

I assent.

(L.S.)

AGATHA BARBARA
President

16th May, 1986

ACT No, XVII of 1986

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

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

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

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

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

(a) in subsection (1) thereof —

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

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

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

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

shall be guilty of an offence against this section.

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

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

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

(b) in subsection (2) thereof —

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

“(a) on conviction by the Criminal Court —

(i) where the offence consists in selling or dealing in a drug listed under Part I of the Third Schedule to this Ordinance contrary to the provisions of this section, or in promoting, constituting, organising or financing a conspiracy under paragraph (f) of subsection (1) of this section in respect of such drug, to imprisonment for a term of not less than four years but not exceeding twenty years and to a fine (*multa*) of not less than one thousand Maltese liri but not exceeding fifty thousand Maltese liri; and

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

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

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

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

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

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

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

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

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

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

“Right
of
appeal.

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

Addition of
new section 96
to the principal
law.

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

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

Amendment of
Third Schedule
to the principal
law.

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

“Part II”.

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

DANIEL MICALLEF
Speaker

C. MIFSUD
Clerk to the House of Representatives