



LAWS AND REGULATIONS

PROMULGATED TO GIVE EFFECT TO THE PROVISIONS OF THE INTERNATIONAL TREATIES ON NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES

*In accordance with the relevant articles of the international treaties on narcotic drugs and psychotropic substances,
the Secretary-General has the honour to communicate the following legislative texts.*

MALTA

Communicated by the Government of Malta

NOTE BY THE SECRETARIAT

- (a) Some editing of texts may be done by the Secretariat in the interest of clarity. In this connection, words in square brackets [] have been added or changed by the Secretariat.
- (b) Only passages directly relevant to the control of narcotic drugs or psychotropic substances have been reproduced in this document. Non-relevant parts of laws and regulations have been deleted by the Secretariat; such deletions are indicated by [...].

DANGEROUS DRUGS ORDINANCE (AMENDMENT) ACT, 1994 (ACT N° VI OF 1994)

***Note by the Secretariat:** This document is a direct reproduction of the text communicated to the Secretariat.

ACT No. VI of 1994

AN ACT to amend the Dangerous Drugs Ordinance, Cap. 101. 1/

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

Short title.

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

Amendment
of section 2
of the
principal law.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Amendment
of section 10
of the
principal law.

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

Amendment
of section 11
of the
principal law.

Amendment
of section 13
of the
principal law.

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

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

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

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

Amendment
of section 14
of the
principal law.

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

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

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

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

Amendment
of section 15
of the
principal law.

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

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

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

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

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

Addition of
new section 15A
to the
principal law.

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

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

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

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

Amendment
of section 16
of the
principal law.

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

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

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

Amendment
of section 18
of the
principal law.

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

Amendment
of section 22
of the
principal law.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) on conviction by the Criminal Court —

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

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

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

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

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

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

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

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

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

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

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

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

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

Cap. 152.

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

Cap. 9.

Cap. 152.

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

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

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

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

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

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

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

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

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

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

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

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

Amendment of section 22B of the principal law.

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

Amendment of section 22C of the principal law.

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

Amendment of section 22E of the principal law.

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

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

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

Substitution of section 23 of the principal law.

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

“Definition of expression corresponding law.

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

Addition of new section 24A to the principal law.

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

“Additional powers of investigation.

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

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

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

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

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

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

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

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

(3) An investigation order:

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

Cap. 9.

Cap. 12

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Amendment
of section 26
of the
principal law.

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

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

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

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

Amendment
of section 27
of the
principal law.

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

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

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

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

Cap. 9

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

Addition
of new sections
to the
principal law.

"State-
ment may
be admitted
as evidence.

Cap. 9

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

Controlled
delivery
and
purchase.

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

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

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

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

Amendment of
the Second
Schedule to the
principal law.

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

“FORM A

(Section 14(2)).

DANGEROUS DRUGS ORDINANCE
(CHAPTER 101)

Import Certificate issued by the Serial No.
Government of Malta File No.

CERTIFICATE OF OFFICIAL APPROVAL
OF IMPORT

I, being the person charged with the administration of the law relating to dangerous drugs to which the Single Convention 1961 applies, hereby certify that I have approved the importation by*

of†

from‡

subject to the conditions that —

(i) the consignment shall be imported before the

(ii) the consignment shall be imported in one consignment; and

(iii) if the importation of all the drugs specified above is not effected before the date specified in condition No. (i) this authorization shall be surrendered forthwith to the Chief Government Medical Officer

and that I am satisfied that the consignment proposed to be imported is required —

(1) ¶for legitimate purposes (*in the case of raw opium or the coca leaf*).

(2) ¶solely for medicinal or scientific purposes (*in the case of dangerous drugs other than raw opium and coca leaf*).

(Date)

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

This document is solely for production to the government of the country from which the drug is proposed to be obtained.

* Insert name, address and business of importer.

† Insert exact description and amount of drugs to be imported.

‡ Insert name and address of firm in exporting country from which the drug is to be obtained.

¶ Strike out words not applicable.”.

(b) for Form B thereof there shall be substituted the following:

“FORM B

(Section 13(1))

DANGEROUS DRUGS ORDINANCE
(CHAPTER 101)

File No.
Applicant's
Reference No.

Serial No.

EXPORT AUTHORIZATION

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

(hereinafter called “the exporter”)

to export from —

(1) * the port of _____ by s.s.
(2) * Malta by Parcel Post in
parcels from the

to

in virtue of import Certificate No. _____ dated

issued by

the following drugs, namely:

This authorization is issued subject to the following
conditions:

1. This authorization is not a licence to obtain or to be in
possession of the drugs named herein.

2. This authorization is available only for drugs of the
exact quantity, kind and form specified above.

3. This authorization does not relieve the exporter from
compliance with any customs regulations in force for the time
being relating to the exportation of goods from Malta nor from
any provision of the Post Office Act (Chapter 254) or of any
post office regulations for the time being in force, nor from any
rules or regulations respecting the transmission of articles by
post which may for the time being be in force, whether within
Malta or elsewhere.

4. If the drugs are authorized to be exported by ship the
duplicate copy, which is attached, shall accompany the
consignment to the place of destination and for this purpose
the exporter shall cause it to be delivered to the master of the
vessel by which the consignment is despatched.

5. If the drugs are authorized to be exported by post the
attached duplicate copy shall be placed inside the outer

* Strike out words not applicable.

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

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

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

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

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

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

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

Date

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

* Strike out words not applicable.

Note:

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

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

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

"FORM E

(Section 18 (1))

**DANGEROUS DRUGS ORDINANCE
(CHAPTER 101)**

DIVERSION CERTIFICATE

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

Description and quantities of drugs

Name of vessel on which the consignment was brought to Malta

Name and address of the exporter

Number and date of export authorization and authority by whom issued

Name and address of original consignee named in the export authorization

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

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

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

Period within which the consignment is to be carried from Malta

This certificate is issued subject to the following conditions:

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

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

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

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

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

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

(Date)

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

Note:

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

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

Addition
of Third
Schedule to
the principal
law.

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

“THIRD SCHEDULE

(Section 22(1D))

TABLE I

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

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

TABLE II

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

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

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

LAWRENCE GONZI
Speaker

RICHARD J. CAUCHI
Clerk to the House of Representatives