazzjoni taht il-paragrafu (f) tas-subartikolu (1) ta' dan l-artikolu dwar xi medicina bħal dik, 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”;

(ii) minflok is-sub-paragrafi (i) u (ii) tal-paragrafu (b) tiegħu għandu jidhol dan li ġej:

“(i) fil-każ li persuna tinsab ħatja ta' reat dwar bejgħ jew traffikar ta' xi medicina imsemmija fil-Parti I tat-Tielet Skeda li tinsab ma' din l-Ordinanza, jew tinsab ħatja ta' reat dwar il-promozzjoni, kostituzzjoni, organizzazzjoni jew finanzjament ta' assoċjazzjoni taht il-paragrafu (f) tas-subartikolu (1) ta' dan l-artikolu dwar xi medicina bħal dik, 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 fil-każ ta' persuna li tinsab hatja, multa ta' mhux inqas minn mitt lira Maltija iżda mhux iżjed minn elf lira Maltija jew prigunerija għal żmien ta' mhux inqas minn tliet xhur, iżda mhux iżjed minn tnax-il xahar, jew dik il-multa u prigunerija flimkien.”;

(c) minnufih wara s-subartikolu (2) tiegħu għandhom jiżdedu s-subartikoli godda li ġejjin:

“(2A) Meta persuna tkun akkużata taħt id-dispożizzjonijiet ta' dan l-artikolu dwar bejgħ jew traffikar ta' mediċina imsemmija fil-Parti I tat-Tielet Skeda li tinsab ma' din l-Ordinanza, jew dwar il-promozzjoni, il-kostituzzjoni, l-organizzazzjoni jew il-finanzjament ta' assoċjazzjoni taħt il-paragrafu (f) tas-subartikolu (1) ta' dan l-artikolu dwar xi mediċina bħal dik għandhom japplikaw id-dispożizzjonijiet ta' l-artikoli 22A, 22B, 22E, 27 u 30 ta' l-Ordinanza dwar il-Mediċini Perikolużi.

(2B) Meta reat kontra dan l-artikolu li dwaru persuna tkun instabet hatja jkun jikkonsisti f'reat imsemmi fis-subartikolu (2A) ta' dan l-artikolu għandhom japplikaw id-dispożizzjonijiet tas-subartikoli (3A) u (7) ta' l-artikolu 22 u d-dispożizzjonijiet ta' l-artikoli 22C, 22D, 28 u 29 ta' l-Ordinanza dwar il-Mediċini Perikolużi.

(2C) Minkejja li l-Avukat Ġenerali jkun ordna skond id-dispożizzjonijiet tas-subartikolu (2) ta' dan l-artikolu, li persuna tiġi proċessata mill-Qorti Kriminali, huwa jista', f'kull żmien qabel ma jippreżenta l-att ta' l-akkuża, jordna li dik il-persuna tiġi proċessata quddiem il-Qorti tal-Maġistrati tal-Pulizija Ġudizzjarja, u malli jsir dak l-ordni l-Qorti tal-Maġistrati tal-Pulizija Ġudizzjarja bħala Qorti ta' Ġudikatura Kriminali tkun kompetenti li tipproċessa lil dik il-persuna daqslikieku ma jkun ingħata ebda ordni qabel.

(2D) Minkejja d-dispożizzjonijiet ta' l-artikolu 382 tal-Kodiċi Kriminali u bla ħsara għad-dispożizzjonijiet tas-subartikolu (2C) ta' dan l-artikolu, il-Qorti tal-Maġistrati tal-Pulizija Ġudizzjarja tkun kompetenti li tipproċessa r-reati kollha kontra dan l-artikolu kif ordnat mill-Avukat Ġenerali skond id-dispożizzjonijiet tas-subartikolu (2) ta' dan l-artikolu.”.

4. Minnufih wara l-artikolu 95 tal-liġi prinċipali għandu jiżded l-artikolu ġdid li ġej:

“Jedd għal appell.

96. Minkejja d-dispożizzjonijiet tal-Kodiċi Kriminali, l-Avukat Ġenerali dejjem ikollu jedd ta' appell lill-Qorti ta' l-Appelli Kriminali minn kull deċiżjoni mogħtija mill-Qorti tal-Maġistrati tal-Pulizija Ġudizzjarja dwar proċedimenti kriminali li jinqalgħu mid-dispożizzjonijiet ta' l-artikolu 89A ta' din l-Ordinanza.”.

Żieda ta' artikolu ġdid 96 mal-liġi prinċipali

5. It-Tielet Skeda li tinsab mal-liġi prinċipali għandha tiġi emendata kif ġej:

(a) minnufih wara l-intestatura “LISTA TA' MEDIĊINI PSIKOTROPICI” għandha tidhol is-sotto-intestatura “Taqsimi I”;
u

Emenda tat-Tielet Skeda li tinsab mal-liġi prinċipali.

(b) minnufih taht il-kliem “u kull derivattivi, *salts* jew *esters* ta’ dawk imsemmija hawn fuq”, għandu jidhol dan li ġej:
“Taqsimha II”.

Mghoddi mill-Kamra tad-Deputati fis-Seduta Nru. 341 tat-13 ta' Mejju. 1986.

DANIEL MICALLES
Speaker

C. MIFSUD
Skrivan tal-Kamra tad-Deputati

I assent.

(L.S.)

**AGATHA BARBARA
President**

16th May, 1986

ACT No, XVII of 1986

AN ACT further to amend, the Medical and Kindred Professions Ordinance. Cap. 51.

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:—

1. This Act may be cited as the Medical and Kindred Professions (Amendment) Act, 1986, and shall be read and construed as one with the Medical and Kindred Professions Ordinance, hereinafter referred to as “the principal law”. Short title.

2. In the proviso to subsection (4) of section 10 of the principal law, for the words “of section 35A” there shall be substituted the words “of section 35B”. Amendment of section 10 of the principal law.

3. Section 89A of the principal law shall be amended as follows: Amendment of section 89A of the principal law.

(a) in subsection (1) thereof —

(i) in paragraph (d) thereof for the words “against any such regulations,” there shall be substituted the words “against any such regulations; or”; and

(ii) for the words “shall be guilty of an offence against this section,” there shall be substituted the following:

"(e) being a citizen of Malta or a permanent resident in Malta, who in any place outside these Islands does any act which if committed in these Islands would constitute an offence of selling or dealing in a drug against this section or an offence under paragraph (f) of this subsection; or

(f) who with another one or more persons in these Islands or outside these Islands conspires for the purposes of selling or dealing in a drug in these Islands against the provisions of this section or who promotes, constitutes, organises or finances the conspiracy,

shall be guilty of an offence against this section.

For the purposes of paragraph (e) of this subsection the expression "permanent resident" means a person in favour of whom a permit of residence has been issued in accordance with the provisions contained in section 7 of the Immigration Act, 1970.

(1A) The conspiracy referred to in paragraph (f) of the preceding subsection shall subsist from the moment in which any mode of action whatsoever is planned or agreed upon between such persons.

(1B) For the purposes of this section the word "dealing" includes "importation, manufacture, exportation and distribution.";

(b) in subsection (2) thereof —

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

“(a) on conviction by the Criminal Court —

(i) where the offence consists in selling or dealing in a drug listed under Part I of the Third Schedule to this Ordinance contrary to the provisions of this section, or in promoting, constituting, organising or financing a conspiracy under paragraph (f) of subsection (1) of this section in respect of such drug, 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”;

(ii) for sub-paragraphs (i) and (ii) of paragraph (b) thereof there shall be substituted the following:

“(i) in the case of a conviction for an offence consisting in selling or dealing in any drug, listed under Part I of the Third Schedule to this Ordinance, or a conviction for an offence of promoting, constituting, organising or financing of a conspiracy under paragraph (f) of subsection (1) of this section in respect of such drug, 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, in the case of a conviction, to a fine (*multa*) of not less than one hundred Maltese liri but not exceeding one thousand Maltese liri or to imprisonment for a term of not less than three months but not exceeding twelve months, or to both such fine and imprisonment.”;

(c) immediately after subsection (2) thereof there shall be added the following new subsections:

“(2A) Where a person is charged under the provisions of this section with selling or dealing in a drug listed under Part I of the Third Schedule to this Ordinance, or with promoting, constituting, organising or financing a conspiracy under paragraph (f) of subsection (1) of this section in respect of such drug, the provisions of sections 22A, 22B, 22E, 27 and 30 of the Dangerous Drugs Ordinance shall apply.

(2B) Where an offence against this section in respect of which a person has been found guilty consists in an offence mentioned in subsection (2A) of this section the provisions of subsections (3A) and (7) of section 22 and the provisions of sections 22C, 22D, 28 and 29 of the Dangerous Drugs Ordinance shall apply.

(2C) Notwithstanding that the Attorney General has directed in accordance with the provisions of subsection (2) of this section, that a person be tried in the Criminal Court, he may, at any time before the filing of the bill of indictment, direct that that person be tried before the Court of Magistrates of Judicial Police, and upon such direction the Court of Magistrates of Judicial Police as a Court of Criminal Judicature shall become competent to try that person as if no previous direction had been given.

(2D) Notwithstanding the provisions of section 382 of the Criminal Code and without prejudice to the provisions of the subsection (2C) of this section, the Court of Magistrates of Judicial Police shall be competent to try all offences against this section as directed by the Attorney General in accordance with the provisions of subsection (2) of this section.”.

4. Immediately after section 95 of the principal law there shall be added the following new section:

“Right of appeal.

96. Notwithstanding the provisions of the Criminal Code, the Attorney General shall always have a right of appeal to the Court of Criminal Appeal from any judgement given by the Court of Magistrates of Judicial Police in respect of criminal proceedings arising out of the provisions of section 89A of this Ordinance.”.

Addition of new section 96 to the principal law.

5. The Third Schedule to the principal law shall be amended as follows:

(a) immediately after the heading "LIST OF PSYCHOTROPIC DRUGS" there shall be inserted the sub-heading "Part I"; and

Amendment of Third Schedule to the principal law.

(b) immediately after the words “and any derivatives, salts or esters of the above”, there shall be inserted the following:

“Part II”.

Passed by the House of Representatives at Sitting No. 341 of the 13th May, 1986.

C. MIFSUD
Clerk to the House of Representatives

DANIEL MICALLEF
Speaker