

MALTA

ATT Nru. XIII ta' l-2003

ACT No. XIII of 2003

ATT mahruġ b'liġi mill-Parlament ta' Malta.

AN ACT enacted by the Parliament of Malta.

ATT biex jippromwovi u jiproteġi s-saħħa.

AN ACT to promote and protect health.

I assent.

(L.S.)

GUIDO DE MARCO
President

21st October, 2003

ACT No. XIII of 2003

AN ACT to promote and protect health

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:-

Part I

PRELIMINARY

1. (1) The short title of this Act is the Public Health Act, 2003. Short title and commencement.

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

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

“abatement notice” means the official notification for the elimination or removal of a nuisance issued in virtue of article 12 of this Act;

“airport” means an airport designated by the state in whose territory it is situated as an airport of entry or departure for international air traffic;

“animal” means any animal whether kept as a pet or otherwise and includes birds, fish, reptiles and insects;

“authorised officer” means any duly qualified person authorised by the Superintendent to carry out any functions under this Act and includes any nominated officer;

“bathing area” means any place where bathing water is found;

“bathing water” means sea water along the coastline of the Maltese islands which is recognised as such by the Superintendent and wherein bathing is not prohibited;

“body of water” means an area of sea, whether enclosed or not, and whether public or private;

“chimney” includes structures and openings of any kind from or through which smoke, grit, dust or fumes may be emitted, and, in particular, includes flues, and references to a chimney of a building include references to a chimney which serves the whole or a part of a building but is structurally separate from the building but does not include an exhaust pipe of any vehicle;

“consent” means approval given by an individual without any force, fraud or threat ;

“contaminant” means any substance declared under article 27 to be a contaminant;

“contaminated land” means land considered as a public health risk by the Superintendent because of its being contaminated by waste disposal, or by industrial or other waste, or other activities;

“Council of Health” means the Council constituted by article 7 of the Department of Health (Constitution) Ordinance;

“dark smoke” means smoke which is classified as such when measured in terms of any regulations prescribed by the Minister under this Act;

“disease” includes any sickness or illness which may cause a disruption of human body functions, systems or organs; and includes also any notifiable disease as well as any symptoms associated with a disease;

“domestic furnace” means any furnace which is to used solely or mainly for domestic purposes, and is designed for heating a boiler with a maximum heating capacity of less than 16.12 kilowatts;

“free pratique” means permission for a ship to enter a port and disembark passengers, or for an aircraft, after landing, to disembark passengers;

“human pathogenic organism” means an organism declared under article 27 to be a human pathogenic organism, and any toxins produced by such an organism;

“inhabited area” means an area occupied or capable of being occupied by 100 persons at an accommodation rate of 3.5 persons per residential unit;

“medical examination” means any physical, psychological or psychiatric examination and includes the taking of samples of any substance or excrement from the body;

“medical practitioner” means a person legally entitled to practice as a medical practitioner under any law for the time being in force;

“Minister” means the Minister responsible for public health;

“noise” means noise emitted from all sources and includes noise from road, air traffic, industries, construction and public work, the surrounding neighbourhood, noise emitted from ventilation systems, office machines and home appliances;

“nominated officer” means any person authorised by the Superintendent to carry out any specified function or functions under this Act for such period of time as the Superintendent may determine;

“notifiable disease” means a disease declared under article 27 to be a disease which is required to be reported to the Superintendent;

“nuisance” means unlawful interference, of public health significance, with the enjoyment of property or with a person’s

way of life and which is prejudicial to health and has an element of repetition;

“owner” includes:

- (a) the agent of the owner or a trustee;
- (b) any person who receives, or is entitled to receive; rental payments under a lease of the premises;
- (c) an occupier; and
- (d) a person in charge of or operating any premises;

“person” means physical or legal person and includes a public authority;

“port” means a port designated by the state in whose territory it is situated as a port of entry or departure for international travel or trade;

“practicable” means reasonably practicable having regards, amongst other things, to local conditions and circumstances, to the financial implications and to the current state of technical knowledge;

“premises” includes:

- (a) land;
- (b) a building or part of a building;
- (c) a structure or part of a structure; and
- (d) a tent, stall or other temporary structure;

“private dwelling” means any building or part of a building used or intended to be used for or by a person to reside in;

“public health” means the physical and mental well being of the community;

“public health emergency” means any situation in which a public health risk is actual or imminent;

“public health risk” includes any person and any structure, activity, animal, substance or thing that may contribute to disease in humans or may have adverse effects on human health or prevent and, or, restrict the improvement of public health;

“recreational water” means bathing water, swimming pool water and any body of water used for recreational purposes ;

“smoke” includes soot, ash, grit and gritty particles emitted in smoke;

“Superintendent” means the Superintendent of Public Health and to the extent of any delegation or authority given includes an authorised officer;

“swimming pool water” means water in a pool intended for recreational bathing, swimming, diving, or for therapeutic purposes whether located indoors or outdoors other than such pool used or intended to be used as a pool at a single-family residence, but includes a swimming pool located at a single-family residence, which is used or intended to be used for commercial or business purposes;

“vaccine” means a vaccine, derived from any source, that is used to prevent disease in humans;

“vehicle” includes any sea-going craft or aircraft;

“waste” includes refuse, rubbish, sewage, manure, liquid waste, stagnant water, rubble and debris;

“water” excludes water for human consumption.

Part II

ADMINISTRATION

3. This Act shall be administered by the Superintendent. Superintendent.

Provided that in matters related to radiation the Superintendent shall act through the Radiation Protection Board established by the Occupational Health and Safety Authority Act, 2000 and that in matters related to food safety the Superintendent shall act through the Food Safety Commission established by the Food Safety Act, 2002. Act XXVIII of 2000. Act XIV of 2002.

4. The Superintendent shall be responsible for public health in Malta and shall:

- (a) ensure that the provisions of this Act and of regulations made thereunder are complied with;
- (b) develop and implement strategies to promote and improve public health;
- (c) issue standards for public health;
- (d) advise the Minister on matters regarding public health in general and on matters relating to this Act in particular;
- (e) carry out any other function assigned to him by this Act or any other law; and
- (f) perform any other act which may be necessary or conducive to the better performance of the functions and responsibilities assigned to him by this Act.

5. (1) The Superintendent may under such conditions as he may deem fit, delegate any of his powers under this Act to any person.

(2) Such delegation may be with respect to different parts or articles of this Act and to different persons or entities or to a combination and be subject to any direction by the Superintendent who may, at any time, revoke it.

6. (1) For the purposes of this Act, the Superintendent or an authorised officer may, at any reasonable time -

- (a) enter, and inspect any area, premises, body of water or vehicle;
- (b) require any person to answer any question and, or, produce any records under that person's control concerning any activities carried in any area, premises, body of water or vehicle;
- (c) inspect, extract or seize any record or take any copy of any record relevant to public health in whatever form held and, where any record is kept by means of a computer -

(i) shall have access to, and inspect and check the operation of any computer, any associated apparatus or material which is or has been or could have been used in connection with the records; and

(ii) shall require any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material to afford him such assistance as he may reasonably require;

(d) request any translation of any document into Maltese or English;

(e) examine and, or, inspect any person or object found in or on any area, premises, body of water or vehicle;

(f) mark, fasten, seal, take and remove a sample of any object found in or on any area, premises, body of water or vehicle;

(g) open any container, receptacle or package found in or on any area, premises, body of water, or vehicle;

(h) weigh, count, measure or gauge any object found in or on any area, premises, body of water or vehicle;

(i) seize any object or record found in or on any area, premises body of water and vehicle;

(j) seal any area, premises, body of water or vehicle;

(k) take any photographs, film, tape or video image and make any sketch, plan, or drawing or otherwise make a record of any person, premises, body of water or vehicle, or anything contained, therein or thereon;

(l) test and, or, examine any drainage system;

(m) carry out any test, examination, or measurement by instruments, monitor any situation, and make observations that may be required under this Act;

(n) give any order under this Act that he may deem necessary;

(o) refer any matter to any relevant board under this Act.

(2) An authorised officer shall, when exercising a power delegated to him by the Superintendent under the provisions of this Act -

(a) provide an identification document issued by the Superintendent under article 11 when requested by the owner of the area, premises, body of water or vehicle;

(b) give reasonable notice unless such notice would defeat the objective of the intended exercise.

(3) An authorised officer, while exercising any power under this Act, may request the assistance of a police officer or of any other person as he may require.

(4) A person who seizes any object under subarticle (1) (i), shall, by notice in writing served on the owner of the object or the person in charge of the said object at the time, specify the details of the object seized and the date.

Exemptions.

7. (1) The Superintendent may by order and in the national interest exempt:

- (a) any person;
- (b) any matter or activity;
- (c) any area, premises, body of water;
- (d) and any vehicle

from any provision of this Act.

(2) An order made in accordance with sub-article (1) of this article shall be immediately enforceable, and shall without prejudice to its enforceability be published in the Gazette as soon as practicable after it is made. Any such order may be revoked, amended or substituted by subsequent order of the Superintendent:

Provided that such order that is revoked, amended or substituted shall be published in the Gazette as soon as practical after it is made.

8. The Superintendent or any authorised officer may for the purposes of this Act request any person to:

Information request.

- (a) give his personal details;
- (b) give details of any licence, permit or exemption under this Act;
- (c) provide any information relating to public health; and
- (d) give information about his or any other person's activities in respect of any matter under this Act.

9. Any person who by any means whatsoever, hinders or obstructs the Superintendent or an authorised officer from exercising any of his powers and functions under this Act shall be guilty of an offence against this Act.

Hindering or obstructing authorised officer.

10. The Superintendent and any authorised officer may not directly or indirectly involve himself in any activity that may be in conflict with the execution of his duties under this Act.

Conflict of interest.

11. The Superintendent shall issue identification documents to authorised officers.

Identification documents.

12. (1) When the Superintendent or an authorised officer believes, on reasonable grounds, that any requirement under this Act or under any regulation made thereunder is not being complied with he may issue an abatement notice to any person whom he believes is responsible to comply or ensure compliance with such requirement:

Abatement notices.

Provided that an abatement notice may be issued to different persons when the responsibility for complying falls on more than one person.

- (2) An abatement notice shall be in writing and shall contain:
 - (a) all relevant details relating to the infringement; and
 - (b) the address or an indication of the place where the infringement is taking place: and

(c) an order stating what is required to be done to comply with the notice.

(3) An abatement notice may be given orally by the Superintendent or an authorised officer:

(a) in urgent cases; or

(b) if it proves impossible to serve it in written form.

(4) An abatement notice shall be served in writing:

(a) at either the residential or commercial address of the person on whom the abatement notice is to be served;

(b) or, where the person on whom an abatement notice is to be served cannot be found, by affixing the abatement notice onto the premises, where the infringement is taking place, and any person who removes or in any way interferes with an abatement notice so affixed shall be guilty of an offence.

(5) Any person or persons, on whom an abatement notice is served, shall abate the nuisance without delay and in any case not later than such time indicated in the abatement notice:

Provided that the indication of any such time in the abatement notice shall be without prejudice to any other action that may be taken by the Superintendent or any authorised officer before the expiry thereof.

(6) Any person on whom an abatement notice has been served and who fails to comply with any of the requirements of the notice, shall be guilty of an offence against this Act and the Court may apart from awarding punishment, order the accused to undertake such works so as to prevent the reoccurrence of the infringement.

Undertakings.

13. (1) When it appears to the Superintendent that any person has engaged in any conduct that constitutes an offence against this Act or has failed to comply with any regulations made thereunder, the Superintendent may, at his discretion, instead of authorising proceedings against that person, caution that person in writing, and seek an undertaking in writing from that person that he shall refrain from the conduct specified in the undertaking.

(2) The Superintendent shall maintain a register of undertakings made under sub-article (1), which register shall be kept at an office specified by him, and shall be available for public inspection at such times as may be established by notice published in the Gazette.

(3) Any person who acts in contravention of an undertaking made in accordance with sub-article (1) shall be guilty of an offence against this Act.

(4) As long as it is reasonably possible in the circumstances, the Superintendent shall inform the person being investigated, about the reason for his investigation.

14. (1) The Superintendent may, if he is so satisfied, declare that a public health emergency exists. Declaration of an emergency.

(2) The declaration shall specify:

- (a) the nature of the public health emergency; and
- (b) the area to which the declaration applies.

15. (1) After declaring a public health emergency the Superintendent may take any one or more of the measures hereunder as he may consider necessary in order to reduce, remove or eliminate the threat to public health: Directions by Superintendent.

- (a) segregate or isolate any person in any area; or
- (b) evacuate any persons from any area; or
- (c) prevent access to any area; or
- (d) control the movement of any vehicle; or
- (e) order that any person undergo a medical examination; or
- (f) order that any substance or object be seized, destroyed or disposed of as he may direct; or
- (g) order such other action be taken as he may consider appropriate.

(2) Any person who does not comply with any direction by the Superintendent given by virtue of this article shall be guilty of an offence against this Act.

Special powers.

16. (1) For the purpose of this Part the Superintendent may authorise any person to;

(a) enter any place if necessary by using such reasonable force to:

(i) save human life; or

(ii) prevent injury to any person; or

(iii) rescue any injured or endangered person; and

(b) close any area, premises, body of water or vehicles; and

(c) remove by reasonable force any person who fails to comply with a direction.

Compensation.

17. (1) Any person may apply to the Superintendent for reasonable compensation for any loss or damage suffered as a result of anything done under this Part.

(2) Compensation is not payable to any person who suffers any loss or damage because:

(a) of any action or inaction by that person that is not the result of a direction under this Part; or

(b) the loss or damage caused by a public health emergency.

Awareness of
Public Health Risk.

18. (1) Any person who becomes aware of any fact or situation which he reasonably ought to believe to be a public health risk or a potential public health risk shall, as soon as he becomes aware of such risk, inform the Superintendent.

(2) Any person who fails to comply with the provisions of sub-article (1) shall be guilty of an offence against this Act.

19. No person may record, collect, transmit or store any records, information or forms for the purpose of this Act other than in accordance with the provisions of this Act or any regulations made thereunder.

Recording of information.

20. (1) The Superintendent may order for the purposes of this Act that any article, item or substance that causes a threat to public health:

Powers of Superintendent with regard to certain articles.

(a) is not imported, manufactured, sold, used, stored or transported or handled in any manner whatsoever;

(b) is to be dealt with in accordance with any directions he may impose.

(2) Any person who, does not comply with an order of the Superintendent under sub-article (1) shall be guilty of an offence.

21. (1) The Superintendent may require any person to treat, remove, recall, dispose of or destroy any articles, items, goods or substances that, in his opinion, may cause a threat to public health.

Removal and disposal.

(2) The Superintendent may require any person who is in possession or, at the time, is in control of any premises, area, vehicle or object, which, in his opinion, may cause a threat to public health, to clean, disinfect or disinfest such premises, area, vehicle or object.

(3) The requirements of sub-articles (1) and (2) shall be carried out in accordance with any directions that the Superintendent may give and at the expense of the person required to comply with the said requirements.

22. If a person fails to comply with any direction given by the Superintendent under this Act, the Superintendent may take any measures he deems appropriate to have the direction carried out at the expense of that person.

Superintendent may carry out direction and the expenses recovered as civil debts.

23. (1) Any person who assaults, abuses, harasses or threatens an authorised officer, a nominated officer or a police officer exercising a function under this Act or otherwise hinders, obstructs or delays a power or the performance of a function under this Act, shall be guilty of an offence under this article.

Offences against authorised officers.

(2) Any person who fails to comply with a requirement of an authorised officer, nominated officer or a police officer under this Act shall be guilty of an offence under this article.

Interference with seals and samples.

24. (1) A person who removes or otherwise interferes with :-

(a) any seal or mark made by an authorised officer or a nominated officer; or

(b) any sample taken by an authorised officer or nominated officer; or

(c) any object or document seized by an authorised officer or nominated officer;

shall be guilty of an offence under this article.

(2) A person who contaminates any sample taken by an authorised officer or a nominated officer shall be guilty of an offence.

Board and Committees.

25. The Minister may, from time to time, after consulting the Superintendent, establish committees, boards or other similar groups to advise and assist the Minister and the Superintendent in the performance of their functions under this Act.

Part III

POWERS TO MAKE REGULATIONS

Powers to the Minister.

26. The Minister, after consulting the Superintendent, may make regulations in general to regulate matters related to public health and without prejudice to the generality of the aforesaid, may by such regulations make provisions relating to public health:

(a) (i) requiring the licensing, registration or approval of any person, premises, equipment, machinery, apparatus or service concerning public health matters;

(ii) prescribing conditions, obligations or directions to any licence, registration or approval;

(iii) specifying the date of issue and the duration of any licence;

(iv) specifying reasons for withdrawal, cancellation or suspension of any licence, registration or approval;

(b) for the acquisition, disclosure, transmission, publication, restriction and storage of information relevant to public health;

(c) prescribing fees for any services given under this Act;

(d) for the control of recreational waters and in particular: Recreational waters.

(i) the quality standards thereof;

(ii) the method and frequency of sampling and the methods for testing and analysis thereof;

(iii) the closure of bathing areas;

(iv) the regulation, registration and licensing of swimming pools;

(v) the regulation of areas where and times when animals may be taken into the sea;

(e) for the control of smoke and in particular:

(i) the methods of measurement of dark smoke and setting the limits on the rate of emissions of smoke;

(ii) identifying specific chimney heights depending on the purpose of the chimney, on the type of fuel to be used or in use and the location of the building;

(iii) declaring smoke controlled areas;

(iv) regulating or exempting from regulations any burning process, including furnaces and domestic furnaces;

(v) controlling and monitoring indoor air pollution;

(vi) giving effect to international agreements or standards with regard to smoke and air pollution applicable to Malta;

(f) regarding the limit or elimination of any noise, which may give rise to a nuisance, inconvenience or disturbance or constitute a danger to health and in particular:

(i) setting out objectives for reducing noise levels;

(ii) setting noise level standards for residential noise and noise that is emitted from or caused by a vehicle, machinery or equipment;

(g) regulating:

(i) dumping, keeping, transportation, storage, collection, treatment, recycling, reuse, disposal, importation and exportation of waste; and

(ii) houses or other premises built upon or near any contaminated land;

(h) regulating:

(i) premises used for habitation or assembly, including caravans and caravan sites, day care centres and any other structures used for habitation whether permanent or not and whether movable or fixed;

(ii) prohibiting the keeping of animals, in any premises, in any area whether within an inhabited area or not;

Matters relating to water.

(i) prescribing:

(i) the standards for water quality for different uses;

(ii) the sampling and monitoring requirements for specific types of water and their uses;

(iii) water which may become prejudicial to health when used in any process or system;

(iv) the registration or licensing of activities, processes and systems where water is used;

(v) the regulation of suppliers or carriers of water;

(j) regulating:

(i) the construction, layout, siting and material to be used for any drainage system and ancillary facilities;

(ii) sanitary practices relating to disposal of waste in or from any premises;

(iii) the removal of stoppages from and the maintenance of drainage systems and other ancillary facilities of private and public premises;

(k) prescribing:

(i) the obligations of any commander, ship master, or any other member of the crew or staff on an aircraft or sea-going craft;

(ii) the signals to be hoisted or messages to be given by sea-going craft or by aircraft having any case of disease on board;

(iii) regulations regarding the granting of free pratique;

(iv) regulations relating to the issue of deratting certificates or deratting exemption certificates;

(v) the obligations of any person engaged with any airport or port authorities or any other person at any airport or port;

(vi) regulations regarding the discharge or loading of cargo, waste, water or food supplies, fuel, equipment, as well as smoke or gas emissions;

(l) (i) regulating the importation, exportation, licensing, keeping, sale, giving by way of compensation or otherwise of poisonous, venomous or otherwise dangerous living organisms which are not endemic in Malta and which may pose a public health risk to any person that may come in contact with them;

(ii) regulating the control or extermination of rats, mice or any other pest which may act as a vector or carrier of disease;

(iii) regulating the importation, use, storage and sale of chemicals and substances containing chemical which are or may pose a public health risk;

(iv) regulating burning process, including furnaces and domestic furnaces; and

(m) (i) regulating any activity where there is risk of potential exposure to ionising radiation, including activities of producing, manufacturing, importing, exporting, supplying, keeping, conveying, using or otherwise dealing with radioactive substances or radiation apparatus as well as the exposure to radiation in the diagnosis and treatment of disease;

(ii) classifying and regulating:

A. radioactive substances;

B. ionising or non-ionising radiation apparatus;

C. sealed radioactive sources;

D. other radiation apparatus;

(iii) specifying standards, practices and procedures to be followed with regard thereto;

(iv) regulating any act or thing that is involved in or related to an activity referred to in (ii) and (iii) above;

(v) regulating licences, permits, registrations, authorities or approvals in connection therewith;

(vi) requiring the keeping of records, furnishing of information, and notification of accidents or other matters or events by persons carrying on activities referred to in (ii) and (iii) above;

(vii) prescribing the monitoring of levels of exposure to radiation of persons engaged in activities referred to in (ii) and (iii) above and the monitoring of the health of such persons as well as of the general public during and after such activities;

(viii) guarding the protection of persons and the environment against the harmful effects of radiation resulting from activities referred to in (ii) and (iii) above.

27. The Superintendent may make, vary or revoke orders:

Powers of the Superintendent.

(a) (i) listing and categorising notifiable disease;

Notifiable diseases and contaminants.

(ii) declaring an organism to be a human pathogenic organism;

(iii) declaring a substance to be a contaminant;

(b) controlling advertisements that may affect public health and in particular:

Advertising.

(i) controlling the visual, audio and written content thereof;

(ii) controlling the layout and sequence of events of the advertisements;

(iii) regulating the persons or class of persons used in the advertisements;

(iv) requiring a written permission from the Superintendent before the publication of an advertisement;

(c) prescribing measures to guard against or to control dangerous epidemics or infectious disease and in particular:

Epidemics and infectious diseases.

(i) regulating the prompt internment of the dead;

(ii) regulating the power to inspect premises;

(iii) regulating the provision of medical aid, the distribution of medicine, the establishment of hospitals, the promotion of cleansing, ventilation and disinfection and otherwise for guarding against the spread of disease and for the treatment of persons suffering therefrom;

(iv) regulating occupancy in premises or any parts thereof to prevent them from being so overcrowded as to be dangerous to health;

(v) prescribing such other matter as the Superintendent may deem expedient for the prevention or mitigation of such disease;

Certificates,
immunisation, etc.

(d) ensuring the protection of the public by immunisation against particular diseases and in particular may by such order:

(i) regulate and control the practice of any particular type of immunisation in humans;

(ii) prescribe forms, certificates, notices, immunisation certificates and postponement certificates;

(iii) prescribe those diseases against which immunisation of humans shall be compulsory;

(iv) regulate and control the importation, exportation, manufacture, storage and transport of any type of vaccine;

(v) publish schedules regarding compulsory or recommended immunisations;

(e) (i) specifying the qualifications or conditions necessary for a person to qualify for a registration or a licence under this Act;

(ii) specifying the criteria and conditions for the licensing or registration of premises or persons under this Act;

Radiation.

(f) (i) requiring the medical examination of persons exposed or believed to have been exposed to radiation;

(ii) providing measures to be taken in case of a public health emergency caused by any type of radiation;

(g) giving any other direction that is or may be given by the Superintendent under this Act.

Part IV

PREVENTION AND CONTROL OF DISEASE

Medical
examination.

28. (1) The Superintendent may require a person to undergo a medical examination by a medical practitioner within such period as the Superintendent may specify if the Superintendent has reason to

believe that such person is suffering from a notifiable disease or if he has an occupation which is considered capable of spreading disease.

(2) The medical practitioner who conducts a medical examination under this article shall as soon as practicable provide the Superintendent with a written report of the results thereof.

(3) Any person who fails to undergo a medical examination or any medical practitioner who fails to provide a written report shall be guilty of an offence.

29. (1) The Superintendent may order that a person suffering from a notifiable disease: Directions by the Superintendent.

(a) be isolated in such a place as the Superintendent determines;

(b) be placed under the supervision of a specified person;

(c) submits to further medical examination, medical testing, immunisation, medical treatment or counselling;

(d) discloses to an authorised officer the name and address of any other person with whom contact by that person may result or may have resulted in the transmission of the disease;

(e) refrains from doing anything which may cause the spread of disease.

(2) Where a child is suffering from a disease or has resided in a house where a disease exists or has existed for any period at any time not earlier than six weeks before, the Superintendent may require the parent, guardian or any other person not to allow the child to attend school without providing to the person in charge of such school a medical certificate that such child is free from disease or infection and is fit to attend school.

(3) The Superintendent may apply to a magistrate for a warrant to apprehend and detain or quarantine any person who fails to comply with a direction under sub-article (1) and for that purpose, to enter any area, premises, body of water or vehicle. Warrant by magistrate.

30. Where it appears to the Superintendent that a person is so dirty or, on a report by a medical practitioner, that a person or his clothing are verminous, and that person does not consent or is unable to consent Persons dirty or verminous.

to be cleansed, the Superintendent may cause such person, including his clothing to be cleansed.

Notification of disease and contaminants.

31. (1) Any medical practitioner who treats or examines any person for a notifiable disease shall report such notifiable disease to the Superintendent on the prescribed certificate.

(2) The person in charge of a laboratory that receives a primary specimen or sample that yields a positive result indicating that the patient who supplied the specimen is suffering from a notifiable disease shall report such findings to the Superintendent within such time and in such manner as the Superintendent may direct.

(3) The reports that are to be made in terms of sub-articles (1) and (2) shall not require the consent of the person being treated or examined.

(4) The Superintendent may require any person to notify him of the presence or occurrence of any of the following:

- (a) any notifiable disease or suspicion thereof;
- (b) any human pathogenic organisms or suspicion thereof;
- (c) any contaminant or suspicion thereof.

(5) Any person who contravenes any requirement of this article shall be guilty of an offence.

Reports and information by Superintendent.

32. The Superintendent may, in the interest of public health, give information to any person or persons who may be affected by any notifiable disease or any human pathogenic organism or contaminant.

Transmitting disease.

33. (1) A person who is aware of having a notifiable disease and in case of a child, the parent, guardian or any other person having the custody of that child, shall take all reasonable measures and precautions to prevent the transmission of the disease.

(2) Any person who contravenes any requirement of this article shall be guilty of an offence.

Outbreak of disease.

34. (1) The Superintendent, by public notice, may declare that there is an outbreak of a notifiable disease. Such declaration shall be revoked when the outbreak is over.

(2) The Superintendent may give any directions he considers necessary or appropriate for the control of an outbreak and any person who does not comply with the directions given shall be guilty of an offence under this article.

(3) The Superintendent may also give information about such outbreaks outside Malta and in particular indicate any port or airport that may be infected.

35. Whenever any part of Malta is affected by any epidemic disease, medical practitioners exercising their profession within the area affected by the disease, as well as other medical practitioners engaged by the Government, shall not refuse to treat persons suffering from such disease within the area. Epidemics.

36. The Superintendent may require any person to keep, use or dispose of any contaminant, human pathogenic organism and any other material or substance capable of causing disease in humans in accordance with any orders or regulations that may be issued under this Act. Use of certain materials.

37. (1) No person shall, unless authorised by the Superintendent, retain the body of any person who has died from a disease for more than twenty-four hours, in a room used as a dwelling-place, sleeping-place or workroom: Burial or removal of body to mortuary.

Provided that nothing contained in this article shall prevent the removal of such body, before the lapse of 24 hours, to a mortuary where such removal becomes necessary under any provisions of this Act or any other law.

(2) It shall not be lawful for any person to remove the body of a person who dies at home, in any hospital or in any other place provided for the treatment of persons suffering from a disease, except for the purpose of immediate burial, where a medical officer certifies that in his opinion it is desirable, in order to prevent the risk of communicating such disease or of spreading infection, that such body shall not be removed from such home, hospital or place except for such burial:

Provided that nothing in this sub article shall prevent the Superintendent from authorising the removal of such dead body to a mortuary designated by the said Superintendent.

(3) The Superintendent or an authorised officer may order the removal of a dead body to a mortuary if -

(a) the person died of any notifiable disease and is lying in a dwelling in which persons live or sleep; or

(b) whatever the cause of death, the body is in such a state as to pose a risk to health.

(4) A person who does not comply with the provisions of this article shall be guilty of an offence.

(5) Unless any relative of the deceased undertakes to bury the body and effect such burial within the period of time stipulated by such order as aforesaid, it shall be the duty of the Superintendent to cause the burial of such body and any expense so incurred may be recovered by the Superintendent as a civil debt.

Part V

LEGAL PROCEEDINGS

Proceedings.

38. (1) Where there is reasonable cause to believe that any person has contravened any of the provisions of this Act or of any regulations made thereunder, the police shall, on the report of the Superintendent, institute criminal proceedings against the offender.

(2) In any criminal proceedings instituted by the police for an offence under this Act, the Superintendent or any authorised officer, may, notwithstanding any law to the contrary, lay the charge before the court, produce evidence, plead and otherwise conduct the prosecution instead of the police.

(3) The sworn statement of any authorised officer, to the effect that he has been deputed as provided in sub-article (2) shall be conclusive evidence of the fact, should proof thereof be required by the court.

Cost of proceedings.

39. A person convicted of an offence against this Act shall be liable for costs relating to:

(a) the examination and analysis of any object to which the offence relates; and

(b) the seizure and disposal of any object to which the offence relates; and

(c) the transportation and storage of any object to which the offence relates; and

(d) any other costs incurred by the Superintendent and occasioned by the offence.

40. (1) Where a person is found guilty of an offence against this Act, the court shall, where necessary, besides awarding punishment, order the offender to abate any nuisance arising from the offence or, if the circumstances so require, to comply with the law, in either case within such time as shall be fixed by the court for the purpose and, in the case of non-compliance with any such order, he shall be liable to a further fine (*multa*) not exceeding 50 liri for every day of non-compliance after the expiration of the said time fixed as aforesaid.

Offender to conform with laws and regulations.

(2) The court may upon an application to that effect by the prosecution at any time authorise the police to abate the nuisance or to enforce the law at the expense of the offender, who, in either case, shall be liable to refund such expense as a civil debt.

(3) When the offence for which a person has been found guilty relates to dumping of any waste in any manner whatsoever, the court shall, where applicable, besides awarding punishment, order the offender to remove such waste.

(4) If the offender fails to abide with an order made under sub-article (3), the provisions of sub-article (2) shall apply.

(5) If the offender is absent from Malta or has absconded or is, on account of mental disorder or other physical incapacity, unable to appear before the court or, for any reason whatsoever the summons cannot be served and the Superintendent certifies on oath that it is urgently required that the nuisance be abated or that the law be otherwise enforced, the court shall proceed to order that the summons be served on the lawful representative of the offender or on the person having the custody of the offender or on the person having the management of his property or, in default of any known representative or person as aforesaid, on the offender's husband or wife or son or daughter. In any case, if the nuisance or non compliance with the law is proved, the court shall apply the provisions of sub-article (2) of this article or in appropriate cases, the provisions of sub-article (1).

41. Upon conviction for an offence against the provisions of this Act where the offence relates to an area, premises, body of water or vehicle requiring a licence under this Act, the court may order the suspension of any licence or licences issued in respect of the person charged or the premises forming the subject of the proceedings.

Suspension of licence.

False or misleading information.

42. Any person in any application, information, advice or record made or submitted for the purpose of this Act, either makes a statement knowing it to be false or misleading, or omits any material fact shall be guilty of an offence against this article.

Officers may be called as witnesses.

43. Where the evidence of the prosecuting officer is required, the said officer shall be heard before he assumes the duties of prosecuting officer unless the necessity of his evidence arises at a later stage of the proceedings.

Offences and penalties.

44. A person guilty of a first offence against any of the provisions of this Act shall be liable, on conviction, to a fine (*multa*) of not less than one hundred liri and not exceeding two thousand liri or to imprisonment for a term of not less than six months and not exceeding two years or both such fine and such imprisonment and on a second or subsequent conviction, to a fine (*multa*) of not less than two hundred liri and not exceeding five thousand liri or to imprisonment for a term of not less than two years and not exceeding four years or to both such fine and such imprisonment.

Repeal and saving.

45. (1) Without prejudice to anything done or any liability incurred thereunder the laws or articles or parts of laws listed in sub-article (2) of this article (hereinafter the Repealed Laws) are hereby repealed.

(2) Clean Air Act, Cap. 200; Litter Act, Cap 206; Articles 97, 101 to 110, 117, 118, 121, 122 and articles 124 to 127 of the Code of Police Laws Cap. 10; Prevention of Disease Ordinance, Cap. 36.

(3) Any licence granted under any of the Repealed Laws shall continue in force and be subject to renewal as if its were a licence under this Act.

(4) Any regulation made under the Repealed Laws shall continue in force as if it was made under the corresponding provision of this Act, and may be amended, repealed or substituted accordingly.

Passed by the House of Representatives at Sitting No. 39 of the 7th October, 2003.

ANTON TABONE
Speaker

RICHARD J. CAUCHI
Clerk to the House of Representatives