

MALTA

ATT Nru. XV ta' l-1989

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

ATT biex jemenda l-Att ta' l-1988 dwar Attivitajiet Kummerċjali Internazzjonali ta' Malta.

ACT No. XV of 1989

AN ACT enacted by the Parliament of Malta.

AN ACT to amend the Malta International Business Activities Act, 1988.

Naghti l-kunsens tiegħi.

(L.S.)

ĊENSU TABONE
President

23 ta' Ġunju, 1989

ATT Nru. XV ta' l-1989

ATT biex jemenda l-Att ta' l-1988 dwar Attivitajiet Kummerċjali Internazzjonali ta' Malta.

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. Dan l-Att jista' jissejjah l-Att ta' l-1989 li jemenda l-Att dwar Attivitajiet Kummerċjali Internazzjonali ta' Malta, u għandu jinqara u jiftiehem haġa waħda ma' l-Att ta' l-1988 dwar Attivitajiet Kummerċjali Internazzjonali ta' Malta, hawnhekk iżjed 'il quddiem imsejjah "l-Att prinċipali".

Titolu
fil-qosor.Att XXXIV
ta' l-1988.

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

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

(a) minnufih wara t-tifsira ta' "flus barranin" u dik ta' "il-kumitat" għandhom jidhlu rispettivament dawn it-tifsiriet li ġejjin:

Att XVII
ta' l-1981. " "impriza ta' l-assigurazzjoni" għandha t-tifsira mogħtija lilha bl-artikolu 2 ta' l-Att ta' l-1981 dwar l-Impriza ta' l-Assigurazzjoni"; u

Att V
ta' l-1970. " "kummerċ bankarju" għandha t-tifsira mogħtija lilha bl-artikolu 2 ta' l-Att ta' l-1970 dwar il-Kummerċ Bankarju u tinkludi kull kummerċ iehor li soltu jitmexxa mill-banek u b'mod generali aċċettat li hekk jitmexxa:";

(b) fit-tifsira ta' "attività offshore" —

(i) fl-ewwel proviso li hemm għalih, il-kliem "li jitwaqqfu u jiġu reġistrati f'Malta għall-finijiet ta' dan l-Att mill-kumpannija li tmexxihom u jkunu hekk reġistrati" għandhom jithassru; u

(ii) fit-test Inġliż tat-tieni proviso li hemm ghalih, minflok il-kelma "overseas" ghandha tidhol il-kelma "oversea";

(ċ) minflok it-tifsira ta' "kumpannija ta' barra minn Malta" ghandha tidhol din it-tifsira li ġejja:

" "kumpannija ta' barra minn Malta" ghandha t-tifsira Kap. moghtija lilha bl-artikolu 177 ta' l-Ordinanza dwar Soċjetajiet 168. Kummerċjali;"

(d) it-tieni proviso li hemm ghat-tifsira ta' "residenti f'Malta" ghandu jithassar;

(e) is-subartikoli (2), (3), (4) u (5) tiegħu ghandhom jiġu rispettivament enumerati mill-ġdid bhala subartikoli (3), (4), (5) u (6) tiegħu; u

(f) minnufih wara s-subartikolu (1) tiegħu, ghandu jidhol dan is-subartikolu ġdid li ġej:

"(2) Għall-finijiet ta' dan l-Att —

(a) kumpannija li hi hi stess kumpannija *offshore* ghandha jitqies li ma tkunx residenti f'Malta;

(b) kumpannija *offshore* tista' tuża bank f'Malta li ma jkunx bank *offshore* għall-finijiet ta' xi transazzjoni fi flus barranin, li setgħet legittimament tagħmel ma' xi bank iehor, inkluża kull faċilità, li ma tkunx self jew *overdraft*, b'dana li dik il-faċilità tkun garantita għal kollox b'garanzija ta' bank barrani prim jew b'depożiti bankarji fi flus barranin, konvertibbli; u għall-fini ta' xi transazzjoni li tista' ssir permezz ta' bank lokali kif intqal qabel, dak il-bank ghandu jitqies li ma jkunx residenti f'Malta;

(ċ) azzjonijiet fi, u obligazzjonijiet ta', kumpannija *offshore*, u bastimenti, ukoll jekk registrati f'Malta, ghandhom jitqiesu li jkunu proprjetà mhux sitwata f'Malta."

Emenda ta' l-artikolu 5 ta' l-Att prinċipali.

3. Fis-subartikolu (2) ta' l-artikolu 5 ta' l-Att prinċipali minflok il-kliem "fil-paragrafu (d)" ghandhom jidhlu l-kliem "fil-paragrafu (e)".

Emenda ta' l-artikolu 9 ta' l-Att prinċipali.

4. Minflok il-kliem "Id-dispożizzjonijiet tas-subartikolu (2)" fis-subartikolu (3) ta' l-artikolu 9 ta' l-Att prinċipali, ghandhom jidhlu l-kliem "Id-dispożizzjonijiet tas-subartikoli (2) u (3) ta' l-artikolu 33 u tas-subartikolu (2)".

Emenda ta' l-artikolu 11 ta' l-Att prinċipali.

5. Fis-subartikolu (1) ta' l-artikolu 11 ta' l-Att prinċipali, minnufih wara l-kliem "f'attivitajiet legittimi għal dawk" ghandhom jidhru l-kliem "li ma jkunx interess fil-propjeta jew kontroll ta' kumpanniji offshore kummerċjali".

6. L-artikolu 22 ta' l-Att prinċipali ghandu jiġi emendat kif ġej:

Emenda ta'
l-artikolu 22
ta' l-Att
prinċipali

(a) fil-proviso li hemm għall-paragrafu (ċ) tas-subartikolu (2) tiegħu, minflok il-kliem "u l-ipproċessar ta' oġġetti f'Malta" għandhom jidhlu l-kliem "jew l-ipproċessar ta' oġġetti f'Malta, jew il-proprjetà, it-tmexxija, l-amministrazzjoni jew it-thaddim ta' bastimenti," u minnufih wara l-imsemmi proviso, għandu jidhol il-proviso ġdid li ġej:

"Izda wkoll li din il-kumpannija ta' l-aħħar għandha tibqa' titqies li tkun proprjetà kollha kemm hi ta' persuni mhux residenti f'Malta, jekk mhux aktar minn persuna waħda residenti f'Malta, iżżomm dak in-numru ta' azzjonijiet fil-kumpannija li b'kollox ma jeċċedux lira f'valur nominali minghajr drittijiet speċjali ta' vot:";

(b) minnufih f'tarf il-paragrafu (d) tas-subartikolu (2) tiegħu, għandu jizdied il-proviso li ġej:

"Izda minkejja kull haġa fl-Att ta' l-1972 dwar il-Kontroll fuq il-Kambju, persuna waħda residenti f'Malta tista' iżżomm dak in-numru ta' azzjonijiet fil-kumpannija li b'kollox ma jeċċedux lira f'valur nominali:";

(ċ) minflok il-paragrafu (e) tas-subartikolu (2) tiegħu għandu jidhol dan il-paragrafu li ġej:

"(e) ma jkollha ebda mill-azzjonijiet jew obbligazzjonijiet tagħha miżmuma minn *nominee* jekk ma tkunx kumpannija *nominee*:";

(d) minflok il-paragrafu (f) tas-subartikolu (2) tiegħu għandu jidhol dan il-paragrafu li ġej:

"(f) ikollha kumpannija *nominee* bhala s-segretarju tagħha:

Izda meta l-kumpannija jkollha direttur waħdieni l-htigiet imsemmija qabel ta' dan il-paragrafu ma għandhomx japplikaw jekk u sa kemm kumpannija *nominee* jkollha dik il-kariga:

Izda wkoll li kumpannija ta' reputazzjoni internazzjonali u li tkun rikonoxxuta bhala tali mill-Awtorità, li tkun *manager* ta' kumpannija *offshore* ta' l-assigurazzjoni *captive*, jew kumpannija *offshore* ta' l-assigurazzjoni *captive* li tkun sussidjarja ta' kumpannija ta' reputazzjoni internazzjonali u rikonoxxuta bhala tali mill-Awtorità, tista' tiġi eżentata mill-Awtorità milli tikkonforma mal-htigiet ta' dan il-paragrafu:";

(e) fil-paragrafu (b) tas-subartikolu (4) tiegħu, il-kliem "sakkemm l-isem tal-kumpannija sussidjarja jkun jinkludi l-isem tal-*holding company*" għandhom jiġi emendati u

(f) minflok il-paragrafu (ċ) tas-subartikolu (4) tiegħu, għandu jidhol dan il-paragrafu li ġej:

“(ċ) ikollha isem li minnu nnifsu jidentifikaha b’mod ċar bhala sussidjarja jew assoċjata ta’ bank jew istituzzjoni bankarja jew ta’ kumpannija ta’ l-assigurazzjoni, skond kif jirrikjedi l-każ, li tkun ta’ livell u reputazzjoni internazzjonali, u li tkun aċċettata bhala tali mill-Awtorità;”.

Emenda ta’
l-artikolu 23
ta’ l-Att
prinċipali.

7. L-artikolu 23 ta’ l-Att prinċipali ghandu jiġi emendat kif ġej:

(a) is-subartikolu (4) tiegħu ghandu jithassar; u

(b) fl-ewwel proviso li hemm għas-subartikolu (6) tiegħu, il-kliem “reġistrati f’ Malta” għandhom jithassru.

Emenda ta’
l-artikolu 24
ta’ l-Att
prinċipali.

8. Fit-test Inġliż tas-subartikolu (2) ta’ l-artikolu 24 ta’ l-Att prinċipali, minflok il-kelma “provisions” għandha tidhol il-kelma “provision”.

Emenda ta’
l-artikolu 26
ta’ l-Att
prinċipali.

9. L-artikolu 26 ta’ l-Att prinċipali ghandu jiġi emendat kif ġej:

(a) fin-nota marginali tiegħu, il-kliem “minhabba f’attivitajiet illegali” għandhom jithassru;

(b) minnufih wara s-subartikolu (2) tiegħu ghandu jiżdied dan is-subartikolu ġdid li ġej:

“(3) Jekk l-Awtorità, wara li tkun għamlet jew ġieghlet li jsiru, skond id-dispożizzjonijiet ta’ dan l-Att, dawk l-investigazzjonijiet li jkun jidhrilha xierqa dwar kumpannija *offshore*, tkun sodisfatta li jkunu jeżistu ċirkostanzi, jew li kien hemm dik il-bidla fiċ-ċirkostanzi tal-kumpannija, li, li kieku l-Awtorità kienet taf bihom jew li kieku kienu jeżistu fil-hin tar-reġistrazzjoni tal-kumpannija, il-kumpannija ma kenitx tkun ġiet reġistrata bhala kumpannija *offshore*, l-Awtorità tista’ thassar l-isem tal-kumpannija mir-reġistru u ma’ dan il-kumpannija ma tibqax tkun kumpannija *offshore*:

Iżda l-Awtorità ma għandhiex thassar l-isem tal-kumpannija mir-reġistru kemm-il darba l-ewwel ma tkunx ta’ lill-kumpannija l-opportunità li tagħti spjegazzjoni taċ-ċirkostanzi u li tagħmel sottomissjonijiet ohra; u l-Awtorità tista’ wkoll, meta ċ-ċirkostanzi li dwarhom ikun hemm ilment ikunu jistgħu jiġu rmedjati, tippermetti lill-kumpannija li tiegħu passi ta’ rimedju f’dak iż-żmien u taħt dawk il-kondizzjonijiet li l-Awtorità tista’ tispeċifika.”.

Emenda ta’
l-artikolu 27
ta’ l-Att
prinċipali.

10. L-artikolu 27 ta’ l-Att prinċipali ghandu jiġi emendat kif ġej:

(a) fin-nota marginali u fis-subartikolu (1) tiegħu, il-kliem “ta’ l-1962” għandhom jithassru;

(b) fis-subartikoli sussegwenti tiegħu, minflok in-numri ta’ l-artikoli ta’ l-Ordinanza dwar Soċjetajiet Kummerċjali murija, fl-ordni li jidhru fiha f’dawk is-subartikoli, fl-Ewwel Kolonna ta’ l-Iskeda li tinsab ma’ dan l-Att, għandhom jidhlu n-numri korrispondenti murija fit-Tieni Kolonna ta’ l-imsemmija Skeda.

11. Minflok is-subartikolu (3) ta' l-artikolu 28 ta' l-Att prinċipali għandu jidhol dan is-subartikolu:

Emenda ta' l-artikolu 28 ta' l-Att prinċipali.

“(3) is-subartikoli (2) u (4) ta' l-artikolu 5 ta' l-Att ma għandhomx japplikaw; is-subartikolu (1) ta' l-imsemmi artikolu 5 ma għandux japplika għal kumpannija *offshore* bankarja ta' barra minn Malta jew għal kumpannija *offshore* bankarja sussidjarja; is-subartikolu (3) ta' l-imsemmi artikolu għandu japplika għal kumpannija kif intqal qabel sa fejn biss jinhtigilha tagħti l-informazzjoni fih imsemmija; u s-subartikolu (5) ta' l-imsemmi artikolu għandu japplika sa fejn ikun applikabbli in vista tad-dispożizzjonijiet ta' qabel ta' dan is-subartikolu.”.

12. Fit-test Inġliż tal-paragrafu (ċ) tas-subartikolu (3) ta' l-artikolu 29 ta' l-Att prinċipali, minflok il-kliem “the Minister therein referred to act” għandhom jidhlu l-kliem “the Minister therein referred to, to act”.

Emenda ta' l-artikolu 29 ta' l-Att prinċipali.

13. L-artikolu 30 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

Emenda ta' l-artikolu 30 ta' l-Att prinċipali.

(a) minflok in-nota marginali u s-subartikolu (1) tiegħu għandu jidhol dan li ġej:

“Sa fejn japplika l-Att dwar it-Taxxa fuq l-*Income* għal kumpanniji *offshore*. Kap. 123.

30. (1) L-Att dwar it-Taxxa fuq l-*Income* (f'dan l-artikolu msejjah “l-Att”) u kull liġi oħra li tissostitwixxi dik il-liġi għandhom japplikaw għal kumpanniji *offshore* kummerċjali bla hsara għad-dispożizzjonijiet tas-subartikoli (2) u (3) ta' dan l-artikolu.”;

(b) fis-subartikolu (2) tiegħu, minnufih wara t-tieni proviso, għandu jiżdied il-proviso ġdid li ġej:

“Izda wkoll li għar-rigward ta' kumpanniji *offshore* bankarji u ta' l-assigurazzjoni, u dik il-klassi jew klassijiet oħra kif jista' jiġi preskritt —

(i) l-*income* taxxabli ta' kumpannija, jew klassi ta' kumpanniji, kif inghad qabel, għandu jiġi kkalkulat skond dawk ir-regolamenti li jistgħu jiġu preskritti jew, sakemm ikunu hekk preskritti, skond il-prinċipji u *standards* ġeneralment aċċettati;

(ii) l-artikolu 17 ta' l-Att ma għandux japplika;”;

(ċ) fis-subartikolu (6) tiegħu, minflok in-numru u l-ittra “37A” għandu jidhol in-numru “44”; u

(d) fis-subartikolu (9) tiegħu, minflok in-numru u l-ittra “68A” għandu jidhol in-numru “80”.

Emenda ta' l-artikolu 33 ta' l-Att prinċipali.

14. Fit-test Inġliż tas-subartikolu (2) ta' l-artikolu 33 tal-liġi prinċipali minflok il-kliem "used personal belonging" għandhom jidhlu l-kliem "used personal belongings" u minflok il-kliem "from the first taking up residence in Malta" għandhom jidhlu l-kliem "from first taking up residence in Malta".

Emenda ta' l-artikolu 34 ta' l-Att prinċipali.

15. Fl-artikolu 34 ta' l-Att prinċipali, il-kliem "ta' l-1948" għandhom jithassru.

Emenda ta' l-artikolu 35 ta' l-Att prinċipali.

16. Fit-test Inġliż tas-subartikolu (3) ta' l-artikolu 35 ta' l-Att prinċipali, minflok il-kliem "by an other person" għandhom jidhlu l-kliem "by any other person".

Emenda ta' l-artikolu 39 ta' l-Att prinċipali.

17. L-artikolu 39 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

(a) fit-test Inġliż tal-paragrafu (a) tas-subartikolu (1) tiegħu, minflok il-kliem "if were such a company" għandhom jidhlu l-kliem "if it were such a company";

(b) fit-test Inġliż tas-subartikolu (3) tiegħu, minflok il-kliem "may, demand" għandhom jidhlu l-kliem "may, on demand"; u

(ċ) il-kliem "ta' l-1962", kull fejn dawn jidhru fl-artikolu, għandhom jithassru.

Emenda ta' l-artikolu 40 ta' l-Att prinċipali.

18. Fl-artikolu 40 ta' l-Att prinċipali, il-kliem "ta' l-1948" għandhom jithassru.

Emenda ta' l-artikolu 43 ta' l-Att prinċipali.

19. Fis-subartikolu (3) ta' l-artikolu 43 ta' l-Att prinċipali, il-kliem "u segretarji" għandhom jithassru.

Emenda ta' l-artikolu 52 ta' l-Att prinċipali.

20. Is-subartikolu (1) ta' l-artikolu 52 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

(a) fil-paragrafu (ċ) tiegħu, minnufih wara l-kliem "l-Att ta' l-1970 dwar il-Kummerċ Bankarju" għandhom jidhlu l-kliem "jew ta' l-Att ta' l-1967 dwar il-Bank Ċentrali ta' Malta";

(b) il-paragrafi (e) u (f) tiegħu għandhom jiġu ndikati mill-ġdid bhala (f) u (g) rispettivament;

(ċ) minflok il-paragrafu (d) tiegħu, għandu jidhol dan il-paragrafu li ġej:

"(e) ibiddel xi drittijiet stabbiliti b'xi dispożizzjoni ta' dan l-Att, u jemenda xi dispożizzjoni tali f'dak is-sens, u biex jistabbilixxi dawk id-drittijiet ohra skond kif jitqies xieraq dwar kull haġa li għaliha ma hemmx provdut b'dan l-Att:

Iżda li d-drittijiet jistgħu biss jiżdieđu biex jiġi rifless tibdil fil-għoli tal-hajja jew fil-valur tal-flus; u

Iżda wkoll li xi bidla li żżid dritt stabbilit b'dan l-Att, kif dak id-dritt jista' jkun fis-seħh minn żmien għal żmien, ma għandhiex ikollha seħh qabel ma tkun għaddiet sena mill-pubblikazzjoni ta' dik il-bidla fil-Gazzetta;"; u

(d) minnufih wara l-paragrafu (c) tiegħu għandu jidhol dan il-paragrafu ġdid li ġej:

“(d) jagħmel provvedimenti biex jippermetti lill-Awtorità, minkejja xi dispożizzjoni oħra ta' dan l-Att, iżda bla ħsara għal dawk il-kondizzjonijiet ta' konfidenzjalità u kondizzjonijiet oħra li jistgħu jiġu preskritti jew li jistgħu jiġu imponuti mill-Awtorità, tagħti dik l-informazzjoni dwar banek *offshore* jew istituzzjonijiet bankarji *offshore*, jew kumpanniji *offshore* ta' assigurazzjoni, li biha banek ċentrali barranin jew korpi simili ta' sorveljanza finanzjarja li jkollhom interess fit-tmexxija sewwa ta' l-affarijiet ta' bank *offshore* jew kumpannija *offshore* ta' l-assigurazzjoni f'Malta, ikunu jistgħu jeżaminaw dik it-tmexxija.”.

21. Fit-test Inġliż tas-subartikolu (3) ta' l-artikolu 54 ta' l-Att prinċipali, minflok il-kliem “of this Act, the Act” għandhom jidhlu l-kliem “of this Act, the act”.

Emenda ta' l-artikolu 54 ta' l-Att prinċipali.

22. Fl-artikolu 55 ta' l-Att prinċipali, inkluża n-nota marginali tiegħu, il-kliem “ta' l-1962”, kull fejn dawn jidhru, għandhom jithassru, u minflok in-numru “69”, li jidher fl-imsemmi artikolu u fid-dispożizzjoni ta' l-Ordinanza dwar Soċjetajiet Kummerċjali kif emendata b'dak l-artikolu, għandu jidhol in-numru “70”.

Emenda ta' l-artikolu 55 ta' l-Att prinċipali.

23. Fit-Tieni Skeda li tinsab ma' l-Att prinċipali, minflok il-kliem “l-Att ta' l-1948 dwar it-Taxxa fuq l-*Income*” għandhom jidhlu l-kliem “l-Att dwar it-Taxxa fuq l-*Income*, Kap. 123”.

Emenda tat-Tieni Skeda li tinsab ma' l-Att prinċipali.

SKEDA

Artikolu 10

L-Ewwel Kolonna

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It-Tieni Kolonna

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Mghoddi mill-Kamra tad-Deputati fis-Seduta Nru. 246 ta' l-14 ta' Ġunju, 1989.

LAWRENCE GONZI
Speaker

C. MIFSUD
Agent Skrivani tal-Kamra tad-Deputati

I assent.

(L.S.)

ĊENSU TABONE
President

23rd June, 1989

ACT No. XV of 1989

AN ACT to amend the Malta International Business Activities Act, 1988.

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. This Act may be cited as the Malta International Business Activities (Amendment) Act, 1989, and shall be read and construed as one with the Malta International Business Activities Act, 1988, hereinafter referred to as “the principal Act”.

Short title.

Act XXXIV
of 1988.

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

Amendment of
section 2
of the
principal Act.

(a) immediately after the definition of “body of persons”, there shall be inserted the following definitions:

Act V
of 1970.

“business of banking” has the meaning assigned to it by section 2 of the Banking Act, 1970 and includes any other business customarily carried on by banks and generally accepted to be so carried on;

Act XVII
of 1981

“business of insurance” has the meaning assigned to it by section 2 of the Insurance Business Act, 1981; ”;

(b) in the definition of “offshore activity” —

(i) in the first proviso thereto, the words “caused to be formed and registered in Malta for the purposes of this Act by the company managing them and are so registered” shall be deleted; and

(ii) in the English text of the second proviso thereto, for the word "overseas" there shall be substituted the word "oversea";

(c) for the definition of "oversea company" there shall be substituted the following definition:

Cap. 168. "oversea company" has the meaning assigned to it by section 177 of the Commercial Partnerships Ordinance;";

(d) the second proviso to the definition of "resident in Malta" shall be deleted;

(e) subsections (2), (3), (4) and (5) thereof shall be renumbered respectively as subsections (3), (4), (5) and (6) thereof; and

(f) immediately after subsection (1) thereof, there shall be inserted the following new subsection:

"(2) For the purposes of this Act —

(a) a company which is itself an offshore company shall be deemed not to be resident in Malta;

(b) an offshore company may use a bank in Malta which is not an offshore bank for the purposes of any transaction in foreign currency, which it could lawfully carry out with any other bank, including any facility, other than a loan or overdraft, provided that such facility is fully secured by a prime foreign bank guarantee or by bank deposits in convertible foreign currency; and for the purpose of any transaction that may be carried out through a local bank as aforesaid, such bank shall be deemed not to be resident in Malta;

(c) shares in, and debentures of, an offshore company, and ships, even if registered in Malta, shall be deemed to be property not situated in Malta."

Amendment of section 5 of the principal Act.

3. In subsection (2) of section 5 of the principal Act for the words "in paragraph (d)" there shall be substituted the words "in paragraph (e)".

Amendment of section 9 of the principal Act.

4. For the words "the provisions of subsection (2)" in subsection (3) of section 9 of the principal Act, there shall be substituted the words "the provisions of subsections (2) and (3) of section 33 and of subsection (2)".

Amendment of section 11 of the principal Act.

5. In subsection (1) of section 11 of the principal Act, immediately after the words "such lawful activities" there shall be added the words "other than an interest in the ownership or control of trading offshore companies".

6. Section 22 of the principal Act shall be amended as follows:

Amendment of
section 22
of the
principal Act.

(a) in the proviso to paragraph (c) of subsection (2) thereof, for the words "or processing of goods in Malta" there shall be substituted the words "or processing of goods in Malta, or the ownership, management, administration or operation of ships," and immediately after the said proviso there shall be added the following further proviso:

"Provided further that such latter company shall still be deemed to be wholly owned by persons not resident in Malta if not more than one person resident in Malta holds such number of shares as do not exceed in the aggregate one lira in nominal value without any special voting rights;"

(b) immediately at the end of paragraph (d) of subsection (2) thereof, there shall be added the following proviso:

"Provided that notwithstanding anything contained in the Exchange Control Act, 1972, one person resident in Malta may hold such number of shares in the company as do not exceed in the aggregate one lira in nominal value;"

(c) for paragraph (e) of subsection (2) thereof there shall be substituted the following paragraph:

"(e) has none of its shares or debentures held by a nominee which is not a nominee company;"

(d) for paragraph (f) of subsection (2) thereof there shall be substituted the following paragraph:

"(f) has a nominee company as its secretary:

Provided that where the company has a sole director the foregoing requirements of this paragraph shall not apply if and so long as a nominee company holds that office:

Provided further that a company of international repute recognised as such by the Authority being a manager of a captive insurance offshore company, or a captive insurance offshore company being a subsidiary of a company of international repute recognised as such by the Authority may be exempted by the Authority from complying with the requirements of this paragraph:"

(e) in paragraph (b) of subsection (4) thereof, the words ". provided the name of the subsidiary company includes the name of the holding company" shall be deleted; and

(f) for paragraph (c) of subsection (4) thereof there shall be substituted the following paragraph:

"(c) has a name which on the face of it clearly identifies it as a subsidiary or an associate of a bank or banking

institution or of an insurance company, as the case may require, which is of international standing and repute, and which is accepted as such by the Authority;”.

Amendment of section 23 of the principal Act.

7. Section 23 of the principal Act shall be amended as follows:

(a) subsection (4) thereof shall be deleted; and

(b) in the first proviso to subsection (6) thereof, the words “registered in Malta” shall be deleted.

Amendment of section 24 of the principal Act.

8. In the English text of subsection (2) of section 24 of the principal Act, for the words “provisions” there shall be substituted the word “provision”.

Amendment of section 26 of the principal Act.

9. Section 26 of the principal Act shall be amended as follows:

(a) in the marginal note thereof, the words “for illegal activities” shall be deleted;

(b) immediately after subsection (2) thereof, there shall be added the following new subsection:

“(3) If the Authority, having carried out, or caused to be carried out, in accordance with the provisions of this Act, such investigations as it may deem appropriate in respect of an offshore company, is satisfied that circumstances exist, or that there has been such a change in the circumstances of the company, that, had they been known to the Authority or had they existed at the time of the company’s registration, the company would not have been registered as an offshore company, the Authority may strike the name of the company off the register and thereupon the company shall cease to be an offshore company:

Provided that the Authority shall not strike the name of the company off the register unless it has first given the company the opportunity of explaining the circumstances and making other representations; and the Authority may also, where the circumstances complained of are capable of remedy, allow the company to take remedial action within such time and under such conditions as the Authority may specify.”.

Amendment of section 27 of the principal Act.

10. Section 27 of the principal Act shall be amended as follows:

(a) in the marginal note and in subsection (1) thereof, the numbers “1962” shall be deleted;

(b) in the subsequent subsections thereof, for the numbers of sections of the Commercial Partnerships Ordinance shown, in the order in which they appear in those subsections, in the First Column of the Schedule to this Act, there shall be substituted the corresponding numbers shown in the Second Column of the said Schedule.

11. For subsection (3) of section 28 of the principal Act there shall be substituted the following subsection:

Amendment of section 28 of the principal Act.

“(3) Subsections (2) and (4) of section 5 of the Act shall not apply; subsection (1) of the said section 5 shall not apply to a banking offshore oversea company or to a banking offshore subsidiary company; subsection (3) of the said section shall apply to a company as aforesaid to the extent only of requiring it to give the information therein referred to; and subsection (5) of the said section shall apply to the extent that it is applicable in view of the foregoing provisions of this subsection.”.

12. In the English text of paragraph (c) of subsection (3) of section 29, of the principal Act, for the words “the Minister therein referred to act” there shall be substituted the words “the Minister therein referred to, to act”.

Amendment of section 29 of the principal Act.

13. Section 30 of the principal Act shall be amended as follows:

Amendment of section 30 of the principal Act.

(a) for the marginal note and subsection (1) thereof there shall be substituted the following:

“Extent of application of the Income Tax Act to offshore companies. Cap. 123.

30. (1) The Income Tax Act (in this section referred to as “the Act”) and any enactment replacing that law shall apply to trading offshore companies subject to the provisions of subsections (2) and (3) of this section.”;

(b) in subsection (2) thereof, immediately after the second proviso, there shall be added the following new proviso:

“Provided also that in respect of banking and insurance offshore companies, and such other class or classes of offshore companies as may be prescribed —

(i) the chargeable income of a company, or class of companies, as aforesaid, shall be computed according to such regulations as may be prescribed or, until so prescribed, in accordance with generally accepted principles and standards;

(ii) section 17 of the Act shall not apply;”;

(c) in subsection (6) thereof, for the number and letter “37A” there shall be substituted the number “44”; and

(d) in subsection (9) thereof, for the number and letter “68A” there shall be substituted the number “80”.

14. In the English text of section 33 of the principal Act, for the words “used personal belonging” there shall be substituted the words “used personal belongings”; and for the words “from the first taking up

Amendment of section 33 of the principal Act.

residence in Malta" there shall be substituted the words "from first taking up residence in Malta".

Amendment of section 34 of the principal Act.

15. In section 34 of the principal Act, the number "1948" shall be deleted.

Amendment of section 35 of the principal Act.

16. In the English text of subsection (3) of section 35 of the principal Act, for the words "by an other person" there shall be substituted the words "by any other person".

Amendment of section 39 of the principal Act.

17. Section 39 of the principal Act shall be amended as follows:

(a) in the English text of paragraph (a) of subsection (1) thereof, for the words "if were such a company" there shall be substituted the words "if it were such a company";

(b) in the English text of subsection (3) thereof, for the words "may, demand" there shall be substituted the words "may, on demand";

(c) the number "1962," wherever it appears in the section shall be deleted.

Amendment of section 40 of the principal Act.

18. In section 40 of the principal Act, the number "1948," shall be deleted.

Amendment of section 43 of the principal Act.

19. In subsection (3) of section 43 of the principal Act, the words "and secretaries" shall be deleted.

Amendment of section 52 of the principal Act.

20. Subsection (1) of section 52 of the principal Act shall be amended as follows:

(a) in paragraph (c) thereof, immediately after the words "the Banking Act, 1970" there shall be inserted the words "or of the Central Bank of Malta Act, 1967";

(b) paragraphs (e) and (f) thereof shall be re-lettered as (f) and (g) respectively;

(c) for paragraph (d) thereof there shall be substituted the following paragraph:

"(e) alter any fees established by any provision of this Act, and amend any such provision accordingly and to establish such other fees as may be deemed appropriate in respect of any matter for which a fee is not provided by this Act:

Provided that fees may only be increased in order to reflect changes in the cost of living or in the value of currencies; and

Provided further that any alteration increasing a fee established by this Act, as such fee may from time to time be in force, shall not have effect before the expiration of one year from the publication of such alteration in the Gazette;" and

(d) immediately after paragraph (c) thereof there shall be inserted the following new paragraph:

“(d) make provision allowing the Authority, notwithstanding any other provision of this Act, but subject to such conditions of confidentiality and other conditions as may be prescribed or as may be imposed by the Authority, to give such information concerning offshore banks or offshore banking institutions or offshore insurance companies, as will enable foreign central banks or similar financial supervisory bodies having an interest in the proper conduct of the affairs of an offshore bank or insurance company in Malta, to examine such conduct.”.

21. In the English text of subsection (3) of section 54 of the principal Act, for the words “of this Act, the Act” there shall be substituted the words “of this Act, the act”. Amendment of section 54 of the principal Act.

22. In section 55 of the principal Act, including the marginal note thereto, the number “, 1962” wherever it appears shall be deleted, and for the number “69”, appearing in the said section and in the provision of the Commercial Partnerships Ordinance as amended by that section, there shall be substituted the number “70”. Amendment of section 55 of the principal Act.

23. In the Second Schedule to the principal Act, for the words “Income Tax Act, 1948” there shall be substituted the words “Income Tax Act, Cap. 123”. Amendment of the Second Schedule to the principal Act.

SCHEDULE

Section 10

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Passed by the House of Representatives at Sitting No. 246 of the 14th June, 1989.

LAWRENCE GONZI
Speaker

C. MIFSUD
Acting Clerk to the House of Representatives