

ORDER OF THE FEDERAL MINISTRY OF SOCIAL ADMINISTRATION, AMENDING THE NARCOTIC DRUGS ORDER, BUNDESGESETZBLATT No. 19/1947, (FIFTH AMENDMENT)

Bundesgesetzblatt" of the Republic of Austria, No. 34

21 June 1963

Pursuant to the Narcotic Drugs Act 1951, Bundesgesetzblatt No. 234, Section 1, subsection 2, the following is hereby ordered with the concurrence of the Federal Ministries of Agriculture and Forests and of Commerce and Reconstruction:

The Narcotics Drugs Order, Bundesgesetzblatt No. 19/1947, as amended by the Narcotic Drugs (4th Amendment) Order, Bundesgesetzblatt No. 234/1958, is hereby amended and supplemented as follows:

1. Section 1, subsection 1, (b) and (c) shall read:

"(b) Morphine,
Diacetylmorphine [*>heroin*],
Dihydromorphine,
6-methyldihydromorphine (methyldihydromorphine),
14-hydroxydihydromorphine (hydromorphinol),
Dihydrodeoxymorphine (desomorphine),
6-methyl-delta-6-deoxymorphine (methyldesorphine),
Morpholinylethylmorphine (pholcodine),
Morphine-N-oxide (morphine aminoxide),
Pentavalent nitrogen morphine derivatives,
Ethylmorphine,
Benzylmorphine,
Normorphine,
Dihydromorphinone (hydromorphone),
5-methyldihydromorphinone (metopon),
14-hydroxydihydromorphinone (oxymorphone),
Codeine,
Dihydrocodeine,
Dihydrocodeinone (hydrocodone),
Acetyldihydrocodeine,
Acetyldihydrocodeine (acetyldemethylodihydrothebaine, thebacon),
14-hydroxydihydrocodeinone (oxycodone),
Codeine-N-oxide,
Norcodeine,
Thebaine,
(c) 1-methyl-4-phenylpiperidine-4-carboxylic acid esters
(for example, pethidine),

1-(2-(p-[nophenyl)-ethyl]-4-phenylpiperidine-4-carboxylic acid ethyl ester [*>1- para-aminophenethyl-4-phenylpiperidine-4-carboxylic acid ethyl ester*] (*anileridine*),
1-(2-benzyloxyethyl)-4-phenylpiperidine-4-carboxylic acid ethyl ester (*benzethidine*),
1-(3-cyano-3,3-diphenylpropyl)-4-phenylpiperidine-4-carboxylic acid ethyl ester (*diphenoxylate*),
1-(2-(2-hydroxyethoxy)-ethyl)-4-phenylpiperidine-4-carboxylic acid ethyl ester (*etexeridine*),
1-(3-hydroxy-3-phenylpropyl)-4-phenylpiperidine-4-carboxylic acid ethyl ester (*phenoperidine*),
4-*meta*-hydroxyphenyl-1-methylpiperidine-4-carboxylic acid ethyl ester (*hydroxypethidine*),
4-*meta*-hydroxyphenyl-1-methyl-4-propionylpiperidine (*ketobemidone*),
1-(2-morpholinoethyl)-4-phenylpiperidine-4-carboxylic acid ethyl ester (*morpheridine*),
4-phenyl-1-(3-phenylaminopropyl)-piperidine-4-carboxylic acid ethyl ester (*piminodine*),

(2) The provisions of section 2 (1) shall not apply to the acquisition and possession of medicaments containing narcotic drugs by persons to whom they have been issued under sub-section (1).

Section 4

Medicaments containing narcotic drugs may be prescribed only if their use is based on the principles of medical or veterinary science and if other medicaments do not suffice.

Section 5

More detailed provisions regarding the following will be issued by order:

1. the production, conversion and manufacture, limitation of production to prescribed quantities and sources of supply, import, conveyance in transit and export, trade in and handling of narcotic drugs;
2. the issue of supply permits and requirement certificates in respect of narcotic drugs;
3. the keeping of registers and submission of continuous information on the production, conversion and manufacture, import, conveyance in transit and export, trade, existing stocks and delivery of narcotic drugs;
4. the prescription and issue of medicaments containing narcotic drugs.

Section 6

(1) Persons who wittingly and in violation of these provisions produce, import, export or trade in narcotic drugs in such quantities as to constitute a general danger to human life or health, shall be guilty of an offence against the public health and shall be liable to terms of imprisonment of one to five years or, in the case of aggravating

circumstances, and in particular when the offender is a member of a ring, to terms of imprisonment not exceeding ten years. Fines not exceeding 25,000 schillings shall be imposed in addition to such imprisonment. (BGB]. No. 31/1949, art.1, 1.)

(2) The amount of the fine shall be so assessed as to exceed the profit which was derived or was intended to be derived from the punishable act. If the maximum fine imposable by law does not suffice, it may be exceeded, but shall not exceed twice the amount of the profit. A term of imprisonment imposed in default of payment of a fine may not exceed one year.

(3) The objects used in the punishable act or the proceeds therefrom shall be declared confiscated if they are owned by the offender, an accomplice or accessory to the offence or if they were owned by such persons at the time of the seizure. In other cases they may be declared confiscated. Similarly, materials and apparatus used for production and manufacture, and likewise vehicles used for transport, other than vehicles owned by a public transport undertaking, may be declared confiscated, if, in the case of vehicles, the owner or operator of the vehicle was aware that it was to be misused for unlawful purposes.

(4) If the objects or their proceeds cannot be seized or are not declared confiscated, a fine equal to the value of such objects or their proceeds shall be imposed. The fine shall be imposed in the judgement, but if it only subsequently transpires that the confiscation cannot be executed, the fine shall be imposed without argument in court. The parties shall be informed of the decision; and appeal may be lodged within three days.

(5) The terms of imprisonment imposed (in addition to the sentence for the offence) in default of payment of a fine and the term of imprisonment imposed in default of payment of a fine imposed in lieu of confiscation shall not in the aggregate exceed a total of eighteen months.

(6) Tradespeople are also liable to forfeiture of trading licences.

(7) Foreign nationals are liable to deportation.

Section 7

If no specific person can be prosecuted or convicted, the objects used in the punishable act or the proceeds from such objects may be declared confiscated, provided that grounds for such action exist.

Section 8

(1) Any person who joins with another for the purpose of committing the offence referred to in section 6, or who enters into an agreement with another for the purpose of committing the said offence, is by that act alone guilty of a crime and shall be liable to a term of imprisonment of not less than six months or more than one year. If,

however, he conspires with a person to commit the offence referred to in section 6 in the course of business, he shall be liable to a term of imprisonment of not less than one year or more than five years.

(2) A person who withdraws from such conspiracy of his own free will, before committing or attempting to commit an offence under section 6, shall not be punishable under this provision. (BGB1. No. 31/1949, art. 1, 1.)

Section 9

(1) The following shall be deemed to have committed a contravention:

1. any person who delivers narcotic drugs to another person who is not authorized to obtain such drug;
2. any person who produces, manufactures, acquires or possesses a narcotic drug (BGB1. No. 31/1949, art. 1, 1);
3. any person who in the practice of medicine prescribes a narcotic drug for, or issues such drug to, another person, except in accordance with the principles of medical or, if applicable, veterinary science;
4. any person who delivers a certificate authorizing the supply of narcotic drugs to a person for whom the certificate is not intended;
5. any person who falsifies or forges a certificate purporting to authorize the supply of narcotic drugs;
6. any person who delivers to another person a false or forged certificate purporting to authorize the supply of a narcotic drug.

(2) Offenders shall, if the act is not punishable by a more severe penalty, be sentenced by the court to one week's to six months' detention for the contravention, or if the offence was committed in the course of business, to a like term of rigorous detention. If the offence results in grievous bodily harm or causes the death of a person, the offender shall be punished under section 337 of the Penal Code. A fine not exceeding 5,000 schillings may be imposed in addition to the term of imprisonment and, if the offence is committed in the course of business, a fine not exceeding 50,000 schillings shall be imposed. Tradespeople are liable to forfeiture of trading licences and foreign nationals to deportation.

(3) The stock of narcotic drugs discovered shall be declared confiscated.

Section 10

(1) Any person who contravenes the provisions of the present Act, or an order made pursuant thereto, shall, if the act is not punishable by the courts, be liable to a fine not exceeding 5,000 schillings or a term of detention not exceeding three months to be imposed by the district administrative authority or, in places within the local jurisdiction of a Federal Police Authority, by the said Police Authority.

(2) If the offender is convicted, the goods and apparatus involved in the offence may be declared confiscated, whether or not they are the property of the accused. In appropriate cases the proceeds of the goods and apparatus declared confiscated may be handed over to the owner.

Section 11

A Narcotics Control Board acting as an organ of the Federal Ministry of Social Administration shall be established at the head office of the said Ministry and shall be responsible for the control of the trade in and handling of narcotic drugs. More detailed regulations concerning this matter will be issued by order.

Section 12

(1) In its original form, the present Federal Act entered into force, simultaneously with the Executive Order made pursuant thereto, on 30 January 1947, BGB1. No. 19/1947. At the same time, the provisions previously in force concerning narcotic drugs ceased to be operative.

(2) The provisions of the present Federal Act, as amended by the Federal Act of 24 November 1948, BGB1. No. 31/1949 (1st amendment respecting narcotic drugs) entered into force on 4 February 1949.

(3) Section 361 of the Penal Code of 1945 has been repealed as of the date mentioned in sub-section 1.

Section 13

The Federal Ministry of Social Administration shall be responsible, in consultation with the Federal Ministries concerned, for the enforcement of the present Act.