

I assent.

(L.S.)

**MARIE-LOUISE
COLEIRO PRECA
President**

26th June, 2018

ACT No. XXV of 2018

AN ACT to make provision for the regulation of the psychotherapy profession and to provide for matters connected therewith or ancillary thereto.

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

1. (1) The short title of this Act is the Psychotherapy Profession Act, 2018. Short title and commencement.

(2) This Act shall come into force on such date as the Minister responsible for the profession of psychotherapy may, by notice in the Gazette, establish, and different dates may be so established for different provisions and for different purposes of this Act.

2. In this Act, unless the context otherwise requires: Interpretation.

"ability test" means a test, the purpose of which is to assess the person's ability for him to be able to practice the psychotherapy profession in Malta as required by the Board under the provisions of this Act;

A 904

"adaptation period" means a period during which a person may exercise the profession of psychotherapy in Malta, under the supervision of a registered psychotherapy supervisor, which period may include the provision of such further training to such person, as may be required by the Board, at the end of which an ability test shall be held;

"aptitude test" means a test of the professional knowledge, skills and competences of the applicant, with the aim of assessing the ability of the applicant to pursue the psychotherapy profession;

"association of psychotherapists" means an association of psychotherapists established in terms of article 12;

"the Board" means the Board of the Psychotherapy Profession in Malta established by article 4;

"ECTS" means European Credit Transfer System;

S.L. 451.02 "higher education institution" shall have the same meaning as assigned to it by article 2 of the Mutual Recognition of Higher Education Qualifications in the European Region Regulations;

S.L. 451.02 "higher education qualification" shall have the same meaning as assigned to it by article 2 of the Mutual Recognition of Higher Education Qualifications in the European Region Regulations;

S.L. 451.03 "migrant" shall have the same meaning as assigned to it by article 2 of the Recognition of Professional Qualifications Regulations;

"Minister" means the Minister responsible for the psychotherapy profession;

"National Umbrella Organisation" means an organisation of psychotherapists having the largest membership and reflecting the broadest range of psychotherapeutic approaches;

"practical training" means training of not less than six hundred (600) hours consisting of personal psychotherapeutic experience and practical training under continuous supervision in a mental health or psycho-social facility or in both;

"practice" in relation to the psychotherapy profession, includes:

(a) the taking up or pursuit of the profession of psychotherapy; and

(b) the right to use, in the course of such pursuit, the professional title of "Registered Psychotherapist", followed by

the modality studied, by a person having in his possession a warrant to practise the psychotherapy profession;

"prescribed" means prescribed by means of regulations made by the Minister under this Act;

"profession" unless otherwise indicated, means the psychotherapy profession;

"professional qualifications" shall have the same meaning as assigned to it by article 2 of the Recognition of Professional Qualifications Regulations; S.L. 451.03

"psychotherapy" means the comprehensive, deliberate, and planned treatment, or therapeutic intervention, given on the basis of general and special psychosocial, psychosomatic and behavioural disturbances, or states of suffering, training, by means of scientific psychotherapeutic methods, through an interaction between one or more persons being treated, and one or more psychotherapists, with the aim of relieving disturbing attitudes that lead to change, and to promote the maturation, development and health of the treated person;

"registered psychotherapist" means a person who is in possession of warrant to practice the profession of psychotherapy and is registered in the official register of warranted psychotherapists kept by the Board;

"theoretical training" means training of not less than eight hundred (800) hours for a continuous period of not less than four (4) years consisting of training in basic principles of psychotherapy and personality theories; basic methodological principles of research and science; ethical practice and the relevant social and legal framework; theories of personality development and pathology; and psychotherapeutic methods and techniques;

"training in a specific psychotherapeutic modality" means training, which consists of theoretical and practical training, in a psychotherapeutic modality, which may be in one of the following:

- (a) psychoanalytic/ psychodynamic;
- (b) cognitive/behavioural psychotherapy;
- (c) systemic/ family psychotherapy;
- (d) humanistic psychotherapy;
- (e) hypno-psychotherapy;

A 906

(f) integrative psychotherapy;

"warrant" means a warrant issued under article 3.

Warrant.

3. (1) No person can hold himself out to be a registered psychotherapist, or perform the profession of psychotherapy against remuneration, or hold himself out to be professionally qualified to do so, or assume the title or designation of registered psychotherapist, unless he is the holder of a warrant issued under this Act:

Provided that none of the provisions contained in this Act shall be applicable or shall in any manner impact the practice of professions regulated under any other law and which professions are subject to regulation by any other regulatory Council or entity.

(2) Unless otherwise specified in the warrant, the warrant shall not entitle the holder thereof to practise the psychotherapy profession with specialisation.

Cap. 451

(3) Without prejudice to the provisions of the Mutual Recognition of Qualifications Act and the regulations made thereunder, a person shall qualify to obtain a warrant if such person:-

(a) is a citizen of Malta or a citizen of the EU, or is otherwise entitled or authorised to work in Malta;

(b) is of good conduct and good moral character;

(c) has full legal capacity;

(d) has obtained a bachelor's degree in a human or social science issued by a higher education institution, which the Minister may, on the advice of the Board, specify in regulations; and

(e) has obtained, to the satisfaction of the Board, training in a specific psychotherapeutic modality for a period of not less than three thousand (3,000) hours, or its equivalent of one hundred and twenty (120) ECTS, which is equivalent to a Master's degree issued by a higher education institution.

(4) The Minister may prescribe, in place of the minimum requirements established under the preceding provisions of this sub-article, other minimum requirements in terms of international or multinational treaties entered into by Malta, or with the provisions of any legislation brought into force by virtue of any such treaty or agreement.

(5) Without prejudice to the provisions of the Mutual Recognition of Qualifications Act and the regulations made thereunder, where the duration of the training leading to a professional qualification is less than that, which is mentioned in paragraph (e) of sub-article (3), the Board may require the applicant to undertake an adaptation period not exceeding twice the shortfall. The Board may also submit the applicant to an ability test. Cap. 451

4. (1) There shall be a Board, to be known as the Board for the Psychotherapy Profession in Malta, which shall be composed as follows: Board for the psychotherapy profession in Malta.

(a) four members appointed by the Minister of which:

(i) one person shall be a Chairperson having obtained a warrant from the Board and has at least six (6) years experience in the practice of psychotherapy;

(ii) two persons who exercise the psychotherapy profession, and who have obtained a warrant from the Board;

(iii) one person shall be an advocate with at least five (5) years experience who shall be appointed as vice-chairperson;

(b) two members elected from amongst psychotherapists, having a warrant, in an election conducted by the Board:

Provided that, in the event of the setting up of the first Board, the psychotherapists referred to in this paragraph shall be nominated by the National Umbrella Organization;

(c) one psychotherapist nominated from amongst the permanent academic staff for psychotherapy education and training at the University of Malta;

(d) one psychotherapist nominated from amongst the staff providing training in psychotherapy at the Gestalt Psychotherapy Training Institute Malta;

(e) one psychotherapist from the staff providing training in psychotherapy at the Institute of Family Therapy Malta; and

(f) one psychotherapist from the staff of any other higher education institution in Malta providing training in psychotherapy.

A 908

(2) In the event of the setting up of the first Board after the coming into force of this Act, any reference in this article to psychotherapists forming part of such Board shall be understood as referring to persons eligible to the warrant in accordance with this Act.

(3) The nominations and elections made in terms of paragraph (b), (c), (d), (e) and (f) of sub-article (1) shall, for the first time, be made within two weeks from the date on which a request in writing is made for that purpose by the Minister and, for any subsequent nomination or election, within one month from the date on which the vacancy arises or, when the vacancy arises due to the expiry of the term of office, within one month prior to the said expiration. In the absence of any such nomination or election, the Minister shall himself make the appointment from amongst psychotherapists having a warrant.

(4) The members of the Board shall hold office for a term of three (3) years and shall, on the expiration of that term, be eligible to be reappointed:

Provided that no person shall serve as member of the Board for more than three consecutive terms.

(5) In the event that a member of the Board vacates his office before prior to the expiration of his term of office, the person appointed in his stead shall be appointed for the remaining period of the original appointment.

(6) The number of members present required to form a quorum shall be four:

Provided that, subject to the presence of a quorum, the Board may act notwithstanding any vacancy amongst its members.

(7) The Minister shall designate a person to act as secretary to the Board, but such secretary shall not have a vote.

(8) The Chairperson shall have an original vote and, in the case of equality of votes, a casting vote.

(9) The legal representation of the Board shall jointly vest in the Chairman and the Secretary to the Board:

Provided that the Board may designate any one or more of the other members of the Board, to appear in the name and on behalf of the Board in any judicial proceedings and to sign for and on its behalf any other act, contract, instrument or other document whatsoever.

(10) Without prejudice to the foregoing provisions, and to that

which may be prescribed under this Act, or other law or regulation, the Board may regulate its own procedures.

(11) The Board shall meet as often as necessary, but in no case less frequently than once every three months. The meetings of the Board shall be summoned by the Chairperson either on his own initiative, or on the request in writing of not less than two of the other members of the Board. In the second case, the Chairperson shall summon a meeting not later than two weeks from the date on which the request has been made.

(12) In the exercise of its functions under this Act, the Board may consult with any person as it deems appropriate. For this purpose, the Board may invite such persons to attend the meetings of the Board.

(13) The Board shall keep true and correct copies of the records of its proceedings and the Board shall give to the Minister any information as he may require within a reasonable period of time.

5. (1) Without prejudice to the other powers and functions given, or may be given, by this Act, or any other law or regulations, the powers and functions of the Board are to regulate the practice and eligibility to practice the psychotherapy profession in Malta, and in particular to:

Functions of the Board.

(a) establish psychotherapy standards, assess existing psychotherapy standards and develop new standards of continuous professional development in psychotherapy and such other standards as may be necessary;

(b) consider, process and make recommendations to the Minister regarding applications for warrants to practice the psychotherapy profession in Malta, and also for equivalence and recognition of qualifications in psychotherapy;

(c) keep a register of psychotherapists with a warrant;

(d) keep a register of societies of psychotherapists;

(e) keep a register of associations of psychotherapists and such information as may be required in relation thereto and to its members;

(f) investigate allegations of professional misconduct, gross negligence or incompetence of psychotherapists;

(g) make recommendations to the Minister to prescribe regulations in relation to the employment of persons who,

A 910

although having higher education qualifications and professional qualifications, do not qualify for a warrant under this Act;

(h) make recommendations to the Minister on the Code of Ethics following consultations with the associations of psychotherapists;

(i) make recommendations to the Minister as may be necessary;

(j) perform such other functions that arise under this Act, or any other law or regulation, or as may be delegated to it by the Minister.

(2) The Board shall, not later than three months after the end of each year, publish in the Gazette a list of persons who, until the 31st December of the previous year, were registered in the official register of psychotherapists and a list of societies registered in the official register of societies of psychotherapists.

(3) The Board shall draw up and publish an annual report concerning its general operations.

Application for
warrant.

6. (1) Any person seeking to obtain a warrant to practise the psychotherapy profession in Malta shall make an application to the Board.

(2) If the Board is satisfied that the applicant satisfies the minimum requirements established under this Act, it shall make a recommendation to the Minister for the issue of a warrant.

(3) Where, following an adaptation period where necessary, the Board is satisfied that the applicant has successfully completed his training, the Board shall make a recommendation to the Minister for the issue of a warrant.

(4) For the purposes of the foregoing sub-article, the Board may submit the applicant to an aptitude test.

(5) A warrant issued by the Minister under this Act may be issued subject to such limitations or conditions as the Board may recommend in any particular case. Such warrant shall include such special conditions and such authorisation to practice in areas of specialised psychotherapy for such specific periods as the Board may recommend in accordance with the provisions of this Act and any regulations made thereunder.

(6) A warrant issued under this Act shall continue to have effect,

provided that the warrant holder shall, every three years, prove to the satisfaction of the Board that he has carried out such programme, or programmes, of continuing professional development as may be prescribed.

(7) The associations of psychotherapists shall collect and keep all the information relating to the programme, or programmes, of continuing professional development on an annual basis.

7. The Board shall consider and make its recommendations on an application for a warrant to practise the profession of psychotherapy as soon as is reasonably practicable, but in no case later than four months from the receipt of the application together with all the relevant information and documentation in support of the application. On making its recommendations to the Minister, the Board shall concurrently notify the applicant of its recommendations, together with the reasons upon which these were based.

Recom-
mendations for
the issue of a
warrant.

8. (1) A person shall not be qualified to obtain or retain a warrant, in terms of this Act, if he has been convicted by any competent court for any crime liable to imprisonment for a term exceeding one year.

Loss of warrant.

(2) Where a person loses his warrant in terms of the preceding sub-article, notice of such loss shall be given by the Minister in the Gazette and such information shall be notified by the Board to the person losing the warrant, unless such person has been interdicted by the judgement itself.

(3) The Minister may, at any time, on the recommendation of the Board, reinstate a person who has lost his warrant in terms of sub-article (1).

9. (1) The Board may set up a committee to inquire into any alleged professional misconduct, gross negligence or incompetence in relation to a psychotherapist.

Committee of
Inquiry.

(2) For the purposes of this article, the terms "professional misconduct", "gross negligence", or "incompetence", shall include the following:

(a) the obtaining of a warrant in a deceitful or fraudulent manner, or otherwise purporting to be a psychotherapist without the required warrant;

(b) the contravention of the Code of Ethics established under this Act;

A 912

(c) the failure to observe any regulations regarding professional standards or practice;

(d) the failure to observe any conditions attached to the warrant issued under this Act;

(e) the use of therapeutic interventions, or the assumption of a professional competence for which the person is not qualified or is not authorised to practise in terms of his warrant;

(f) acting in any manner that may be detrimental to the psychotherapy profession;

(g) giving incorrect information or displaying lack of skill or judgment in the practice of the psychotherapy profession or in the performance of any duties or obligations in the psychotherapy practice.

(3) Every holder of a warrant, who is the subject of an investigation, shall have the opportunity to make his defence and bring evidence in his favour, and for this purpose, that person may be represented by an advocate or by any other person of his choice.

(4) On the conclusion of the investigation, the committee shall decide whether there are or not sufficient grounds to find the holder of a warrant guilty of professional misconduct, gross negligence or incompetence. In the first case, the committee shall make a report of its decision and shall commit the holder of the warrant for inquiry by the Board, together with its recommendations to impose a penalty, and, in the second case, recommend that no further proceedings should be undertaken.

(5) The penalties mentioned in the preceeding sub-article may include the following:

(a) the suspension or the revocation of such warrant, subject to such conditions as may be recommended;

(b) the suspension or the revocation of the registration of the society of psychotherapists;

(c) the imposition of conditions attached to the warrant;

(d) a reprimand;

(e) a payment to cover the costs of the investigation;

(f) an order for the waiver, reduction or refund of any fees charged for services rendered by the person found guilty;

(g) any other penalties that may be prescribed by the Board, or by this Act, or any other laws or regulations.

(6) Upon revocation of the warrant, the Board shall strike off the name of the holder of that warrant from the register of psychotherapists. The revocation of any warrant shall be published in the Gazette.

(7) For the purposes of this article, the powers vested, or the powers which may be vested, in the members of the committee, shall be those provided under the Inquiries Act and the committee shall conduct the investigations as provided for in the said Act. Cap. 273.

10. (1) The holder of a warrant who feels aggrieved by a decision of the Board may appeal before the Court of Appeal in its jurisdiction within twenty-one days from the date on which notice of the decision has been given to the Minister and notified to the holder of the warrant by registered post. Appeals.

(2) In this case the warrant shall be suspended or revoked only when the Court of Appeal confirms the decision of the Board.

(3) The Minister responsible for justice may make regulations prescribing the fees to be paid to the Registry of the Court on appeals made under this article:

Provided that until such fees have been prescribed, the fees referred to in the Code of Organization and Civil Procedure shall, *mutatis mutandis*, apply. Cap. 12.

(4) The Board referred to in article 29 of the Code of Organization and Civil Procedure shall make rules establishing the form of such appeals and matters relating thereto. Cap. 12.

11. The Minister may, on the recommendation of the Board, and following a request to that effect by the person who has lost the warrant, return the warrant to that person if such person satisfies the requirements that may have been prescribed. Where the warrant has been returned, the name of the person who received the warrant shall be registered again in the official register of psychotherapists. Removal of suspension or cancellation.

12. (1) Any association of psychotherapists may make an application to the Board to be registered as an association of psychotherapists for the purposes of this Act. Association of psychotherapists.

(2) An association of psychotherapists shall be qualified to be

A 914

registered as an association of psychotherapists under this article if it proves to the Board that at least ten of its members are registered as psychotherapists with a warrant and that it conforms to such other conditions as may be prescribed from time to time. An association of psychotherapists shall submit together with its application a list of its members and any such other information as the Board may require to process the application.

(3) The Board shall have the power to require any association of psychotherapists registered under this article to produce such records and information about the association and its members as may be required from time to time.

Society of
psychotherapists.

13. (1) Two or more holders of a psychotherapy warrant may form a civil partnership, in this Act referred to as "society of psychotherapists", having for its exclusive objective the practice of the psychotherapy profession and having all such relative powers for the attainment of that objective.

(2) No person, other than the holders of a psychotherapy warrant, may form part of a society of psychotherapists.

(3) Any society of psychotherapists, formed under this article, shall pay all such fees, as may be prescribed, so that such society may be registered in the register of societies of psychotherapists and, upon such registration, the persons forming part of that society shall, until it is so registered, be authorised to act in the name and on behalf of the society and that society shall be entitled to use the designation "Psychotherapists" as part of its name.

(4) Every society of psychotherapists, registered in terms of this article, shall provide to the Board such information as the Board may from time to time require or as may be prescribed, and shall give notice to the Board of any relevant changes in any information, which has been given to the Board, within fifteen days from the date on which such change has occurred.

Provisions
solely
applicable to
societies of
psychothera-
pists.

14. Notwithstanding the provisions of any other law, or any other agreement to the contrary, the following provisions shall apply solely to a society of psychotherapists, and not to members of an association of psychotherapists in terms of article 12:

(a) any act or thing that may be done by a holder of a warrant may be done by one or more of the persons that form part of the society on behalf of such society; and any act or thing done on behalf of the society shall be done by one person forming part of that society or more; and

(b) where any thing done or omitted to be done by a person whilst forming part of a society of psychotherapists, the resulting responsibilities and liabilities of that person shall not cease on the ground that the person has retired or died, or for any other reason on the ground of which the person no longer forms part of the society.

15. The provisions of articles 9, 10 and 11 shall apply to the societies of psychotherapists as they apply to individual psychotherapists. Applicability of articles 9 to 11.

16. (1) Without prejudice to the other provisions of this Act any person who, for the purpose of obtaining a warrant, or a registration under the provisions of this Act, knowingly gives any false information, or otherwise acts in a deceitful, or fraudulent manner, shall be guilty of an offence and shall, on conviction, be liable to a fine (*multa*) not exceeding two thousand and five hundred euro (€2,500) or to imprisonment not exceeding twelve months, or to both such fine and imprisonment. Offences.

(2) Any person who is found guilty of any other offence against this Act shall be liable on conviction to a fine (*multa*) of not less than one thousand and five hundred euro (€1,500), and not more than five thousand euro (€5,000), or to imprisonment of not more than three months, or to both such fine and imprisonment, and in the case of a continuous offence, to a fine (*multa*) of fifteen euro (€15) for each day during which the offence continues.

(3) Any person who, not being the holder of a warrant issued under this Act:

- (a) practices the profession of psychotherapy; or
- (b) makes use of any professional title of psychotherapist, or the designatory letters thereof; or
- (c) purports to be a psychotherapist; or
- (d) performs the work of a psychotherapist,

shall be guilty of an offence against this article.

(4) Any person who uses the word "Psychotherapists" in relation to a partnership of psychotherapists, where such partnership is not registered in accordance with the provisions of this Act, or in any manner makes use of a name deceitfully implying the existence of a society of psychotherapists registered as aforesaid, shall be guilty of an offence against this Act.

(5) For the purposes of sub-articles (3) and (4), the use on any card, letterhead, sign, board, plate, advertisement or other written, printed or engraved device, instrument or document, of the words "Psychotherapist", "Registered Psychotherapist" in relation to a name, or "Society of Psychotherapists" or "Psychotherapists" in relation to a society, shall be sufficient evidence of the knowledge of such use by any person in relation to whose name, or society, the said words are used, unless such person proves that the use of such words was made without his knowledge, and that upon becoming aware of the use he took adequate steps to prevent the continuation of such act.

(6) For the purpose of this article, a person shall not be deemed to be in contravention of the provisions of this Act if such person is practicing psychotherapy during an adaptation period, or when in training, under the appropriate supervision of a registered psychotherapist, and subject to such regulations as may be prescribed.

(7) Subject to the provisions of sub-article (6), no person, or organisation, shall employ a person, other than a registered psychotherapist, for the purpose of practising the profession of psychotherapy.

(8) The provisions of this Act establishing offences, shall be without prejudice to the provisions of any other law establishing offences, and punishments in respect of the same acts, or omissions, shall not, in particular, affect the application of any higher punishment under any other law.

Violence and threats.

17. Whosoever, by violence or threats, compels a psychotherapist, who is a public officer, to do, or not to do, any act appertaining to his office, shall, on conviction, be liable to the punishment of imprisonment for a term of not less than one year and not more than five years and to a fine (*multa*) of not less than four thousand euro (€4,000) and not more than ten thousand euro (€10,000).

Power to make regulations.

18. The Minister may, following consultation with the Board, make regulations to give better effect to any of the provisions of this Act, and generally to regulate the psychotherapy profession, and, without prejudice to the generality of the foregoing, such regulations may in particular include provisions with respect to:

(a) the establishment of standards, procedures and duties in the exercise of the psychotherapy profession and practices to be followed by psychotherapists, either generally or in particular fields of activity;

(b) the professional conduct and the Code of Ethics of psychotherapists and standards of competency and integrity to be

kept in the psychotherapy profession;

(c) the requirements in relation to continuing professional development for the maintenance of a warrant;

(d) the work which may be performed and the services which may be provided in terms of a warrant, and the terms and conditions which can be attached to such warrant;

(e) the fees that may be charged by the Board in relation to applications for the issue of warrants, the making of any registration under this Act, and any other operations that may be carried out by the Board in accordance with the provisions of this Act;

(f) the fees that may be charged by psychotherapists for their professional services;

(g) the procedures to be followed in cases of professional misconduct;

(h) the employment of persons who, although in possession of higher education qualifications and professional qualifications, do not qualify for a warrant under this Act, and who are working under the supervision of a registered psychotherapist in such establishments, or agencies, as may be prescribed;

(i) any other procedure that may be adopted by the Board;

(j) any matter that may be required, or is authorized, by this Act to be prescribed;

(k) the punishments, the penalties and the consequences and the effects to which a person may become liable in the event of any contravention against, or non-compliance with, any provision of, or any regulations made under this Act;

(l) the administrative fines that may be imposed by the Board.

19. (1) A migrant who, on the coming into force of this Act, has higher education qualifications and professional qualifications, which make him eligible for a warrant to practice the profession of psychotherapy in the country where the qualifications have been obtained, shall be deemed to satisfy the provisions of article 3(3)(e).

Migrants who, on the coming into force of this Act, have qualifications in psychotherapy.

A 918

(2) For the purposes of the foregoing sub-article, any training undertaken by a migrant between the date of receipt of the mentioned qualifications and the date of the entry into force of this Act, shall be deemed to be training undertaken under the supervision of registered psychotherapist:

Provided that the Board may submit that person to an adaptation period and an aptitude test.

Requirements.

20. Notwithstanding any other provisions of this Act, any person who, before the coming into force of this Act, satisfies the Board that he:

(a) is in possession of a Diploma in Applied Social Studies with an option in Social Work or a Diploma in Social Work issued by the University of Malta prior to December 2002; and

(b) is registered in the official register of social workers, shall be deemed to satisfy the provisions of article 3(3)(d).

Other savings.

21. Notwithstanding any other provisions of this Act, any person who, before the coming into force of this Act, satisfies the Board that he:

(a) is a European Certificate of Psychotherapy; or

(b) was registered with the Council for the Professions Complementary to Medicine as a psychotherapist; or

(c) was employed with a Government department, agency or entity, for a period of not less than twelve years as a psychotherapist,

shall be deemed to satisfy the provisions of article 3(3)(e):

Provided that the Board may submit that person to an adaptation period and an aptitude test.

Passed by the House of Representatives at Sitting No. 134 of the
20th June, 2018.

ANĠLU FARRUGIA
Speaker

RAYMOND SCICLUNA
Clerk of the House of Representatives

