

MIDT/70/62

Memorandum for Cabinet by the  
Minister of Finance, Customs and Port (ad int)

Customs Prohibition of Importation of Contraceptives

Some years ago Ministers considered a recommendation by the then Minister of Industrial Development and Tourism on this subject. (Copy attached)

The opinion then prevailed that the proposed amendment to the Indecent Articles (Prohibition of Importation) Regulations, 1954, might lead to friction with the Services and the matter was dropped.

In the light of changed circumstances, Hon. Ministers are invited to agree that the regulations contained in the attached Draft Legal Notice prepared by the Crown Advocate General's Office be now made.

19th April, 1967.

Memorandum for Cabinet by the  
Minister of Industrial Development and Tourism

Customs Prohibition of Importation of Contraceptives

The Post Office Act (Cap. 85) make it illegal to transmit by post "any indecent or obscene print, picture, photograph, lithograph, engraving or impious article, or any postal article having thereon or on the cover thereof, any words, marks or designs of an indecent, obscene, seditious, scurrilous, threatening or grossly offensive character or any proposal, circular, ticket relating to lotteries other than lotteries set upon or permitted by the Government of Malta".

It was ruled by the Attorney General in 1947 that books divulging the means or explaining the ways of contraception were "indecent" for the purposes of sections 28 and 30 of the Post Office Act and it followed in his opinion that contraceptives themselves were "indecent and obscene articles".

The position regarding the Customs Ordinance is regulated by Government Notice No. 70 of the 1954 which prohibits the importation "of any indecent, obscene or impious print, picture, photograph, lithograph, engraving, book, card, newspaper, or other article or of any seditious printed matter and of any article having thereon or on the cover thereof any words, mark or design of an indecent, obscene, impious or seditious character".

It has been considered by the Attorney General that the words "or other article" in the first part of Government Notice No. 70 as to be construed to mean an article "ejusdem generis" with literature, with which this Government Notice is principally concerned and that it does not empower the Customs Department to withhold release of contraceptives.

Thus there is the anomaly that contraceptives are stopped when sent in small quantities through the post (i.e. in envelopes or small parcels) but they are allowed to be imported when sent in large quantities through the Customs Department.

In order to remove this anomaly, the Attorney General's Office has prepared the attached draft legal notice, which, if approved, will enable the Customs Department to withhold the release of contraceptives.

Hon. Ministers are invited to agree that the Governor General be advised to make the regulations contained in the Draft Legal Notice.

3rd November, 1982.

CUSTOMS ORDINANCE (CAP. 60)  
INDECENT ARTICLES (PROHIBITION OF IMPORTATION)  
(AMENDMENT) REGULATIONS, 1962

Date of commencement:

IN exercise of the powers conferred by section 76 of the Customs Ordinance, the Minister of Finance, Customs and Port has made the following regulations:

Citation

1. These regulations may be cited as the Indecent Articles (Prohibition of Importation) (Amendment) Regulations, 1962.

Amends  
Regulation 2 of  
the Indecent  
Articles  
(Prohibition of  
Importation)  
Regulations 1954.

2. Regulations 2 of the Indecent Articles (Prohibition of Importation) Regulations, 1954 is amended by the deletion of the words "or other article" and the substitution of the words "or other article or thing whatsoever".