

Nagħti l-kunsens tiegħi.

(L.S.)

UGO MIFSUD BONNICI
President

3 ta' Frar, 1998

ATT Nru. II ta' l-1998

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

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-1998 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 imsejha "il-liġi prinċipali".

Titolu fil-qosor.

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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 Inġliż tas-subartikolu (1) tiegħu kif enumerat mill-ġdid, minnufih wara t-tifsira ta' "the Board for the Professions Supplementary to Medicine" għandhom jiżdiedu dawn it-tifsiriet godda li ġejjin:

"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;

“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;”;

(c) fit-test Malti tas-subartikolu (1) tieghu kif enumerat mill-gdid, minnufih wara t-tifsira ta’ “il-Bord dwar il-Professjonijiet Supplimentari ghall-Medicina” ghandhom jizdiedu dawn it-tifsiriet godda li ġejjin:

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

(d) minnufih wara s-subartikolu (1) tieghu kif enumerat mill-gdid, ghandu jizdied dan is-subartikolu gdid li ġej:

“(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-regoli jew regolamenti maghmulin tahtha.”.

Emenda ta’
l-artikolu 7
tal-liġi prinċipali.

3. Minnufih wara s-subartikolu (2) ta’ l-artikolu 7 tal-liġi prinċipali ghandu jidhol is-subartikolu gdid li ġej:

“(3) Il-Ministru responsabbli ghas-saħħa pubblika jista’ b’regolamenti jemenda kull wahda mill-Iskedi msemmija f’dan l-artikolu.”.

Emenda ta’
l-artikolu 120A
tal-liġi prinċipali.

4. L-artikolu 120A tal-liġi prinċipali ghandu jiġi emendat kif ġej:

(a) fis-subparagrafu (d) tas-subartikolu (1) tieghu, minflok il-kliem “fis-sehh f’dak il-post, jew” ghandhom jidhlu l-kliem “fis-sehh f’dak il-post, jew tassoċja ruhha ma’ xi persuna jew persuni ohra f’ Malta sabiex taghmel tali reat,”;

(b) fis-subartikolu (1A) tieghu, minflok il-kliem “msemmija fil-paragrafu (f)” ghandhom jidhlu l-kliem “msemmija fil-paragrafi (d) u (f)”;

(c) minflok is-subartikolu (1B) tieghu ghandu jidhol dan li ġej:

“(1B) Ghall-finijiet ta’ dan l-artikolu l-kelma “jittraffika” (bil-varjazzjonijiet grammatikali u bl-

espressjonijiet imnislin 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-ghoti ta' informazzjoni intiża biex twassal għax-xiri ta' tali medicina bi ksur tad-dispożizzjonijiet ta' din l-Ordinanza.”;

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

“(1C) Persuna tkun ukoll hatja ta' reat kontra din l-Ordinanza jekk timmanifattura, tittrasporta jew tqassam xi taġmir jew materjali meta tkun taf li dawn ikunu sejrin jintużaw fi jew għall-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' medicina kontra din l-Ordinanza.

(1D) (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, tircievi, iżżomm, tittrasporta, tittrasmetti, taltera, tiddisponi minn jew b'xi mod iehor tinnegozja, bi kwalunkwe mod jew bi kwalunkwe mezz, xi flus, proprjeta' (kemm jekk mobbli jew immobbli) jew xi rikavat minn dawk il-flus jew minn dik il-proprjeta' bil-hsieb li taħbi jew tikkonverti dawk il-flus jew dik il-proprjeta' jew dak ir-rikavat u tkun taf jew ikollha suspett li dawk il-flus jew proprjeta' kollha jew parti minnhom, jew dak ir-rikavat kollu jew parti minnu, ikunu gew miksuba jew ricevuti, direttament jew indirettament, bhala rizultat ta' —

(i) l-għemil ta' reat imsemmi fis-subartikoli (1) u (1C) ta' dan l-artikolu; jew

(ii) xi att ta' kommissjoni jew ommissjoni f'xi post barra minn dawn il-Gzejjer li jekk isir f'dawn il-Gzejjer ikun jikkostitwixxi reat taht is-subartikoli (1) jew (1C) ta' dan l-artikolu.

(b) Fi procedimenti għal reat taht il-paragrafu (a) ta' dan is-subartikolu, meta l-prosekuzzjoni ggib prova li l-imputat jew akkużat ma jkun ta ebda spjegazzjoni ragonevoli li turi li dawk il-flus, proprjeta' jew rikavat

ma kenux flus, proprjetà jew rikavat kif deskritti fl-imsemmi paragrafu, l-oneru li jipprova l-provenjenza leçita ta' dawk il-flus, proprjetà jew rikavat ikun jinkombi fuq il-persuna imputata jew akkuzata.

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(1E) Persuna tkun ukoll hatja ta' reat kontra din l-Ordinanza jekk tbiegh jew xort'ohra tittraffika f'sustanza msemija fit-Tielet Skeda li tinsab ma' l-Ordinanza dwar il-Mediçini Perikolużi, meta tkun taf jew ikollha suspett illi s-sustanza tkun sejra tintuza fi jew għall-produzzjoni ta' medicina msemija fit-Taqsima A tat-Tielet Skeda li tinsab ma' din l-Ordinanza kontra d-dispożizzjonijiet ta' din l-Ordinanza; u t-tifsira ta' "jittraffika" fis-subartikolu (1B) għandha tapplika, *mutatis mutandis*, għal dan is-subartikolu.

(1F) Kull persuna li tinzel Malta u jkollha fil-pussess tagħha xi mediçina kontra d-dispożizzjonijiet ta' din l-Ordinanza tkun eżenti minn kull responsabbiltà kriminali jekk ikunu sodisfatti l-kundizzjonijiet imsemija fis-subartikolu (1G) ta' dan l-artikolu.

(1G) Il-kundizzjonijiet li għalihom jagħmel riferenza s-subartikolu (1F) ta' dan l-artikolu huma dawn li ġejjin:

(a) il-persuna li jkollha l-pussess tal-mediçina ma tkunx ordinarjament residenti f'Malta u tkun ġiet minn xi post barra minn Malta;

(b) ma' l-ewwel opportunità wara li tinzel Malta dik il-persuna tikkonsenja l-mediçina msemija lil uffiçjal tal-pulizija jew lil uffiçjal tad-dwana u tistqarr li l-istess mediçina kienet għall-użu personali esklussiv tagħha; u

(c) il-mediçina msemija tkun fi kwantità tali u tkun fil-pussess ta' dik il-persuna taht ċirkostanzi tali li raġonevolment iwasslu għall-inferenza li l-istess mediçina kienet destinata għall-użu personali esklussiv ta' dik il-persuna.”;

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

“(2) Kull persuna akkuzata 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 il-bejgh jew traffikar ta' medicina msemmija fit-Taqsima A tat-Tielet Skeda li tinsab ma' din l-Ordinanza kontra d-dispożizzjonijiet ta' dan l-artikolu, jew ikun reat taht il-paragrafu (f) tas-subartikolu (1), jew ikun reat ta' pussess ta' medicina, kontra d-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 (1C) jew (1D) jew (1E), prigunerija għall-ghomor:

Izda:

(aa) meta l-Qorti tkun tal-fehma li, meta tqis l-età tal-hati, il-kondotta ta' qabel tal-hati, il-kwantità tal-medicina 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 izda mhux iżjed minn tletin sena u multa ta' mhux inqas minn elf lira Maltija izda mhux iżjed minn hamsin elf lira Maltija; u

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

(b) meta tinsab hatja mill-Qorti tal-Maġistrati (Malta) jew il-Qorti tal-Maġistrati (Għawdex) —

(i) meta r-reat ikun il-bejgh jew traffikar ta' medicina msemmija fit-Taqsima A tat-Tielet Skeda li tinsab ma' din l-Ordinanza kontra d-dispożizzjonijiet ta' dan l-artikolu, jew ikun reat

taht il-paragrafu (f) tas-subartikolu (1), jew ikun reat ta' pussess ta' medicina, kontra d-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 (1C) jew (1D) jew (1E), prigunerija għal żmien ta' mhux inqas minn sitt xhur iżda mhux iżjed minn għaxar snin u multa ta' mhux inqas minn mitejn lira Maltija iżda mhux iżjed minn hamest elef 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 hatja ta' reat kontra din l-Ordinanza, l-oġġetti kollha li dwarhom ikun sar ir-reat jiġu konfiskati favur il-Gvern, u kull oġġett hekk ikkonfiskat għandu, jekk il-qorti hekk tordna, jiġi distrutt jew isir minnu xort'ohra kif jista' jiġi provdut fl-ordni:

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 ohra li tkun għalqet l-età ta' sittax-il sena, kull riferenza għall-Qorti tal-Maġistrati (Malta) jew għall-Qorti tal-Maġistrati (Għawdex) għandha tiftiehem bħala 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 ċentru taż-żgħażaġh, jew xi post ieħor simili fejn normalment jiltaqqu 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 tiżdied bi grad.”;

(f) fis-subartikolu (2A) tiegħu, minflok il-kliem “dwar xi medicina bħal dik,” għandhom jidhlu l-kliem “dwar xi medicina bħal dik, jew dwar ir-reat ta' pussess ta' medicina, kontra d-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 dwar reati msemmija fis-subartikolu (1C) jew (1D),”;

(g) minflok is-subartikolu (6) tieghu ghandu jidhol dan li
gej:

Kap. 152. “(6) Meta jirrizulta lill-qorti li l-hati, li ma jkunx persuna li tkun instabet hatja ta’ reat kif imsemmi fis-subparagrafu (i) tal-paragrafu (a) jew fis-subparagrafu (i) tal-paragrafu (b) tas-subartikolu (2), ikun jinhtieg kura u ghajnuna ghar-riabilitazzjoni tieghu mid-dipendenza fuq xi medicina msemmija fit-Tielet Skeda li tinsab ma’ din l-Ordinanza l-qorti tista’, minflok ma tapplika xi wahda 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-età ta’ erbatax-il sena, ma jkunx wera r-rieda tieghu li jħares il-htigiet ta’ l-ordni kif provdut fis-subartikolu (5) ta’ l-artikolu 5 ta’ dak l-Att.”; u

(h) minnufih wara s-subartikolu (6) tieghu għandhom jidhlu dawn is-subartikoli godda li ġejjin:

“(7) 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).

(8) Meta, fil-każ ta’ persuna misjuba hatja ta’ reat imsemmi fis-subartikolu (7), il-qorti tkun sodisfatta li dik il-persuna tkun tinhtieg kura ghar-riabilitazzjoni tagħha mid-dipendenza fuq xi medicina msemmija fit-Tielet Skeda li tinsab ma’ din l-Ordinanza, id-dispożizzjonijiet tas-subartikoli (10) sa (14) ta’ l-artikolu 22 ta’ l-Ordinanza dwar il-Medicini Perikolużi għandhom ikunu applikabbli bl-istess mod u sa l-istess limitu daqskieku dik il-persuna kienet persuna misjuba hatja ta’ reat imsemmi fis-subartikolu (10) ta’ l-imsemmi artikolu 22.”.

5. Minnufih wara l-artikolu 120A tal-liġi prinċipali għandhom jizjeddu dawn l-artikoli godda li ġejjin:

Zieda ta’ l-artikoli
godda 120B, 120C,
120D, 120E u 120F
mal-liġi prinċipali.

“Tifsir tal-
kelmiet “liġi
korris-
pondenti”.

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120B. Għall-finijiet ta’ l-artikoli 120A u 121C il-kelmiet “liġi korrispondenti” għandhom l-istess tifsira bħal dik mogħtija lilhom bl-artikolu 23 ta’ l-Ordinanza dwar il-Medicini Perikolużi u d-dispożizzjonijiet ta’ l-imsemmi artikolu 23 għandhom japplikaw għalihom.

Setgħat
addizzjonali
ta' investi-
gazzjoni.

120C. (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' bejgħ 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 120A, jew

(c) tkun hatja ta' reat imsemmi fil-paragrafu (d) tas-subartikolu (1) ta' l-artikolu 120A b'riferenza għal xi reat imsemmi fil-paragrafi ta' qabel dan ta' dan is-subartikolu, jew

(d) tkun hatja ta' reat imsemmi fis-subartikolu (1D) ta' l-artikolu 120A,

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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 ta' l-Ordinanza dwar il-Mediċini Perikolużi 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-artikolu 24A ta' l-Ordinanza dwar il-Mediċini Perikolużi għandhom jinqraw u jiftiehem bħala li jinkludu ordni ta' investigazzjoni magħmul taht id-dispożizzjonijiet ta' dan l-artikolu.

(3) Il-kliem "ordni ta' sekwestru" fis-subartikolu (6A) ta' l-artikolu 24A ta' l-Ordinanza dwar il-Mediċini Perikolużi għandhom jinqraw u jiftiehem bħala li jinkludu ordni ta' sekwestru magħmul taht id-dispożizzjonijiet ta' dan l-artikolu.

Setgħat ta'
investigaz-
zjoni dwar
reati fil-
kompetenza
ta' Qrati
barra minn
Malta.

120D. (1) Meta l-Avukat Ġenerali jirċievi talba magħmula minn awtorità gudizzjarja 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 omissjoni li jekk isiru f'dawn il-Gzejjer, jew f'ċirkostanzi korrispondenti, ikunu jikkostitwixxu xi wiehed mir-reati

Kap. 101.

msemmija fil-paragrafi (a), (b), (c) u (d) tas-subartikolu (1) ta' l-artikolu 120C 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 ta' l-Ordinanza dwar il-Mediċini Perikolużi għandhom *mutatis mutandis* japplikaw għal dik it-talba u għall-persuna suspettata u għal kull ordni ta' investigazzjoni jew ta' sekwestru magħmul mill-Qorti bhala riżultat ta' dik it-talba.

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

(3) Il-kliem "ordni ta' sekwestru" fis-subartikolu (6A) ta' l-artikolu 24A ta' l-Ordinanza dwar il-Mediċini Perikolużi għandhom jinqraw u jiftiehm bħala li jinkludu ordni ta' sekwestru magħmul taht id-dispożizzjonijiet ta' dan l-artikolu.

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

Kap. 101.

120E. (1) Meta l-Avukat Ġenerali jirċievi talba magħmula minn awtorità ġudizzjarja jew prosekutriċi 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), (c) u (d) tas-subartikolu (1) ta' l-artikolu 120C, l-Avukat Ġenerali jista' jitlob lill-Qorti Kriminali għal ordni (hawnhekk iżjed 'il quddiem imsejjah "ordni ta' iffriżar") li jkollu l-istess effett bħal ordni kif imsemmi fis-subartikolu (1) ta' l-artikolu 22A ta' l-Ordinanza dwar il-Mediċini Perikolużi u d-dispożizzjonijiet ta' l-imsemmi artikolu 22A għandhom, bla hsara għad-dispożizzjonijiet tas-subartikolu (2) ta' dan l-artikolu, japplikaw *mutatis mutandis* għal dak l-ordni.

(2) Id-dispożizzjonijiet tas-subartikoli (2) sa (5) ta' l-artikolu 24C ta' l-Ordinanza dwar il-Mediċini Perikolużi għandhom ikunu applikabbli għal ordni magħmul taht dan l-artikolu daqskieku kien ordni magħmul taht l-imsemmi artikolu 24C.

(3) L-artikolu 22B ta' l-Ordinanza dwar il-Mediċini Perikolużi għandu wkoll japplika għal kull persuna li taġixxi bi ksur ta' ordni ta' iffriżar taht dan l-artikolu.

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

Kap. 101.

120F. (1) Ordni ta' konfiska magħmul minn qorti barra minn Malta li jkun jipprovdi jew jidher li jkun jipprovdi għall-konfiska jew telfien ta' rikavat mill-għemil ta' reat rilevanti jista' jiġi esegwit f'Malta skond id-dispożizzjonijiet tas-subartikoli (2) sa (11) ta' l-artikolu 24D ta' l-Ordinanza dwar il-Mediċini Perikolużi.

(2) Għall-finijiet ta' dan l-artikolu, iżda bla hsara għad-dispożizzjonijiet tas-subartikolu (3), "ordni ta' konfiska" u "rikavat" għandhom l-istess tifsiriet mogħtija lilhom bis-subartikolu (12) ta' l-artikolu 24D ta' l-Ordinanza dwar il-Mediċini Perikolużi liema tifsiriet għandhom jiftiehem skond it-tifsira mogħtija lil "proprjetà" bl-istess subartikolu (12) u skond it-tifsira mogħtija lil "reat rilevanti" fis-subartikolu (3).

(3) Għall-finijiet ta' dan l-artikolu, "reat rilevanti" tfisser kull reat li jkun jikkonsisti f'xi att jew ommissjoni li jekk isiru f'dawn il-Gżejjer, jew f'ċirkostanzi korrispondenti, ikunu jkkostitwixxu xi wiehed mir-reati msemmija fil-paragrafi (a), (b), (ċ) u (d) tas-subartikolu (1) ta' l-artikolu 120C."

Zieda ta' l-artikoli godda 121A, 121B, 121C, 121D u 121E mal-liġi prinċipali.

6. Minnufih wara l-artikolu 121 tal-liġi prinċipali għandhom jiżdiedu dawn l-artikoli godda li ġejjin:

"L-obbligu tal-prova.

121A. (1) F'kull proċediment kontra persuna għal reat kontra din l-Ordinanza, ma jkunx jinhtieg li ssir il-prova tan-nuqqas ta' liċenza, awtorizzazzjoni jew materja oħra ta' eċċezzjoni jew difiża, u l-obbligu li jipprova li hemm din il-liċenza, awtorizzazzjoni jew materja ta' eċċezzjoni jew difiża jmiss lill-persuna li tkun trid tinqeda biha.

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

Dikjarazzjoni tista' tingħieb bħala prova.

121B. 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 kkonfermata bil-ġurament quddiem maġistrat u kull xieħda li dik il-persuna tagħti quddiem qorti

tista' tingieb bi prova kontra kull persuna ohra akkużata b'reat kontra l-imsemmija Ordinanza, kemm-il darba jinsab li dik id-dikjarazzjoni jew xiehda tkun saret jew inghatat volontarjament, u ma gietx imġieghla jew mehuda b'theddid jew b'biza', jew b'weghdiet jew bi twebbil ta' vantaġġi.

Konsenja u xiri kontrollati.

121C. Id-dispożizzjonijiet ta' l-artikolu 30B ta' l-Ordinanza dwar il-Medicini Perikolużi ghandhom japplikaw *mutatis mutandis* ghal konsenja kontrollata ta' kull medicina mnizzla fit-Tielet Skeda li tinsab ma' din l-Ordinanza bil-ghan li jigu identifikati persuni involuti fl-ghemil ta' reati taht din l-Ordinanza jew taht il-ligi korrispondenti li tkun issehh fit-territorju ta' pajjiż iehor u l-istess dispożizzjonijiet ghandhom ukoll japplikaw *mutatis mutandis* ghall-akkwist jew prokurar ta' xi medicina bhal dik mill-Pulizija Eżekuttiva.

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

121D. Id-dispożizzjonijiet ta' l-artikolu 30C ta' l-Ordinanza dwar il-Medicini Perikolużi ghandom japplikaw *mutatis mutandis* ghal xhud, espert jew persuna ohra f'pajjiż barrani li jaqblu, dwar reat kontra d-dispożizzjonijiet ta' din l-Ordinanza, li jixhdu jew li jghinu kif provdut f'dak l-artikolu wara talba ghal assistenza kif ukoll provdut fl-istess artikolu.

Kooperazzjoni fit-trazzin ta' reati rilevanti fuq il-bahar.

121E. (1) Meta l-Avukat Ġenerali jirċievi talba maghmula minn awtorità ġudizzjarja jew prosekutrici ta' xi post barra minn Malta (hawnhekk iżjed il quddiem f'dan l-artikolu msejha "l-awtorità li taghmel it-talba") ghal awtorizzazzjoni biex l-awtoritajiet kompetenti ta' dak il-post jiehdu l-mizuri xierqa dwar biċċa tal-bahar rilevanti raġonevolment suspettata li tkun qed twettaq reat rilevanti l-Avukat Ġenerali jista', bil-qbil tal-Prim Ministru, jawtorizza t-tehid ta' l-imsemmija mizuri mill-awtoritajiet kompetenti hawn qabel imsemmija sugġett ghal dawk il-kondizzjonijiet li jistghu jigu miftiehma bejn l-awtorità li taghmel it-talba u l-Avukat Ġenerali, bil-qbil tal-Prim Ministru.

(2) Meta tkun inghatat awtorizzazzjoni mill-Avukat Ġenerali kif imsemmi qabel l-awtoritajiet kompetenti msemmija fis-subartikolu (1), sugġett ghall-kondizzjonijiet li jistghu ikunu ġew miftiehma kif provdut fis-subartikolu preċedenti, ikunu awtorizzati li jiehdu l-mizuri xierqa u li jeżerċitaw abbord il-biċċa tal-bahar li dwarha jkunu ġew awtorizzati l-mizuri 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:

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

“miżuri xierqa” dwar biċċa tal-baħar tinkludi t-tluġħ abbord u l-perkwizzjoni fuq dik il-biċċa tal-baħar kif ukoll kull azzjoni xierqa oħra dwar 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; u

“reat rilevanti” għandha l-istess tifsir kif mogħti lilha bis-subartikolu (3) ta’ l-artikolu 120F.”.

Emenda tal-Kodiċi Kriminali, Kap. 9.

7. Fl-artikolu 257 tal-Kodiċi Kriminali minflok il-kliem “dik il-multa u priġunerija flimkien.” għandhom jidhlu l-kliem “dik il-multa u priġunerija flimkien:

Iżda, minkejja d-dispożizzjonijiet ta’ kull liġi oħra, tkun difiża li turi li l-kxif ikun sar lil awtorità pubblika kompetenti f’Malta jew barra minn Malta li tkun qed tinvestiga xi att jew ommissjoni li jkun sar Malta u jkun jikkostitwixxi, jew jekk ikun sar barra minn Malta f’ċirkostanzi korrispondenti kien jikkostitwixxi:

Kap. 101.

(a) xi wiehed mir-reati li għalihom hemm riferenza fis-subparagrafu (i) tal-paragrafu (a) tas-subartikolu (2) ta’ l-artikolu 22 ta’ l-Ordinanza dwar Mediċini Perikolużi; jew

Kap. 31.

(b) xi wiehed mir-reati li għalihom hemm riferenza fis-subparagrafu (i) tal-paragrafu (a) tas-subartikolu (2) ta’ l-artikolu 120A ta’ l-Ordinanza dwar il-Professjoni Medika u l-Professjonijiet li għandhom x’jaqsmu magħha; jew

Art XIX ta’ l-1994.

(ċ) xi reat ta’ *money laundering* kif imfisser fl-Art ta’ l-1994 kontra *Money Laundering*:

Iżda wkoll id-dispożizzjonijiet ta’ l-ewwel proviso ta’ dan l-artikolu ma għandhomx japplikaw għal persuna li tkun membru tal-professjoni legali jew tal-professjoni medika.”.

Emenda għall-Ordinanza dwar il-Mediċini Perikolużi, Kap. 101.

8. L-Ordinanza dwar il-Mediċini Perikolużi għandha tiġi emendata kif ġej:

(a) minnufih wara s-subartikolu (1E) ta' l-artikolu 22 tagħha għandhom jidhlu s-subartikoli ġodda li ġejjin:

“(1F) Kull persuna li tinżel Malta u jkollha fil-pussess tagħha xi mediċina kontra d-dispożizzjonijiet ta' din l-Ordinanza tkun eżenti minn kull responsabbiltà kriminali jekk ikunu sodisfatti l-kundizzjonijiet imsemmija fis-subartikolu (1G) ta' dan l-artikolu.

(1G) Il-kundizzjonijiet li għalihom jagħmel riferenza s-subartikolu (1F) ta' dan l-artikolu huma dawn li ġejjin:

(a) il-persuna li jkollha l-pussess tal-mediċina ma tkunx ordinarjament residenti f'Malta u tkun ġiet minn xi post barra minn Malta;

(b) ma' l-ewwel opportunità wara li tinżel Malta dik il-persuna tikkonsenja l-mediċina msemmija lil uffiċjal tal-pulizija jew lil uffiċjal tad-dwana u tistqarr li l-istess mediċina kienet għall-użu personali esklussiv tagħha; u

(ċ) il-mediċina msemmija tkun fi kwantità tali u tkun fil-pussess ta' dik il-persuna taht ċirkostanzi tali li raġonevolment iwasslu għall-inferenza li l-istess mediċina kienet destinata għall-użu personali esklussiv ta' dik il-persuna.”;

(b) minnufih wara s-subartikolu (2) ta' l-artikolu 24B tagħha għandu jżied dan is-subartikolu ġdid li ġej:

“(3) Il-kliem ‘ordni ta' sekwestru’ fis-subartikolu (6A) ta' l-istess artikolu 24A għandhom jinqraw u jiftiehm bħala li jinkludu ordni ta' sekwestru magħmul taht id-dispożizzjonijiet ta' dan l-artikolu.”;

(ċ) fis-subartikolu (3) ta' l-artikolu 30B tagħha, minflok il-kliem ‘Il-Pulizija Esekuttiva tista’,’ għandhom jidhlu l-kliem ‘Il-Pulizija Esekuttiva jew xi persuna taht is-sorveljanza jew direzzjoni tal-Pulizija Esekuttiva tista’,’ ; u

(d) minnufih wara l-artikolu 33 tagħha għandu jidhol dan l-artikolu ġdid li ġej:

“Emenda ta' l-Iskedi.

34. Il-Ministru responsabbli għas-saħħa pubblika jista' b'regolamenti jemenda kull waħda mill-Iskedi li jinsabu ma' din l-Ordinanza.”.

Emenda ta' l-Att ta' l-1994 kontra *Money Laundering*. Att XIX ta' l-1994.

9. Minnufih wara l-artikolu 8 ta' l-Att ta' l-1994 kontra *Money Laundering*, għandhom jiżiedu dawn l-artikoli ġodda li ġejjin:

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

Kap. 101.

8A. (1) Meta l-Avukat Ġenerali jirċievi talba magħmula minn awtorità ġudizzjarja jew prosekutrici ta' 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 reat taht l-artikolu 3 ta' dan l-Att, 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 ta' l-Ordinanza dwar il-Mediċini Perikolużi 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-artikolu 24A ta' l-Ordinanza dwar il-Mediċini Perikolużi għandhom jinqraw u jiftiehm bħala li jinkludu ordni ta' investigazzjoni magħmul taht id-dispożizzjonijiet ta' dan l-artikolu.

(3) Il-kliem “ordni ta' sekwestru” fis-subartikolu (6A) ta' l-artikolu 24A ta' l-Ordinanza dwar il-Mediċini Perikolużi għandhom jinqraw u jiftiehm bħala li jinkludu ordni ta' sekwestru magħmul taht id-dispożizzjonijiet ta' dan l-artikolu.

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

Kap. 101.

8B. (1) Meta l-Avukat Ġenerali jirċievi talba magħmula minn awtorità ġudizzjarja jew prosekutrici 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 procedimenti 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 reat taht l-artikolu 3 ta' dan l-Att, l-Avukat Ġenerali jista' jitlob lill-Qorti Kriminali għal ordni (hawnhekk iżjed 'il quddiem imsejjaħ “ordni ta' iffriżar”) li jkollu l-istess effett bhal ordni kif imsemmi fis-subartikolu (1) ta' l-artikolu 22A ta' l-Ordinanza dwar il-Mediċini Perikolużi u d-dispożizzjonijiet ta' l-imsemmi artikolu 22A għandhom, bla ħsara għad-dispożizzjonijiet tas-subartikolu (2) ta' dan l-artikolu, japplikaw *mutatis mutandis* għal dak l-ordni.

(2) Id-dispożizzjonijiet tas-subartikoli (2) sa (5) ta' l-artikolu 24C ta' l-Ordinanza dwar il-Medicini Perikolużi għandhom ikunu applikabbli għal ordni magħmul taħt dan l-artikolu daqslikiċku kien ordni magħmul taħt l-imsemmi artikolu 24C.

(3) L-artikolu 22B ta' l-Ordinanza dwar il-Medicini Perikolużi għandu jkun ukoll japplika għal kull persuna li taġixxi bi ksur ta' ordni ta' iffriżar taħt dan l-artikolu.

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

Kap. 101.

8C. (1) Ordni ta' konfiska magħmul minn qorti barra minn Malta li jkun jipprovdi jew jidher li jkun jipprovdi għall-konfiska jew it-telfien ta' xi proprjetà ta', jew fil-pussess, jew taħt il-kontroll ta' persuna li tinsab haġja ta' reat rilevanti jista' jiġi esegwit f'Malta skond id-dispożizzjonijiet tas-subartikoli (2) sa (11) ta' l-artikolu 24D ta' l-Ordinanza dwar il-Medicini Perikolużi.

(2) Għall-finijiet ta' dan l-artikolu "ordni ta' konfiska" tinkludi kull sentenza, deċiżjoni, dikjarazzjoni, jew ordni ieħor magħmulin minn qorti sew ta' ġurisdizzjoni kriminali sew ċivili li jkunu jipprovdu jew jiftiehm bħala li jipprovdu dwar il-konfiska jew it-tehid ta' xi proprjetà bħalma hemm speċifikat fis-subartikolu (1) ta' dan l-artikolu.

(3) Għall-finijiet ta' dan l-artikolu "reat rilevanti" tfisser kull reat li jkun jikkonsisti f'xi att li jekk isir f'dawn il-Gzejjer, jew f'ċirkostanzi korrispondenti, ikun jikkostitwixxi r-reat imsemmi fl-artikolu 3 ta' dan l-Att."

Mgħoddi mill-Kamra tad-Deputati fis-Seduta Nru 178 tat-28 ta' Jannar, 1998.

MYRIAM SPITERI DEBONO
Speaker

RICHARD J. CAUCHI
Skrivan tal-Kamra tad-Deputati

I assent.

(L.S.)

UGO MIRSUD BONNICI
President

3rd February, 1998

ACT No. II of 1998

AN ACT to amend the Medical and Kindred Professions Ordinance.

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 Medical and Kindred Professions (Amendment) Act, 1998 and shall be read and construed as one with the Medical and Kindred Professions Ordinance, hereinafter referred to as “the principal law”.

Cap. 31.

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, immediately after the definition of “the Board for the Professions Supplementary to Medicine” there shall be added the following new definitions:

“ “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;

“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;”;

(c) in the Maltese text of subsection (1) thereof, as renumbered, immediately after the definition of “il-Bord dwar il-Professjonijiet Supplimentari għall-Medicina” there shall be added the following new definitions:

“ “esportazzjoni”, bil-varjazzjonijiet grammatikali tagħha u bl-espressjonijiet imnislin minnha, t’fisser, rigward Malta, tiegħu jew iġġiegħel li jittiehed barra minn Malta b’kull mod li jkun;

“importazzjoni”, bil-varjazzjonijiet grammatikali tagħha u bl-espressjonijiet imnislin minnha, t’fisser, rigward Malta, iġġib jew iġġiegħel li jingiebu f’Malta b’kull mod li jkun;”;

(d) immediately after subsection (1) thereof, as renumbered, 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 or regulations made thereunder.”.

3. Immediately after subsection (2) of section 7 there shall be added the following new subsection:

Amendment of
section 7 of
the principal law

“(3) The Minister responsible for public health may by regulations amend any of the Schedules referred to in this section.”.

4. Section 120A of the principal law shall be amended as follows:

Amendment of
section 120A of
the principal law.

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

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

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

“(1B) For the purposes of this section 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.”;

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

“(1C) 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 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.

(1D) (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 subsections (1) and (1C) of this section; 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 subsections (1) or (1C) of this section.

(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.

(1E) 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 to the Dangerous Drugs Ordinance knowing or suspecting that the substance is to be used in or for the production of a drug listed under Part A of the Third Schedule to this Ordinance contrary to the provisions of this Ordinance; and the definition of "dealing" in subsection (1B) shall apply, *mutatis mutandis*, to this subsection. Cap 101.

(1F) Any person who lands in Malta and is in possession of a drug against the provisions of this Ordinance shall be exempt from any criminal liability if the conditions mentioned in subsection (1G) of this section are satisfied.

(1G) The conditions to which reference is made in subsection (1F) of this section are the following:

(a) the person in possession of the drug is not ordinarily resident in Malta and has come from a place outside Malta;

(b) at the first opportunity after landing in Malta that person surrenders the said drug to a police officer or to a customs officer and declares that the same drug was for his exclusive personal use; and

(c) the said drug is in such a quantity and is in possession of that person under such circumstances as to reasonably lead to the inference that the same drug was destined for the exclusive personal use of that person.";

(e) 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 consists in selling or dealing in a drug listed under Part A of the Third Schedule to this Ordinance contrary to the

provisions of this section, 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) 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 consists in selling or dealing in a drug listed under Part A of the Third Schedule to this Ordinance contrary to the provisions of this section, 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 a term of not less than six months but not exceeding ten years and to a fine (*multa*) of not less than two hundred Maltese liri but not exceeding five 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) or 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.”;

(f) in subsection (2A) thereof, for the words “in respect of such drug,” there shall be substituted the words “in respect of such drug, or with 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 with the offences mentioned in subsections (1C) or (1D),”;

(g) for subsection (6) thereof there shall be substituted the following:

Cap. 152 “(6) 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 drug listed in the Third Schedule to this Ordinance 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.”; and

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

“(7) 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).

(8) Where, in the case of a person convicted of an offence referred to in subsection (7), the court is satisfied that such person is in need of treatment for his rehabilitation from dependence on any drug listed in the Third Schedule to this Ordinance, the provisions of subsections (10) to (14) of section 22 of the Dangerous Drugs Ordinance shall be applicable in the same manner and to the same extent as if that person were a person convicted of an offence referred to in subsection (10) of the said section 22.”.

Addition of new sections 120B, 120C, 120D, 120E and 120F to the principal law.

5. Immediately after section 120A of the principal law there shall be added the following new sections:

"Definition of expression 'corresponding law'".
Cap. 101.

120B. For the purposes of sections 120A and 121C the expression "corresponding law" shall have the same meaning assigned to it by section 23 of the Dangerous Drugs Ordinance and the provisions of the said section 23 shall apply thereto.

Additional powers of investigation.

120C. (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 120A, or

(c) is guilty of an offence mentioned in paragraph (d) of subsection (1) of section 120A 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 (1D) of section 120A,

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 of the Dangerous Drugs Ordinance 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.

Cap. 101.

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

(3) The words "attachment order" in subsection (6A) of section 24A of the Dangerous Drugs Ordinance shall be read and construed as including an attachment order made under the provisions of this section.

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

120D. (1) Where the Attorney General receives a request made by the 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

Cap. 101. (a), (b), (c) and (d) of subsection (1) of section 120C 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 of the Dangerous Drugs Ordinance 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 section 24A of the Dangerous Drugs Ordinance shall be read and construed as including an investigation order made under the provisions of this section.

(3) The words "attachment order" in subsection (6A) of section 24A of the Dangerous Drugs Ordinance shall be read and construed as including an attachment order made under the provisions of this section.

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

Cap 101. 120E. (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 120C, 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 of the Dangerous Drugs Ordinance and the provisions of the said section 22A shall, subject to the provisions of subsection (2) of this section, apply *mutatis mutandis* to that order.

(2) The provisions of subsections (2) to (5) of section 24C of the Dangerous Drugs Ordinance shall apply to an order made under this section as if it were an order made under the said section 24C.

(3) Section 22B of the Dangerous Drugs Ordinance shall also apply to any person who acts in contravention of a freezing order under this section.

Enforcement of confiscation orders made by Courts outside Malta following conviction for offences cognizable by those Courts. Cap. 101.

120F. (1) A confiscation order made by a court outside Malta providing or purporting to provide for the confiscation or forfeiture of proceeds from the commission of a relevant offence shall be enforceable in Malta in accordance with the provisions of subsections (2) to (11) of section 24D of the Dangerous Drugs Ordinance.

(2) For the purposes of this section, but subject to the provisions of subsection (3), "confiscation order" and "proceeds" shall have the same meanings assigned to them by subsection (12) of section 24D of the Dangerous Drugs Ordinance which meanings shall be construed in accordance with the meaning assigned to "property" by the same subsection (12) and in accordance with the meaning assigned to "relevant offence" in subsection (3).

(3) For the purposes of this section "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 120C."

6. Immediately after section 121 of the principal law there shall be added the following new sections:

Addition of new sections 121A, 121B, 121C, 121D and 121E to the principal law.

"Burden of proof.

121A. (1) In any proceedings against any person for an offence against this Ordinance, it shall not be necessary to negative by evidence any licence, authority or other matter of exception or defence, and the burden of proving any such matter shall lie on the person seeking to avail himself thereof.

(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.

Statement may be admitted as evidence.

121B. 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.

121C. The provisions of section 30B of the Dangerous Drugs Ordinance shall apply *mutatis mutandis* to a controlled delivery of any drug listed under the Third Schedule to this Ordinance with a view to identifying persons involved in the commission of offences under this Ordinance or under the corresponding law in force in the territory of another country and the same provisions shall also apply *mutatis mutandis* to the acquisition or procurement of any such drug by the Executive Police.

Persons
transferred
to Malta
from abroad
for the
purpose of
giving
evidence or
assisting in
an investi-
gation etc.

121D. The provisions of section 30C of the Dangerous Drugs Ordinance shall apply *mutatis mutandis* to a witness, expert or other person in a foreign country who consents, in respect of an offence contrary to the provisions of this Ordinance, to give evidence or to assist as provided in that section following a request for assistance as also provided in the same section.

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

121E. (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 subsection (1), subject to the conditions as may have been agreed upon as provided in the preceding 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:

“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;

“relevant offence” shall have the same meaning assigned to it by subsection (3) of section 120F; and

“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.”.

7. In section 257 of the Criminal Code for the words “such fine and imprisonment.” there shall be substituted the words “such fine and imprisonment: Amendment of the Criminal Code. Cap. 9.

Provided that, notwithstanding the provisions of any other law, it shall be a defence to show that the disclosure was made to a competent public authority in Malta or outside Malta investigating any act or omission committed in Malta and which constitutes, or if committed outside Malta would in corresponding circumstances constitute:

(a) any of the offences referred to in subparagraph (i) of paragraph (a) of subsection (2) of section 22 of the Dangerous Drugs Ordinance; or Cap. 101.

(b) any of the offences referred to in subparagraph (i) of paragraph (a) of subsection (2) of section 120A of the Medical and Kindred Professions Ordinance; or Cap. 31

(c) any offence of money laundering within the meaning of the Prevention of Money Laundering Act, 1994: Act. XIX of 1994.

Provided further that the provisions of the first proviso of this section shall not apply to a person who is a member of the legal profession or the medical profession.”.

8. The Dangerous Drugs Ordinance shall be amended as follows:

(a) immediately after subsection (1E) of section 22 thereof there shall be added the following new subsections:

“(1F) Any person who lands in Malta and is in possession of a drug against the provisions of this Ordinance shall be exempt from any criminal liability if the conditions mentioned in subsection (1G) of this section are satisfied.

(1G) The conditions to which reference is made in subsection (1F) of this section are the following:

(a) the person in possession of the drug is not ordinarily resident in Malta and has come from a place outside Malta;

(b) at the first opportunity after landing in Malta that person surrenders the said drug to a police officer or to a customs officer and declares that the same drug was for his exclusive personal use; and

(c) the said drug is in such a quantity and is in possession of that person under such circumstances as to reasonably lead to the inference that the same drug was destined for the exclusive personal use of that person.”;

(b) immediately after subsection (2) of section 24B thereof there shall be added the following new subsection:

“(3) The words “attachment order” in subsection (6A) of the same section 24A shall be read and construed as including an attachment order made under the provisions of this section.”;

(c) in subsection (3) of section 30B thereof, for the words “for the Executive Police,” there shall be substituted the words “for the Executive Police or for a person under the supervision or direction of the Executive Police,”; and

(d) immediately after section 33 thereof there shall be added the following new section:—

Ordinance, and the provisions of the said section 22A shall, subject to the provisions of subsection (2) of this section, apply *mutatis mutandis* to that order.

(2) The provisions of subsections (2) to (5) of section 24C of the Dangerous Drugs Ordinance shall apply to an order made under this section as if it were an order made under the said section 24C.

(3) Section 22B of the Dangerous Drugs Ordinance shall also apply to any person who acts in contravention of a freezing order under this section.

Enforcement
of
confiscation
orders made
by Courts
outside
Malta
following
conviction
for offences
cognizable
by those
Courts.
Cap. 101.

8C. (1) A confiscation order made by a court outside Malta providing or purporting to provide for the confiscation or forfeiture of any property of or in the possession or under the control of any person convicted of a relevant offence shall be enforceable in Malta in accordance with the provisions of subsections (2) to (11) of section 24D of the Dangerous Drugs Ordinance.

(2) For the purposes of this section "confiscation order" includes any judgment, 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 property as is described in subsection (1) of this section.

(3) For the purposes of this section "relevant offence" means any offence consisting in any act which if committed in these Islands, or in corresponding circumstances, would constitute the offence mentioned in section 3 of this Act."

Passed by the House of Representatives at Sitting No. 178 of the 28th January, 1998.

MYRIAM SPITERI DEBONO
Speaker

RICHARD J. CAUCHI
Clerk to the House of Representatives