

ABBOZZ TA' LIĠI msejjah

ATT biex jemenda l-Att dwar il-Korporazzjoni Maltija għall-Intrapriża, Kap. 463.

IL-PRESIDENT bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqgħa f'dan il-Parlament, u bl-awtorità ta' l-istess, hareġ b'liġi dan li ġej:-

1. (1) It-titolu fil-qosor ta' dan l-Att huwa l-Att ta' l-2007 li jemenda l-Att dwar il-Korporazzjoni Maltija għall-Intrapriża, u dan l-Att għandu jinqara u jinftiehem haġa waħda ma' l-Att dwar il-Korporazzjoni Maltija għall-Intrapriża, hawnhekk iżjed 'il quddiem f'dan l-Att msejjah "l-Att prinċipali".

Titolu fil-qosor
u bidu fis-schh.

Kap. 463.

(2) Dan l-Att għandu jibda' jsehh b'dik id-data li l-Ministru responsabbli għall-Intrapriża ta' Malta jista' b'avviż fil-Gazzetta jstabilixxi, u dati differenti jistgħu jiġu hekk stabbiliti għal disposizzjonijiet differenti u għal għanijiet differenti ta' dan l-Att.

2. (1) It-titolu ta' l-Att prinċipali għandu jiġi sostitwit bit-titolu ġdid li ġej:

Sostituzzjoni
tat-titolu u l-
artikolu 1 ta' l-
Att prinċipali.

"ATT biex jipprovdi għat-twaqqif ta' korporazzjoni f'Malta, biex jistabilixxi l-funzjonijiet u setgħat ta' l-Korporazzjoni sabiex tippromwovi l-intrapriża u impriži ta' negozju relatati f'Malta, biex jinkoraġġixxi t-twaqqif ta' impriži godda ta' negozju u l-espansjoni ta' impriži eżistenti ta' negozju f'Malta, biex jipprovdi għall-iżvilupp u amministrazzjoni ta' inċentivi, skemi u forom oħra ta' appoġġ għal dawk l-intrapriži u biex jipprovdi dwar aspetti anċillarji jew fir-rigward tagħhom u biex jipprovdi għal setgħat ta' razzjonalizzazzjoni u jaġġorna l-legislazzjoni rilevanti f'dak il-qasam."

(2) L-artikolu 1 għandu jiġi sostitwit bl-artikolu ġdid li ġej:

"1. It-titolu fil-qosor ta' dan l-Att huwa l-Att dwar l-Intrapriża ta' Malta."

(3) Kull fejn fl-Att prinċipali jew f'kull liġi jew regolament ieħor ikun hemm referenza għall-Att prinċipali, minn issa 'l quddiem għandha titqies li tirreferi għall-Att prinċipali kif mogħti isem mill-ġdid bis-saħħa ta' s-subartikolu ta' qabel.

Emenda ta' l-artikolu 2 ta' l-Att prinċipali.

3. L-artikolu 2 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

(a) minnufih qabel it-tifsira "il-Bord" għandha tiżdied it-tifsira ġdida li ġejja:

" "benefiċjarju" tfisser kull min ikun intitolat li jibbenefika taħt skema ta' inċentivi jew arrangamenti skond kif jipprovdi dan l-Att;"

(b) minnufih wara t-tifsira "il-Bord" għandhom jiżdiedu t-tifsiriet ġodda li ġejjin:

" "Bord ta' Sorveljanza fuq l-Għajnuna mogħtija mill-Istat" tfisser ifisser il-Bord ta' Sorveljanza fuq l-Għajnuna mogħtija mill-Istat imwaqqaf skond l-artikolu Kap. 325. 57 ta' l-Att dwar il-Promozzjoni ta' Negozji;

"Ċertifikat ta' Jedd għall-Inċentivi" tfisser ċertifikat maħruġ skond it-Taqsima VI ta' dan l-Att;"

(ċ) minnufih wara t-tifsira "diretturi" għandhom jiżdiedu t-tifsiriet ġodda li ġejjin:

" "impriża" tfisser kull individwu jew korp ta' persuni, kemm jekk ikollhom personalità ġuridika distinta jew le, li jmexxu intrapriża taħt kull forma inkluż l-eżerċizzju ta' xi kummerċ jew negozju, professjoni jew vokazzjoni u tinkludi kull assoċjazzjoni jew korp ieħor ta' persuni li tippromwovi jew tappoġġja l-miri u objettivi ta' dawk l-impriži;

"intrapriża" tfisser it-tmexxija ta' kull attività ekonomika f'Malta;"

(d) it-tifsira "Korporazzjoni" għandha tiġi sostitwita bit-tifsira ġdida li ġejja:

" "Korporazzjoni" tfisser l-Intrapriża ta' Malta, korporazzjoni mwaqqfa taht l-artikolu 7 u meta tinhatar xi awtorità oħra jew persuna oħra b'regolamenti preskritti mill-Ministru biex tkun l-awtorità kompetenti għall-eżerċizzju ta' xi funzjoni tal-Korporazzjoni taht dan l-Att, tinkludi dik l-awtorità l-oħra jew persuna oħra bl-esklużjoni tal-Korporazzjoni;"

(e) minnufih wara t-tifsira "kumitat" għandhom jiżdiedu t-tifsiriet ġodda li ġejjin:

" "leġislazzjoni rilevanti" tfisser -

(i) l-Att dwar il-Promozzjoni ta' Negozji, u Kap. 325. regolamenti magħmula bis-saħħa tiegħu u b'mod partikolari ir-Regolamenti dwar il-Promozzjoni ta' L.S. 325.06 Negozji;

(ii) l-Att dwar il-Korporazzjoni għal Żvilupp Kap. 202. ta' Malta, u kull regolament magħmul bis-saħħa tiegħu;

(iii) l-Att dwar Garanziji ta' Self lil Impriži Kap. 397. Żgħar, u kull regolament magħmul bis-saħħa tiegħu;

(iv) l-Ordinanza dwar l-Għajnuna lill- Kap. 159. Industriji, u kull regolament magħmul bis-saħħa tagħha; u

(v) l-Att dwar l-Inkuraġġiment ta' Industriji Kap. 53. Ġodda, u kull regolament magħmul bis-saħħa tiegħu;

"linji gwida" tfisser is-sensiela ta' regoli maħruġa mill-Korporazzjoni minn żmien għal żmien għall-implimentazzjoni ulterjuri tad-disposizzjonijiet ta' dan l-Att, u kull regolament magħmul taht dan l-Att, inkluż it-tifsira, l-applikazzjoni, l-amministrazzjoni, l-għoti u taħsir ta' skemi, inċentivi u arranġamenti oħra biex jippromwovu l-intrapriża f'Malta;"

(f) fit-tifsira "il-Ministru", minflok il-kliem "għall-politika ekonomika" għandhom jidhlu l-kliem "għall-Intrapriża ta' Malta";

(g) minnufih wara t-tifsira "il-President" għandha

tizdied it-tifsira ġdida li ġejja:

"proġetti eżistenti" tfisser kull proġett diġà approvat mill-Korporazzjoni u intitolat għal jew li jibbenefika minn xi għotja jew inċentivi taħt l-Att dwar il-Promozzjoni ta' Negozji";

(h) minnufih wara t-tifsira "sena finanzjarja" għandha tizdied it-tifsira ġdida li ġejja:

" "taxxa" għandu jkollha l-istess tifsira bħal ma għandha fl-Att dwar it-Taxxi";

Enumerazzjoni mill-ġdid tat-Taqsima II u l-artikoli 3, 4 u 5 ta' l-Att prinċipali.

4. It-Taqsima II u l-artikoli 3, 4 u 5 ta' l-Att prinċipali għandhom jiġu enumerati mill-ġdid bħala t-Taqsima III u l-artikoli 7, 8 u 9 rispettivament.

Żieda ta' Taqsima ġdida u ta' artikoli ġodda fl-Att prinċipali.

5. Minnufih wara l-artikolu 2 ta' l-Att prinċipali għandha tizdied it-Taqsima ġdida li ġejja u l-artikoli ġodda li ġejjin:

"Taqsima II

Prinċipji ta' Gwida li joħorġu mill-Att

Koperazzjoni fil-promozzjoni ta' l-intrapriża.

3. Il-Gvern għandu jikkopera mas-settur privat fil-promozzjoni ta' l-intrapriża privata f'Malta.

Twaqqif ta' għanijiet ekonomiċi ewlenin.

4. (1) Il-Gvern għandu minn żmien għal żmien jistabbilixxi l-politika u l-oġġettivi prinċipali ekonomiċi ta' Malta u għandu jappropria dawk il-fondi u jipprovdi dawk l-inċentivi li jqis meħtieġa sabiex jintlaħqu dawk l-għanijiet.

(2) Il-Gvern għandu jagħmel hiltu kollha biex jilhaq dawk l-oġġettivi u politika ekonomiċi permezz ta':

- (a) zieda fl-investment;
- (b) zieda fl-impiegi;
- (ċ) zieda fl-intrapriži;
- (d) titjib fil-kompetitività internazzjonali;
- (e) diversifikazzjoni fl-istruttura lokali ta' l-industrija;
- (f) l-iżvilupp ta' netwerk fl-intrapriża u rabtiet bejn settur u ieħor;

(g) l-iżvilupp tar-riżorsi umani; u
 (h) il-promozzjoni ta' stħarriġ industrijali, żvilupp teknoloġiku u innovazzjoni,
 u dawk l-istrateġiji l-oħra li minn żmien għal żmien jistgħu jwasslu sabiex jintlahqu dawk l-oġettivi u dik il-politika.

(3) Sabiex jintlahqu aħjar il-miri hawn fuq stabbiliti, il-Gvern għandu jieħu dawk il-miżuri kollha ta' appoġġ li jistgħu jkunu meħtieġa u, mingħajr ħsara għall-ġeneralità ta' dak li ntqal hawn qabel, għandu b'mod partikolari jistabbilixxi miżuri ta' appoġġ f'wieħed jew aktar mill-oqsma li ġejjin:

(a) aċċess għal kull tip ta' finanzjament;

(b) tkattir ta' xogħol;

(ċ) ħarsien ta' l-ambjent u inizzjattivi għall-użu mill-ġdid ta' l-enerġija;

(d) żvilupp reġjonali;

(e) stħarriġ u żvilupp u innovazzjoni;

(f) teknoloġija fl-informatika, negozju elettroniku u kummerċ elettroniku;

(g) l-iżvilupp ta' impriži żgħar u ta' daqs medju ("SMEs");

(h) il-promozzjoni ta' ġbir, sistemi ta' netwerk u internazzjonalizzazzjoni;

(i) l-aqwa użu mill-proprjetà biex tilqa' għall-htigiet fiżiċi u infrastrutturali fl-iżvilupp ta' l-intrapriża;

(j) ir-riġenerazzjoni tal-gżira ta' Ghawdex u li jiġu indirizzati l-iżvantaġġi assoċjati ma' l-insularità doppja tiegħu; u

(k) b'mod ġenerali, l-introduzzjoni ta' dawk il-miżuri l-oħra għall-iżvilupp ta' l-intrapriża, metodoloġiji, skemi, politika u miri li jwasslu għall-oġettivi msemmija hawn fuq u dawk relatati u li jixxiebħu.

(4) Meta l-Ministru, fuq ir-rakkomandazzjoni tal-Korporazzjoni, ikun sodisfatt li proġett li għalih ser tidhol impriza jista' jagħti sehem sostanzjali għall-iżvilupp ta' l-ekonomija b'mod konsistenti ma' l-għanijiet u l-oġettivi tal-Gvern u ta' dan l-Att, il-Ministru jista', wara konsultazzjoni mal-Korporazzjoni skond kif ikun meħtieġ, japprova li jingħata appoġġ, ta' kull xorta li tista' tiġi approvata, mill-Korporazzjoni lil dik l-intrapriża bla ħsara għal dawk il-kondizzjonijiet skond kif il-Ministru jew il-Korporazzjoni jistgħu jimponu; b'dan li ebda għajjnuna ma għandha tingħata safejn din tkun inkonsistenti mal-liġi applikabbli dwar għajjnuna mogħtija mill-Istat.

Setgħa għall-
għemil ta'
regolamenti.

5. (1) Sabiex jintlaħqu l-għanijiet ta' dan l-Att, il-Ministru jista' jagħmel regolamenti biex jirrendi effettivi d-disposizzjonijiet ta' dan l-Att u, mingħajr ħsara għall-ġeneralità ta' dak li ntqal qabel, dawk ir-regolamenti jistgħu jkollhom disposizzjoni fir-rigward ta':

(a) it-tniedija ta' politika għall-implimentazzjoni mill-Korporazzjoni dwar l-impriži eliġibbli biex jibbenefikaw minn inċentivi u arrangamenti oħra, ix-xorta ta' inċentivi, il-firxa ta' appoġġ u aspetti oħra relatati;

(b) l-introduzzjoni ta' miżuri ta' xorta fiskali;

(ċ) l-introduzzjoni ta' dawk il-miżuri l-oħra ta' appoġġ li jistgħu jitqiesu xierqa u bla ħsara għal dawk il-kondizzjonijiet skond kif il-Ministru jista' jqis opportuni, liema miżuri jistgħu jinkludu, iżda ma jkunux limitati għal, l-miżuri previsti fl-artikolu 4(3);

(d) l-għażla ta' xi awtorità jew persuna biex teżerċita xi funzjoni tal-Korporazzjoni taħt dan l-Att;

(e) it-tifsir u l-interpretazzjoni ta' kliem u kunċetti li jintużaw fir-regolamenti u fil-linji gwida;

(f) it-tahsir jew traspożizzjoni ta' kull disposizzjoni fil-liġi rilevanti f'regolamenti b'dawk il-modifiki skond kif il-Ministru jista' jqies xierqa jew meħtieġa:

Iżda sa' fejn huma milquta l-proġetti eżistenti, ebda haġa f'kull regolament magħmul skond din is-setgħa ma għandha tolqot xi jedd, benefiċċju jew inċentiv attwalment fis-seħħ favur xi impriża jew benefiċjarju u lanqas ma għandha timponi xi kondizzjonijiet jew obbligi aktar iebsa minn dawk attwalment fis-seħħ u f'każ ta' konflitt bejn ir-regolamenti u l-liġi rilevanti, għandhom jirbħu d-disposizzjonijiet tal-liġi rilevanti.

(2) Meta l-Ministru jipproponi li jagħmel jew jimmodifika regolamenti skond kif previst fid-disposizzjonijiet ta' dan l-Att u dawk ir-regolamenti jipprovdu li impriża tista' tkun kompletament jew parzjalment meħlusa mir-responsabbiltà għal kull taxxa li, li kieku mhux għad-disposizzjonijiet ta' dawk ir-regolamenti, kien ikollha tithallas, is-setgħa tal-Ministru li jagħmel dawk ir-regolamenti tiġi eżerċitata biss bi qbil mal-Ministru tal-Finanzi.

(3) Meta l-Ministru jipproponi li jagħmel jew jimmodifika regolamenti li jipprovdu għall-ghoti ta' xi għajjnuna, kopja ta' dawk ir-regolamenti proposti għandha tingħata lill-Bord ta' Sorveljanza fuq l-Għajjnuna mogħtija mill-Istat li għandu jikkomunika l-opinjoni tiegħu dwar l-għajjnuna proposta skond kif previst fil-liġi li tapplika.

Regoli dwar it-trattament fl-intaxxar ta' benefiċċji u ċerti impriži. Kap. 123.

6. (1) Minkejja kull disposizzjoni ta' l-Att dwar it-Taxxa fuq l-*Income* jew kull liġi oħra fiskali li tapplika, inċentivi, benefiċċji u għotjiet f'termini ta' skemi li jistgħu jkunu żviluppati mill-Korporazzjoni biex jirrendu effettiv dan l-Att, ikunu hielsa mit-taxxa f'idejn il-benefiċjarju rilevanti, sakemm dawn l-għotjiet ma jieħdux l-għamla ta' sostituzzjoni ta' *income*.

(2) Il-Ministru jista' jagħmel regolamenti biex jistabbilixxi l-kondizzjonijiet li jkollhom x'jaqsmu mal-verifika ta' l-kontijiet, iż-żamma ta' reġistri u rappurtaż lill-Korporazzjoni għat-tgawdija ta' l-eżenzjoni msemmija fis-subartikolu ta' qabel dan.

(3) Meta xi benefiċċju mogħti permezz ta' dawn ir-regolamenti jew bl-Att ikun dovut lil soċjetà jew impriża oħra u, skond l-Att dwar it-Taxxi, is-soċji jew membri tagħha u mhux is-soċjetà jew impriża innifisha ikunu soġġetti għat-taxxa fuq kull dħul ta' dik is-soċjetà jew impriża, kwalunkwe benefiċċju previst b'dan l-Att lil soċjeta' jew impriża ikun dovut lis-soċji jew membri ta' kull soċjetà jew impriża bħal dik."

Emenda ta' l-artikolu 8 ta' l-Att prinċipali.

6. L-artikolu 8, kif enumerat mill-ġdid, ta' l-Att prinċipali għandu jiġi emendat kif ġej:

(a) is-subartikolu (1) tiegħu għandu jiġi emendat kif ġej:

(i) il-paragrafu (a) tiegħu għandu jiġi sostitwit bil-paragrafu ġdid li ġej:

"(a) li toriġina, tmexxi u ġġib 'il quddiem inizjattivi li jkollhom x'jaqsmu ma' l-iżvilupp ekonomiku u soċjali ta' Malta konformement ma' l-oġjettivi, il-politika u l-miri stabbiliti mill-Gvern skond l-artikolu 4;"

(ii) il-paragrafu (b) tiegħu għandu jiġi sostitwit bil-paragrafu ġdid li ġej:

"(b) li tmexxi l-istrategija ta' Malta skond ma din ikollha x'taqsam ma' kull xorta ta' intrapriża, billi tiġi żgurata l-implimentazzjoni ta' dik l-attività permezz ta' approċ koordinat u koerenti żviluppat u implimentat ma' korpi Governattivi oħra, korpi kostitwiti nazzjonali u s-settur privat;"

(iii) fil-paragrafu (ċ) tiegħu, minflok il-kliem "għall-industrija u l-intrapriża" għandhom jidhlu l-kliem "għall-intrapriża";

(iv) fil-paragrafi (d) u (e) tiegħu, minflok il-kliem

"n-negozji" u "tal-kummerċ" għandhom jidhlu l-kliem "l-intrapriża" u "ta' l-intrapriża" rispettivament";

(v) fil-paragrafu (f) tiegħu, minflok il-kliem "ta' intrapriži tan-negozju" għandhom jidhlu l-kliem "ta' intrapriża";

(b) fis-subartikolu (2)(a) tiegħu, minflok il-kliem "ta' intrapriži tan-negozju", "lil intrapriži" u "intrapriži tan-negozju", kull fejn jidhru, għandhom jidhlu l-kliem "ta' impriži", "lil impriži" u "impriži", rispettivament; u

(ċ) is-subartikoli ġodda li ġejjin għandhom jiżiedu wara s-subartikolu (2) tiegħu:

"(3) Għall-aħjar implimentazzjoni tad-disposizzjonijiet ta' dan l-Att, il-Korporazzjoni tista', b'żieda ma' kull funzjoni jew setgħa tagħha, minn żmien għal żmien:

(a) toħroġ u tippubblika linji gwida li jistabbilixxu fost hwejjeġ oħra:

(i) il-pattijiet u l-kondizzjonijiet ta' kull arrangament, inċentiv jew skema inkluż l-iffissar ta' regoli għall-eligibilità ta' impriži għal xi benefiċċju u inċentiv taħt xi waħda minn dawk l-iskemi u l-aspetti kollha relatati u anċillari għalihom;

(ii) l-applikabilità ta' dawk l-iskemi għal proġetti jew impriži partikolari; u

(iii) kull htieġa u kondizzjoni addizzjonali fir-rigward ta' l-attivitajiet ta' impriži, l-imġiba tan-negozju tagħhom, ir-responsabilitajiet tagħhom lejn il-Korporazzjoni, il-htigiet ta' rapporti lill-Korporazzjoni, riżorsi finanzjarji u htigiet relatati, u kull aspett ieħor skond kif il-Korporazzjoni tista' tqis xieraq;

(b) konformement mad-delega mill-Ministru permezz ta' regolament relevanti, tagħmel traspożizzjoni ta' kull disposizzjoni fil-liġi relevanti f'linji gwida b'dawk il-modifiki skond kif il-Ministru jew il-Korporazzjoni, skond il-każ, jistgħu jqisu xierqa jew meħtieġa:

Iżda sa' fejn huma milquta l-proġetti eżistenti, ebda haġa f'kull linja gwida magħmula skond din is-setgħa ma għandha tolqot xi jedd, benefiċċju jew inċentiv attwalment fis-sehħ favur xi impriża jew benefiċjarju u lanqas ma għandha timponi xi kondizzjonijiet jew obbligi aktar iebsa minn dawk attwalment fis-sehħ u f'każ ta' konflitt bejn il-linji gwida u l-liġi rilevanti, għandhom jirbhu d-disposizzjonijiet tal-liġi rilevanti;

(é) konformement mad-delega mill-Ministru permezz ta' regolament rilevanti, tirrifletti direttivi ta' l-Unjoni Ewropea li jistgħu jkunu rilevanti jew mehtieġa fir-rigward tal-funzjonijiet u oqsma ta' responsabbiltà tal-Korporazzjoni u komformement ma' l-artikolu 4(2) ta' l-Att dwar l-Unjoni Ewropea, tinnomina l-Ministru bhala l-Ministru rilevanti u l-Korporazzjoni bhala l-awtorità rilevanti għall-finijiet li jistgħu jiġu preskritti.

(4) Il-linji gwida jorbtu lill-impriži kollha li jkollhom Ċertifikat ta' Jedd għal Inċentiv u lill-persuni l-oħra skond kif jistgħu jiġu speċifikati fihom skond it-termini tagħhom.

(5) Il-linji gwida jinħarġu mill-Bord biss wara li jkun kiseb l-opinjoni bil-miktub tal-Ministru:

Iżda fejn l-linji gwida jkunu jittrattaw miżuri ta' xorta fiskali, ikun mehtieġ ukoll il-qbil tal-Ministru tal-Finanzi.

(6) Hlief għal emendi għal-linji gwida li jkunu ta' xorta purament amministrattiva, u jkunu espressament iddikjarati li huma hekk mill-Korporazzjoni, li jiġu fis-sehħ minnufih wara li jitqegħdu fuq is-sit tal-web uffieċjali tal-Korporazzjoni, kull linja gwida ġdida jew emenda għal linja gwida għandhom jidhlu fis-sehħ eghluq hmistax-il jum mit-tqegħid tagħhom fuq is-sit tal-web uffieċjali jew f'dik id-data aktar tard skond kif jista' jkun hemm dikjarat:

Iżda emenda għal-linji gwida ma tistax tnaqqas, tirtira jew thassar xi benefiċċju mogħti qabel hlief skond kif previst f'dan l-Att jew f'regolament magħmul bis-saħħa tiegħu.

(7) Meta, wara d-dhul fis-sehħ tas-subartikoli (3),

(4), (5) u (6), il-Korporazzjoni jkollha hsieb li tohrog linji gwida li jipprovdu għall-għoti ta' xi għajnuna ġdida jew addizzjonali, kopja ta' dawk il-linji gwida maħsuba għandha tintbagħat lill-Bord ta' Sorveljanza fuq l-Għajnuna mogħtija mill-Istat li għandu jikkomunika l-opinjoni jiet tiegħu dwar l-għajnuna proposta skond kif tipprovdi l-liġi li tapplika."

7. It-Taqsima III u l-artikoli 6 sa 17 ta' l-Att prinċipali għandhom jiġu enumerati mill-ġdid bħala t-Taqsima IV u l-artikoli 10 to 21 rispettivament.

Enumerazzjoni mill-ġdid ta' Taqsima III u l-artikoli 6 sa 17 ta' l-Att prinċipali.

8. Fis-subartikolu (2) ta' l-artikolu 18, kif enumerat mill-ġdid, ta' l-Att prinċipali minflok il-kliem "bil-kunsens tal-Ministru" għandhom jidhru l-kliem "bil-kunsens tal-Ministru li għandu jikkonsulta mal-Ministru responsabbli għall-Finanzi".

Emenda ta' l-artikolu 18 ta' l-Att prinċipali.

9. Minnufih wara s-subartikolu (3) ta' l-artikolu 21, kif enumerat mill-ġdid, ta' l-Att prinċipali, għandhom jiżdiedu s-subartikoli ġodda li ġejjin:

Amendment of article 21 of the principal Act.

"(4) Bla hsara għal kif jista' jkun xort'ohra meħtieġ jew permess għall-finijiet ta' dan l-Att, jew waqt il-prosekuzzjoni ta' reat magħmul fir-rigward ta' dan l-Att, fit-twertieq tal-funzjonijiet tagħha, il-Korporazzjoni u l-persunal tagħha jkunu marbuta bid-disposizzjonijiet ta' l-Att dwar Segretezza Professionali u ma għandhom jikxfu l-ebda tagħrif dwar xi applikant jew xi benefiċċji mogħtija lil xi applikant mingħajr il-kunsens minn qabel bil-miktub ta' dak l-applikant jew kif xort'ohra permess bil-liġi.

(5) Kull min ikollu dmir uffiċjali jew waqt li jkun involut fl-amministrazzjoni ta' dan l-Att għandu jqis u jitratta d-dokumenti u tagħrif kollha li għandhom x'jaqsmu ma' aspetti kkontemplati minn jew li joħorġu mid-disposizzjonijiet ta' dan l-Att bħala sigrietà u kunfidenzzjali u għandu jagħmel u jiffirma quddiem Kummissjonarju b'setgħa li jagħti ġurament dikjarazzjoni f'dan is-sens fil-forma preskritta li għandha tiġi depożitata għand l-Avukat Ġenerali. Dawk il-persuni ma jkunux, sakemm il-Prim Ministru ma jordnax xort'ohra bil-miktub, meħtieġa li juru lil jew quddiem xi qorti, tribunal, bord, kumitat ta' inkjesta jew awtorità oħra, jew li jiżvelaw lil dik il-qorti, tribunal, bord, kumitat ta' inkjesta jew awtorità oħra xi aspekk jew haġa li huma jsiru jafu biha jew li tkun fil-pussess tagħhom fil-qadi ta' dmirijietom taħt dan l-Att.

(6) Ebda haġa f'dan l-artikolu ma għandha tfixxkel lill-

Korporazzjoni jew il-persunal tagħha minn:

(a) li jagħtu aċċess liberu lill-uditur ta' l-Korporazzjoni għat-tagħrif kollu li hu meħtieġ biex jaqdi d-dmirijiet tiegħu;

(b) li jagħtu aċċess liberu lil dawk il-persuni jew awtoritajiet oħra li jkollhom jedd jirċevu dak it-tagħrif taħt disposizzjonijiet ta' liġi li tapplika fil-qadi ta' l-funzjonijiet tagħhom;

(ċ) li jipprovdu informazzjoni sħiħa lill-Kummissarju tat-Taxxi Interni għall-finijiet ta' l-Att dwar it-Taxxa fuq l-*Income*;

(d) it-tniedija u l-pubblikazzjoni ta' rapporti u revizzjonijiet statistiċi li jkollhom tagħrif dwar benefiċċji mogħtija lil applikanti u benefiċjarji ta' benefiċċji li ma jikxfux ismijiet speċifiċi jew tagħrif ieħor speċifiku li jwasslu għall-identifikazzjoni ta' l-applikanti individwali."

Enumerazzjoni mill-ġdid tat-Taqsima IV u l-artikoli 18 sa 23 ta' l-Att prinċipali.

10. It-Taqsima IV u l-artikoli 18 sa 23 ta' l-Att prinċipali għandhom jiġu enumerati mill-ġdid bħala t-Taqsima V u l-artikoli 22 sa 27 rispettivament.

Enumerazzjoni mill-ġdid tat-Taqsima V u l-artikoli 24 sa 27 ta' l-Att prinċipali.

11. It-Taqsima V u l-artikoli 24 sa 27 ta' l-Att prinċipali għandhom jiġu enumerati mill-ġdid bħala t-Taqsima IX u l-artikoli 38 to 41 rispettivament.

Enumerazzjoni mill-ġdid tat-Taqsima VI u l-artikoli 28 sa 30 ta' l-Att prinċipali.

12. It-Taqsima VI u l-artikoli 28 sa 30 ta' l-Att prinċipali għandhom jiġu enumerati mill-ġdid bħala t-Taqsima X u l-artikoli 42 to 44 rispettivament.

Zieda ta' Taqsimiet ġodda u artikoli ġodda fl-Att prinċipali.

13. Minnufih wara l-artikolu 27 ta' l-Att prinċipali għandhom jiżdiedu t-Taqsima ġdida u l-artikoli ġodda li ġejjin:

"Taqsimi VI

Amministrazzjoni tal-Jeddijiet għal Inċentivi

Amministrazzjoni ta' l-appoġġ għall-intrapriża.

28. (1) Fil-qadi ta' l-funzjonijiet tagħha skond kif previst f'dan l-Att, f'xi regolament jew f'linja gwida, il-Korporazzjoni għandha:

(a) tistabilixxi fuq talba bil-miktub l-eligibilità jew le ta' l-intrapriża li tkun qeghda ssir jew maħsuba li ssir minn impriża;

(b) tilqa' applikazzjonijiet għal appoġġ lill-intrapriża u tapprova jew le kull xorta ta' appoġġ; u

(ċ) toħroġ Ċertifikat ta' Jedd għal Inċentiv lil kull benefiċjarju, kif stipulat fl-artikolu 29, li juri l-appoġġ mogħti u l-pattijiet u kondizzjonijiet għalih. Ċertifikat bħal dak jagħmel prova konkluziva ta' dawk l-aspetti għall-finijiet kollha tal-liġi.

(2) Il-Korporazzjoni għandha tiddeċiedi dwar l-applikazzjonijiet skond kif previst f'dan l-Att u f'kull regolament u linja gwida magħmulin bis-saħħa tiegħu u meta timponi pattijiet u kondizzjonijiet għandha tapplika l-prinċipji ta' Prattika tajba u kontabilità.

Regoli dwar
Ċertifikati ta'
Jedd għal
Inċentiv.

29. (1) Ċertifikat ta' Jedd għal Inċentiv jinħareġ mill-Korporazzjoni u jitqies bħala kuntratt bejn il-Korporazzjoni, il-Gvern ta' Malta u l-benefiċjarju, li jiggarantixxi l-ghotja u t-tgawdija tal-benefiċċju relativ skond it-pattijiet u l-kondizzjonijiet stipulati fih u fid-disposizzjonijiet ta' dan l-Att, ta' kull regolament u kull linja gwida.

(2) L-ebda inċentiv jew benefiċċju kkontemplat taħt dan l-Att ma jitgawda minn xi benefiċjarju matul xi sena jew sena ta' stima jekk il-President ta' Malta b'ordni bil-miktub jiddikjara li l-ghotja jew l-akkwist jew it-tkomplija ta' l-ghotja u l-akkwist ta' dak l-inċentiv jew benefiċċju jmorru jew kienu jmorru kontra l-ordni pubbliku (*ordre public*), u meta jsir ordni bħal dak ikollu effett sa mid-data fih speċifikata iżda f'ebda każ ordni ma jista' jkollu effett retrospettiv.

(3) Bla hsara ghas-setgħat tal-Korporazzjoni li għandhom x'jaqsmu marrevoka ta' benefiċċji skond kif previst fit-Taqsima VII ta' dan l-Att u s-setgħat tal-President fis-subartikolu ta' qabel, il-garanzija mogħtija bis-subartikolu (1) ma tiġix annullata b'xi azzjoni retrospettiva, kemm jekk b'liġi kif ukoll xort'oħra.

(4) Bla hsara għal kull disposizzjoni oħra ta' dan l-Att jew għal kull regolament jew linja gwida magħmula bis-saħħa tiegħu, fil-ħruġ ta' ċertifikat skond id-disposizzjonijiet ta' l-artikolu 28(1)(ċ), il-Korporazzjoni tista' timponi kull kondizzjoni li hija tqies xierqa fit-tgawdija ta' xi benefiċċju partikolari.

(5) Ċertifikat ma jindika ebda eżenzjoni lil dak il-benefiċjarju minn xi proċedura, dmir, obbligu, responsabilità, drittijiet jew ħlasijiet sakemm ma jkunx espressament iddikjarat fiċ-ċertifikat jew f'disposizzjoni speċifika ta' liġi, regolament jew linja gwida li jissemmgħu speċifikatament fiċ-ċertifikat.

(6) Kull min ikollu x'jaqsam ma' impriża li jkollha Ċertifikat ta' Jedd għal Inċentiv għandu jimxi skond Ċertifikat ta' Jedd għal Inċentiv mahruġ kif previst f'dan l-artikolu mingħajr ħtieġa ta' aktar provi dwar l-eligibilità tagħha, l-eżistenza jew il-qagħda tagħha jew xort'oħra, u ma jkollux bżonn prova ta' l-awtentiċità taċ-ċertifikat aktar minn dik li tidher minnu innifsu. Dawk iċ-ċertifikati jagħmlu, sakemm ma jiġix ippruvat il-kuntrarju, prova ta' l-kontenut tagħhom:

Izda safejn iċ-Ċertifikat ta' Jedd għal Inċentiv jirreferi għal inċentivi fiskali li impriża tista' tkun eligibbli għalihom, ebda haġa f'dan is-subartikolu ma għandha tillimita s-setgħat ta' l-Kummissarju tat-Taxxi Interni taħt il-leġislazzjoni rilevanti li jwettaq monitoraġġ fuq il-harsien minnha tal-kondizzjonijiet rilevanti, u l-imsemmi Kummissarju jista' jagħmel dawk il-mistoqsijiet u verifiki kif jista' jidhirlu xieraq.

(7) L-applikazzjoni għal appoġġ għandha tidentifika l-impriża involuta fl-intrapriża relevanti (l-"impriża relevanti") u titqies li hija l-benefiċjarju ewlieni, bil-benefiċjarji l-oħra kollha possibbli jitqiesu bħala anċillarji għaliha, u konsegwentement:

(a) applikazzjoni tista' ssir biss mill-impriża relevanti li titqies awtorizzata li taġixxi għan-nom tal-benefiċjarji l-oħra kollha relativament għall-applikazzjoni;

(b) l-avviżi kollha u l-komunikazzjonijiet l-oħra ta' liema xorta jkunu minn jew lill-Korporazzjoni, isiru lil u mill-impriża relevanti u avviż lill-impriża relevanti jitqies avviż xieraq lill-benefiċjarji l-oħra kollha;

(ċ) l-impriża relevanti tkun wehida responsabbli għall-pussess u radd lura ta' xi ċertifikat maħruġ mill-Korporazzjoni;

(d) it-tnehhija ta' benefiċċju lil impriża relevanti tkun t'fisser it-tnehhija tal-benefiċċji kollha relatati jew konnessi għal benefiċjarji oħra; u

(e) minkejja d-disposizzjonijiet ta' xi liġi oħra, ir-rifużjoni tal-benefiċċji mogħtija li tista' tkun dovuta skond kif previst fl-artikolu 32(4) tkun ir-responsabilità ewlenija ta' l-impriża relevanti, b'kull benefiċjarju ieħor ikun responsabbli li jagħti rendikont biss f'każ li l-impriża relevanti tonqos milli taġmel hekk fi żmien sena u f'kull każ biss għall-benefiċċju attwalment riċevut minnu:

Iżda fejn impriża relevanti terfa' dik ir-responsabilità, hija jkollha jedd titlob sehem mingħand benefiċjarju ieħor li jkun daqs l-ammont ta' benefiċċju attwalment riċevut minn dak il-benefiċjarju.

(8) Referenza f'dan l-Att għal "Ċertifikat ta' Jedd għal Inċentiv" tinkludi l-pattijiet u kondizzjonijiet kollha li jistgħu japplikaw bis-saħħa ta' dan l-Att jew ta' kull regolament jew linja gwida magħmula bis-saħħa tiegħu kif ukoll dawk f'dokumenti oħra li jistgħu jkunu mehmuża maċ-ċertifikat jew li jistgħu jkunu speċifikatament imsemmija fiċ-ċertifikat.

(9) Safejn Ċertifikat ta' Jedd għal Inċentiv jirreferi għal inċentiv li għandu x'jaqsam ma' xi taxxa, għandha tintbagħat kopja lill-Kummissarju tat-Taxxi Interni.

Xorta ta' Ċertifikati ta' Jedd għal Inċentivi.

30. (1) Ċertifikati ta' Jedd mahruġa mill-Korporazzjoni jitqiesu bħala dokumenti pubbliċi, jintużaw biss għall-finijiet hawn awtorizzati u jintraddu lura lill-Korporazzjoni b'talba sempliċi tagħha bil-miktub.

(2) F'każ ta' talba skond is-subartikolu (1), il-benefiċjarju għandu jrodd lura, lill-Korporazzjoni, iċ-Ċertifikat relevanti fi żmien sebat ijiem minn meta jirċevi t-talba u kull min jonqos milli jrodd lura dak iċ-Ċertifikat sa' dak iż-żmien ikun ħati ta' reat kontra dan l-Att u jehel, meta jinstab ħati, multa ta' mitt lira u multa ta' hames liri għal kull jum li fih jissokta n-nuqqas.

Falsifikazzjoni, tbgħabis jew użu hazin ta' ċertifikati.

31. Kull min, b'kull mezz, jiffalsifika jew jagħmel tibdil f'Ċertifikat ta' Jedd għal Inċentiv jew jittanta jagħmel użu minnu għal skop mhux awtorizzat b'dan l-Att jew ifittex li jiżah wara li jkun gie revokat skond kif previst fl-Att, ikun ħati ta' reat u jehel l-istess piena prevista fl-artikolu 183 ta' l-Kodiċi Kriminali.

Kap. 9.

Taqsim VII

Revoka u Modifiki ta' Benefiċċji

Revoka ta' inċentivi jew benefiċċji.

32. (1) Meta xi benefiċjarju jonqos milli jħares xi wiehed mill-pattijiet jew xi wahda kondizzjonijiet ta' Ċertifikat ta' Jedd għal Inċentiv, il-Korporazzjoni tista' b'avviż bil-miktub titlob lil dak il-benefiċjarju fi żmien tletin jum minn meta jirċevi dak l-avviż sabiex -

(a) josserva dawk il-kondizzjonijiet; jew

(b) juri għas-soddisfazzjon tal-Korporazzjoni li n-nuqqas li jħares dawk il-kondizzjonijiet kien dovut għal xi raġuni mhux fil-kontroll tiegħu u li hemm possibiltajiet tajba li jimxi ma' dik il-kondizzjoni sa' dak iż-żmien skond kif il-Korporazzjoni tista' tqies raġonevoli.

(2) Meta benefiċjarju josserva l-kondizzjoni fis-subartikolu (1)(b), il-Korporazzjoni tista' tawtorizza l-posponiment raġonevoli għall-fini ta' ħarsien ta' dawk il-kondizzjonijiet, skond kif tista' tqies xieraq.

(3) Meta benefiċjarju jonqos milli jħares il-kondizzjoni fis-subartikolu (1)(b) jew, wara li jkun gie permess lilu posponiment taht is-subartikolu (2), jonqos matul il-perjodu ta' dak il-posponiment milli josserva dawk il-pattijiet jew kondizzjonijiet, il-Korporazzjoni tista' tirrevoka kull inċentiv jew benefiċċju mogħti lill-benefiċjarju u dik ir-revoka tkun effettiva minn dik id-data skond ma l-Korporazzjoni tista' tiffissa.

(4) Meta jiġi revokat Ċertifikat ta' Jedd għal Inċentiv, fl-intier tiegħu jew parti minnu, skond id-disposizzjonijiet ta' dan l-artikolu, il-benefiċjarju għandu jhallas jew iħallas lura lill-Gvern jew lill-Korporazzjoni, skond il-każ, il-flejjes kollha li kieku kien ikollu iħallas lill-Gvern jew lill-Korporazzjoni li kieku ma kienx minħabba fid-disposizzjonijiet ta' dan l-Att, ta' kull regolament jew ta' kull linja gwida jew li jkun rċieva bis-saħħa tagħhom, u l-flejjes kollha li l-benefiċjarju jkun hekk obligat li jhallas jew jirrifondi jistgħu jiġu mpaċija ma' xi flejjes li jistgħu jkunu dovuti mill-Gvern jew mill-Korporazzjoni lill-benefiċjarju għal xi raġuni, tkun xi tkun, inkluż fl-eventwalità ta' falliment ta' l-imsemmi benefiċjarju, mingħajr ħsara għal kull jedd tal-Gvern jew tal-Korporazzjoni biex jiġbru kull bilanċ li jkun għadu dovut.

(5) Fiċ-ċirkostanzi maħsuba f'dan l-artikolu, il-Korporazzjoni tista', fid-diskrezzjoni assoluta tagħha, minflok tirrevoka ċertifikat, fl-intier tiegħu jew in parti, taqbel li tibdel il-pattijiet u l-kondizzjonijiet f'Ċertifikat ta' Jedd għal Inċentiv sabiex jiġu riflessi l-kondizzjonijiet li jkunu aktar xierqa fuq il-bażi taċ-ċirkostanzi li bihom tkun taf f'dak iż-żmien. Il-Korporazzjoni timxi b'dan il-mod biss jekk l-impriża relevanti tkun qablet bil-miktub ma' dawk it-tibdiliet skond kif tista' tipproponi l-Korporazzjoni u ma' kull kondizzjoni li biha jkunu ġew offruti.

Taqsim VIII

Reati u Pieni

Piena għal min jagħmel dikjarazzjoni falza, eċċ.

33. Kull min mingħajr ebda raġuni tajba jhejji xi dikjarazzjoni falza jew jagħti tagħrif falz fir-rigward ta' xi aspett jew haġa li taqa' taħt dan l-Att, ikun hati ta' reat u jehel, meta jinstab hati, multa ta' mhux anqas minn tliet mitt lira u mhux aktar minn elfejn lira.

Disposizzjonijiet dwar frodi, eċċ.

34. (1) Kull min volontarjament bil-ħsieb li jakkwista xi inċentiv jew benefiċċju taħt dan l-Att jew li jgħin lil haddiehor biex jagħmel hekk -

(a) iħalli barra minn prospett jew xi dokument ieħor jew dikjarazzjoni magħmula, ippreparati jew sottomessi għall-finijiet ta' jew taħt dan l-Att, xi haġa li kellha tidhol fih; jew

(b) jagħmel xi dikjarazzjoni falza jew notament falz f'xi prospett jew dokument ieħor jew dikjarazzjoni ppreparati jew sottomessi għall-finijiet ta' jew taħt dan l-Att; jew

(ċ) jagħti xi twegiba falza, kemm bil-fomm jew bil-miktub, għal xi mistoqsija jew talba għal tagħrif magħmula skond id-disposizzjonijiet ta' dan l-Att; jew

(d) ihejji jew iżomm jew jawtorizza t-thejjija jew żamma ta' xi kotba foloz ta' kontijiet jew registri oħra jew jiffalsifika jew jippermetti l-falsifikazzjoni ta' xi kotba tal-kontijiet jew registri; jew

(e) jagħmel użu minn xi frodi, qerq jew ingann ta' kull xorta jew jippermetti l-użu ta' dik il-frodi, qerq jew ingann, ikun ħati ta' reat, u għal kull reat bħal dak jeħel meta jinstab ħati multa ta' mhux anqas minn ħames mitt lira u mhux aktar minn ħamest elef lira jew prigunerija għal żmien ta' mhux aktar minn sitt xhur, jew dik il-multu u prigunerija flimkien.

(2) Malli xi hadd jammetti jew jinsab ħati ta' xi wieħed mir-reati fuq imsemmija, il-Korporazzjoni tista' tirrevoka kull Ċertifikat ta' Jedd għal Inċentiv maħruġ minnha b'avviż bil-miktub mingħajr ma timxi mal-proċeduri msemmija fl-artikolu 32.

Piena ġenerali.

35. Kull min jikser jew jonqos milli jħares xi waħda mill-ħtiġiet ta' dan l-Att jew ta' xi regolament magħmul bis-saħħa tiegħu, li dwarhom ma hemm l-ebda piena speċjali prevista, ikun ħati ta' reat u għal kull reat jeħel, meta jinstab ħati, multa ta' mhux anqas minn mitt lira iżda mhux aktar minn ħames mitt lira.

Disposizzjoni li għandha x'taqsam ma' reati.

36. Id-disposizzjonijiet ta' dan l-Att li joħolqu reati u pjeni għalihom ma jippreġudikawx l-applikabilità ta' xi liġi oħra li toħloq reati u pjeni għall-istess atti jew nuqqasijiet u ma għandhomx, b'mod partikolari, jaffettwaw l-applikazzjoni ta' xi piena akbar taħt xi liġi oħra.

Preskrizzjoni ta' proċeduri dwar reati.

37. Il-proċeduri dwar reat taħt dan l-Att jistgħu jinbdew f'kull waqt matul ħames snin minn meta jsir ir-reat."

14. Minnufuh wara l-artikolu 44, kif enumerat mill-ġdid, ta' l-

Żieda ta' artikolu ġdid fl-Att prinċipali.

Att prinċipali, għandu jizdied l-artikolu ġdid li ġej:

"Kif jintlaqtu liġijiet oħra.

45. Ebda haġa f'dan l-Att ma għandha toqot id-disposizzjonijiet ta' xi liġi oħra tkun liema tkun hlief safejn biss id-disposizzjonijiet ta' dan l-Att jissostitwixxu jew jidhlu minflok id-disposizzjonijiet ta' dik il-liġi, u l-ebda inċentiv, eżenzjoni, tnaqqis ta' taxxa jew benefiċċju jew privileġġ ieħor ipprovduti bid-disposizzjonijiet ta' dan l-Att ma għandhom ibiddu l-obbligu li jintbagħtu prospetti, dikjarazzjonijiet, dettalji jew dokumenti skond kif jista' jkun meħtieġ taħt xi liġi oħra."

Emenda ta' l-Att dwar il-Promozzjoni ta' Negozji. Kap. 325.

15. L-Att dwar il-Promozzjoni ta' Nergozji għandu jiġi emendat kif ġej:

(a) l-artikolu 21 tiegħu għandu jithassar;

(b) it-Taqsima VII tiegħu, li tikkonsisti fl-artikoli 44 sa 56, għandha tithassar; u

(ċ) it-Taqsima IX tiegħu għandha tiġi enumerata mill-ġdid bhala t-Taqsima VII.

Għanijiet u Raġunijiet

L-għanijiet ta' dan l-Abbozz ta' Liġi huma biex jiġu aġġornati d-disposizzjonijiet ta' l-Att dwar il-Korporazzjoni Maltija għall-Intrapriża, biex jinkoraġġixxi l-istabbiliment ta' impriži ġodda ta' negozju u t-tkabbir ta' impriži ta' negozju eżistenti f'Malta.

**A BILL
entitled**

AN ACT to amend the Malta Enterprise Corporation Act, Cap. 463.

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 Malta Enterprise Corporation (Amendment) Act, 2007 and this Act shall be read and construed as one with the Malta Enterprise Corporation Act, hereinafter referred to as "the principal Act".

Short title and commencement.
Cap. 463.

(2) The provisions of this Act shall come into force on such date as the Minister responsible for Malta Enterprise may by notice in the Gazette appoint, and different dates may be so appointed for different provisions and different purposes thereof.

2. (1) The long title of the principal Act shall be substituted by the following new long title:

Substitution of long title and article 1 of the principal Act.

"AN ACT to make provision for the establishment of a corporation in Malta, to determine the functions and powers of the Corporation in order to promote enterprise and related business undertakings in Malta, to encourage the establishment of new business undertakings and the expansion of existing business undertakings in Malta, to provide for the development and administration of incentives, schemes and other forms of support for such ventures and to provide for matters ancillary or in relation thereto and to provide for powers to rationalise and update the relevant legislation in the sector."

(2) Article 1 shall be substituted by the following new article:

"1. The short title of this Act is the Malta Enterprise Act."

(3) Wherever in the principal Act or in any other law or regulation there is reference to the principal Act, it shall henceforth be deemed to refer to the principal Act as renamed in virtue of the preceding subarticle.

Amendment of
article 2 of the
principal Act.

3. Article 2 of the principal Act shall be amended as follows:

(a) immediately before the definition "committee" there shall be added the following new definition:

" "beneficiary" means any person who is entitled to benefit under an incentive scheme or arrangement in terms of this Act;"

(b) immediately after the definition "effective date" there shall be added the following new definitions:

" "enterprise" means the carrying on of any economic activity in Malta;

Cap. 325. "existing projects" means any project already approved by the Corporation and entitled to or benefiting from any grants or incentives under the Business Promotion Act;"

(c) immediately after the definition "financial year" there shall be added the following new definitions:

" "guidelines" means the set of rules issued by the Corporation from time to time for the further implementation of the provisions of this Act, and any regulations issued hereunder, including the definition, application, administration, grant and revocation of schemes, incentives and other arrangements for the promotion of enterprise in Malta;

"Incentive Entitlement Certificate" means a certificate issued in terms of Part VI of this Act;"

(d) immediately after the definition "Malta" there shall be added the following new definition:

" "relevant legislation" means -

(i) the Business Promotion Act, and regulations made thereunder, and in particular the Business Promotion Regulations;

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S.L. 325.06

(ii) the Malta Development Corporation Act, and any regulations made thereunder;

Cap. 202.

(iii) the Small Enterprises (Loan Guarantee) Act, and any regulations made thereunder;

Cap. 397.

(iv) the Aids to Industry Ordinance, and any regulations made thereunder; and

Cap. 159.

(v) the Encouragement of New Industries Act, and any regulations made thereunder;"

Cap. 53.

(e) immediately after the definition "secretary" there shall be added the following new definitions:

"State Aid Monitoring Board" means the State Aid Monitoring Board constituted under article 57 of the Business Promotion Act;

Cap. 325.

"tax" shall have the same meaning as assigned to it in the Income Tax Acts;"

(f) the definition "Corporation" shall be substituted by the following new definition:

"Corporation" means Malta Enterprise, a corporation established under article 7 and where any other authority or person is designated by regulations prescribed by the Minister to be the competent authority to exercise any of the functions of the Corporation under this Act, includes such other authority or person to the exclusion of the Corporation;"

(g) in the definition "the Minister", for the words "economic policy" there shall be substituted the words "Malta Enterprise";

(h) immediately after the definition "the Minister" there shall be added the following new definition:

"undertaking" means any individual or body of persons, whether having a distinct legal personality or not, who or which carries on any form of enterprise including the exercise of any trade or business, profession or vocation and includes any association or other body of

persons which promotes or supports the goals and objectives of such undertakings.".

Renumbering of Part II and articles 3, 4 and 5 of the principal Act.

4. Part II and articles 3, 4 and 5 of the principal Act shall be renumbered as Part III and articles 7, 8 and 9 respectively.

Addition of new Part and new articles in the principal Act.

5. Immediately after article 2 of the principal Act there shall be added the following new Part and the following new articles:

"Part II

Guiding Principles underlying the Act

Co-operation in the promotion of enterprise.

3. The Government shall co-operate with the private sector to promote private enterprise in Malta.

Establishment of key economic objectives.

4. (1) The Government shall from time to time determine Malta's principal economic policies and objectives and shall appropriate such funds and provide such incentives as it considers necessary to achieve such aims.

(2) The Government shall endeavour to achieve such economic objectives and policies through:

- (a) increased investment;
- (b) increased employment;
- (c) increased entrepreneurship;
- (d) improved international competitiveness;
- (e) diversification of the local industry base;
- (f) the development of enterprise networking and inter sector linkages;
- (g) the development of human resources; and
- (h) the promotion of industrial research, technology development and innovation,

and such other strategies as may from time to time be conducive to the achievement of such objectives and policies.

(3) In order to better achieve the goals set out above, the Government shall establish all such support measures as may be necessary and, without prejudice to the generality of the foregoing, shall in particular establish support measures in one or more of the following areas:

- (a) access to all forms of finance;
- (b) employment generation;
- (c) environment protection and renewable energy initiatives;
- (d) regional development;
- (e) research and development and innovation;
- (f) information technology, e-business and e-commerce;
- (g) the development of small and medium sized undertakings ("SMEs");
- (h) the promotion of clustering, networking and internationalisation;
- (i) the optimal use of property to cater for the physical and infrastructural requirements for the development of enterprise;
- (j) the regeneration of the island of Gozo and addressing handicaps associated with its double insularity; and
- (k) generally, the introduction of such other enterprise development measures, methodologies, schemes, policies and goals which are conducive to the above and related and similar objectives.

(4) Where the Minister, on the recommendation of the Corporation, is satisfied that a project to be undertaken by an undertaking may make a substantial contribution to the development of the economy as is consistent with the aims and objectives of the Government and this Act, the Minister may, after consultation with the Corporation as may be necessary, approve that support, in any form as may be approved, be given by the Corporation to such an enterprise subject to such conditions as the Minister or the Corporation may impose; provided that no assistance shall be granted to the extent that it is inconsistent with applicable law on state aid.

Power to make regulations.

5. (1) In order to achieve the purposes of this Act, the Minister may make regulations to give effect to the provisions of this Act and, without prejudice to the generality of the foregoing, such regulations may include provision with respect to:

(a) the establishment of policies for implementation by the Corporation as to the undertakings eligible to receive the benefit of incentives and other arrangements, the types of incentives, the range of support and other related matters;

(b) the introduction of measures of a fiscal nature;

(c) the introduction of such other support measures as are considered appropriate and subject to such conditions as the Minister may deem fit, which measures may include, but shall not be limited to, the measures provided for in article 4(3);

(d) the designation of any authority or person to exercise any of the functions of the Corporation under this Act;

(e) the definition and interpretation of terms and concepts to be used in regulations and guidelines;

(f) the deletion or the transposition of any provisions in the relevant legislation into regulations with such modifications as the Minister may consider appropriate or necessary:

Provided that in so far as existing projects are concerned, nothing in any regulations made pursuant to this power shall affect any right, benefit or incentive currently in force in favour of any undertaking or beneficiary nor impose any more onerous conditions or obligations than currently in force and in case of conflict between the regulations and the relevant legislation, the provisions of the relevant legislation shall prevail.

(2) Where the Minister proposes to make or modify regulations in accordance with the provisions of this Act and those regulations provide that an undertaking may be wholly or partly exempted from being liable to any tax which, but for the provisions of such regulations, would have been payable, the power of the Minister to make such regulations shall only be exercised with the concurrence of the Minister of Finance.

(3) Where the Minister proposes to make or modify regulations which provide for the granting of any assistance, a copy of such proposed regulations shall be forwarded to the State Aid Monitoring Board which shall communicate its opinions on the proposed assistance in accordance with applicable law.

6. (1) Notwithstanding any provisions of the Income Tax Act or of any other applicable fiscal law, incentives, benefits and grants in terms of schemes that may be developed by the Corporation to give effect to this Act, shall be exempt from tax in the hands of the relevant beneficiary, provided that such grants do not take the form of income substitution.

(2) The Minister may make regulations to lay down the conditions relating to accounting, record keeping and reporting to the Corporation for the enjoyment of the exemption stated in the preceding subarticle.

(3) Where any benefit provided by these regulations or by the Act is due to a partnership or other undertaking and, in accordance with the Income Tax Acts, the partners or members thereof and not the partnership or undertaking itself are assessable to tax on any income of such partnership or undertaking, any benefit provided in terms of this Act to a partnership or undertaking shall be due to the partners or members of any such partnership or undertaking."

Amendment of article 8 of the principal Act.

6. Article 8, as re-numbered, of the principal Act shall be amended as follows:

(a) subarticle (1) thereof shall be amended as follows:

(i) paragraph (a) thereof shall be substituted by the following new paragraph:

"(a) to originate, lead and further initiatives relating to the economic and social development of Malta in line with the objectives, policies and goals set out by Government in terms of article 4;"

(ii) paragraph (b) thereof shall be substituted by the following new paragraph:

"(b) to lead Malta's strategy as relates to all forms of enterprise, ensuring the implementation of such activity through a co-ordinated and coherent approach developed and implemented with other Government bodies, national constituted bodies and the private sector;"

(iii) in paragraph (c) thereof, for the words "to industry and enterprise" there shall be substituted the words "to enterprise";

(iv) in paragraphs (d) and (e) thereof for the words "businesses" and "business", wherever they occur, there shall be substituted the word "enterprise";

(v) in paragraph (f) thereof for the words "business enterprises" there shall be substituted the word "undertakings";

(b) in subarticle (2)(a) thereof for the words "business enterprises" and "enterprises", wherever they occur, there shall be substituted the word "undertakings"; and

(c) the following new subarticles shall be added after subarticle (2) thereof:

"(3) For the better carrying out of the provisions of this Act, the Corporation may, in furtherance of any of its functions and powers, from time to time:

(a) issue and publish guidelines to establish *inter alia*:

(i) the terms and conditions of any arrangements, incentives or schemes including the determination of rules for the eligibility of undertakings to any benefits and incentives under any such schemes and all matters related and ancillary thereto;

(ii) the applicability of such schemes to particular projects or undertakings; and

(iii) any additional requirements and conditions in relation to activities of undertakings, the conduct of their business, their responsibilities to the Corporation, reporting requirements to the Corporation, financial resources and related requirements, and any other matters as the Corporation may consider appropriate;

(b) pursuant to the delegation by the Minister by means of a relevant regulation, transpose any provisions in the relevant legislation into guidelines with such modifications as the Minister or the Corporation, as the case may be, may consider appropriate or necessary:

Provided that in so far as existing projects are concerned, nothing in any guidelines issued pursuant to this power shall affect any right, benefit or incentive currently in force in favour of any

undertaking or beneficiary, nor impose any more onerous conditions or obligations than currently in force, and in case of conflict between the guidelines and the relevant legislation, the provisions of the relevant legislation shall prevail;

(c) pursuant to the delegation by the Minister by means of a relevant regulation, reflect directives of the European Union which may be relevant or necessary in relation to the functions and areas of responsibility of the Corporation and pursuant to article 4(2) of the European Union Act, to designate the Minister as the relevant Minister and the Corporation as the relevant authority for the purposes as may be prescribed.

(4) Guidelines shall be binding on all undertakings in possession of an Incentive Entitlement Certificate and on other persons as may be specified therein in accordance with their terms.

(5) Guidelines shall be issued by the Board only after having obtained the written opinion of the Minister:

Provided that where the guidelines deal with measures of a fiscal nature, the concurrence of the Minister of Finance shall also be required.

(6) Except for amendments to the guidelines which are purely administrative in nature, and are expressly declared to be so by the Corporation, which come into force immediately upon the posting thereof on the official website of the Corporation, any new guidelines or amendments to guidelines shall come into force on the lapse of fifteen days after they are posted on the official website or on such later date as may be stated therein:

Provided that an amendment to the guidelines may not reduce, withdraw or cancel any benefit previously granted except in accordance with the terms of this Act or a regulation in terms of which it is issued.

(7) Where, after the coming into force of the provisions of subarticles (3), (4), (5) and (6), the Corporation proposes to issue guidelines which provide for the granting of any new or increased assistance, a copy of such proposed guidelines shall be forwarded to the State

Aid Monitoring Board which shall communicate its opinions on the proposed assistance in accordance with applicable law."

7. Part III and articles 6 to 17 of the principal Act shall be renumbered as Part IV and articles 10 to 21 respectively.

Renumbering of Part III and articles 6 to 17 of the principal Act.

8. In subarticle (2) of article 18, as re-numbered, of the principal Act for the words "with the concurrence of the Minister" there shall be substituted the words "with the concurrence of the Minister who shall consult the Minister responsible for Finance".

Amendment of article 18 of the principal Act.

9. Immediately after subarticle (3) of article 21, as renumbered, of the principal Act, there shall be added the following new subarticles:

Amendment of article 21 of the principal Act.

"(4) Save as may be otherwise required or permitted for the purposes of this Act, or in the course of a prosecution of an offence committed in relation to this Act, in carrying out its functions, the Corporation and its staff shall be bound by the provisions of the Professional Secrecy Act and shall not divulge any information about any applicant or any benefits granted to any applicant without the prior written consent of such applicant or as otherwise permitted by law.

(5) Every person having an official duty or being employed in the administration of this Act shall regard and deal with all documents and information relating to matters contemplated by or pursuant to the provisions of this Act as secret and confidential and shall make and subscribe before a Commissioner for Oaths a declaration to this effect in the form prescribed which shall be deposited with the Attorney General. Such persons shall not, unless the Prime Minister otherwise directs in writing, be required to produce to or before any court, tribunal, board, committee of enquiry or other authority, or to divulge to any such court, tribunal, board, committee of enquiry or other authority any matter or thing coming to their notice or being in their possession in the performance of their duties under this Act.

(6) Nothing in this article shall hinder the Corporation or its staff:

(a) from providing full access to the auditor of the Corporation to all information which is required for him to perform his duties;

(b) from providing full access to such other persons or authorities as are entitled to receive such information under provisions of applicable law for the carrying out of their functions;

(c) from providing full information to the Commissioner of Inland Revenue for the purposes of the Income Tax Act;

(d) from preparing and publishing reports and statistical reviews which include information about benefits granted to applicants and beneficiaries of benefits which do not divulge specific names or other specific information which will permit the identification of individual applicants."

Renumbering of Part IV and articles 18 to 23 of the principal Act.

10. Part IV and articles 18 to 23 of the principal Act shall be renumbered as Part V and articles 22 to 27 respectively.

Renumbering of Part V and articles 24 to 27 of the principal Act.

11. Part V and articles 24 to 27 of the principal Act shall be renumbered as Part IX and articles 38 to 41 respectively.

Renumbering of Part VI and articles 28 to 30 of the principal Act.

12. Part VI and articles 28 to 30 of the principal Act shall be renumbered as Part X and articles 42 to 44 respectively.

Addition of new Parts and new articles in the principal Act.

13. Immediately after article 27 of the principal Act there shall be added the following new Part and the following new articles:

"Part VI

Administration of Incentive Entitlements

Administration of support to enterprise.

28. (1) In the carrying out of its functions in terms of this Act, any regulations or any guidelines, the Corporation shall:

(a) determine upon request in writing the eligibility or otherwise of the enterprise being carried out or intended to be carried out by an undertaking;

(b) receive applications for support of the enterprise and approve or otherwise any form of support; and

(c) issue an Incentive Entitlement Certificate to any beneficiary, as stipulated in article 29, outlining the support granted and its terms and conditions. Such certificate shall be conclusive evidence of such matters for all purposes of law.

(2) The Corporation shall determine applications in terms of this Act and any regulations and guidelines made thereunder and when imposing terms and conditions it shall apply the principles of good practice and accountability.

Rules on
Incentive
Entitlement
Certificates.

29. (1) An Incentive Entitlement Certificate shall be issued by the Corporation and shall be deemed to be a contract between the Corporation, the Government of Malta and the beneficiary, guaranteeing the grant and enjoyment of the relative benefit in accordance with the terms and conditions stipulated therein and the provisions of this Act, any regulations and any guidelines.

(2) No incentive or benefit contemplated by this Act shall be enjoyed by any beneficiary for any year or year of assessment if the President of Malta by order in writing declares that the grant or acquisition or continued grant and acquisition of such incentive or benefit is or would be against public policy (*ordre public*), and where such an order is made it shall have effect as from the date therein specified but in no case shall an order have retrospective effect.

(3) Subject to the powers of the Corporation relating to revocation of benefits in terms of Part VII of this Act and the powers of the President in the preceding subarticle, the guarantee given by subarticle (1) shall not be nullified by any retrospective action, whether by legislation or otherwise.

(4) Subject to any other provision of this Act or of any regulations or guidelines issued pursuant to this Act, in releasing a certificate in accordance with the provisions of article 28(1)(c), the Corporation may impose any conditions it may deem fit for the enjoyment of any particular benefit.

(5) A certificate shall not imply any exemption of such beneficiary from any procedure, duty, obligation, liability, fees or dues unless expressly stated in the certificate or in an express provision of a law, regulation or guideline which is expressly referred to in the certificate.

(6) Any person dealing with an undertaking in possession of an Incentive Entitlement Certificate shall act upon an Incentive Entitlement Certificate issued in terms of this article without the need for any further evidence of its eligibility, existence or status or otherwise, and shall not require any proof of the authenticity of the certificate other than that which appears on the face of it. Such certificates shall, until the contrary is proved, be evidence of their contents:

Provided that in so far as the Incentive Entitlement Certificate refers to fiscal incentives to which an undertaking may be eligible, nothing in this subarticle shall limit the powers of the Commissioner of Inland Revenue under the relevant legislation to monitor compliance with the relevant conditions, and the said Commissioner may make such enquiries and verification as he may deem fit.

(7) The application for support shall identify the undertaking involved in the relevant enterprise (the "relevant undertaking") and it shall be deemed to be the main beneficiary, all other possible beneficiaries being considered to be ancillary to it, and consequently:

(a) an application may only be made by the relevant undertaking which shall be deemed to be authorised to act on behalf of all other beneficiaries relative to the application;

(b) all notices and other communications of whatsoever nature by or to the Corporation, shall be made to and by the relevant undertaking and a notice to the relevant undertaking shall be deemed proper notice to all other beneficiaries;

(c) the relevant undertaking shall be solely responsible for possession and surrender of any certificate issued by the Corporation;

(d) the revocation of a benefit from a relevant undertaking shall imply the revocation of all related or connected benefits for other beneficiaries; and

(e) notwithstanding the provisions of any other law, the refund of the benefits granted which may be due in terms of article 32(4) shall be the primary liability of the relevant undertaking, any other beneficiary being liable to account only in case of failure by the relevant undertaking to do so within one year and in any case only for the actual benefit received by it:

Provided that when a relevant undertaking meets such liability, it shall have a right to demand a contribution from another beneficiary equal to the amount of benefit actually received by such beneficiary.

(8) Reference to an "Incentive Entitlement Certificate" in this Act shall include all terms and conditions which may be applicable in virtue of this Act or any regulation or guideline made thereunder as well as those of other documents which may be attached to the certificate or which may be expressly referred to in the certificate.

(9) Insofar as an Incentive Entitlement Certificate refers to any incentive relating to any tax, a copy shall be sent to the Commissioner of Inland Revenue.

Nature of Incentive Entitlement Certificates.

30. (1) Incentive Entitlement Certificates issued by the Corporation shall be deemed to be public instruments, shall only be used for the purposes authorised hereby and shall be surrendered to the Corporation on its simple demand in writing.

(2) In the event of a request in terms of subarticle (1), the beneficiary shall surrender, to the Corporation, the relevant Certificate within seven days of the demand being communicated to him and any person failing to surrender such Certificate within such time shall be guilty of an offence against this Act and shall be liable, on conviction, to a fine (*multa*) of one hundred liri and a fine (*multa*) of five liri for every day the default continues.

Forgery, alteration or misuse of certificates.

31. Any person who, in any manner, forges or alters an Incentive Entitlement Certificate or purports to use it for a purpose not authorised by this Act or seeks to use it after its revocation in terms of this Act, shall be guilty of an offence and shall be liable to the same punishment as provided for in article 183 of the Criminal Code.

Cap. 9.

Part VII

Revocation and Modification of Benefits

Revocation of incentives or benefits.

32. (1) Where any beneficiary fails to comply with any of the terms or conditions of an Incentive Entitlement Certificate, the Corporation may by notice in writing require such beneficiary within thirty days of the receipt of such notice -

(a) to comply with such conditions;
or

(b) to establish to the satisfaction of the Corporation that failure to comply with such conditions was due to some cause beyond its control and that there are prospects of complying with such condition within such time as the Corporation may consider reasonable.

(2) Where a beneficiary complies with the condition in subarticle (1)(b), the Corporation may authorise reasonable postponement for the purpose of compliance with such conditions, as it thinks fit.

(3) Where a beneficiary fails to comply with the condition in subarticle (1)(b) or, having been allowed a postponement under subarticle (2), fails within the period of such postponement to comply with such terms or conditions, the Corporation may revoke any incentive or benefit granted to the beneficiary and that revocation shall be operative from such date as may be determined by the Corporation.

(4) Where an Incentive Entitlement Certificate is revoked, in full or in part, in accordance with the provisions of this article, the beneficiary shall pay or repay to the Government or to the Corporation, as the case may be, any sums which it would have paid to the Government or the Corporation but for the provisions of this Act, any regulation or guideline or which it had received thereunder, and any sums which the beneficiary is so liable to pay or repay may be set off against any sums which may be due from the Government or the Corporation to the beneficiary for any reason whatsoever, including in the event of insolvency of the said beneficiary, without prejudice to any right of the Government or the Corporation for the recovery of any balance remaining due.

(5) In the circumstances contemplated in this article, the Corporation may, in its sole discretion, in lieu of revoking a certificate, in full or in part, agree to modify the terms and conditions of an Incentive Entitlement Certificate so as to reflect the conditions which are more appropriate on the basis of the circumstances then known to it. The Corporation shall so proceed only if the relevant undertaking has agreed in writing to such modifications as may be proposed by the Corporation and to any conditions under which they are offered.

Part VIII

Offences and Penalties

Penalty for making incorrect statements, etc.

33. Any person who without reasonable excuse prepares any incorrect statement or gives any incorrect information in relation to any matter or thing falling under this Act, shall be guilty of an offence and shall, on conviction, be liable to a fine (*multa*) of not less than three hundred liri and not exceeding two thousand liri.

Provisions relating to fraud, etc.

34. (1) Any person who wilfully with intent to obtain any incentive or benefit under this Act or to assist any other person to do so -

(a) omits from a return or any other document or statement made, prepared or submitted for the purposes of or under this Act, any matter which should be included therein; or

(b) makes any false statement or entry in any return or other document or statement prepared or submitted for the purposes of or under this Act; or

(c) gives any false answer, whether verbally or in writing, to any question or request for information asked or made in accordance with the provisions of this Act; or

(d) prepares or maintains or authorises the preparation or maintenance of any false books of account or other records or falsifies or authorises the falsification of any books of account or records; or

(e) makes use of any fraud, art or contrivance whatever or authorises the use of any such fraud, art or contrivance, shall be guilty of an offence, and shall for each such offence be liable on conviction to a fine (*multa*) of not less than five hundred liri and not exceeding five thousand liri or to imprisonment for any term not exceeding six months, or to both such fine and imprisonment.

(2) Upon any person admitting to or being found guilty of any of the above offences, the Corporation may revoke any Incentive Entitlement Certificate issued by it by notice in writing without following the procedures outlined in article 32.

General penalty.

35. If any person contravenes or fails to comply with any of the requirements of this Act or of any regulations made thereunder, in respect of which no special punishment is provided, he shall be guilty of an offence and shall for each offence be liable, on conviction, to a fine (*multa*) of not less than one hundred liri and not more than five hundred liri.

Provision with respect to offences.

36. The provisions of this Act establishing offences and punishments in respect thereof shall not affect the operation of any other law establishing offences and punishments in respect of the same acts or omissions and shall not, in particular, affect the application of any higher punishment under any other law.

Prescription of proceedings for offences.

37. Proceedings for an offence under this Act may be commenced at any time within five years from the date of commission of the offence."

14. Immediately after article 44, as renumbered, of the

Addition of new article in the principal Act.

principal Act, there shall be added the following new article:

"Effect on other laws.

45. Nothing contained in this Act shall affect the provisions of any other law whatsoever except to the extent solely that the provisions of this Act replace or supersede the provisions of that law, and no incentive, exemption, reduction of taxation or other benefit or privilege provided for under the provisions of this Act shall modify any obligation to furnish returns, statements, particulars or documents as may be required by any other law."

Amendment of the Business Promotion Act. Cap. 325.

15. The Business Promotion Act shall be amended as follows:

- (a) article 21 thereof shall be deleted;
- (b) Part VII thereof, consisting of articles 44 to 56, shall be deleted; and
- (c) Part IX thereof shall be renumbered as Part VII.

Objects and Reasons

The objects of this Bill are to update the provisions of the Malta Enterprise Corporation Act, to encourage the establishment of new business undertakings and the expansion of existing business undertakings in Malta.