

Naghti l-kunsens tiegħi.

(L.S.)

UGO MIFSUD BONNICI
President

13 ta' Frar, 1998

ATT Nru. VI ta' l-1998

ATT biex jemenda l-Ordinanza dwar ir-Regolament tat-Traffiku, Kap. 65.

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. (1) Dan l-Att jista' jissejjah l-Att ta' l-1998 li jemenda l-Ordinanza dwar ir-Regolament tat-Traffiku, u għandu jinqara u jftiehem haġa waħda ma' l-Ordinanza dwar ir-Regolament tat-Traffiku, hawnhekk iżjed 'il quddiem imsejha "il-ligi prinċipali".

Titolu fil-qosor
u bidu fis-sehh.

Kap 65.

(2) Id-dispożizzjonijiet li ġejjin ta' dan l-Att għandhom jibdeu isehħu f'dik id-data li l-Ministru responsabbli għall-pulizija jista' jstabbilixxi b'avviż fil-Gazzetta, u dati differenti jistgħu jiġu hekk stabbiliti għal dispożizzjonijiet u għanijiet differenti ta' dan l-Att.

2. L-artikolu 15 tal-ligi prinċipali għandu jiġi emendat kif ġej:

Emenda ta'
l-artikolu 15
tal-ligi prinċipali.

(a) fis-subartikolu (1) tiegħu:

(i) il-kliem "jew taht l-influenza tax-xorb jew drogi"
fis-subparagrafu (a) għandhom jithassru; u

(ii) il-kliem “meta huwa s-sid tal-*motor-car*,” fis-subparagrafu (ċ) ghandhom jithassru; u

(b) fis-subartikolu (2) tieghu il-kliem “jew f’sewqan ta’ *motor-car* taht l-influwenza tax-xorb jew drogi” ghandhom jithassru.

Zieda ta’ l-artikoli 15A sa 15I godda mal-liġi prinċipali.

3. Minnufih wara l-artikolu 15 tal-liġi prinċipali ghandhom jiziedu dawn l-artikoli godda li ġejjin:—

“Sewqan eċċ. ta’ *motor-car* meta mhux f’kundizzjoni li jsuq. 15A. (1) Ebda persuna ma ghandha ssuq jew tipprova ssuq jew ikollha l-kontroll ta’ *motor-car* li tkun fit-triq jew f’post pubbliku ieħor jekk ma tkunx f’kundizzjoni li ssuq minhabba xorb jew drogi.

(2) Għall-finijiet ta’ dan l-artikolu, persuna titqies li m’hiġiex f’kundizzjoni li ssuq jekk il-kapaċità tagħha li ssuq sew tkun għal xi hin imnaqqa.

Sewqan eċċ. ta’ *motor-car* b’konċentrazzjoni ta’ alkohol fin-nifs eċċ. oghla minn dik preskritta. 15B. Ebda persuna ma ghandha ssuq, tipprova ssuq jew tkun fil-kontroll ta’ *motor-car* li tkun fit-triq jew f’post pubbliku ieħor wara li tkun ikkunsmat tant alkohol li l-proporzjon tieghu fin-nifs, fid-demm jew fl-urina jkun iżjed mill-limitu preskritta.

Testijiet tan-nifs. 15C. Meta ufficjal tal-pulizija jkollu suspett raġonevoli li:

(a) persuna tkun qed issuq jew tipprova ssuq jew tkun fil-kontroll ta’ *motor-car* li tkun fit-triq jew f’post pubbliku ieħor u li jkollha l-alkohol f’ġisimha jew li tkun għamlet reat kontra d-dispożizzjonijiet ta’ din l-Ordinanza jew kontra xi regolamenti magħmula taħtha waqt li l-*motor car* kienet miexja; jew

(b) persuna kienet issuq jew tipprova ssuq jew kienet fil-kontroll ta’ *motor-car* fit-triq jew f’post pubbliku ieħor u li kellha alkohol f’ġisimha u li dik il-persuna kien għad ghandha l-alkohol f’ġisimha; jew

(ċ) persuna kienet issuq jew tipprova ssuq jew kienet fil-kontroll ta’ *motor-car* fit-triq jew f’post pubbliku ieħor u li għamlet reat kontra d-dispożizzjonijiet ta’ din l-Ordinanza jew kontra xi regolamenti magħmula taħtha waqt li l-*motor-car* kienet miexja; jew

(d) persuna kienet issuq jew tipprova ssuq jew kienet fil-kontroll ta' *motor-car* fit-triq jew f'post pubbliku iehor meta dik il-*motor-car* kienet involuta f'acċident,

huwa jista' jehtieg li dik il-persuna taghti kampjun tan-nifs ghal test tan-nifs.

Setgħat ta' arrest.

15D. Uffiċjal tal-pulizija jista' jgħaddi biex jarresta persuna jekk —

(a) bhala rizultat ta' test tan-nifs l-uffiċjal tal-pulizija jkollu suspett raġonevoli li l-proporzjon ta' alkohol fid-demem ta' dik il-persuna jkun iżjed mill-limitu preskritt; jew

(b) dik il-persuna tonqos milli taghti kampjun tan-nifs ghal test tan-nifs meta mehtieġa tagħmel hekk skond id-dispożizzjonijiet ta' l-artikolu 15C ta' din l-Ordinanza sakemm dik il-persuna tkun giet avzata li n-nuqqas jew ir-rifjut li tagħmel dak mehtieġ kien reat.

L-ghoti ta' kampjuni għall-analiżi.

15E. (1) Sabiex jiġi deċiż jekk persuna għamlitx xi reat taht l-artikoli 15A u 15B uffiċjal tal-pulizija jista' jehtieg li dik il-persuna —

(a) taghti żewġ kampjuni tan-nifs għall-analiżi permezz ta' strument approvat b'ordni tal-Ministru li jiġi pubblikat fil-Gazzetta; jew

(b) taghti kampjun tad-demem jew żewġ kampjuni ta' l-urina għall-analiżi fil-laboratorju:

Iżda l-uffiċjal tal-pulizija jista' b'żieda mal-kampjuni tan-nifs jehtieg ukoll kampjun tad-demem jew żewġ kampjuni ta' l-urina.

(2) Iż-żewġ kampjuni ta' urina imsemmija fil-paragrafu (b) tas-subartikolu (1) ta' dan l-artikolu għandhom jingħataw b'intervall bejniethom ta' siegħa u l-kampjun ta' l-ahħar għandu jintuza għall-analiżi.

(3) Il-kampjuni jistgħu jinhtieġu li jingħataw biss kif ġej:

(a) kampjuni tan-nifs jistgħu jinhtieġu li jingħataw fi jew hdejn il-post fejn issir it-talba għalihom, jew f'għassa tal-pulizija, jew f'ċentru tas-saħħa jew fi sptar;

(b) kampjuni ta' l-urina jistghu jinhtiegu li jinghataw f'ghassa tal-pulizija, jew f'centru tas-sahha jew fi sptar;

(c) kampjuni tad-demm jistghu jinhtiegu li jinghataw f'centru tas-sahha jew fi sptar.

(4) Persuna li tirrifjuta jew tonqos milli taghti kampjun kif mahsub taht dan l-artikolu tkun hatja ta' reat:

Izda tkun difiza ghal dik il-persuna jekk tipprova li n-nuqqas taghha li taghti kampjun kien minhabba l-inkapaçità fiżika jew mentali li taghtih jew ghaliex l-ghoti tieghu kien jaghti lok ghal riskju sostanzjali ghal sahhitha.

(5) L-analizi ta' xi kampjun li jinghata skond id-dispożizzjonijiet tas-subartikoli preçedenti ta' dan l-artikolu ghandu jsir f'laboratorju li jiġi approvat b'ordni tal-Ministru li jiġi pubblikat fil-Gazzetta, u l-opinjoni ta' l-analista f'dak il-laboratorju kif ukoll ir-riżultati ta' dak l-analizi jkunu ammissibbli bhala prova fi proçedimenti ghal reat taht l-artikolu 15A jew 15B ta' din l-Ordinanza. Ir-riżultati ta' l-analizi jitqiesu li huma korretti sakemm ma jiġix pruvat il-kuntrarju.

(6) Meta persuna tkun instabet hatja ta' reat kontra xi dispożizzjonijiet ta' l-artikoli 15A u 15B ta' din l-Ordinanza, il-qorti tista', barra milli tikkundanna lil min jagħmel ir-reat għall-piena li ghandha tiġi applikata skond il-liġi, tordnalha li thallas id-drittijiet, jew parti minnhom, li jkollhom jithallsu lill-persuna jew lill-persuni li jkunu għamlu l-analizi skond id-dispożizzjonijiet ta' dan l-artikolu.

Għażla ta' kampjuni tan-nifs.

15F. (1) Bla hsara għas-subartikolu (2) ta' dan l-artikolu, minn kull żewġ kampjuni tan-nifs mogħtija minn persuna skond l-artikolu 15E ta' din l-Ordinanza ghandu jintuza dak bil-proporzjon l-aktar baxx ta' alkohol fin-nifs u l-iehor ghandu jiġi skartat.

(2) Jekk il-kampjun bil-proporzjon l-aktar baxx ta' alkohol ikollu mhux iżjed minn 50 mikrogramma ta' alkohol f'100 millilitru ta' nifs, il-persuna li tkun tatu tista' titlob li dan jiġi sostitwit b'xi kampjun bħal dawk li jistghu jkunu meħtieġa bl-artikolu 15E ta' din l-Ordinanza u, jekk mbagħad jagħti kampjun bħal dak, ebda kampjun tan-nifs ma ghandu jintuza.

(3) Il-Ministru jista' b'regolamenti jibdel xi proporzjon iehor ta' alkohol fin-nifs minflok dak speċifikat fis-subartikolu (2) ta' dan l-artikolu.

Żamm ta' persuni milquta mill-alkohol jew xi droga.

15G. Persuna mehtieġa li tagħti kampjun tan-nifs, tad-demmm jew ta' l-urina tista' tiġi miżmuma mill-pulizija sakemm il-pulizija jkun jidhrilha li dik il-persuna tkun f'kundizzjoni li ssuq.

Reati u pieni.

15H. (1) Kull persuna li tikser xi dispożizzjonijiet ta' l-artikoli 15A u 15B tkun hatja ta' reat u meta tinsab hatja ta' reat bhal dak jew ta' reat taht is-subartikolu (4) ta' l-artikolu 15E tehel —

(a) fil-każ ta' l-ewwel kundanna, multa ta' mhux anqas minn mitejn lira jew prigunerija għal mhux iżjed minn tliet xhur jew għal dik il-multa u prigunerija flimkien;

(b) fil-każ tat-tieni kundanna jew ta' kull kundanna ohra warajha multa ta' mhux anqas minn hames mitt lira iżda mhux iżjed minn elf lira jew prigunerija għal mhux iżjed minn sitt xhur jew għal dik il-multa u prigunerija flimkien.

(2) B'żieda mal-pieni taht is-subartikolu (1) ta' dan l-artikolu, il-Qorti għandha tiskwalifika lill-hati milli jkollu jew jottjeni xi liċenzja tas-sewqan fil-każ ta' l-ewwel kundanna għal żmien ta' mhux anqas minn sitt xhur, u fil-każ tat-tieni kundanna jew ta' kull kundanna ohra warajha, għal żmien ta' mhux anqas minn sena:

Iżda fil-każ ta' kundanna minhabba li persuna ma kienetx f'kundizzjoni li ssuq minhabba xorb jew għal reat taht l-artikolu 15B ta' din l-Ordinanza, id-dispożizzjonijiet ta' dan is-subartikolu għandhom jghoddu biss fejn il-proporzjon ta' alkohol fin-nifs, fid-demmm jew fl-urina jkun jaqbeż il-limitu preskritt bi tmien mikrogramma jew iżjed fin-nifs jew b'ghoxrin milligramma jew iżjed fid-demmm jew bi tlieta u ghoxrin milligramma jew iżjed fl-urina.

15I. (1) Ghall-ghanijiet ta' dan l-artikolu u ta' l-artikoli 15A sa 15H, kemm-il darba r-rabta tal-kliem ma tehtieġx xort'ohra —

Tifsir ta' l-artikoli 15A sa 15I.

“test tan-nifs” tfisser test preliminari bil-ghan li jittiehed, bil-mezz ta’ strument ta’ xorta approvata mill-Ministru, indikazzjoni ta’ jekk il-proporzjon ta’ alkohol fin-nifs, jew fid-demm jew fl-urina ta’ persuna hi x’aktarx iżjed mill-limitu preskritt;

“droga” tinkludi kull intossikant iehor barra alkohol;

“il-limitu preskritt” tfisser skond kif il-każ ikun jehtieg:

(a) 35 mikrogramma ta’ alkohol f’100 millilitru ta’ nifs; jew

(b) 80 milligramma ta’ alkohol f’100 millilitru ta’ demm; jew

(c) 107 milligramma ta’ alkohol f’100 millilitru ta’ urina,

jew dawk il-proporzjonijiet l-oħra kif jistgħu jiġu preskritti b’regolamenti magħmula mill-Ministru.

(2) Persuna titqies li tkun tat kampjun ta’ demm biss jekk tagħti l-kunsens tagħha li dak il-kampjun jittiehed minn tabib u li dan hekk jittiehed f’dik il-kwantità u ta’ dik il-kwalità li tkun tista’ tiġi analizzata kif imiss għall-għanijiet ta’ l-artikolu 15E.

(3) Persuna titqies li tat kampjun ta’ l-urina jew tan-nifs biss jekk dak il-kampjun jingħata b’dak il-mod u f’dik il-kwantità u ta’ dik il-kwalità li tkun tista’ tiġi analizzata kif imiss għall-għanijiet ta’ l-artikolu 15E.”.

Mghoddi mill-Kamra tad-Deputati fis-Seduta Nru 180 tat-3 ta’ Frar, 1998.

MYRIAM SPITERI DEBONO
Speaker

RICHARD J. CAUCHI
Skrivan tal-Kamra tad-Deputati

I assent.

(L.S.)

UGO MIFSUD BONNICI
President

13th February, 1998

ACT No. VI of 1998

*AN ACT to amend the Traffic Regulation Ordinance,
Cap. 65.*

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

1. (1) This Act may be cited as the Traffic Regulation (Amendment) Act, 1998, and shall be read and construed as one with the Traffic Regulation Ordinance, hereinafter referred to as “the principal law”. Short title and commencement.
Cap. 65.

(2) The following provisions of this Act shall come into force on such date as the Minister responsible for the police may by notice in the Gazette appoint, and different dates may be so appointed for different provisions and different purposes of this Act.

2. Section 15 of the principal law shall be amended as follows: Amendment of section 15 of the principal law.

(a) in subsection (1) thereof:

(i) the words “or while under the influence of intoxicating liquor or drugs,” in subparagraph (a) shall be deleted; and

(ii) the words “being the owner of a motor-car,” in subparagraph (c) shall be deleted; and

(b) in subsection (2) thereof the words “or in driving a motor-car under the influence of intoxicating liquor or drugs” shall be deleted.

Addition of new sections 15A to 15I to the principal law.

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

“Driving etc. a motor-car while unfit to drive. 15A. (1) No person shall drive or attempt to drive or be in charge of a motor-car on a road or other public place if he is unfit to drive through drink or drugs.

(2) For the purposes of this section, a person shall be deemed to be unfit to drive if his ability to drive properly is for the time being impaired.

Driving etc. a motor-car with alcohol concentration in the breath etc. above the prescribed limit. 15B. No person shall drive, attempt to drive or be in charge of a motor-car on a road or other place after consuming so much alcohol that the proportion of it in his breath, blood or urine exceeds the prescribed limit.

Breath tests. 15C. Where a police officer reasonably suspects that:

(a) a person is driving or attempting to drive or is in charge of a motor-car on a road or other public place and has alcohol in his body or has committed an offence against the provisions of this Ordinance or against any regulations made thereunder whilst the motor-car was in motion; or

(b) a person has been driving or attempting to drive or has been in charge of a motor-car on a road or other public place with alcohol in his body and that that person still has alcohol in his body; or

(c) a person has been driving or attempting to drive or has been in charge of a motor-car on a road or other public place and has committed an offence against the provisions of this Ordinance or against any regulations made thereunder whilst the motor-car was in motion; or

(d) a person was driving or was attempting to drive or was in charge of a motor-car on a road or other public place when that motor-car was involved in an accident,

he may require that person to provide a specimen of breath for a breath test.

Powers
of arrest.

15D. A police officer may proceed to the arrest of a person if —

(a) as a result of a breath test the police officer reasonably suspects that the proportion of alcohol in that person's blood exceeds the prescribed limit; or

(b) that person fails to provide a specimen of breath for a breath test when required to do so in pursuance of the provisions of section 15C of this Ordinance provided that such person had been warned that the failure or refusal to comply with such a request was an offence.

Provision of
specimen
for analysis.

15E. (1) In order to determine whether a person has committed an offence under sections 15A and 15B a police officer may require such person —

(a) to provide two specimens of breath for analysis by means of a device approved by an order of the Minister published in the Gazette; or

(b) to provide a specimen of blood or two specimens of urine for laboratory analysis:

Provided that the police may in addition to the specimens of breath require also a specimen of blood or two specimens of urine.

(2) The two specimens of urine mentioned in paragraph (b) of subsection (1) of this section shall be provided with an interval of one hour between them and the later specimen shall be used for analysis.

(3) Specimens may only be required to be provided as follows:

(a) specimens of breath may be required to be provided at or near the place where their provision is requested, or at a police station, health centre or hospital;

(b) specimens of urine may be required to be provided at a police station, health centre or hospital;

(c) specimens of blood may be required to be provided at a health centre or hospital.

(4) A person who refuses or fails to provide a specimen as provided under this section shall be guilty of an offence:

Provided that it shall be a defence for such person to prove that his failure to provide a specimen was due to physical or mental incapacity to provide it or because its provision would entail a substantial risk to his health.

(5) The analysis of any specimen provided in accordance with the provisions of this section shall take place at a laboratory approved by an order of the Minister published in the Gazette, and the opinion of the analyst in that laboratory and the results of the analysis shall be admissible in evidence in any proceedings for an offence under section 15A or 15B of this Ordinance. The results of the analysis shall be presumed correct unless the contrary is proved.

(6) Where a person has been found guilty of an offence against any of the provisions of sections 15A and 15B of this Ordinance the court may, besides sentencing the offender to the punishment applicable according to law, order him to pay the fees, or part thereof, due to the person or persons who shall have made the analysis under the provisions of this section.

Choice of specimens of breath.

15F. (1) Subject to subsection (2) of this section, of any two specimens of breath provided by any person in pursuance of section 15E of this Ordinance that with the lower proportion of alcohol in the breath shall be used and the other shall be disregarded.

(2) If the specimen with the lower proportion of alcohol contains no more than 50 microgrammes of alcohol in 100 millilitres of breath, the person who provided it may

claim that it should be replaced by such specimen as may be required under section 15E of this Ordinance and, if he then provides such a specimen, neither specimen of breath shall be used.

(3) The Minister may by regulations substitute another proportion of alcohol in the breath for that specified in subsection (2) of this section.

Detention of persons affected by alcohol or a drug.

15G. A person required to provide a specimen of breath, blood or urine may be detained by the police until it appears to the police that such person is fit to drive.

Offences and punishments.

15H. (1) Every person who contravenes any of the provisions of sections 15A and 15B shall be guilty of an offence and shall on conviction for such an offence or for an offence under subsection (4) of section 15E be liable –

(a) in the case of a first conviction, to a fine (*multa*) of not less than two hundred liri or to imprisonment not exceeding three months, or to both such fine and imprisonment;

(b) in the case of a second or subsequent conviction, to a fine (*multa*) of not less than five hundred liri but not exceeding one thousand liri or to imprisonment not exceeding six months, or to both such fine and imprisonment.

(2) In addition to the punishments under subsection (1) of this section, the Court shall disqualify the offender from holding or obtaining a driving licence in the case of a first conviction for a period of not less than six months, and in the case of a second or subsequent conviction for a period of not less than one year:

Provided that in the case of a conviction due to a person having been unfit to drive through drink or for an offence under section 15B of this Ordinance, the provisions of this subsection shall apply only where the proportion of alcohol in the breath, blood or urine exceeds the prescribed limit by eight microgrammes or more in the breath or by twenty milligrammes or more in the blood or by twenty-three milligrammes or more in urine.

Interpretation
of sections
15A to 15I.

15I. (1) For the purposes of this section and of sections 15A to 15H, unless the context otherwise requires —

“breath test” means a preliminary test for the purpose of obtaining, by means of a device of a type approved by the Minister, an indication whether the proportion of alcohol in a person’s breath, blood or urine is likely to exceed the prescribed limit;

“drug” includes any intoxicant other than alcohol;

“the prescribed limit” means as the case may require:

(a) 35 microgrammes of alcohol in 100 millilitres of breath; or

(b) 80 milligrammes of alcohol in 100 millilitres of blood; or

(c) 107 milligrammes of alcohol in 100 millilitres of urine,

or such other proportions as may be prescribed by regulations made by the Minister.

(2) A person is deemed to have provided a specimen of blood only if he consents to it being taken by a medical practitioner and it is so taken in such quantity and of such quality as is capable of being properly analysed for the purposes of section 15E.

(3) A person shall be deemed to have provided a specimen of urine or breath only if that specimen is provided in such a manner and in such quantity and of such quality as is capable of being properly analysed for the purposes of section 15E.”.

Passed by the House of Representatives at Sitting No. 180 of the 3rd February, 1998.

MYRIAM SPITERI DEBONO
Speaker

RICHARD J. CAUCHI
Clerk to the House of Representatives