

MALTA

ATT Nru. XVII ta' l-1995

ATT maħruġ b'ligi mill-Parlament ta' Malta.

ATT biex jipprovdi għall-istralċ u distribuzzjoni ta' attiv li jappartjeni lil entijiet kontrollati.

ACT No. XVII of 1995

AN ACT enacted by the Parliament of Malta.

AN ACT to make provision for the liquidation and the distribution of assets belonging to controlled entities.

Naghti l-kunsens tieghi.

(L.S.)

UGO MIFSUD BONNICI
President

9 ta' Ġunju, 1995

ATT Nru. XVII ta' l-1995

ATT biex jipprovdi għall-istralċ u distribuzzjoni ta' attiv li jappartjeni lil entijiet kontrollati.

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

1. (1) Dan l-Att jista' jissejjaħ l-Att ta' l-1995 dwar Kumpanniji Kontrollati (Proċedura ta' Stralċ).

Titolu fil-qosor
u bidu fis-seħh.

(2) Dan l-Att għandu jibda' jseħh f'dik id-data li l-Ministru jista' jistabbilixxi b'avviż fil-Gazzetta.

2. F'dan l-Att, kemm-il darba r-rabta tal-kliem ma tehtiegħx mod ieħor —

Tifsir.

“Attiv kontrollat” tfisser u tinkludi bank jew istituzzjoni ta' kreditu oħra, proprjetà, soċjetà, azzjenda jew negozju ieħor li dwaru l-Ministru, skond l-artikolu 18 ta' l-Att dwar il-Kummerċ Bankarju (Kap. 215 tal-Liġijiet ta' Malta li sar ligi bl-Att V ta' l-1970 u kif sussegwentement emendata) li ġie issa imħassar, jew il-Bank Centrali ta' Malta skond l-artikolu 29 ta' l-Att ta' l-1994 dwar il-Kummerċ Bankarju (Att Nru. XV ta' l-1994) li daħal minflok l-imsemmi Att dwar il-Kummerċ Bankarju, Kap. 215 tal-Liġijiet ta' Malta, ikun hatar persuna jew persuni biex jassumu kontroll tagħhom;

“Kontrollur” tfisser persuna mahtura mill-Ministru skond l-artikolu 18 ta’ l-Att dwar il-Kummerċ Bankarju (Kap. 215 tal-Liġijiet ta’ Malta li sar liġi bl-Att V ta’ l-1970 u kif sussegwentement emendata) li gie issa mhassar, jew mill-Bank Ċentrali ta’ Malta skond l-artikolu 29 ta’ l-Att ta’ l-1994 dwar il-Kummerċ Bankarju (Att Nru. XV ta’ l-1994) li dahal minflok l-imsemmi Att dwar il-Kummerċ Bankarju, Kap. 215 tal-Liġijiet ta’ Malta;

“Ministru” tfisser il-Ministru responsabbli għall-finanzi.

Applikabilità.

3. (1) Id-dispożizzjonijiet ta’ dan l-Att u ta’ l-Att ta’ l-1994 dwar il-Kummerċ Bankarju għandhom ikunu japplikaw għal kull attiv kontrollat li dwaru l-Bank Ċentrali ta’ Malta jkun għamel ordni għall-istralċ tiegħu bis-saħħa ta’ dan l-Att.

(2) Fl-għemil ta’ ordni għal stralċ il-Bank Ċentrali ta’ Malta jista’ jordna li xi attiv kontrollat li jkun hemm, jistgħu, għall-għanijiet ta’ l-istralċ li jsir bis-saħħa ta’ dan l-Att, jitqiesu bħala enti wiehed.

Pretensjonijiet kontra attiv kontrollat.

4. (1) Meta l-Bank Ċentrali ta’ Malta jagħmel ordni għall-istralċ ta’ attiv kontrollat, il-Kontrollur għandu jgħaddi biex jippubblika avviż fil-Gazzetta fejn isejjah lil kull kreditur li jista’ jkollu xi pretensjoni kontra jew fuq l-attiv kontrollat sabiex iressaq quddiemu dik il-pretensjoni fi żmien tlett xhur mid-data ta’ dak l-avviż. Il-Kontrollur għandu, flimkien ma’ dak l-avviż, jippubblika lista ta’ kredituri li jkunu minnu rikonoxxuti bħala li għandhom pretensjoni valida kontra l-attiv kontrollat, kif ukoll l-ammont dovut mill-attiv kontrollat għal dik il-pretensjoni.

(2) Persuna li tonqos milli tressaq il-pretensjoni tagħha fiż-żmien mogħti għandha tinżamm milli tressaq dik il-pretensjoni u kull pretensjoni bhal dik ma għandhiex titqies mill-Kontrollur fl-istralċ u fl-iskema ta’ distribuzzjoni ta’ l-attiv kontrollat:

Iżda kreditur li jkollu l-pretensjoni tiegħu rikonoxxuta mill-Kontrollur skond dan l-artikolu ma jenħtieġx li jressaq il-pretensjoni tiegħu f’dak il-perijodu.

(3) Il-Kontrollur għandu, meta jiskadi ż-żmien imsemmi fis-subartikolu (1) ta’ dan l-artikolu, jippubblika fil-Gazzetta elenku komprensiv tal-pretensjonijiet kollha li jkunu sarulu jew li jkunu ġew rikonoxxuti minnu.

(4) Kull min ikollu xi interess fl-istralċ jew fl-iskema ta’ distribuzzjoni ta’ attiv kontrollat jista’, fi żmien xahar mill-pubblikazzjoni ta’ l-elenku msemmi fis-subartikolu (3) ta’ dan l-artikolu, joġġezzjona għal pretensjoni li tkun rikonoxxuta mill-Kontrollur jew li tkun saret skond dan l-artikolu.

Liema proċedura tiġi adottata mill-Kontrollur.

5. (1) Il-Kontrollur jgħaddi biex jiddeċiedi dwar il-pretensjonijiet u oġġezzjonijiet li jsirulu, biex jagħlaq u jagħmel stralċ ta’

kull attiv kontrollat, li jahtar awditur indipendenti sabiex jagħmel il-verifika tal-kontijiet tiegħu, u sabiex jiformula skema ta' distribuzzjoni u jagħmel rapport dwarha lill-Ministru.

(2) Estratt ta' rapport mill-Kontrollur li jkun juri min huma l-kredituri li huwa jirrikonoxxi bħala li għandhom pretensjoni valida fuq l-attiv kontrollat, l-ammont dovut fuq dik il-pretensjoni, u kull dritt ta' preferenza li daww il-pretensjonijiet jista' jkollhom, għandu jiġi pubblikat mill-Kontrollur fil-Gazzetta.

(3) Fl-għemil tar-rapport u fil-formulazzjoni ta' l-iskema ta' distribuzzjoni, il-Kontrollur għandu jstabilixxi d-data minn meta l-attiv kontrollat kien insolventi.

(4) Minkejja d-dispożizzjonijiet tal-paragrafu (d) tas-subartikolu (3) ta' l-artikolu 29 ta' l-Att ta' l-1994 dwar il-Kummerċ Bankarju, id-dispożizzjonijiet ta' l-artikolu 485 tal-Kodiċi tal-Kummerċ għandhom ikunu japplikaw *mutatis mutandis* għal attiv kontrollat:

Kap. 13.

Iżda d-dispożizzjonijiet ta' dak l-artikolu ma għandhomx ikunu japplikaw għal kull att magħmul mill-Kontrollur jew taht l-awtorità tiegħu.

(5) Meta attiv kontrollat, jew is-sid, id-direttur jew il-*manager* tiegħu jwettqu xi att jew jonqsu milli jagħmlu xi att, u dan jirriżulta fil-privazzjoni frawdolenti tal-jeddijiet tal-kredituri ta' dak l-attiv kontrollat, il-Kontrollur ikollu jedd, skond il-każ, li ma jagħtix każ ta' dak l-att li jkun hekk intgħamel jew li jqis li dak l-att ikun bhallikieku sar minkejja n-nuqqas milli jagħmlu dak l-att.

(6) Il-Kontrollur għandu filwaqt li jkun qiegħed jiformula l-iskema ta' distribuzzjoni, jgħaddi biex jiggradwa daww il-kredituri li jkollhom xi rahan, privileġġ jew ipoteka skond il-liġi li tkun qegħda attwalment issehh filwaqt tad-distribuzzjoni:

Iżda rahan jew privileġġ li jsiru, jinholqu jew jiġu registrati wara d-data stabbilita mill-Kontrollur skond is-subartikolu (3) ta' dan l-artikolu, ma għandhomx ikollhom effett kemm-il darba dak ir-ghan jew privileġġ ma jkunux inholqu mill-Kontrollur:

Iżda wkoll id-drittijiet u l-ispejjeż sopportati mill-Kontrollur fl-amministrazzjoni, kontroll u stralċ ta' xi attiv kontrollat għandhom jiggradwaw qabel kull pretensjoni oħra tkun li tkun.

6. (1) Kull min iħoss ruħu aggravat bir-rapport u bl-iskema ta' distribuzzjoni magħmula mill-Kontrollur ikollu dritt ta' appell quddiem il-Bord ta' l-Appelli mwaqqaf b'dan l-Att bil-mezz ta' rikors li jsir fi żmien xahar mid-data tal-pubblikazzjoni fil-Gazzetta ta' l-estratt tar-rapport imsemmi fl-artikolu 5 ta' dan l-Att.

Dritt ta' appell mill-parti aggravata.

(2) Fi żmien xahar mill-pubblikazzjoni ta' l-estratt tar-rapport u ta' l-iskema ta' distribuzzjoni msemmija fl-artikolu 5, il-

Kontrollur għandu jirreferi dak ir-rapport u dik l-iskema ta' distribuzzjoni lill-Bord ta' l-Appelli għall-approvazzjoni jew varjazzjoni tiegħu.

Bord ta' l-Appelli.

7. (1) Għandu jitwaqqaf għall-għanijiet ta' dan l-Att, Bord li jkun magħruf bħala l-Bord ta' l-Appelli li jkun magħmul minn *Chairman* u minn żewġ membri oħra li jinhatru mill-Ministru.

(2) Qabel ma jibdwew jeżerċitaw il-kariga tagħhom il-membri tal-Bord għandhom jieħdu gürament quddiem l-Avukat Ġenerali li jeżaminaw u jiddeċiedu dwar kull kwistjoni li tiġi lilhom riferita b'kull ekwità u imparzjalità.

(3) Iċ-*Chairman* ikun avukat li jkollu mill-anqas tnax-il sena ta' prattika legali.

(4) Iż-żewġ membri l-oħra msemmija fis-subartikolu (1) ta' dan l-artikolu għandhom ikunu persuni li, fil-fehma tal-Ministru, ikollhom il-perizja u esperjenza meħtieġa fil-kummerċ bankarju jew servizzi finanzjarji.

(5) Il-membri tal-Bord għandhom jiġu maħtura għal dak il-perijodu li jista' jistabbilixxi l-Ministru fl-ittra tal-hatra tagħhom, liema perijodu ma jkunx aktar minn tlett snin, u jistgħu biss jitneħħew mill-Ministru fuq il-parir tal-Kummissjoni għall-Amministrazzjoni tal-Ġustizzja għar-raġuni li jiġi pruvat li ma jkunux kapaċi jwettqu l-funzjonijiet tal-kariga tagħhom sew jekk dan ikun minhabba f'nuqqas ta' saħħa fiżika jew mentali jew kull raġuni oħra li tkun, jew minhabba f'imġieba hażina li tiġi pruvata.

Setgħat tal-Bord.
Kap. 12.

8. (1) Il-Bord ikollu dawk is-setgħat kollha li bil-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili huma vestiti fil-Prim 'Awla tal-Qorti Ċivili.

(2) Kull mandat jew ordni li jinħareġ mill-Bord għandu jiġi ffirmat miċ-*Chairman* u ċertifikat mir-Registratur.

(3) L-esekuzzjoni tad-deċiżjonijiet tal-Bord bil-mod preskritt fil-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili għandha tiġi dekretata miċ-*Chairman* tal-Bord.

(4) Id-deċiżjonijiet tal-Bord ikollhom is-saħħa ta' titoli eżekuttivi.

Seduti u regjistru tal-Bord.

9. Kemm-il darba l-Ministru ma jordnax mod ieħor, il-Bord għandu jagħmel is-seduti tiegħu fl-edificju tal-Qrati ta' Malta, u r-regjistru tal-Qrati Superjuri jkun ir-regjistru tal-Bord.

Ġurisdizzjoni tal-Bord.

10. (1) Il-Bord ikollu l-ġurisdizzjoni unika u esklużiva li jisma' u jiddeċiedi dwar:

(a) kull appell magħmul minn deċiżjoni tal-Kontrollur dwar xi pretensjoni;

(b) kull pretensjoni li ssir mill-Kontrollur kontra terza parti inkluża pretensjoni għar-radd lura ta' proprjetà li tkun fil-pussess ta' terzi persuni;

(c) kull haġa li għandha x'taqsam ma', jew li titnissel mir-rapport u l-iskema ta' distribuzzjoni pubblikati mill-Kontrollur;

(d) kull pretensjoni li ssir kontra xi Kontrollur li titnissel b'kull mod li jkun mill-amministrazzjoni u mill-istralċ ta' xi attiv li jkun qiegħed jikkontrolla.

(2) Il-Bord ikollu wkoll il-ġurisdizzjoni unika u esklużiva biex jinforza id-deċiżjonijiet mogħtija minnu kif ukoll kull sentenza mogħtija minn qorti kompetenti f'Malta kontra l-Kontrollur.

11. (1) Id-deċiżjonijiet tal-Bord għandhom jingħataw fil-Qorti bil-miftuħ. Deċiżjonijiet tal-Bord.

(2) Id-deċiżjonijiet tal-Bord għandhom isiru skond maġġoranza tal-voti.

12. (1) Id-deċiżjonijiet tal-Bord ikunu finali hlief għal dawk il-punti ta' liġi li jiġu deċiżi mill-Bord li dwarhom ikun jista' jsir appell għal quddiem il-Qorti ta' l-Appell. Appell minn punti ta' liġi.

(2) Appell li jsir bis-saħħa ta' dan l-artikolu jintgħamel b'rikors quddiem il-Qorti ta' l-Appell li għandu jiġi preżentat fi żmien ħmistax-il ġurnata mill-jum meta l-Bord jagħti d-deċiżjoni tiegħu.

13. Kull kawża u pretensjoni li jinsabu pendent quddiem il-Prim 'Awla tal-Qorti Ċivili u quddiem il-Qorti tal-Kummerċ u li jkunu kawżi u pretensjonijiet kontra l-Kontrollur ta' attiv kontrollat li dwaru jkun inhareġ ordni għal stralċ bis-saħħa ta' dan l-Att, għandhom jiġu trasferiti lill-Bord ta' l-Appelli u għandhom jitkomplew jinstemghu u jiġu deċiżi minn dak il-Bord: Pretensjonijiet pendent.

Iżda ebda haġa li tinsab f'dan l-Att ma għandha tnaqqas mill-ġurisdizzjoni tal-Qorti ta' Appell li tkompli tisma' kull każ li jinsab pendent quddiemha;

Iżda wkoll il-Kontrollur ikollu s-setgħa li jirrifera kull haġa għall-arbitraġġ b'dawk il-patti u kondizzjonijiet li jista' jqis li jkunu xierqa, u kull haġa hekk riferita, kif ukoll haġa riferita għall-arbitraġġ qabel id-dħul fis-seħħ ta' dan l-Att, għandha tinstama' u tiġi deċiżja minn u skond it-termini ta' referenza biex isir arbitraġġ minkejja d-dispożizzjonijiet ta' dan l-Att.

14. Malli jintemm kull appell u malli l-Bord jagħti d-deċiżjoni tiegħu tar-referenza li tkun saritlu dwar l-iskema ta' distribuzzjoni, il-Kontrollur għandu jgħaddi biex jillikwida u jqassam l-attiv li jkollu fil-kontroll tiegħu skond l-iskema ta' distribuzzjoni tiegħu kif tkun giet emendata jew approvata, skond il-każ, mill-Bord. Likwidazzjoni u distribuzzjoni ta' l-attiv.

Thassir ta' l-isem ta' kumpannija jew ta' soċjetà.

Kap. 168.

15. (1) Il-Kontrollur għandu wkoll, skond l-artikolu 161 ta' l-Ordinanza dwar Soċjetajiet Kummerċjali, jew kull dispożizzjoni ta' kull liġi oħra li tissostitwixxi dik l-Ordinanza, jibgħat avviż ta' dik l-approvazzjoni lir-Registru sabiex huwa jirreġistrah, u malli jsir dan, ir-Registratur għandu jhassar isem-il kumpannija jew soċjetà minn fuq ir-registru.

(2) Il-Kontrollur, flimkien ma' l-avviż imsemmi, għandu jibgħat ukoll kull ktieb u dokument iehor tal-kumpannija lir-Registratur, li mbagħad iżommhom għal żmien għaxar snin mid-data meta isem il-kumpannija jew soċjetà jkun thassar minn fuq ir-registru.

Immunità legali.

16. Ma tista' ssir ebda azzjoni kontra l-Kontrollur, il-Bord ta' l-Appelli jew il-Gvern għal xi haġa li ssir bis-saħħa ta' dan l-Att jew ta' l-Att dwar il-Kummerċ Bankarju u dan l-artikolu għandu japplika mid-data tan-nomina tal-Kontrollur ukoll jekk dik id-data tkun qabel id-data tal-bidu fis-seħħ ta' dan l-Att.

Tnehhija ta' obligazzjoni fiskali jew ta' taxxa.

17. Il-Ministru jista' b'ordni jneħhi kull obligazzjoni fiskali jew ta' taxxa, jew parti minnha, li jkunu dovuti minn attiv kontrollat li dwaru jkun sar ordni għal stralċ.

Mghoddi mill-Kamra tad-Deputati fis-Seduta Nru. 427 tat-30 ta' Mejju, 1995.

RICHARD J. CAUCHI
Skrivan tal-Kamra tad-Deputati

LAWRENCE GONZI
Speaker

I assent.

(L.S.)

UGO MIFSUD BONNICI
President

9th June, 1995

ACT No. XVII of 1995

AN ACT to make provision for the liquidation and the distribution of assets belonging to controlled entities.

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) This Act may be cited as the Controlled Companies (Procedure for Liquidation) Act, 1995.

Short title and commencement.

(2) This Act shall come into force on such date as the Minister may by notice in the Gazette appoint.

2. In this Act, unless the context otherwise requires —

Definitions.

“Controlled asset” means and includes a bank or other credit institution, property, partnership, firm or other business in respect of which the Minister, in terms of section 18 of the Banking Act (Cap. 215 of the Laws of Malta enacted by Act V of 1970 and as subsequently amended) now repealed, or the Central Bank of Malta in terms of section 29 of the Banking Act, 1994 (Act No. XV of 1994) replacing the said Banking Act, Cap. 215 of the Laws of Malta, has appointed a person or persons to assume control of the same;

“Controller” means a person appointed by the Minister in terms of section 18 of the Banking Act (Cap. 215 of the Laws of Malta enacted by Act V of 1970 and as subsequently amended) now repealed, or by the Central Bank of Malta in terms of section 29 of the Banking Act, 1994 (Act No. XV of 1994) replacing the said Banking Act, Cap. 215 of the Laws of Malta;

“Minister” means the Minister responsible for finance.

Application.

3. (1) The provisions of this Act and of the Banking Act, 1994 shall apply to such controlled assets in relation to which the Central Bank of Malta shall have made an order for liquidation under this Act.

(2) In making an order for liquidation the Central Bank of Malta may direct that any controlled assets may, for the purpose of liquidation under this Act, be treated as one entity.

Claims against a controlled asset.

4. (1) Whenever the Central Bank of Malta makes an order for the liquidation of a controlled asset, the Controller shall proceed by notice published in the Gazette to call upon all creditors who may have a claim against or upon the controlled asset to make such claim with him within three months from the date of such notice. The Controller shall, together with such notice, publish a list of creditors who are recognised by him as having a valid claim against the controlled asset, as well as the amount due by the controlled asset on such claim.

(2) Any person failing to make his claim within the said period shall be barred from bringing forward his claim and any such claim shall not be taken into account by the Controller in the liquidation and distribution scheme of the controlled asset:

Provided that a creditor whose claim has been recognised by the Controller in terms of this section need not bring forward his claim within the said period.

(3) The Controller shall, on the lapse of the period mentioned in subsection (1) hereof, publish in the Gazette a comprehensive list of all the claims made to or recognised by him.

(4) Any person having an interest in the liquidation or distribution scheme of a controlled asset may, within one month from the publication of the list mentioned in subsection (3) hereof, make objection to any claim recognised by the Controller or brought forward in terms of this section.

Procedure to be adopted.

5. (1) The Controller shall proceed to determine any claims and objections made, to wind up and liquidate any controlled asset, to appoint, an independent auditor to audit his accounts, and to draw up a scheme of distribution and make a report thereof to the Minister.

(2) An extract of the report by the Controller showing the creditors recognised by him as having a valid claim against the controlled asset, the amount due on such claim, and any right of preference attaching to such claims, shall be published by the Controller in the Gazette.

(3) In making the report and drawing up the scheme of distribution, the Controller shall determine the date as from which the controlled asset was insolvent.

(4) Notwithstanding the provisions of subparagraph (d) of subsection (3) of section 29 of the Banking Act, 1994, the provisions of section 485 of the Commercial Code shall apply *mutatis mutandis* to a controlled asset:

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Provided that the provisions of the said section shall not apply to any act done by the controller or under his authority.

(5) Where any act has been made or omitted to be made by a controlled asset, or by the owner, director or manager of such asset, which results in the fraudulent deprivation of the rights of the creditors of such a controlled asset, the Controller shall be entitled, as the case may be, to ignore the act so made or to deem the act as having been made despite the omission to make such act.

(6) The Controller shall in drawing up the scheme of distribution, proceed to rank creditors having pledges, privileges or hypotechs in accordance with the law for the time being in force at the time of distribution:

Provided that any pledge or privilege, arising, created or registered after the date established by the Controller in terms of subsection (3) hereof, shall be ineffectual unless such pledge or privilege was created by the Controller;

Provided further that the fees and expenses incurred by the Controller in the administration, control and liquidation of any controlled asset shall be ranked prior to any other claim whatsoever.

6. (1) Any person who feels aggrieved by the report and scheme of distribution made by the Controller shall have a right to appeal to the Appeals Board constituted under this Act by an application made within a period of one month from the date of publication in the Gazette of the extract of the report mentioned in section 5 of this Act.

Right of appeal by aggrieved party.

(2) Within one month from the publication of the extract of the report and scheme of distribution mentioned in section 5, the Controller shall refer the said report and scheme of distribution to the Appeals Board for its approval or variation.

7. (1) For the purpose of this Act there shall be constituted a Board to be styled the Appeals Board which shall consist of a Chairman and two other members appointed by the Minister.

Appeals Board.

(2) The members of the Board shall, before entering upon their office, take before the Attorney General the oath to examine and decide any matter referred to them with equity and impartiality.

(3) The Chairman shall be an advocate with a minimum of twelve years legal practice.

(4) The two other members mentioned in subsection (1) of this section shall be persons who in the opinion of the Minister, possess the necessary expertise and experience in banking or financial services.

(5) The members of the Board shall be appointed for such period that the Minister may establish in their letter of appointment, which period shall not exceed three years, and may only be removed by the Minister on the advice of the Commission for the Administration of Justice on the grounds of proved inability to perform the functions of their office whether arising from infirmity of body or mind or any other cause, or proved misbehaviour.

Power of the Board.
Cap. 12.

8. (1) The Board shall have all such powers as are by the Code of Organisation and Civil Procedure vested in the Civil Court, First Hall.

(2) Any warrant or order issued by the Board shall be signed by the Chairman and certified by the Registrar.

(3) The enforcement of the decisions of the Board in the manner prescribed in the Code of Organisation and Civil Procedure shall be decided by the Chairman of the Board.

(4) The decisions of the Board shall have the force of executive titles.

Sittings and registry of the Board.

9. The Board shall, unless the Minister by order otherwise directs, hold its sittings in the edifice of the Courts of Malta, and the registry of the Superior Courts shall be the registry of the Board.

Jurisdiction of the Board.

10. (1) The Board shall have the sole and exclusive jurisdiction to hear and determine:

(a) any appeal made from any determination of any claim by the Controller;

(b) any claim made by the Controller against a third party including any claim for the delivery of any property held by third persons;

(c) any matter related to, or arising from, the report and scheme of distribution published by the Controller;

(d) any claim made against any Controller arising in whatsoever manner from the administration and liquidation of any assets under his control.

(2) The Board shall also have the sole and exclusive jurisdiction to enforce any decision made by it as well as any judgement delivered by a competent court in Malta against the Controller.

Decisions of the Board.

11. (1) The decisions of the Board shall be delivered in open Court.

(2) The decisions of the Board shall be taken by a majority of votes.

12. (1) The decisions of the Board shall be final except with respect to points of law decided by the Board from which an appeal shall lie to the Court of Appeal.

Appeal on points of law.

(2) An appeal under this section shall be by application to the Court of Appeal filed within fifteen days from the day of the decision of the Board.

13. All cases and claims pending before the Civil Court First Hall and before the Commercial Court and being cases and claims against the Controller of a controlled asset in respect of which an order for liquidation under this Act has been made, shall be transferred to the Appeals Board and shall continue to be heard and determined by such Board:

Pending claims.

Provided that nothing contained in this Act shall detract from the jurisdiction of the Court of Appeal to continue to hear any case pending before it;

Provided further that the Controller shall have the power to refer any matter to arbitration under such terms and conditions as he may deem fit, and any matter so referred, as well as any matter referred to arbitration prior to the coming into force of this Act, shall be heard and decided by and in accordance with the terms of reference to arbitration notwithstanding the provisions of this Act.

14. Upon the finalization of all appeals and upon the decision of the Board of the reference made to it of the scheme of distribution, the Controller shall proceed to liquidate and distribute the assets under his control in accordance with his scheme of distribution as amended or approved, as the case may be, by the Board.

Liquidation and distribution of assets.

15. (1) The Controller shall also, in accordance with section 161 of the Commercial Partnership Ordinance or any other provision of any other law substituting the said Ordinance, deliver to the Registrar for registration by him a notice of such approval, and the Registrar shall thereupon strike the name of the company or partnership off the register.

Striking off of name and company or partnership.

Cap. 168.

(2) The Controller shall, together with the aforesaid notice, deliver the books and other documents of the company to the Registrar, who shall keep them for a period of ten years from the date at which the name of the company or partnership was struck off the register.

16. No action shall lie against the Controller, the Appeals Board or the Government for anything done under the authority of this Act or of the Banking Act and this section shall apply from the date of appointment of the Controller even if that date happens to be before the date of the coming into force of this Act.

Legal immunity.

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Waiver of tax or
fiscal liability.

17. The Minister may by order waive any tax or fiscal liability, or part thereof, due by a controlled asset in respect of which an order for liquidation has been made.

Passed by the House of Representatives at Sitting No. 427 of the 30th May, 1995.

LAWRENCE GONZI
Speaker

RICHARD J. CAUCHI
Clerk to the House of Representatives.

