

Suppliment tal-Gazzetta tal-Gvern ta' Malta, Nru. 19,585, 3 ta' Ġunju, 2016

Taqsim C

Nru. 161

3. 06. 2016

MALTA

KAMRA TAD-DEPUTATI

HOUSE OF REPRESENTATIVES

ABBOZZ ta' Liġi mressaq mill-Onorevoli Carmelo Abela, M.P., Ministru għall-Intern u s-Sigurtà Nazzjonali, f'isem il-Ministru għall-Ekonomija, Investiment u Intrapriżi Żgħar, u moqri għall-Ewwel darba fis-Seduta tal-1 ta' Ġunju, 2016.

A BILL introduced by the Honourable Carmelo Abela, M.P., Minister for Home Affairs and National Security, on behalf of the Minister for the Economy, Investment and Small Business, and read the First time at the Sitting of the 1st June, 2016.

ATT biex jinkoraggixxi r-regolamentazzjoni tan-negozji tal-familja, il-governanza tagħhom u t-trasferiment tan-negozji tal-familja minn generazzjoni għal oħra; biex jinkoraggixxi u jassisti n-negozji tal-familja biex itejbu l-istruttura u l-organizzazzjoni interna bl-għan illi joperaw in-negozju b'mod effettiv u jaħdmu sabiex ikun hemm suċċessjoni b'suċċess tan-negozju tal-familja; u biex jipprovdli għal materji konsegwenzjali u ancillari għalihom.

AN ACT to encourage the regulation of family businesses, their governance and the transfer of the family businesses from one generation to the next; to encourage and assist family businesses to enhance their internal organisation and structure with the aim of effectively operating the business and working towards a successful succession of the family business; and for other matters consequential or ancillary thereto.

RAYMOND SCICLUNA
Skrivan tal-Kamra tad-Deputati

RAYMOND SCICLUNA
Clerk of the House of Representatives

ABBOZZ TA' LIĠI msejjah

ATT biex jinkoraġġixxi r-regolamentazzjoni tan-negozji tal-familja, l-governanza tagħhom u t-trasferiment tan-negozji tal-familja minn generazzjoni għal oħra; biex jinkoraġġixxi u jassisti n-negozji tal-familja biex itejbu l-istruttura u l-organizzazzjoni interna bl-għan illi joperaw in-negozju b'mod effettiv u jaħdmu sabiex ikun hemm suċċessjoni b'suċċess tan-negozju tal-familja; u biex jipprovdi għal materji konsegwenzjali u ancillari għalihom.

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

TAQSIM TAL-ATT

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Taqsim I

Dispożizzjonijiet Preliminari

1. (1) It-titolu fil-qosor ta' dan l-Att huwa l-Att tal-2016 dwar in-Negozji tal-Familja. Titolu fil-qosor u bidu fis-sehh.

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(2) Dan l-Att għandu jidhol fis-sehħ f'dik id-data li l-Ministru jista' b'avviż jistabilixxi fil-Gazzetta, u jistgħu jiġu hekk stabbiliti dati differenti għal dispożizzjonijiet differenti u għanijiet differenti ta' dan l-Att.

Tifsir.

2. F'dan l-Att, u fir-regoli jew regolamenti kollha magħmula taħt dan l-Att, sakemm is-sugġett jew il-kuntest ma jehtieġx xort'oħra:

"applikant" tfisser negozju li qiegħed jirreġistra bħala negozju tal-familja taħt dan l-Att;

Kap. 364.
Kap. 463.
Kap. 325.

"benefiċċju" tfisser l-assistenza jew l-eżenzjoni mogħtija lin-negozju tal-familja rreġistrat skont l-Att dwar it-Taxxa fuq Dokumenti u Trasferimenti, l-Att dwar l-Intrapriża ta' Malta, l-Att dwar il-Promozzjoni ta' Negozji u skont kull liġi oħra jew kull skema li l-Ministru jista' jippreskrivi permezz ta' regolamenti;

Kap.16.

"fondazzjoni privata" tfisser dawk il-fondazzjonijiet stabbiliti għal interess privat u rreġistrati jew b'xi modd ieħor rikonoxxuti bħala persuni legali skont it-Tieni Skeda li tinsab mal-Kodiċi Ċivili;

Kap. 225.
Kap. 530.

"konjuġi" tfisser konjuġi skont l-Att dwar iż-Żwieġ jew sieħeb skont l-Att dwar l-Unjonijiet Ċivili;

Kap. 386.

"kumpannija ta' responsabbiltà limitata" tfisser kumpannija debitament iffurmata u rreġistrata taħt it-Taqsima V tal-Att dwar il-Kumpanniji;

Kap. 386.

"kumpannija ta' responsabbiltà limitata pubblika" tfisser kumpannija debitament iffurmata u rreġistrata taħt it-Taqsima V tal-Att dwar il-Kumpanniji;

"linji gwida" tfisser sett ta' regoli maħruġa mir-Regolatur minn żmien għal żmien għall-implimentazzjoni ulterjuri tad-dispożizzjonijiet ta' dan l-Att, jew xi regolamenti magħmula taħtu, inkluż it-tifsira, l-applikazzjoni, amministrazzjoni, l-għoti u r-revoka tal-benefiċċji, skemi jew arrangamenti oħra għar-regolamentazzjoni, immaniġġjar u t-trasferiment tan-negozji tal-familja u l-governanza tagħhom f'Malta;

"membru ta-familja" tfisser il-konjuġi tal-proprjetarju tan-negozju tal-familja, axxendenti, dixxendenti fil-linja diretta u l-konjuġi relattivi, aħwa u d-dixxendenti tagħhom jew skont dak li l-Ministru jista' jippreskrivi;

"Ministru" tfisser il-Ministru responsabbli għall-ekonomija;

"negozju tal-familja" għandu jkollha l-istess tifsira mogħtija

lilha fl-artikolu 3;

"preskritt" tfisser preskritt permezz ta' regolamenti magħmula mill-Ministru taht dan l-Att jew preskritt permezz ta' linji gwida li jorbtu magħmula mir-Regolatur taht dan l-Att, sakemm mhux iddikjarat mod ieħor espressament, u f'każ ta' konflitt bejn ir-regolamenti magħmula mill-Ministru u l-linji gwida magħmula mir-Regolatur fuq xi materja partikolari, ir-regolamenti għandhom jipprevalu;

"proprietarju" tfisser il-persuna naturali li tkun il-benefiċjarju aħhari li direttament jew indirettament ikollha interess f'tiżmim t'azzjonijiet jew interess ieħor f'negozju tal-familja;

"ir-Regolatur" tfisser il-persuna mahtura sabiex timmaniġġja, tissuperviżjona u tamministra r-Registru tan-Negozji tal-Familja skont dan l-Att u mahtura skont l-artikolu 17;

Kap. 386.

"soċjetà" tfisser soċjetà f'isem kollettiv jew soċjetà in akkomandita debitament iffurmati u rreġistrati skont it-Taqsima III u t-Taqsima IV tal-Att dwar il-Kumpanniji;

"stabbilit f'Malta" tfisser l-uffiċċju prinċipali, aġenzija, jew fergħa jew parti min-negozju u għandha tinkludi presenza permanenti ta' dak in-negozju li qed titwettagħ f'Malta;

"trusts" tfisser trust skont l-Att dwar it-*Trusts* u t-*Trustees*.

Kap. 331.

Taqsim II Dispożizzjonijiet Ġenerali

3. (1) Negozju tal-familja li jista' jikkwalifika għar-registrazzjoni taht dan l-Att għandha tfisser kull negozju stabbilit f'Malta li permezz tiegħu:

Kondizzjonijiet għar-registrazzjoni ta' negozju tal-familja.

(a) f'każ ta' kumpannija ta' responsabbiltà limitata pubblika li l-azzjonijiet tagħha huma elenkati f'suq regolat jew huma negozjati f'facilità ta' negozju multilaterali, il-maġġoranza tal-azzjonijiet tagħha, inklużi d-drittijiet huma miżmuma, sew jekk direttament jew indirettament, minn tal-anqas żewġ propjetarji li huma membri tal-familja fl-istess familja;

Kumpanniji ta' elenkati.

(b) f'każ ta' kumpannija ta' responsabbiltà limitata kostitwita b'xi mod ieħor minn dak imsemmi fil-paragrafu (a):

Kumpanniji ta' responsabbiltà limitata.

(i) dawk l-azzjonijiet kollha tal-kumpannija huma miżmuma, direttament jew indirettament, minn tal-

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anqas żewġ proprjetarji li huma membri tal-familja fl-istess familja;

(ii) tal-anqas membru wieħed tal-familja huwa formalment involut fil-governanza generali, l-amministrazzjoni xierqa u l-immaniġġjar tal-kumpannija:

Iżda l-azzjonijiet miżmuma direttament jew indirettament minn individwi li mhumiex membri tal-familja għandhom jiġu injorati għall-fini ta' dan il-paragrafu, jekk il-valur maħruġ aggregat ma jeċċedix ħamsa fil-mija tal-valur azzjonarju maħruġ tal-kumpannija:

Iżda wkoll l-azzjonijiet miżmuma direttament jew indirettament minn impjegati li ilhom f'impjieg kontinwu *full-time* għal iktar minn tliet snin u li mhumiex membri tal-familja għandhom jiġu injorati għall-fini ta' dan il-paragrafu, jekk il-valur maħruġ aggregat ma jeċċedix għaxra fil-mija tal-valur azzjonarju maħruġ tal-kumpannija:

Iżda wkoll meta xi assi tan-negozju huma miżmuma b'kirja, il-membri ta-familja ikunu fil-maġġoranza tal-kerreġja fil-ftehim tal-kiri;

Soċjetajiet
irreġistrati.

(ċ) f'każ ta' soċjetajiet f'isem kollettiv jew in akkomandita:

(i) il-kontribuzzjoni tal-kapital shiħ għas-soċjetà għandha tkun saret, direttament jew indirettament, minn tal-inqas żewġ proprjetarji li huma membri tal-familja fl-istess familja li, direttament jew indirettament, għandhom id-dritt li jirċievu l-maġġoranza tal-profitti distribwibbli; u

(ii) tal-anqas wieħed minnhom għandu l-maġġoranza tad-drittijiet tat-teħid tad-deċiżjoni:

Iżda l-kontribuzzjonijiet tal-kapital magħmula, direttament jew indirettament, minn persuni li mhumiex membri tal-familja għandhom jiġi injorati għall-fini ta' dan il-paragrafu, jekk il-kontribuzzjoni aggregata tagħhom ma teċċeddix ħamsa fil-mija tat-total tal-kontribuzzjonijiet magħmula mis-soċji kollha tas-soċjetà:

Iżda wkoll il-kontribuzzjoni tal-kapital magħmula, direttament jew indirettament, minn impjegati li ilhom f'impjieg kontinwu *full-time* għal iktar minn tliet snin u li mhumiex membri tal-familja għandhom jiġu injorati għall-fini ta' dan il-paragrafu, jekk il-kontribuzzjoni aggregata tagħhom

ma teċċedix għaxra fil-mija tal-kontribuzzjoni tal-kapital tas-soċjetà:

Iżda wkoll meta xi assi tan-negozju huma miżmuma b'kirja, il-membri ta-familja ikunu fil-maġġoranza tal-kerrejja fil-ftehim tal-kiri;

(d) f'każ ta' negozju tal-familja fejn l-azzjonijiet jew l-interessi kollha huma miżmuma minn *trustee* fi *trust* għall-benefiċċju tal-membri tal-familja bħala benefiċċjarji u li kien gie stabbilit permezz ta' strument miktub u l-benefiċċjarji kollha huma propjetarji u membri tal-familja fl-istess familja: *Trusts.*

Iżda benefiċċjarji oħra li mhumiex membri tal-familja fl-istess *trust* tan-negozju tal-familja għandhom jiġu injorati għall-fini ta' dan il-paragrafu jekk flimkien ma jibbenifikawx minn iktar minn hamsa fil-mija tan-negozju tal-familja, u jekk huma biss benefiċċjarji residwi li jkunu ser jibbenifikaw mit-*trust* biss meta dan jiġi tterminat minhabba l-fatt li ma jkunx hemm membri familjari esistenti fl-istess familja li jistgħu jibbenifikaw mit-*trust* fi kwalunkwe mument relevanti:

Iżda wkoll benefiċċjarji oħra li huma impjegati li ilhom f'impjeg kontinwu *full-time* għal iktar minn tliet snin fl-istess *trust* tan-negozju tal-familja u li mhumiex membri tal-familja għandhom jiġu injorati għall-fini ta' dan il-paragrafu jekk flimkien ma jibbenifikawx minn iktar minn għaxra fil-mija, u jekk huma biss benefiċċjarji residwi li jkunu ser jibbenifikaw mit-*trust* biss meta dan jiġi tterminat minhabba l-fatt li ma jkunx hemm membri familjari esistenti fl-istess familja li jistgħu jibbenifikaw mit-*trust* fi kwalunkwe mument relevanti:

Iżda wkoll meta xi assi tan-negozju huma miżmuma b'kirja mit-*trustee*, it-*trustee* ikun fil-maġġoranza tal-kerrejja fil-ftehim tal-kiri;

(e) f'każ ta' negozju mwettaq minn membri tal-familja f'forma ta' soċjetà barra minn dik indikata fil-paragrafu (ċ), in-negozju u l-assi ta' dak in-negozju ikunu proprjetà ta' u kkontrollati, direttament jew indirettament, minn tal-anqas żewġ proprjetarji li huma membri tal-familja fl-istess familja: *Forum oħra ta' negozji tal-familja registrati.*

Iżda assi oħra miżmuma minn individwi li mhumiex membri tal-familja għandhom jiġu injorati għall-fini ta' dan il-paragrafu, jekk il-valur aggregat ma jeċċeddix hamsa fil-mija tal-assi netti tan-negozju tal-familja:

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Izda wkoll assi oħra miżmuma minn impjegati li ilhom f'impjieg kontinwu *full-time* fin-negozju tal-familja għal iktar minn tliet snin u li mhumiex membri tal-familja għandhom jiġu injorati għall-fini ta' dan il-paragrafu, jekk il-valur aggregat ma jeċċedix għaxra fil-mija tal-assi tan-negozju tal-familja:

Kap.16.

Izda wkoll dak in-negozju għandu jħares id-dispożizzjonijiet relattivi għal organizzazzjonijiet mhux registrat kif pevist fil-Kodiċi Ċivili u l-iSkeda relattiva għalihom;

Izda wkoll meta xi assi tan-negozju huma miżmuma b'kirja, il-membri ta-familja ikunu fil-maġġoranza tal-kerrejja fil-ftehim tal-kiri; u

Negozji oħra.

(f) kull negozju ieħor li l-Ministru jista' jippreskrivi.

Akkwist indirett ta' negozju tal-familja.

(2) Għall-finijiet ta' dan l-artikolu, riferenza għall-azzjonijiet, interessi jew assi oħra, miżmuma indirettament minn membri tal-familja fin-negozju jew kontribuzzjonijiet magħmula għan-negozju indirettament minn membri tal-familja tirreferi għal dawk l-azzjonijiet, interessi jew assi oħra miżmuma jew kontribuzzjonijiet magħmula minn:

(a) il-kumpanniji *holding* li huma tal-anqas 85% proprjetà b'mod benefiċċjarju tal-membri tal-familja, skont il-każ x'ikun; jew

(b) *trustees* ta' *trust* imwaqqaf għall-benefiċċju tal-membri tal-familja fl-istess familja iżda benefiċċjarji oħra li mhumiex membri tal-familja fl-istess familja għandhom jiġu injorati għall-finijiet ta' dan is-subartikolu jekk kemm-il darba flimkien ma jkunx jistgħu jibbenifikaw minn aktar minn hamsa fil-mija tan-negozju tal-familja, jew jekk huma biss benefiċċjarji residwi li jkunu ser jibbenifikaw mit-*trust* biss meta dan jiġi tterminat minħabba l-fatt li ma jkunx hemm membri familjari esistenti fl-istess familja li jistgħu jibbenifikaw mit-*trust* fi kwalunkwe mument relevanti;

Izda benefiċċjarji oħra li huma impjegati li ilhom f'impjieg kontinwu *full-time* għal iktar minn tliet snin fl-istess *trust* tan-negozju tal-familja u li mhumiex membri tal-familja għandhom jiġu injorati għall-fini ta' dan il-paragrafu jekk flimkien ma jibbenifikawx minn iktar minn għaxra fil-mija tan-negozju tal-familja, u jekk huma biss benefiċċjarji residwi li jkunu ser jibbenifikaw mit-*trust* biss meta dan jiġi tterminat minħabba l-fatt li ma jkunx hemm membri familjari esistenti fl-istess familja li jistgħu jibbenifikaw mit-*trust* fi kwalunkwe

mument relevanti; jew

(ċ) fondazzjonijiet privati li huma mwaqqfa għall-benefiċċju tal-membri tal-familja fl-istess familja iżda benefiċċjarji li mhumiex membri tal-familja fl-istess familja għandhom jiġu injorati għall-finijiet ta' dan is-subartikolu jekk kemm-il darba flimkien ma jkunx jistgħu jibbenifikaw minn aktar minn hamsa fil-mija tan-negozju tal-familja, jew jekk huma biss benefiċċjarji residwi li jkunu ser jibbenifikaw mill-assi tal-fondazzjoni privata biss meta din tiġi tterminata minhabba l-fatt li ma jkunx hemm membri familjari eżistenti fl-istess familja li jistgħu jibbenifikaw mit-*trust* fi kwalunkwe mument relevanti:

Iżda benefiċċjarji oħra li huma impjegati li ilhom f'impjieg kontinwu *full-time* għal iktar minn tliet snin fin-negozju tal-familja u li mhumiex membri tal-familja fl-istess fondazzjoni privata għandhom jiġu injorati għall-fini ta' dan il-paragrafu jekk flimkien ma jibbenifikawx minn iktar minn għaxra fil-mija tal-fondazzjoni privata, u jekk huma biss benefiċċjarji residwi li jkunu ser jibbenifikaw fondazzjoni privata biss meta dan jiġi tterminat minhabba l-fatt li ma jkunx hemm membri familjari eżistenti fl-istess familja li jistgħu jibbenifikaw mill-fondazzjoni privata fi kwalunkwe mument relevanti:

Iżda wkoll meta xi assi tan-negozju huma miżmuma b'kirja, il-membri ta-familja ikunu fil-maġġoranza tal-kerreġja fil-ftehim tal-kiri.

4. (1) Għall-finijiet ta' dan l-Att, azzjonijiet jew kapital azzjonarju tal-kumpannija għandhom ifissru: Proprietà tan-negozju tal-familja.

(a) il-kapital azzjonarju maħruġ tal-kumpannija; u

(b) l-azzjonijiet li jagħtu d-dritt ta' dividendi; u

(ċ) l-azzjonijiet għandhom ikunu azzjonijiet li jagħtu jedd għall-vot; u

(d) l-azzjonijiet jagħtu jedd għall-assi u profitti meta jkun hemm stralċ.

(2) Għall-finijiet ta' dan l-Att, l-azzjonijiet l-oħra għandhom jiġu injorati.

5. Proprjetarju li huwa wkoll membru tal-familja m'għandux ikollu fi proprjetà jew f'interess benefiċċjarju: Tqassim tal-proprjetà.

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(a) f'każ ta' kumpannija, ikun propjetarju ta', kemm jekk direttament jew indirettament, iktar minn tmenin fil-mija (80%) tal-kapital azzjonarju mahruġ tan-negozju tal-familja;

(b) f'każ ta' soċjetà f'isem kollettiv jew in akkomandita kemm jekk direttament jew indirettament, iktar minn tmenin fil-mija (80%) tal-assi tas-soċjetà;

(c) f'każ ta' *trust*, ikun f'pożizzjoni li jibbenefika minn aktar minn tmenin fil-mija (80%) tal-proprjeta' tat-*trust*;

(d) f'każ ta' negozju li jkun imwettaq f'soċjetà f'xi forma oħra, kemm jekk direttament jew indirettament, iktar minn tmenin fil-mija (80%) tal-assi tas-soċjetà;

(e) f'każ ta' proprjetarju indirett, ikun proprjetarju ta' iktar minn tmenjin fil-mija (80%) tal-azzjonijiet, interessi, assi oħra jew kontribuzzjonijiet tan-negozju.

Trusts.

6. F'każ ta' *trustee* li jkollu tiżmin fin-negozji tal-familja, direttament jew indirettament għall-benefiċċju tal-membri tal-familji, ir-registrazzjoni għall-finijiet ta' dan l-Att għandha ssir wara li d-dikjarazzjonijiet u d-dokumenti rikjesti fl-Ewwel Skeda jkunu ngħataw lir-Regolatur mit-*trustee pro tempore*, debitament irregiſtrat, fl-interess tan-negozju tal-familja li jkun taħt it-*trust*.

Negozju rregiſtrat tal-familja.

7. (1) Negozju għandu jkun negozju rregiſtrat tal-familja meta jkun gie aċċettat għar-registrazzjoni mir-Regolatur skont l-artikolu 28.

(2) In-negozju tal-familja jista', fuq rizzoluzzjoni tal-azzjonisti jew jeddijiet ta' parteċipazzjoni oħra jew interessi fih, jitlob it-tneħħija tan-negozju tal-familja mir-Regiſtru wara li jagħti tliet xhur avviz lir-Regolatur u f'dak il-każ ir-Regolatur għandu jipproċedi biex jikkancelła r-registrazzjoni soġġett għall-ħruġ ta' xi ordnijiet taħt l-artikolu 31 li hu jhoss li huma xierqa.

Rappreżentat identifikat.

8. Negozju rregiſtrat tal-familja għandu jidentifika rappreżentant tan-negozju tal-familja u jinforma lir-Regolatur bid-dettalji tal-kuntatt ma' kull bidla.

Notifika ta' bidla.

9. Negozju rregiſtrat tal-familja għandu jinforma lir-Regolatur b'kull bidla kif imsemmi fl-artikolu 3 fi żmien għaxart ijiem minn dik il-bidla.

Skwalifika.

10. In-negozju m'għandux jikkwalifika għar-registrazzjoni bhala negozju tal-familja jekk ma kienx qiegħed jinnegozja b'mod attiv jew jopera mingħajr interruzzjoni għall-perjodu minimu ta' tlett

snin kalendarji konsekuttivi.

11. (1) L-intenzjoni tal-objettiv tal-benefiċċji mnizzla f'dan l-Att hija l-facilitazzjoni tat-trasferiment tan-negozju rreġstrat tal-familja minn proprjetarji li huma membri tal-familja għal proprjetarji oħra li huma membri tal-familja fl-istess familja. Objettiv tal-benefiċċji.

(2) Trasferimenti magħmula minn membri tal-familja għal membri tal-familja li huma axxendenti m'għandhomx ikunu eliġibbli għal kwalunkwe benefiċċji.

(3) Meta jirċievi l-benefiċċji m'għandux ikun possibbli għan-negozju rreġstrat tal-familji jew għall-membru tal-familja li jitransferixxi jew li jassenjaw il-benefiċċji ta' incentiva mogħtija permezz ta' dan l-Att, kollha jew parti minnhom, lil persuna jew negozju ieħor.

(4) Meta negozju rreġstrat tal-familja jaħseb sabiex japplika għal xi benefiċċji taht dan l-Att jew taht xi liġi oħra, in-negozju tal-familja għandu jikseb ċertifikat aġġornat minghand ir-Regolatur li jikkonferma illi n-negozju tal-familja għadu jikkwalifika bħala negozju rreġstrat tal-familja skont dan l-Att.

(5) Il-benefiċċji skont l-Att dwar it-Taxxa fuq Dokumenti u Trasferimenti, għandhom jingħataw biss lil negozju rreġstrat tal-familji li għandu l-prospetti fiskali u l-kontribuzzjonijiet kollha debitament sottomessi sad-data tat-trasferiment u t-taxxa dovuta taht l-Att dwar it-Taxxa fuq Dokumenti u Trasferimenti tkun tħallset kollha qabel iseħħ it-trasferiment. Kap. 364.

12. Meta negozju rreġstrat tal-familja jkun qiegħed jokkupa bini tal-gvern jew art b'kera jew b'ċens rispettivament kif preskritt fl-Att dwar il-Promozzjoni tan-Negozju u suġġett għan-negozju li jkun jissodisfa l-kondizzjonijiet kollha tal-ftehim tal-kera, ir-Regolatur għandu jirrakkomanda lil Intrapriża ta' Malta u lil Malta Industrial Parks sabiex jgeddu l-kirja, liema kirja m'għandhiex tkun miżmuma meta l-objettivi tat-tiġdid ikunu tali li jiżguraw il-kontinwità tan-negozju tal-familja bejn il-membri tal-familja. Bini industrijali.
Kap. 325.

13. (1) Negozju rreġstrat tal-familja li jibbenefika mill-incentivi minhabba r-registrazzjoni tiegħu taht dan l-Att għandu jissottometti il-Prospett Annwali li jinsab fit-Tieni Skeda lir-Regolatur, sal-aħħar tas-sena kalendarja, Fin-nuqqas ta' dan għandu jkun hemm piena ta' hamsa u għoxrin euro (€25) għal kull xahar ta' dewmien. F'każ ta' nuqqas ta' konformità għal sena, ir-registrazzjoni għandha tkun debitament ikkanċellata u l-benefiċċji kollha għandhom jiġu rifiżi u rimborzati immedjatament. Prospett Annwali.

(2) Il-prospett annwali għan-negozju tal-familja għandu jkopri sena kalendarja mill-ewwel ġurnata ta' Jannar sal-wiehed u tletin ta' Diċembru ta' kull sena:

Iżda:

(a) jekk in-negozju tal-familja jkun ġie rreġistrat bejn l-ewwel ta' Jannar u t-tletin ta' Settembru ta' xi sena, għandu jdaħħal il-prospett annwali normali iżda dak il-prospett annwali għandu, għall-ewwel sena biss, ikopri perjodu ta' inqas minn tnax-il xahar mir-reġistrazzjoni.

(b) jekk in-negozju tal-familja jkun ġie rreġistrat bejn l-ewwel ġurnata ta' Ottubru u l-wiehed u tletin ta' Diċembru ta' xi sena, m'għandux idaðħhal il-prospett annwali għall-ewwel sena ta' reġistrazzjoni, iżda għandu jdaħħal għat-tieni sena biss, prospett annwali sal-wiehed u tletin ġurnata ta' Diċembru ta' wara s-sena ta' reġistrazzjoni għall-perjodu iktar minn tnax-il xahar iżda li ma jeċċedix il-ħmistax-il xahar.

(3) Il-prospett annwali u d-dokumenti kollha meħtieġa li huma relatati man-negozju tal-familja għandhom jidhlu sa mhux aktar tard mit-tletin ġurnata ta' April tas-sena ta' wara.

Restrizzjoni fit-trasferiment.

14. (1) Kull akkwist ta' proprjeta' immobbli li għaliha ikun intalab benefiċċju skont dan l-Att għandha tibqa' fi hdan in-negozju rreġistrat tal-familja għal perjodu minimu ta' tliet (3) snin u f'każ li dik il-proprjeta' immobbli tiġi trasferita għandha tiġi sostitwita b'assi simili użati għall-istess benefiċċju għan-negozju rreġistrat tal-familja jew dak il-perjodu li r-Regolatur jista' japprova.

(2) Kull akkwist ta' azzjonijiet, interessi, kontribuzzjonijiet jew assi oħra li għalihom ikun intalab benefiċċju skont dan l-Att għandhom jibqgħu fi hdan in-negozju rreġistrat tal-familja għal perjodu minimu ta' tliet (3) snin u f'każ li dawk l-azzjonijiet, interessi, kontribuzzjonijiet jew assi oħra jiġu ttrasferiti għandhom jiġu ssostitwiti b'azzjonijiet, interessi, kontribuzzjonijiet jew assi oħra użati għall-istess benefiċċju għan-negozju rreġistrat tal-familja jew dak il-perjodu li r-Regolatur jista' japprova.

(3) Il-proprjetarji tan-negozju rreġistrat tal-familja għandhom jintrabtu li jinnegozjaw u joperaw in-negozju tal-familja mingħajr interruzzjoni waqt dawk it-tliet snin konsekuttivi minnufih wara l-ghoti tal-benefiċċji jew għal dak il-perjodu iqsar li r-Regolatur jista' japprova u f'każ li n-negozju jieqaf jeżisti f'dak il-perjodu, kull benefiċċju mitlub għandu jiġi rifiuż u rimborsat.

15. F'każ illi negozju rreġistrat tal-familja li jkun talab u ħa xi benefiċċju ma jibqax ikkostitwit u rreġistrat bħala negozju tal-familja għal perjodu minimu ta' tlett (3) snin konsekuttivi kif imnizzel fl-artikolu 14, in-negozju għandu jirrifondi l-benefiċċji:

Dekompożizzjoni ta' negozju tal-familja.

Izda meta negozju ma jibqax ikkostitwit bħala negozju tal-familja minhabba mewt mhux mistennija ta' xi membru tal-familja, f'dawk il-każijiet fejn in-negozju huwa proprjetà, kemm jekk direttament jew indirettament, ta' żewġ membri biss tal-familja, in-negozju m'għandux ikun meħtieġ li jirrifondi l-benefiċċji akkwistati mit-trasferimenti preċedenti tan-negozju:

Izda wkoll ir-Regolatur għandu jkun infurmat mill-membru tal-familja superstiti fi żmien sittin (60) ġurnata mid-data tal-mewt.

16. (1) Il-Ministru jista' jippreskrivi l-implimentazzjoni xierqa tad-dispożizzjonijiet ta' dan l-Att permezz ta' regolamenti.

Setgħa tal-Ministru li jagħmel regolamenti.

(2) Il-Ministru jista' wkoll jemenda l-Iskedi li jinsabu ma' dan l-Att permezz ta' regolamenti.

Taqsimi III Ir-Regolatur

17. (1) Għandu jkun hemm Regolatur għan-Negozji tal-Familja li għandu jkun maħtur mill-Ministru għal dak il-għan.

Hatra tar-Regolatur.

(2) Ir-Regolatur għandu jkun maħtur għal perjodu ta' tlett snin u jista' jerga' jiġi maħtur mill-ġdid għall-perjodu jew perjodi mal-iskadenza tat-terminu tal-kariga:

Izda waqt it-terminu tiegħu ta' Regolatur, dak il-perjodu m'għandu jkollu l-ebda kariga oħra li tirriżulta f'konflitt ta' interess jew li mhijiex kompatibbli mat-twettiq korrett tad-dmirijiet uffċjali bħala Regolatur jew mal-imparzjalità mistennija minn din il-kariga jew mal-fiducja pubblika fil-kariga.

(3) Ir-Regolatur għandu jirċievi dik ir-remunerazzjoni li l-Ministru jista' jistabbilixxi.

(4) Meta l-kariga ta' Regolatur tiġi vakanti, persuna maħtura bħala Regolatur għandha tokkupa l-kariga b'mod temporanju sakemm jiġi maħtur suċċessur. Il-Ministru jista', f'kull ħin, waqt l-assenza tar-Regolatur jew għal xi fini ieħor temporanju, meta l-Ministru jikkunsidra li huwa hekk meħtieġ, jappunta persuna sabiex taqdi l-kariga ta' Regolatur, sakemm it-tkomplija tal-kariga tar-Regolatur.

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(5) Ir-Regolatur għandu jingħata post u numru adegwat ta' uffiċjali u impjegati sabiex iwettaq il-funzjonijiet assenjati lillu taht dan l-Att.

(6) Il-Ministru jista' wkoll jahtar wiehed jew aktar Viċi Regolaturi sabiex jassistu r-Regolatur kif dirett minnu u fit-twettiq tal-funzjonijiet tiegħu:

Izda l-Viċi Regolaturi, uffiċjali u impjegati mahtura sabiex jassistu r-Regolatur għandhom jirċievi dik ir-remunerazzjoni li l-Ministru jista' jistabbilixxi.

Skwalifika mill-hatra ta' Regolatur.

18. Persuna m'għandiex tikkwalifika għall-hatra, jew biex tibqa' fil-hatra ta' Regolatur jekk hija:

(a) mhallef jew magistrat tal-qrati tal-gustizzja; jew

(b) tkun giet iddikjarata falluta jew tkun għamlet kompożizzjoni jew arrangament mal-kredituri tagħha; jew

(c) hi legalment inabilitata; jew

(d) tkun instabet hatja ta' delitt kontra l-fiduċja pubblika jew ta' serq jew ta' frodi jew ta' riċettazzjoni ta' proprjeta' miksuba b'serq jew frodi; jew

Kap. 386.

(e) hi soggetta għall-iskwalifika taht l-artikolu 320 tal-Att dwar il-Kumpanniji; jew

(f) tkun uffiċjal pubbliku jew issir uffiċjal pubbliku.

Tnehija mill-kariga.

19. (1) Ir-Regolatur għandu jitnehha jew jiġi sospiz mill-kariga mill-Ministru fuq bażi ta' inkapaċità pprovata biex iwettaq l-funzjonijiet tal-kariga tal-Regolatur jew imġiba hażina bil-provi.

(2) Ir-Regolatur jista', f'kull hin, jirrezenja mill-kariga b'avviż bil-miktub lill-Ministru.

Funzjonijiet tar-Regolatur.

20. (1) Ir-Regolatur għandu jevalwa l-applikanti li qed ifittxu li jirreġistraw bhala negozju tal-familja taht dan l-Att u ladarba jiġu registrati, jiżgura l-konformità kontinwa tagħhom mal-htigiet rilevanti u r-regolamenti magħmula tahtu għas-sodisfazzjon tiegħu.

(2) Ir-Regolatur għandu jwettaq id-dmirijiet u jeżerċita l-funzjonijiet imposti u mogħtija lillu permezz ta' dan l-Att u permezz tar-regolamenti magħmula taht dan l-Att inkuż li:

(a) jaċċetta u jirrifjuta l-applikazzjonijiet min-negozji sabiex jirreġistraw bhala negozji tal-familja taht dan l-Att;

(b) jipprovdi faċilitajiet għar-reġistrazzjoni għan-negozji li huma eliġibbli għar-reġistrazzjoni skont dan l-Att;

(ċ) iżomm u jaġġorna r-reġistru tan-negozji rreġistrati tal-familja;

(d) jimmonitorja l-attivitajiet tan-negozji rreġistrati tal-familja sabiex jiżgura li jikkonformaw fejn applikabbli mad-dispożizzjonijiet ta' dan l-Att u, jew xi regolamenti jew linji gwida kif preskritt;

(e) fejn eliġibbli, jipprovdi lin-negozji rreġistrati tal-familja ċertifikat aġġornat tar-reġistrazzjoni li jikkonferma li n-negozju għadu jikkwalifika bħala negozju tal-familja skont dan l-Att;

(f) jipprovdi lin-negozji tal-familja l-informazzjoni u gwida dwar ir-reqwiziti, benefiċċji u responsabbiltajiet b'konnessjoni mar-reġistrazzjonijiet skont dan l-Att;

(g) jaġħmel rakkomandazzjonijiet lill-Ministru dwar leġislazzjoni u politika li jappoġġjaw is-settur tan-negozju tal-familja;

(h) jassisti lill-gvern, lid-Dipartimenti governattivi, aġenziji pubbliċi, awtoritajiet u entitajiet ikkontrollati mill-Gvern fil-preparazzjoni u r-reviżjoni tal-politika li tappoġġja lin-negozji tal-familja;

(i) jinvestiga lmenti bil-miktub relatati ma' dan l-Att relatati mar-reġistrazzjoni tan-negozji tal-familja jew ta' negozji li qed jaġhtu x'jifhem li huma negozji rreġistrati tal-familja taht dan l-Att; u barra minn hekk jinvestiga *ex officio* kull negozju rreġistrat tal-familja għal xi nuqqas u jiehu dik l-azzjoni li hija fis-setgħa tiegħu biex jirrimedja xi lment ġustifikat li jsir jaf bih u jinkludi wkoll jekk huwa jhoss xieraq, li jirreferi s-sejbiet tiegħu għand il-pulizija;

(j) jinkoraġġixxi u jippromwovi s-settur tan-negozji tal-familja kif ukoll jiżviluppa kooperazzjoni bejn in-negozji tal-familja u l-Gvern;

(k) jinkoraġġixxi lin-negozji tal-familja sabiex jidhlu fi ftehim bil-miktub li jikkonċernaw il-prinċipji ta' governanza tan-negozji tal-familja;

(l) jikkordina u jikkomunika mal-awtoritajiet kompetenti bil-ħsieb li jiffaċilita r-reġistrazzjoni u l-proċess tar-

reġistrazzjoni għan-negozji tal-familja;

(m) iwettaq kull funzjoni u dmir iehor li jiġi assenjat lilu mill-Ministru taht dan l-Att u taht ir-regolamenti magħmula tahtu kif ukoll dawk il-funzjonijiet l-oħra li jistgħu jiġu assenjati lilu taht xi ligi oħra.

(3) Fit-twettiq tal-funzjonijiet tiegħu, ir-Regolatur għandu jaġixxi b' mod imparzjali u m'għandux ikun soġġett għal xi direzzjoni minn xi persuna jew awtorità oħra.

(4) Ir-Regolatur jista', bil-kitba tiegħu stess, jiddelega lil xi persuna funzjonijiet speċifiċi, setgħat jew awtoritajiet assenjati lilu permezz ta' dan l-Att, jew xi ligi oħra u jista' f'kull hin jirrevoka jew ivarja dik id-delega:

Izda l-ebda delega m'għandha titqies li qiegħda tneħhi l-funzjonijiet, setgħat jew awtoritajiet tar-Regolatur u jekk huwa jhoss li huwa xieraq, jista' jeżerċita dawk il-funzjonijiet, setgħat jew awtoritajiet flimkien mal-persuna hekk delegata.

Att dwar l-Amministrazzjoni Finanzjarja u l-Verifika.
Kap. 174.

21. Id-dispożizzjonijiet tal-artikolu 72 tal-Att dwar l-Amministrazzjoni Finanzjarja u l-Verifika m'għandux japplika għar-Regolatur jew xi persuna oħra li tkun qed twettaq il-funzjonijiet tiegħu skont dan l-Att.

Informazzjoni.

22. (1) Ir-Regolatur jista' jitlob kull informazzjoni minn kull entità governattiva, awtorità pubblika jew dipartiment sabiex jissodisfa d-dmirijiet tiegħu.

(2) Kull awtorità kompetenti għandha tikkoopera mar-Regolatur kif meħtieġ fit-twettiq tal-funzjonijiet tiegħu taht dan l-Att:

Izda ir-Regolatur jista' jitlob is-sottomissjoni ta' kwalunkwe dokumentazzjoni minghand kull awtorità kompetenti.

Kap. 377.

(3) Talba taht dan l-artikolu tista' wkoll tintbagħat lil persuna li hija marbuta bis-sigriet professjonali taht l-Att dwar is-Sigriet Professionali u għall-finijiet tal-artikolu 6A ta' dak l-Att, ir-Regolatur għandu jitqies bħala awtorità pubblika. Kull informazzjoni miksuba mir-Regolatur fuq din it-talba għandha tintuża esklussivament għall-finijiet ta' dan l-artikolu.

Linji gwida.

23. Ir-Regolatur jista' minn żmien għal żmien johroġ linji gwida relatati mal-attivitajiet tan-negozji rreġistrati tal-familja u kull ksur jew dikjarazzjoni minn dawn il-linji gwida għandha tkun konsiderazzjoni għall-kanċellazzjoni taċ-ċertifikat tar-reġistrazzjoni għan-negozju tal-familja.

24. Kull negozju rreġistrat tal-familja li mhuwiex konformi ma' xi regoli jew regolamenti taht dan l-Att jew xi liġi oħra jista' jiġi kancellat u dan fid-diskrezzjoni tar-Regolatur. Kancellazzjoni.

25. (1) Ir-Regolatur għandu, sa mhux aktar tard minn tmien gimgħat wara t-tmiem ta' kull sena kalendarja, jipprepara u jipprezenta rapport annwali lill-Ministru li għandu jinkludi: Rapport Annwali.

(a) rapport tal-attivitajiet tal-uffiċċju tar-Regolatur waqt is-sena preċedenti;

(b) deskrizzjoni ġenerali taċ-ċirkostanzi tan-negozji tal-familja f'Malta u xi żviluppi li jistgħu jaffettwaw dan is-settur;

(c) xi rakkomandazzjonijiet rigward leġislazzjoni, regolamenti, politika u materji oħra li jaffettwaw is-settur tan-negozju tal-familja;

(d) kontijiet u *records* finanzjarji oħra msemmija f'dan l-Att.

(2) Ir-Regolatur għandu jara li jinżammu b'mod xieraq kontijiet u *records* finanzjarji oħra rigward l-operat tal-uffiċċju tiegħu, u għandu jara li jiġi ppreparat rendikont tal-kontijiet fir-rigward ta' kull sena finanzjarja. Fl-aħħar ta' kull sena finanzjara, u sa mhux aktar tard mid-data li fiha r-rapport għandu jingħadda lill-Ministru skont is-subartikolu (1), ir-Regolatur għandu jara li kopja tad-dikjarazzjoni tal-kontijiet debitament vverifikati flimkien ma' kopja ta' kull rapport magħmul mill-awdituri dwar dik id-dikjarazzjoni jew dwar il-kontijiet tal-uffiċċju tal-Regolatur, tgħaddi għand il-Ministru.

26. (1) Għandu jkun hemm Reġistru tan-Negozji tal-Familja u dan għandu jinżamm mir-Regolatur u għandu jkun fih informazzjoni u *data* rilevanti għall-proċess tar-reġistrazzjoni kif applikabbli, u kif jinsab fl-Ewwel u t-Tieni Skeda, appoġġati mid-dokumentazzjoni msemmija fl-Ewwel Skeda. Reġistru tan-Negozji tal-Familja.

(2) Mar-reġistrazzjoni, ir-Regolatur għandu jalloka numru uniku għan-negozju tal-familja u qablu għandu jkun hemm l-ittri "FB" liema numru ta' reġistrazzjoni għandu jkun msejjaħ hawn aktar 'il quddiem bhala "it-Tikketta tan-Negozju tal-Familja" u t-tikketta tan-negozju tal-familja għandha tiġi kwotata min-negozju rreġistrat tal-familja fuq kull materjal ippublikat, ittri, avvizi, reklami u dokumenti oħra maħruġa min dak in-negozju.

(3) Lista tal-ismijiet tan-negozji tal-familja fir-Reġistru għandha tkun disponibbli fuq talba bil-miktub. Ebda informazzjoni

ohra jew il-kontenut tar-registru barra l-isem tan-negozju tal-familja m'għandha tkun disponibbli sabiex tiġi żvelata hlief għall-awtoritajiet kompetenti li jagħtu l-benefiċċji msemmija f'dan l-Att.

Data.
Kap. 440.

27. Ir-Regolatur għandu, għall-finijiet ta' dan l-Att, jiġbor u jżomm ir-Registru bla ħsara għad-dispożizzjonijiet tal-Att dwar il-Protezzjoni tad-Data.

Applikazzjoni
għar-
registrazzjoni.

28. (1) Sabiex negozju tal-familja jkun registrat bħala tali, id-dokumenti mniżżla fl-Ewwel Skeda għandhom ikunu sottomessi lir-Regolatur li għandu jiddetermina, għas-sodisfazzjon tiegħu, jekk l-applikazzjoni hijiex konformi mad-dispożizzjonijiet ta' dan l-Att.

(2) Negozju jista' japplika għar-registrazzjoni billi jissottometti l-formola tal-applikazzjoni preskritta fl-Ewwel Skeda lir-Regolatur.

(3) Tariffa amministrattiva u li mhijiex rifondibbli għandha tiġi sottomessa ma' kull applikazzjoni irrispettivament mir-rizultat.

(4) Waqt li jkun qiegħed jikkunsidra applikazzjoni, ir-Regolatur jista' jitlob lill-applikant sabiex jipprovdi informazzjoni ulterjuri dwar in-negozju jew sabiex jagħmel sottomissjonijiet dwar kwalunkwe materja li dwarha jkollu r-rizervi jew tħassib rigward l-applikazzjoni.

(5) Ir-Registratur jista' jaċċetta jew jirrifjuta applikazzjoni għar-registrazzjoni fuq bażi ta' xi waħda minn dawn ir-raġunijiet li ġejjin:

(a) in-nuqqas ta' osservanza jew xort'ohra tal-formalitajiet kollha meħtieġa skont dan l-Att u skont kif jista' jiġi preskritt;

(b) il-legalità jew xort'ohra tal-għan u l-oġġettivi tan-negozju li mhuwiex konformi mal-liġi jew l-etika fir-rigward tal-attivitajiet tan-negozju;

(ċ) it-twettiq jew xort'ohra tal-obbligi relatati mal-ħlas tal-kontribuzzjonijiet tas-sigurtà soċjali skont il-liġijiet applikabbli;

(d) in-negozju ma jkunx issodisfa l-obbligi tiegħu relatati mal-ħlas tat-taxxa dovuti skont il-liġi applikabbli; jew

(e) in-negozju ma jkunx għadda l-informazzjoni mitluba taħt dawn ir-regolamenti jew ikun għaddiha b'mod skorrett.

(6) Meta r-Regolatur ikun jehtieg prova mill-applikant li l-ebda wiehed mill-każijiet imnizzla fis-subartikolu (5)(c), (d) u (e) ma jkun sehħ, huwa għandu jaċċetta, bhala prova suffiċjenti, ċertifikazzjoni rilevanti mahruġa minn korp amministrattiv fil-pajjiż ta' orġini jew il-pajjiż min fejn gejjja dik il-persuna, li turi li r-rekwiziti ntlahqu.

29. Ċertifikati ta' registrazzjoni għandhom jitqiesu bhala dokumenti pubbliċi u għandhom jingħataw lura lir-Regolatur fuq sempliċi talba tiegħu bil-miktub li jkun fiha r-raġunijiet għal dik it-talba. Ċertifikati.

30. Ir-Regolatur jista' jitlob mingħand in-negozju rreġistrat tal-familja kull informazzjoni u kull kjarifika u jista' wkoll iwettaq kull verifika li jkun hemm bżonn sabiex jaċċerta għas-sodisfazzjon tiegħu illi dak in-negozju huwa konformi mad-dispożizzjonijiet ta' dan l-Att jew kwalunkwe regola, regolament jew linja gwida magħmula tahtu. In-negozju rreġistrat tal-familja għandu jara li jikkonforma mat-talba b'mod spedjenti u fin-nuqqas ir-Regolatur jista' jikkancella ċ-ċertifikat tar-registrazzjoni. Setgħa tar-Regolatur.

31. (1) Ir-Regolatur jista' jordna l-kancellazzjoni tar-registrazzjoni tan-negozju tal-familja billi johrog ordni ta' kancellazzjoni, li għandha tiġi fis-sehħ immedjatament. Kancellazzjoni tal-attivitajiet.

(2) Ordni ta' kancellazzjoni tista' tohrog fid-diskrezzjoni tar-Regolatur, jekk in-negozju rreġistrat tal-familja:

(a) ma jkunx konformi mal-kriterji, fejn applikabbli, tal-Ewwel u t-Tieni Skeda t jew xi dispożizzjoni, regola, regolament jew linja gwida skont dan l-Att; jew

(b) ma jkunx hadem, opera, innegozja jew wettaq negozju għal perjodu li jeċċedi t-tmax-il xahar konsekuttivi mingħajr interruzzjoni jew qabel, skont kif ir-Regolatur jahseb li huwa xieraq; jew

(ċ) jkun kiseb ir-registrazzjoni fuq bażi ta' informazzjoni li hija materjalment skorretta jew mhux kompluta li xort'ohra kienet twassal għar-rifjut kemm-il darba l-informazzjoni korretta jew kompluta kienet magħrufa mir-Regolatur;

(d) ma jkun qed jipprova jilhaq u jzomm mal-obiettivi ta' dan l-Att; jew

(e) iċ-ċertifikat tar-registrazzjoni ikun intuża b'mod skorrett jew ikun gie ffalsifikat.

(3) Qabel ma jordna l-kancellazzjoni tar-reġistrazzjoni tan-negozju tal-familja billi johroġ ordni ta' kancellazzjoni, ir-Regolatur għandu jinforma lin-negozju bil-miktub dwar l-intenzjonijiet tiegħu li johroġ ordni ta' kancellazzjoni. Ir-Regolatur għandu jagħti lin-negozju perjodu ta' żmien sabiex jagħti r-raġunijiet għaliex l-ordni ta' kancellazzjoni m'għandhiex tohroġ. Wara dan ir-Regolatur jista' jagħti perjodu ta' żmien lin-negozju li fih jirregolarizza l-pożizzjoni u jikkonforma mad-dispożizzjonijiet ta' dan l-Att. Jekk in-negozju ma jagħmilx dan fiż-żmien stipulat, li jista' jiġi estiż mir-Regolatur fid-diskrezzjoni tiegħu, ir-Regolatur għandu jordna l-kancellazzjoni tar-reġistrazzjoni tal-negozju tal-familja skont is-subartikolu (1).

(4) Ir-Regolatur għandu jinnotifika u jippublika, fil-Gazzetta, kull ordni ta' kancellazzjoni li saret finali u għandu għaldaqstant jinnotifika lill-awtoritajiet kompetenti.

(5) Ir-reġistrazzjoni tan-negozji tal-familja għandha tiġi terminata *ipso jure* jekk in-negozju ikun stralċjat, jew jieqaf jopera jew jiffunzjona, jinnegozja jew ikompli n-negozju f'kull forma.

Effetti ta' kancellazzjoni.

32. (1) F'każ ta' kancellazzjoni ta' reġistrazzjoni ta' negozju tal-familja, il-membri tal-familja għandhom minnufih jagħtu ċ-ċertifikat ta' reġistrazzjoni ta' dak in-negozju lir-Regolatur, u kull persuna li tonqos milli tagħti dak iċ-ċertifikat fiż-żmien imsemmi kif notifikat mir-Regolatur, għandha tehel multa amministrattiva ta' mitejn u hamsin euro (€250).

(2) F'każ ta' kancellazzjoni ta' reġistrazzjoni ta' negozju tal-familja, il-benefiċċji kollha mogħtija lil dak in-negozju minhabba r-reġistrazzjoni, għandhom jieqfu milli jkollhom effett mid-data li d-deċiżjoni li jikkancellja jkollha effett.

(3) Kancellazzjoni għar-raġunijiet imsemmija fl-artikolu 31(2) għandha tirrikjedi lin-negozju jirrifondi xi benefiċċji li dak in-negozju jew xi individwu ieħor jkun irċieva bis-saħħa tar-reġistrazzjoni skont dan l-Att sakemm mhux previst xort'oħra f'dan l-Att, u r-Regolatur jista' johroġ ordnijiet relattivi kontra n-negozju jew xi persuni involuti f'dak in-negozju:

Kap. 12.

Izda meta t-talba għar-rifużjoni ta' xi benefiċċji tkun saret mir-Regolatur permezz ta' ittra ufficjali skont l-artikolu 466 tal-Kodiċi tal-Organizzazzjoni u Proċedura Ċivili, din għandha tikkostitwixxi titolu eżekuttiv kontra n-negozju jew xi membru tal-familja msemmi bhala amministratur favur ir-Regolatur, f'ismu jew bhala *trustee* għall-persuna intitolata għar-rifużjoni kif imsemmi.

(4) Ordni tar-Regolatur kontra negozju tal-familja jew xi membru tal-familja msemmi għandha tkun infurzabbli bhala titolu

eżekuttiv ladarba kwalunkwe sentenza tkun saret *res judicata* jew l-ebda proċeduri ma jkunu nbdew fil-limitu taż-żmien rilevanti.

Taqsimha IV

Reati

33. (1) Kull persuna jew negozju li sabiex jikseb u jzomm l-istatus ta' negozju tal-familja -

Falsifikazzjoni jew alterazzjoni ta' ċertifikati jew rappreżentazzjoni ta' hazina jew użu abbużiv tal-istatus.

(a) li b'xi mod, tiffalsifika jew tbiddel ċertifikat tar-registrazzjoni sabiex tagħti l-impressjoni li qiegħda taġixxi għan-nom tan-negozju rreġistrat tal-familja tkun hatja ta' reat u tehel l-istess piena kif imsemmi fl-artikolu 183 tal-Kodiċi Kriminali;

Kap. 9.

(b) li b'mod falz tirrappreżenta n-negozju rreġistrat tal-familja jew tagħmel sottomissjonijiet foloz tkun hatja ta' reat taħt dan l-Att;

(ċ) li, b'xi mod, tuża b'mod abbużiv iċ-ċertifikat ta' registrazzjoni jew it-tikketta tan-Negozju tal-Familja, tkun hatja ta' reat taħt dan l-Att;

(d) li mingħajr skuża raġonevoli tipprepara xi dikjarazzjoni skorretta jew jagħti informazzjoni skorretta rigward xi materja li taqa' taħt dan l-Att, tkun hatja ta' reat taħt dan l-Att.

(2) Kull persuna jew negozju li tinstab hatja ta' reat taħt isubartikolu (1) għandha, meta tinstab hatja, tehel terminu ta' priġunerija minn tlettax-il xahar sa erba' snin.

(3) Meta persuna jew negozju jammettu jew jinstabu hatja ta' xi wiehed mir-reati aktar 'il fuq imsemmija, ir-Regolatur għandu, meta jinstabu hatja, jirrevoka kull Ċertifikat ta' Registrazzjoni maħruġ lin-negozju tal-familja.

(4) Ir-Regolatur għandu jagħmel dikjarazzjonijiet pubbliċi dwar il-fatti sabiex iwissi lill-pubbliku dwar kwalunkwe abbuż minn xi persuna jew negozju.

34. (1) Kull persuna jew negozju li xjentement bl-intenzjoni li tikseb xi benefiċċju taħt dan l-Att jew taħt xi regolamenti magħmula taħt dan l-Att jew li tassisti xi persuna oħra sabiex tagħmel hekk:

Abbuż ta' benefiċċji.

(a) tħalli barra mill-prospett jew xi dokument ieħor jew dikjarazzjoni magħmula, ippreparata jew sottomessa għall-

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finijiet ta' jew taht dan l-Att, xi materja li kellha tkun inkluza fiha; jew

(b) tagħmel dikjarazzjonijiet foloz jew dhul fil-prospett jew xi dokument ieħor jew dikjarazzjoni magħmula, ippreparata jew sottomessa għall-finijiet ta' jew taht dan l-Att, jew

(ċ) tagħti risposta falza, kemm jekk verbalment jew bil-miktub għal xi mistoqsija jew talba għal informazzjoni mitluba jew magħmula skont id-dispożizzjonijiet ta' dan l-Att; jew

(d) tipprepara jew iżzomm jew tawtorizza l-preparazzjoni ta' xi kotba tal-kontijiet foloz jew xi records oħra jew tiffalsifika jew tawtorizza l-falsifikazzjoni ta' xi kotba tal-kontijiet jew *records*; jew

(e) tagħmel użu minn xi frodi, arti jew qerq jew tawtorizza l-użu ta' dak il-frodi, arti jew qerq,

tkun hatja ta' reat, u għal kull reat tehel meta tinstab hatja, multa ta' mhux inqas minn elfejn euro (€2,000) u ta' mhux aktar minn tnax-il elf euro (€12,000) jew prigunerija għal mhux iktar minn erba' snin, jew dik il-multa u prigunerija flimkien.

(2) Meta persuna jew negozju tammetti jew jinstab hati ta' xi wiehed mir-reati aktar 'il fuq imsemmija, il-Qorti għandha, meta jinstabu hatja, tirrevoka kull Ċertifikat ta' Registrazzjoni mahruġ lin-negozju tal-familja.

Piena generali.

35. Jekk xi persuna jew negozju tikser jew tonqos milli tikkonforma ma xi rekwiziti ta' dan l-Att jew xi regolamenti magħmula tahtu, li għalihom m'hemmx piena speċifika, hija għandha tkun hatja ta' reat u għal kull reat meta tinsab hatja għandha tehel multa ta' mhux inqas minn mitejn u ħamsin euro (€250) u ta' mhux iktar minn elf u ħames mitt euro (€1,500).

Dispożizzjoni rigward ir-reati.

36. Id-dispożizzjonijiet ta' dan l-Att li jistabbilixxu r-reati u l-pieni għalihom m'għandhomx jaffettwaw l-operat ta' xi liġi oħra li tistabbilixxi reati u pieni għall-istess atti jew ommissjonijiet u m'għandhomx jaffettwaw l-applikazzjoni ta' xi piena akbar taht xi liġi oħra.

Preskrizzjoni għall-proċeduri għar-reati.

37. Il-proċeduri għal xi reat taht dan l-Att jistgħu jibdedw f'kull żmien, fi żmien ħames snin mid-data ta' meta seħħ ir-reat fuq kwerela tar-Regolatur.

38. Minnufih wara l-artikolu 41B tal-Att dwar it-Taxxa fuq Dokumenti u Trasferimenti, għandu jizjed l-artikolu ġdid li ġej:

"Benefiċċji applikabbli għal negozju rreġistrat tal-familja.

41Ċ. (1) Minkejja kull dispozizzjoni oħra f'dan l-Att, meta negozju tal-familja ikun trasferit bħala azjenda minn individwi lil membri tal-familja kif imfisser fl-Att dwar in-Negozju tal-Familja u ikun hemm trasferiment ta' proprjetà immobbli li tkun fond kummerċjali kif imfisser fl-artikolu 1525 tal-Kodiċi Ċivili (hawn iktar 'il quddiem imsejha "proprjetà"), li tkun intużat fl-imsemmi negozju għal perjodu ta' mill-anqas tliet snin qabel ma jsir it-trasferiment, fil-valutazzjoni tat-taxxa li għandha tithallas skont dan l-Att, it-taxxa għandha tithallas fuq l-ewwel hames mitt elf euro (€500,000) tal-valur tal-proprjetà trasferita kif imsemmi bir-rata ta' tliet euro u hamsin ċenteżmu kull mitt euro jew parti minnu, iżda n-nutar li jirċievi l-att notarili ta' dak it-trasferiment għandu jirreġistra fl-att notarili dikjarazzjoni bil-miktub mill-individwu li hekk qed jittrasferixxi u mill-persuna li qiegħda takkwista li l-kondizzjonijiet imnizzla f'dan l-artikolu huma sodisfatti u n-nutar għandu jwissi lill-imsemmija persuna bl-importanza tal-verità ta' dik id-dikjarazzjoni:

Izda dan is-subartikolu għandu japplika wkoll meta l-imsemmi individwu jittrasferixxi proprjeta' li tkun intużat min-negozju tal-familja mwettaq minn membri tal-familja jew negozju għal perjodu ta' mill-anqas tliet snin qabel ma jsir it-trasferiment:

Izda wkoll jekk dik il-proprjetà jew parti minnha tkun trasferita *inter vivos* minn membri tal-familja jew min-negozju tal-familja, skont il-każ x'ikun, fl-ewwel tlett snin mid-data tal-akkwist, jew tieqaf tigi użata f'dak il-perjodu, it-taxxa li kellha tithallas mal-akkwist jew parti minnha hekk trasferita, hlief għall-eżenzjoni mogħtija f'dan l-artikolu, għandha tigi imposta fiż-żmien tal-imsemmi trasferiment *inter vivos* jew fiż-żmien li l-proprjetà tieqaf tintuża min-negozju:

Emenda konsegwenzjali għall-Att dwar it-Taxxa fuq id-Dokumenti u Trasferimenti. Kap. 364.

Iżda wkoll meta dik il-proprjetà jew parti minnha trasferita *inter vivos* minn membru tal-familja jew min-negozju tal-familja, skont il-każ xi jkun, tiġi sostitwita fi żmien sena bi proprjetà immobbli li tkun tintuża biss għall-istess fini fin-negozju tal-familja (hawn aktar 'il quddiem imsejha "proprjetà sostituta"), fil-valutazzjoni tat-taxxa li għandha tithallas fuq il-proprjetà sostituta, it-taxxa li għandha tithallas skont il-proviso precedenti għandha tkun innaqqsqa.

(2) Għall-finijiet tal-paragrafi (a), (b) u (ċ) tal-artikolu 42(1), fil-valutazzjoni tat-taxxa li għandha tithallas, meta individwu jittrasferixxi azzjonijiet jew interessi f'soċjetà, *trust* jew fondazzjoni lil membri tal-familja msemmija fis-subartikolu (1) u dawk l-azzjonijiet jew interessi f'soċjetà, *trust* jew fondazzjoni huma miżmuma f'negozju tal-familja li jwettaq negozju, ma jitqiesux l-ewwel mija u ħamsin elf euro (€150,000) jew dak l-ammont ikbar iehor li jista' jiġi preskritt tal-valur tal-azzjonijiet, jew interessi f'soċjetà, *trust* jew fondazzjoni trasferita kif imsemmi aktar qabel:

Iżda dan is-subartikolu għandu japplika biss meta:

(a) l-imsemmi negozju tal-familja ma jkunx proprjetarju ta', direttament jew indirettament, xi proprjetà immobbli oħra minbarra dik il-proprjetà msemmija fis-subartikolu (1) użata fl-imsemmi negozju għal perjodu ta' mill-anqas tliet snin qabel it-trasferiment;

(b) l-imsemmi negozju tal-familja huwa kkontrollat u proprjetà benefiċjarja, direttament jew indirettament, sal-limitu ta' aktar minn ħamsa u tmenin fil-mija mill-imsemmija individwi jew membri tal-familja.

(3) Għall-fini ta' dan l-artikolu "negozju" għandha tfisser negozju tal-familja rreġistrat mar-Regolatur skont l-Att dwar in-Negozju tal-Familja u għandu debitament jippreżenta ċertifikat aġġornat skont il-liġi.

(4) Dan l-artikolu għandu japplika biss meta l-Kummissarju johroġ ċertifikat li jafferma illi huwa sodisfatt illi l-kondizzjonijiet imnizzla f'dan l-artikolu huma sodisfatti.

(5) Meta, skont it-tieni proviso għas-subartikolu (2), il-proprjetà jew parti minnha hija jew trasferita *inter vivos* minn membru tal-familja jew min-negozji tal-familja, jew tieqaf tintuża fin-negozju, it-taxxa li għandha tithallas taht l-imsemmi proviso għandha tkun dovuta mill-membri tal-familja jew min-negozju, skont il-każ, u għandha tingħata lura lill-Kummissarju fi żmien hmistax-il gurnata mid-data li fiha l-proprjetà tkun jew trasferita kif imsemmi aktar qabel jew tieqaf tintuża fin-negozju."

Skeda I

(Artikolu 28)

Formola ta' applikazzjoni għar-registrazzjoni bħala Negozju tal-Familja

1. Għan

L-għan ta' din l-applikazzjoni hu li tipprovdi lir-Regolatur l-informazzjoni neċessarja skont id-dispożizzjonijiet ta' dan l-Att biex tippermettilu li jevalwa n-negozju sabiex jara jekk jikkwalifikax bħala negozju rreġistrat tal-familja.

2. Kontenut u Forma

Il-kontenut u l-forma tal-formola ta' applikazzjoni, bid-dokumenti kollha meħtieġa u l-Appendiċijiet mehmuża skont il-każ x'jirrikjedi, li kull negozju tal-familja għandu debitament jipprezenta lir-Regolatur flimkien mal-Appendiċijiet, huwa dan li ġej:

Formola ta' applikazzjoni għar-registrazzjoni bħala Negozju tal-Familja

Formola ta' Applikazzjoni ta' (*daħħal l-isem uffiċjali*)

Isem Kummerċjali tan-negozju:

Indirizz Irreġistrat/ Kodiċi Postali:

C 596

Xi indirizz ieħor (barra mill-indirizz irregiſtrat)

Fejn l-applikant iwettaq in-negożju:

- Numru tal-*mobile*/ Linja fissa/ Numru tal-*fax*:
- Indirizz tal-*e-mail*:
- *Website*:

Fejn applikabbli:

- Numru tar-reġistrazzjoni:
 - Numru/i tal-VAT:
 - Numru tal-Elenku fil-Borża ta' Malta:
 - Isem/ ismijiet ta' azzjonisti fin-negożju u n-numru tal-azzjonijiet miżmuma:
 - Isem/ ismijiet tal-membri involuti fil-governanza tan-negożju b'kopja ċertifikata ta' prova dokumentarja:
 - Il-kunsens bil-miktub tal-membri tal-familja rilevanti li ser ikollhom kariga wara r-reġistrazzjoni:
 - Riżoluzzjoni ffirmata mill-membri tal-familja tan-negożju li tindika li huma jirrisolvi illi jirreġistraw in-negożju mar-Regolatur;
 - Ċertifikat ta' Konformita' mid-Dipartiment tal-VAT u mid-Dipartiment tat-Taxxi Interni;
 - Għan-negożji li qed japplikaw taħt l-artikolu 3(5) ir-rekwiżiti relattivi tat-Tieni Skeda, Sub-Titolu V tal-Kodiċi Ċivili;
- Ċart Organizzattiva li għandha tkun ċertifikata minn *accountant* jew avukat akkumpanjata minn ittra ta' referenza mill-bank tan-negożju li trid tinkludi:
- (a) l-istruttura organizzattiva tan-negożju;
 - (b) ir-relazzjoni tal-familja fl-istruttura;
 - (ċ) deskrizzjoni tat-tip tax-xogħol ta' kull membru tal-familja;
 - (d) indikazzjoni ta min huwa responsabbli għat-tmexxija ta' kuljum tan-negożju;

(e) indikazzjoni ta' min huma l-propjetarji aħħarin tan-negozju.

Din it-Taqsima għandha timtela minn kull membru tal-familja.

- Isem tal-Membru tal-Familja fin-negozju:
- Tismija:
- Numru tal-Passaport jew Karta tal-Identità:
- Indirizz:
- Relazzjoni tal-familja mal-fundatur tan-negozju:
- Kull dettal/informazzjoni oħra jew dokument ieħor li jista' jkun meħtieġ minn dan l-Att jew kif jista' jkun preskritt:

Dikjarazzjoni ta' Kompletezza u Korrettezza

B'dan nikkonfermaw illi d-dettalji pprovduti, inkluż l-Appendicijiet mehmuża, huma kompluti u veritiera fil-kontenut tagħhom.

- Firma tal-membri tal-familja:
- Isem tal-membri tal-familja:
- Data:

Appendicijiet

(Fejn applikabbli)

Appendiċi A - Kopja Ċertifikata tad-dikjarazzjoni tal-assi u kontribuzzjonijiet tan-negozju konfermata bil-ġurament.

Appendiċi B - Kopja ċertifikata ta' prova dokumentarja inkluż l-isem tal-membri tal-familja li għandhom is-setgħa tat-teħid tad-deċiżjonijiet fin-negozju konfermata bil-ġurament.

Appendiċi Ċ - Kopja ċertifikata tal-passaporti jew karti tal-identità tal-membri tal-familja.

Appendiċi D - Meta n-negozju tal-familja ikun proprjetà ta' *trustee* ta' *trust*, kopja awtentikata tal-att tat-*trust* li tinkludi l-lista ta' benefiċjarji li għandha tigi kkonsenjata mit-*trustee* rreġistrat tat-*trust* tal-familja.

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Appendiċi E - Meta n-negozju tal-familja ikun miżmum minn fondazzjoni privata, kopja awtentikata tal-att tal-fondazzjoni inkluż kull addendum li jemenda l-att oriġinali tal-fondazzjoni u d-dikjarazzjoni tal-benefiċjarji li għandha tiġi kkonsenjata mill-amministratur.

Appendiċi F - Il-ftehim tal-kera tan-negozju.

Appendiċi G - Dikjarazzjoni tal-membri tal-familja li ilhom jinneozjaw b'mod attiv jew joperaw mingħajr interruzzjoni għall-perjodu ta' tliet snin (3) kalendarji konsekuttivi.

Appendiċi H - Kull dokument ieħor (Jekk jogħġbok speċifika)

Tariffa Amministrattiva ta' €100

Firma tal-Uffiċjal li qed jirċievi l-formola

It-Tieni Skeda

(Artikolu 12)

Prospett Annwali

1. Għan

L-għan tal-prospett annwal huwa li jipprovdi lir-Regolatur u lil kull awtorita' kompetenti relatata b'informazzjoni aġġornata dwar in-negozju rreġistrat tal-familja, li qed jibbenifika minn inċentivi bis-saħħa ta' dan l-Att.

2. Kontenut u forma.

Il-kontenut u l-forma tal-prospett annwali mad-dokumenti kollha meħtieġa u l-Appendiċijiet mehmuża, li kull negozju tal-familja għandu jipprezenta mar-Regolatur kull sena huwa dan li ġej:

Kontenut u forma tal-Prospett Annwali tan-negozju rreġistrat tal-familja

- (a) Prospett annwali ta' (*dahħal isem uffiċjali*)
- (b) Isem tan-Negozju tal-familja:
- (c) Tiketta tan-Negozju tal-Familja:

- (d) Isem tal-Persuna li għandha tiġi ikkuntattjata:
- (e) Tismija:
- (f) Inċentiva li għaliha qed japplika mal-awtorità kompetenti:
- (g) Data ta' approvazzjoni tal-benefiċċju mill-awtorità kompetenti:
- (h) Xi benefiċċju li applika għalih u gie rrifjutat (nizzel ir-raġunijiet jekk provduti):

Dikjarazzjoni ta' Kompletezza u Korrettezza

B'dan nikkonfermaw illi d-dettalji pprovduti, inkluż l-Appendiċijiet mehmuża, huma kompluti u veritiera fil-kontenut tagħhom.

Firma tal-membri tal-familja:

Isem tal-membri tal-familja:

Data:

Appendiċijiet

(Fejn applikabbli)

Appendiċi A - Kopja riveduta u aġġornata tal-Ewwel Skeda, b'indikazzjoni għall-emendi li saru f'xi partijiet minnha u f'dak il-każ, dikjarazzjoni ffirmata min għall-inqas żewġ membri tal-familja.

Appendiċi B - Kopja tal-ittra tar-rifjut għall-benefiċċju rikjest.

Ghanijiet u Raġunijiet

L-għanijiet ta' dan l-Abbozz ta' Liġi huma sabiex jipprovdu qafas legali biex jassisti negozji tal-familja u jiffaċilita dak li għandu jsir biex negozji tal-familja jippreparaw lilhom infushom biex jittrasferixxu n-negozju minn generazzjoni għal dik ta' warajha billi jipprovdi benefiċċji inklużi governanza u inċentivi għall-aħjar immanigġjar u organizzazzjoni fi ħdan il-familja u n-negozju.

C 600

**A BILL
entitled**

AN ACT to encourage the regulation of family businesses, their governance and the transfer of the family business from one generation to the next; to encourage and assist family businesses to enhance their internal organisation and structure with the aim of effectively operating the business and working towards a successful succession of the family business; and for other matters consequential or ancillary thereto.

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:-

ARRANGEMENT OF THE ACT

| | | Articles |
|-----------------|--|----------|
| Part I | Preliminary | 1 - 2 |
| Part II | General Provisions | 3 - 16 |
| Part III | The Regulator | 17 - 32 |
| Part IV | Offences and Penalties | 33 - 37 |
| First Schedule | Application Form for Registration as a Family Business | |
| Second Schedule | Annual Return | |

Part I
Preliminary

Short title and commencement.

1. (1) The short title of this Act is the Family Business Act, 2016.

(2) This Act shall come into force on such date as the Minister may by notice in the Gazette establish, and different dates may be so

established for different provisions of this Act.

2. In this Act, and in any rules or regulations made under this Act, unless the subject or context otherwise requires - Interpretation.

"applicant" means a business registering as a family business under this Act;

"benefits" means any assistance or relief granted to a registered family business in terms of the Duty and Documents Transfers Act, Malta Enterprise Act, Business Promotion Act and in terms of any other law or scheme as the Minister may prescribe by regulations; Cap. 364.
Cap. 463.
Cap. 325.

"established in Malta" means the head office, agency, or branch or part of a business and shall include a permanent presence of that business carried out in Malta;

"family business" has the meaning assigned to it in article 3;

"family member" means the family business owner's spouse, ascendants, descendants in the direct line and their relative spouses, brothers or sisters and their descendants or as the Minister may prescribe;

"guidelines" means the set of rules issued by the Regulator from time to time for the further implementation of the provisions of this Act, and any regulations made hereunder, including the definition, application, administration, grant and revocation of benefits, schemes and other arrangements for the regulation, management and transfer of family businesses and their governance in Malta;

"limited liability company" means a company duly formed and registered under Part V of the Companies Act; Cap. 386.

"the Minister" means the Minister responsible for the economy;

"owner" means the ultimate beneficial, natural person who, directly or indirectly, has a shareholding or other interest in a family business;

"partnership" means a partnership *en nom collectif* or partnership *en nom commandite* duly formed and registered in terms of Part III and Part V of the Companies Act; Cap. 386.

"prescribed" means either prescribed by regulations made by the Minister under this Act or prescribed by binding guidelines made by the Regulator under this Act, unless otherwise expressly stated, and in the event of a conflict between the regulations made by the Minister and guidelines made by the Regulator on any particular matter, the

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regulations shall prevail;

Cap. 16. "private foundations" means those foundations established for a private interest and registered or otherwise recognised as legal persons in terms of the Second Schedule to the Civil Code.

Cap. 386. "public limited company" means a company duly formed and registered under Part V of the Companies Act;

"the Regulator" means a person who is appointed to manage, supervise and administer the Register of Family Businesses according to this Act and appointed by virtue of article 17;

Cap. 255. "spouse" means a spouse in terms of the Marriage Act and a
Cap. 530. partner in terms of the Civil Unions Act;

Cap. 331. "trusts" means a trust in terms of the Trusts and Trustees Act.

Part II

General Provisions

Conditions for registration as a family business. **3. (1)** A family business that can qualify for registration under this Act shall mean any business established in Malta whereby:

Listed companies. (a) in the case of a public limited liability company whose shares are listed on a regulated market or traded on a multilateral trading facility, the majority of the shares including the rights are held, whether directly or indirectly, by at least two owners who are family members within the same family;

Limited Liability companies. (b) in the case of a limited liability company constituted in a manner other than that referred to in paragraph (a):

(i) all the shares of the company are held, directly or indirectly, by at least two owners who are family members within the same family; and

(ii) at least one family member is formally involved in the general governance, its proper administration and management of the company:

Provided that shares held directly or indirectly by individuals who are not family members shall be disregarded for the purposes of this paragraph if their aggregate issued value does not exceed five per cent of the issued share capital of the company:

Provided further that shares held directly or indirectly by employees who have been in continuous, full time

employment within the family business for over three years and who are not family members shall be disregarded for the purposes of this paragraph if their aggregate issued value does not exceed ten percent of the issued share capital of the company:

Provided further that where any business assets are held on lease, the family members are the majority of the lessees in the lease agreement;

(c) in the case of partnerships *en nom collectif* and partnerships *en commandite*: Registered partnerships.

(i) the full capital contribution to the partnership shall have been made, directly or indirectly, by at least two owners who are family members within the same family having, directly or indirectly, the right to receive the majority of distributable profits; and

(ii) at least one of whom holds the majority of the decision making rights:

Provided that capital contributions made, directly or indirectly by persons who are not family members shall be disregarded for the purposes of this paragraph if their aggregate contribution does not exceed five per cent of the total contribution made by all partners in the partnership:

Provided further that capital contribution made, directly or indirectly by employees who have been in continuous full time employment within the family business for over three years and who are not family members shall be disregarded for the purposes of this paragraph if their aggregate contribution does not exceed ten percent of the capital contribution of the partnership:

Provided further that where any business assets are held on lease, the family members are the majority of the lessees in the lease agreement;

(d) in the case of a family business where all the shares or the interest are being held by a trustee under trust for the benefit of members of a family as beneficiaries, and which has been established by a written instrument and all the beneficiaries are owners and family members within the same family: Trusts.

Provided that other beneficiaries who are not family

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members within the same family business trust shall be disregarded for the purposes of this paragraph if they do not in aggregate benefit from more than five per cent of the family business, or if they are only residual beneficiaries who will benefit from the trust only upon termination of the trust due to the fact that there are no existing family members within the same family capable of benefiting from the trust at any relevant point in time:

Provided further that other beneficiaries who are employees who have been in continuous full time employment within the same family business trust for over three years and who are not family members within the same family shall be disregarded for the purposes of this paragraph if they do not in aggregate benefit from more than ten per cent of the family business trust, or if they are only residual beneficiaries who will benefit from the trust only upon termination of the trust due to the fact that there are no existing family members within the same family capable of benefiting from the trust at any relevant point in time:

Provided further that where any business assets are held on lease by the trustee, the trustee is the majority of the lessees in the lease agreement;

Other registered forms of a family business.

(e) in the case of a business carried out by family members in a form of partnership other than as indicated in paragraph (c), the business and the assets of such business are owned and controlled, directly or indirectly, by at least two owners who are family members within the same family:

Provided that other assets held by individuals who are not family members shall be disregarded for the purposes of this paragraph if their aggregate value does not exceed five per cent of the net assets of the family business:

Provided further that other assets held by employees who have been in continuous full time employment within the family business for over three years and who are not family members shall be disregarded for the purposes of this paragraph if their aggregate value does not exceed ten per cent of the net assets of the family business:

Provided further that such a business shall abide by all the provisions relative to unregistered organisations as provided in the Civil Code, and the relative Schedule thereto:

Cap. 16.

Provided further that where any business assets are

held on lease, the family members are the majority of the lessees in the lease agreement; and

(f) any other business as the Minister may prescribe. Other business.

(2) For the purposes of this article, a reference to shares, interests or other assets, held indirectly by family members in the business or contributions made to the business indirectly by family members refers to those shares, interests or other assets held or contributions made by: Indirect acquisition of a family business.

(a) holding companies which are at least 85%, as the case may be, beneficially owned by family members; or

(b) trustees of a trust set up for the benefit of family members within the same family provided that other beneficiaries who are not family members within the same family shall be disregarded for the purposes of this sub-article if they may not in aggregate benefit from more than five per cent of the family business, or if they are only residual beneficiaries who will benefit from the trust only upon termination of the trust due to the fact that there are no existing beneficiaries capable of benefiting from the trust at any relevant point in time:

Provided that other beneficiaries who are employees who have been in continuous full time employment within the family business trust for over three years and who are not family members within the same family shall be disregarded for the purposes of this sub-article if they may not in aggregate benefit from more than ten per cent of the family business, or if they are only residual beneficiaries who will benefit from the trust only upon termination of the trust due to the fact that there are no existing family members within the same family capable of benefiting from the trust at any relevant point in time; or

(c) private foundations that are set up for the benefit of family members within the same family provided that other beneficiaries who are not family members within the same family shall be disregarded for the purposes of this sub-article if they may not in aggregate benefit from more than five per cent of the family business, or if they are only residual beneficiaries who will benefit from the private foundation's assets only upon termination of the private foundation due to the fact that there are no existing beneficiaries capable of benefiting from the foundation at any relevant point in time:

Provided that other beneficiaries who are employees

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who have been in continuous full time employment within the family business for over three years and who are not family members within the same private foundation shall be disregarded for the purposes of this sub-article if they may not in aggregate benefit from more than ten per cent of the private foundation, or if they are only residual beneficiaries who will benefit from the private foundation only upon termination of the private foundation due to the fact that there are no existing family members within the same family capable of benefiting from the private foundation at any relevant point in time:

Provided further that where any business assets are held on lease, the family members are the majority of the lessees in the lease agreement.

Ownership of family business.

4. (1) For the purposes of this Act, shares or share capital of a company shall mean:

- (a) the issued share capital of a company; and
- (b) the shares allow for rights to dividends; and
- (c) the shares shall be voting shares; and
- (d) the shares shall allow for right to assets and profits upon winding up.

(2) For the purposes of this Act, all other shares shall be disregarded.

Apportionment of ownership.

5. An owner who is also a family member shall not have in ownership or the beneficial interest:

- (a) in the case of a company, own, whether directly or indirectly, more than eighty per cent (80%) of the issued share capital of the family business; or
- (b) in the case of a partnership *en nom collectif* or *en commandite* contribute, whether directly or indirectly, more than eighty per cent 80% to the partnership's assets; or
- (c) in the case of a trust be in a position where he may benefit from more than eighty per cent 80% of the trust property; or
- (d) in the case of a business carried out in partnership in any other form, own, whether directly or indirectly, more than eighty per cent 80% of the business assets; or

(e) In the case of indirect ownership, own more than 80% of the shares, interests, other assets or contributions of the business.

6. In the case of a trustee directly or indirectly holding a family businesses, for the benefit of family members, registration for the purposes of this Act shall be made after the declarations and documents required in the First Schedule are delivered to the Regulator by the duly licensed *pro tempore* trustee of the interests in the family business being held under the trust. Trusts.

7. (1) A business shall be a registered family business once it has been accepted for registration by the Regulator in terms of article 28. Registered family business.

(2) The family business may, upon a resolution of the holders of shares or other participating rights or interests therein, request the removal of the family business from the Register upon giving three months notice to the Regulator and, in such case, the Regulator shall proceed to cancel the registration subject to the issue of any orders under article 31 which he may consider appropriate.

8. A registered family business shall clearly identify a representative of the family business and make his contact details available to the Regulator upon any change. Identified representative.

9. A registered family business shall notify the Regulator of any change set out in article 3 within ten days from such change. Notification of change.

10. A business shall not qualify to be registered as a family business if it has not been actively trading or in operation without interruption for a minimum period of at least three (3) consecutive calendar years. Disqualification

11. (1) The intended objective of the benefits provided under this Act are for the facilitation of the transfer of the registered family business from the owners who are family members to other family members within the same family. Objective of benefits.

(2) Transfers made by family members to family members who are ascendants shall not be eligible for any of the benefits.

(3) Upon receiving benefits it shall not be possible for the registered family business or the family member to transfer or assign in whole or in part the benefits of an incentive granted by virtue of this Act, to any other person or business.

(4) When a registered family business intends to apply for any benefits in terms of this Act or any other law, the family business

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shall obtain the issue of an updated certificate from the Regulator attesting that the family business still qualifies as a registered family business in terms of this Act.

Cap. 364.

(5) The benefits in terms of the Duty on Documents Transfers Act shall only be granted to a registered family business which has all fiscal returns and contributions duly submitted up to the date of the transfer and the tax due in terms of the Duty on Documents Transfers Act has been paid in full before the transfer takes place.

Industrial premises.

Cap. 325.

12. When a registered family business is occupying industrial government premises or land on lease or emphyteusis respectively as prescribed under the Business Promotion Act and subject to the business satisfying all the conditions of the tenancy agreement, the Regulator shall recommend to the Malta Enterprise Corporation and, or Malta Industrial Parks to renew the tenancy, which renewal shall not be unreasonably withheld when the objectives of the renewal are to ensure the continuity of the family business between family members.

Annual Return.

13. (1) A registered family business benefiting from an incentive by virtue of its registration under this Act shall submit the Annual Return found in the Second Schedule to the Regulator by the end of the calendar year. In default there shall be a penalty of twenty-five euro (€25) for each month of delay. In the event of non-compliance for a year, registration shall be duly cancelled and all benefits shall be refunded and reimbursed immediately.

(2) The annual return for a family business shall cover a calendar year from the first day of January to the thirty-first day of December of each year:

Provided that:

(a) if a family business was registered between the first day of January and the thirtieth day of September of any year, it shall file the annual return normally but such annual return shall, for the first year only, cover a period of less than twelve months since its registration;

(b) if a family business was registered between the first day of October and the thirty-first day of December of any year, it shall not file an annual return for its first year of registration but it shall file, for the second year only, an annual return up to the thirty-first day of December following the year of registration for a period over twelve months but not exceeding fifteen months.

(3) The annual return and all the required documents relating to a family business shall be filed by not later than the thirtieth day of April of the following year.

14. (1) Any acquisition of immovable property in respect of which a benefit has been claimed pursuant to this Act must remain within the registered family business for a minimum period of three (3) years and in the event that such immovable property is transferred they must be replaced with a similar asset used for the same benefit of the registered family business or such other period as the Regulator may approve.

Restriction on transfer.

(2) Any acquisition of shares, interests, contributions or other assets in respect of which a benefit has been claimed pursuant to this Act must remain within the registered family business for a minimum period of three (3) years and in the event that such shares, interests, contributions or other assets are transferred they must be replaced with a similar share, interest, contribution or other asset used for the same benefit of the registered family business or such other period as the Regulator may approve.

(3) The owners of the registered family business must undertake to trade and operate the family business during these three (3) consecutive years without interruption immediately following the granting of the benefits or such other shorter period as the Regulator may approve and in the event that the business ceases to exist in the said period, any benefit claimed shall be refunded and reimbursed.

15. In the event that a registered family business which has availed itself of and claimed any benefits does not remain constituted and registered as a family business for a minimum period of three (3) consecutive years as referred to in article 14, the business shall make a refund of the benefits:

Decomposition of family business.

Provided that where a business does not remain constituted as a family business due to the unexpected death of a family member, in those cases where the business is owned whether directly or indirectly by only two family members, the business shall not be required to refund the benefits acquired for the previous transfer of the business:

Provided further that the Regulator shall be informed by the surviving family member within sixty (60) days from the date of the deceased.

16. (1) The Minister may by regulations prescribe the proper implementation of the provisions of this Act.

Powers of the Minister to make regulations.

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(2) The Minister may also by regulations amend the Schedules to this Act.

Part III The Regulator

Appointment of
the Regulator.

17. (1) There shall be a Regulator for Family Businesses who shall be appointed by the Minister for the purpose.

(2) The Regulator shall be appointed for a period of three years and may be re-appointed upon expiration of the term of office for a further period or periods:

Provided that during his term as Regulator, such person shall not hold any position which results in a conflict of interest or is incompatible with the correct performance of his official duties as Regulator or with impartiality expected from this office or with public confidence therein.

(3) The Regulator shall receive such remuneration as the Minister may establish.

(4) When the office of the Regulator becomes vacant, a person appointed as Regulator shall hold office temporarily until a successor is appointed. The Minister may, at any time, during the absence of the Regulator or for any other temporary purpose where the Minister considers it necessary to do so, appoint a person to act in the office of the Regulator, until the resumption of office of the Regulator.

(5) The Regulator shall be provided with premises and an adequate number of officials and staff to carry out the functions assigned to him under this Act.

(6) The Minister may also appoint one or more Deputy Regulators to assist the Regulator as directed by him and in the performance of his functions:

Provided that the Deputy Regulators, officials and staff appointed to assist the Regulator shall receive such remuneration as the Minister may establish.

Disqualification
from
appointment of
Regulator.

18. A person shall not be qualified to be appointed, or to remain, a Regulator if he -

(a) is a presiding judge or magistrate; or

(b) is adjudged bankrupt or has entered into any arrangement with his creditors; or

(c) is interdicted or incapacitated; or

(d) is convicted of an offence affecting public trust, theft, or fraud or of knowingly receiving property obtained by theft or fraud; or

(e) is subject to a disqualification under article 320 of the Companies Act;

Cap. 386.

(f) is a public officer or becomes a public officer.

19. (1) The Regulator shall only be removed or suspended from office by the Minister on the grounds of proved inability to perform the functions of the office of the Regulator or proved misbehaviour.

Removal from office.

(2) The Regulator may, at any time, resign from office by notice in writing to the Minister.

20. (1) The Regulator shall assess all applicants seeking to register as a family business under this Act and, once registered, ensure their ongoing compliance with the relevant requirements and regulations made hereunder to his satisfaction.

Functions of the Regulator.

(2) The Regulator shall perform the duties and exercise the functions imposed and conferred on him by this Act and by any regulations made thereunder including:

(a) accepting or refusing applications from businesses to register as family businesses in terms of this Act;

(b) provide registration facilities for businesses which are eligible for enrolment in terms of this Act;

(c) keeping and updating the register of registered family businesses;

(d) monitoring the activities of registered family businesses in order to ensure that they comply where applicable with the provisions of this Act and or, any regulations and or any guidelines as prescribed;

(e) where eligible, providing the registered family businesses an updated registration certificate attesting that the business still qualifies as a family business in terms of this Act;

(f) providing family businesses with information and guidance about the requirements, benefits and responsibilities in connection with registrations and enrolments in terms of this

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Act;

(g) making recommendations to the Minister on legislation and policies in support of the family business sector;

(h) assisting government, government departments, public agencies, authorities and entities controlled by the Government in preparing and reviewing policies in support of family businesses;

(i) investigating written grievances in relation to this Act relating to registered family businesses or businesses purporting to be registered family businesses under this Act, and furthermore to investigate *ex officio* any registered family business for any shortcoming and to take such action as is in his power to redress any justified grievance that may come to his notice and including if he deems fit, to refer his findings to the police;

(j) encouraging and promoting the family business sector as well as developing co-operation between family businesses and the Government;

(k) encouraging family businesses to enter into written agreements concerning the principles of governing the family business;

(l) co-ordinating and communicating with any competent authority with a view to facilitating the registration and enrolment processes for family businesses;

(m) performing any other function or duty that is assigned to him by the Minister under this Act and any regulations made thereunder as well as such other functions as may be assigned to him under any other law.

(3) In the exercise of his functions, the Regulator shall act impartially and shall not be subject to the direction of any other person or authority.

(4) The Regulator may, by writing under his hand, delegate to any person specific functions, powers or authorities assigned to or conferred on him by this Act or any other law, and may at any time revoke or vary such delegation:

Provided that no such delegation shall be deemed to divest the Regulator of any of his functions, powers or authorities and he may, if he thinks fit, exercise such functions, powers or authorities

collaterally with the person so delegated.

21. The provisions of article 72 of the Financial Administration and Audit Act shall not apply to the Regulator or any other person carrying out his functions in terms of this Act.

Financial
Administration
and Audit Act.
Cap. 174.

22. (1) The Regulator may request any information from any government entity, public authority or department in order to fulfil his duties.

Information.

(2) Any competent authority shall co-operate with the Regulator as required in the performance of his functions under this Act:

Provided that the Regulator may require the submission of any documentation from any competent authority.

(3) A demand under this article may also be sent to a person who is bound by a duty of professional secrecy under the Professional Secrecy Act and for the purposes of article 6A of such Act, the Regulator shall be considered to be a public authority. Any information obtained by the Regulator upon such a demand shall be used exclusively for the purposes of this article.

Cap. 377.

23. The Regulator may, from time to time, issue guidelines in relation to the activities of registered family businesses and any breach or declaration from these guidelines shall be a consideration for the family business to have their registration certification cancelled.

Guidelines.

24. Any registered family business not compliant with any rules and regulations under any other Act or legislation may be cancelled at the discretion of the Regulator.

Cancellation.

25. (1) The Regulator shall, by not later than eight weeks after the end of each calendar year, prepare and present to the Minister an annual report which shall include:

Annual Report.

(a) a report of the Regulator's office activities during the preceding year;

(b) a general description of the circumstances of family businesses in Malta and any developments which may affect the sector;

(c) any recommendation regarding legislation, regulations, policies or other matters affecting the family business sector;

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(d) accounts and other financial records referred to in this Act.

(2) The Regulator shall cause to be kept proper accounts and other financial records in respect of the operations of his office, and shall cause to be prepared a statement of accounts in respect of each financial year. After the end of each financial year, and not later than the date on which the report in sub-article (1) is to be forwarded to the Minister, the Regulator shall cause a copy of the statement of accounts duly audited to be transmitted to the Minister together with a copy of any report made by the auditors on that statement or on the accounts of the office of the Regulator.

Register of
Family
Businesses.

26. (1) There shall be a Register of Family Businesses which shall be maintained by the Regulator and shall contain information and data relevant to the registration process as applicable, as found in the First and Second Schedule, supported by the documentation referred to in the Schedules.

(2) Upon registration, the Regulator shall allocate a unique registration number to the family business which shall be preceded by the letters "FB" which registration number shall be known hereinafter as the "Family Business label" and the family business label may be quoted by the registered family business on any published materials, letters, notices, advertisements and other documents issued by such business.

(3) A list of the names of the family businesses in the Register will be available upon written request. No other information or contents of the register other than the name of the family business will be available for disclosure except to the competent authorities granting benefits as referred to in the Act.

Data.
Cap. 440.

27. The Regulator shall, for the purposes of this Act, compile and maintain the Register subject to the provisions of the Data Protection Act.

Application to
register.

28. (1) For a family business to be registered as such, the documents listed in the First Schedule shall be submitted to the Regulator who shall determine, to his satisfaction, whether the application complies with the provisions of this Act.

(2) A business may apply for registration by submitting the prescribed application form in the First Schedule to the Regulator.

(3) A non-refundable administration fee shall be submitted with every application irrespective of the outcome of the application.

(4) In considering an application, the Regulator may request the applicant to provide further information about the business or make representations on any matter on which he may have reservations or concerns in relation to the application.

(5) The Regulator may accept or refuse any application for registration on the basis of any of the following:

(a) the non-observance or otherwise of all the formalities required by this Act and as may be prescribed;

(b) the legality or otherwise of the purpose and objectives of the business that is not in compliance of the law or ethics in relation to its business activities;

(c) the fulfilment or otherwise of obligations relating to the payment of social security contributions in accordance with the applicable laws;

(d) the business has not fulfilled its obligations relating to the payment of taxes due in accordance with the applicable law; or

(e) the business has not supplied the information required under these regulations or has incorrectly supplied them.

(6) Where the Regulator requires proof from the applicant that none of the cases quoted in sub-article (5)(c), (d) and (e) have been met, it shall accept, as sufficient evidence, relevant certification issued by the administrative body in the country of origin or the country whence that person comes showing that these requirements have been met.

29. Certificates of registration shall be deemed to be public documents and shall be surrendered to the Regulator on his simple demand in writing stating the reasons for such request. Certificates.

30. The Regulator may request from the registered family business any information and any clarification, and may also carry out any verification required so as to ascertain to his satisfaction that such business is in compliance with the provisions of this Act or any rule, regulation or guideline made thereunder. The registered family business shall seek to comply with this request expediently and in default the Regulator may cancel the certificate of registration. Powers of the Regulator.

31. (1) The Regulator may order the cancellation of the registration of a family business by the issue of a cancellation order, Cancellation of activities.

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which shall come into effect immediately.

(2) A cancellation order may be issued, at the discretion of the Regulator, if the registered family business:

(a) is not compliant with the criteria, where applicable, in the First and Second Schedule or any other provisions, rules, regulations and guidelines in accordance with this Act; or

(b) has not functioned, operated, traded or carried on business for a period which exceeds twelve consecutive months without interruption or earlier as the Regulator deems fit; or

(c) has obtained registration on the basis of materially incorrect or incomplete information that would have otherwise resulted in a refusal had the correct or complete information been known to the Regulator; or

(d) is not seeking to uphold and maintain the objectives of this Act; or

(e) the certificate of registration has been used in an incorrect manner or a forgery thereof has been committed.

(3) Prior to ordering the cancellation of the registration of a family business by the issue of a cancellation order, the Regulator shall inform the business in writing of his intentions to issue a cancellation order. The Regulator shall grant the business a period of time to give reasons why the cancellation order should not be issued. Following this the Regulator may grant the business a period of time in which to regularise its position and conform to the provisions of this Act. If the business does not do so within this stipulated time period, which may be extended by the Regulator at his discretion, the Regulator shall order the cancellation of the registration of the family business in accordance with sub-article (1).

(4) The Regulator shall notify and publish, in the Gazette, any cancellation order which has become final and shall notify all competent authorities accordingly.

(5) The registration of a family business shall terminate *ipso iure* if the business is struck off, or ceases to operate, function, trade or carry on business under any form.

Effects of
cancellation of
registration.

32. (1) In the event of cancellation of registration of a family business, the family members shall forthwith surrender, to the Regulator, the certificate of registration of such business and any person failing to surrender such certificate within the time stated as

notified by the Regulator, shall be liable to an administrative fine of two hundred and fifty euro (€250).

(2) In the event of cancellation of registration of a family business, all benefits granted to such business by virtue of registration, shall cease to have effect from the date when the decision to cancel takes effect.

(3) Cancellation for the reasons mentioned in article 31(2) shall require the business to refund any benefits received by the business or any other individual by virtue of its registration in terms of this Act unless provided otherwise in this Act, and the Regulator may issue the relative orders against the business and any persons involved in such business:

Provided that when the demand for the refund of any benefits is made by the Regulator by judicial letter issued in accordance with article 466 of the Code of Organization and Civil Procedure, this shall constitute an executive title against the business or any named family member of administrator in favour of the Regulator, in his own or as trustee for the person entitled to the refund as aforesaid. Cap. 12.

(4) An order of the Regulator against a family business or any named family member shall be enforceable as an executive title once any judgment has become *res judicata* or no proceedings have been filed within the relevant time limits.

Part IV Offences

33. (1) Any person or business who in order to obtain and maintain the status of a family business - Forgery or alteration of certificates or misrepresentation or abusive use of status.

(a) in any manner, forges or alters a certificate of registration so as to give the impression that he acts on behalf of a registered family business 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.

(b) who falsely misrepresents the registered family business or makes false representations shall be guilty of an offence under this Act;

(c) who, in any manner, makes an abusive use of a certificate of registration or the Family Business label shall be

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guilty of an offence under this Act;

(d) who without reasonable excuse prepares any incorrect statement or gives any incorrect information in relation to any matter falling under this Act, shall be guilty of an offence under this Act.

(2) Any persons or business who is found guilty of any offence under sub-article (1) shall be liable on conviction to a term of imprisonment from thirteen months to four years.

(3) Upon any person or business admitting to or being found guilty of any of the above offences, the Regulator shall on conviction revoke any Certificate of Registration issued to the family business.

(4) The Regulator shall issue public statements on the facts to warn the public about any abuse by any person or business.

Abuse of
benefits.

34. (1) Any person or business who wilfully with intent to obtain any benefit under this Act or regulations made 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 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 two thousand euro (€2,000) and not exceeding twelve thousand euro (€12,000) or to imprisonment for any term not exceeding four years, or to both such fine and imprisonment.

(2) Upon any person admitting to or being found guilty of any of the above offences, the Court may, on conviction, revoke any certificate issued to the registered family business.

35. If any person or business contravenes or fails to comply with any of the requirements of this Act or of any regulations made thereunder, in respect of which no specific penalty 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 two hundred and fifty euro (€250) and not more than one thousand and five hundred euro (€1,500). General penalty.

36. The provisions of this Act establishing offences and penalties in respect thereof shall not affect the operation of any other law establishing offences and penalties in respect of the same acts or omissions and shall not affect the application of any higher penalty under any other law. Provision with respect to 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 upon the complaint of the Regulator. Prescription of proceedings for offences.

38. Immediately after article 41B of the Duty on Documents and Transfers Act, there shall be added the following new article: Consequential amendment of the Duty on Documents and Transfers Act. Cap. 364.

"Benefits applicable to registered family business.

41C. (1) Notwithstanding any other provision of this Act, where a family business is transferred as a going concern by an individual to family members as defined in the Family Business Act and there is a transfer of immovable property being a commercial tenement as defined in article 1525 of the Civil Code (hereinafter referred to as "property"), that had been used in the said business for a period of at least three years preceding the transfer, in assessing the duty chargeable in terms of the said Act, duty shall be charged on the first five hundred thousand euro (€500,000) of the value of the property transferred as aforesaid at the rate of three euro and fifty cents per one hundred euro or part thereof, provided that the notary who receives any deed of such a transfer shall record in the deed a written declaration by the individual so transferring and the person so acquiring that the conditions laid out in this article are satisfied and the notary shall warn the said persons of the importance of the truthfulness of such declaration:

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Provided that this sub-article shall also apply where the said individual transfers property that had been used in a family business carried out by the family members or business for a period of at least three years preceding the transfer:

Provided further that if such property or part thereof is either transferred *inter vivos* by the family members or family business, as the case may be, during the first three years from the date of acquisition, or ceases to be used in the business within the said period, the duty which would have been payable on the acquisition of the property or part thereof that is so transferred, but for the relief granted under this article, shall be levied at the time of the said transfer *inter vivos* or at the time the property ceases to be used by the business:

Provided further that where such property or part thereof transferred *inter vivos* by the family member or family business, as the case may be, is replaced within one year by an immovable property used solely for a similar purpose in the family business (hereinafter referred to as the "replacement property"), in assessing the duty chargeable in respect of the replacement property, duty chargeable and paid in accordance with the previous proviso shall be allowed as a deduction.

(2) For the purposes of paragraphs (a), (b) and (c) of article 42(1), in assessing the duty chargeable, when an individual transfers shares or interests in a partnership, trust or foundation to family members referred to in sub-article (1) and such shares or interests in a partnership, trust or foundation are held in a family business which carries on a business, no account shall be taken of the first one hundred and fifty thousand euro (€150,000) or such other greater amount as may be prescribed of the value of the shares, or interests in a partnership, trust or foundation transferred as aforesaid:

Provided that this sub-article shall only apply where:

(a) the said family business does not own, directly or indirectly, any immovable property other than property referred to in sub-article (1) used in the said business for a period of at least three years preceding the transfer;

(b) the said family business is controlled and beneficially owned, directly or indirectly, to the extent of more than eighty-five per cent by the said individuals or family members.

(3) For the purpose of this article "business" shall mean a family business registered with the Regulator in terms of the Family Business Act and shall duly present an updated certificate in accordance with the law.

(4) This article shall only apply where the Commissioner issues a certificate attesting that he is satisfied that the conditions laid out in this article are fulfilled.

(5) Where, in accordance with the second proviso to sub-article (1), the property or part thereof is either transferred *inter vivos* by the family members or family businesses, or ceases to be used in the business, the duty chargeable under the said proviso shall be due by the family members or business, as the case may be, and shall be remitted to the Commissioner within fifteen working days from the date on which the property is either transferred as aforesaid, or ceases to be used in the business."

Schedule 1

(Article 28)

Application Form for registration as a Family Business

1. Purpose.

The purpose of this application form is to provide the Regulator the necessary information in accordance with the provisions of this Act to allow him to assess the business as to its qualification as a registered family business.

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2. Content and form.

The content and form of the application form, with all the required documents and Appendices as attachments as the case may require, that each family business shall duly file with the Regulator along with the Appendixes, is as follows:

Application Form for Registration as a Family Business

- Application Form of (*insert official name*)
- Trade name of business:
- Registered Address/Postcode:
- Any other address (apart from the registered address) where the Applicant business carries out business:
- Mobile/Landline/Telephone/Fax number(s):
- E-mail address/es:
- Website:

Where applicable:

- Registration Number:
- VAT number/s:
- Stock Exchange Listing Number:
- Trading Licence Number:
- Name/s of share holders in the business and the number of shares held:
 - Name/s of family members involved in the governance of the business with certified copy of documentary evidence:
 - The written consent of the relevant family members to hold office after registration;
 - A resolution signed by the family members of the business indicating that they resolve to register the business with the Regulator;

- Compliance Certificate from the VAT Department and Income Tax Department;
- For businesses applying under article 3(5) the relative requirements of the Second Schedule, Sub-Title V of the Civil Code;
- Organisation Chart to be certified by an accountant or lawyer with an accompanying bank reference letter of the business which must include:
 - (a) the organisational structure of the business;
 - (b) the family relationship within this structure;
 - (c) the job designation of each family member;
 - (d) an indication of who is responsible for the day to day running of the business;
 - (e) an indication of who the ultimate owners of the business are.

This section is to be completed by each family member.

- Name of Family Member in the business:
- Designation:
- Passport number/I.D Card number:
- Address:
- Family relationship in relation to the founder of the business
- Any other details/information or other document as may be required by this Act or as may be prescribed:

Declaration of Completeness and Correctness.

We hereby confirm that the details provided, including the attached Appendices, are complete and truthful as to their contents.

- Signature of family members:

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- Name of family members:
- Date:

Appendices

(Where applicable)

Appendix A - Certified copy of declaration of business assets and contributions confirmed on oath.

Appendix B - Certified copy of documentary evidence including names of family members holding decision-making powers in the business confirmed on oath.

Appendix C - Certified copies of passports / I.D Cards of family members.

Appendix D - Where the family business is owned by the trustee of a trust, an authenticated copy of the trust deed including the list of beneficiaries to be delivered by the registered trustee of the family trust.

Appendix E - Where the family business is held by a private foundation an authenticated copy of the deed of foundation including any addendum amending the original deed of foundation and the beneficiary statement to be delivered by the administrator.

Appendix F - The lease agreement of the business.

Appendix G - Declaration by the family members that they have been actively trading or in operation without interruption for a minimum period of three (3) consecutive calendar years.

Appendix H - Any other document (Please specify).

Administration Fee of €100

Signature of Receiving Officer:

Schedule 2

(Article 12)

Annual return

1. Purpose.

The purpose of this annual return is to provide the Regulator and any related competent authority with up to date information about the registered family business, benefitting from incentives by means of this Act.

2. Content and form.

The content and form of the annual return, with all the required documents and Appendices as attachments, that each family business shall duly file with the Regulator annually is as follows:

Contents and Form of Annual Return of a registered family business

- (a) Annual Return of (*insert official name*)
- (b) Name of Family business:
- (c) Family business label:
- (d) Name of Contact Person:
- (e) Designation:
- (f) Incentive applied for with the competent authority:
- (g) Date of approval of benefit from the competent authority:
- (h) Any benefit applied for and refused (stating the reason where provided):

Declaration of Completeness and Correctness.

We hereby confirm that the details provided, including the attached Appendices, are complete and truthful as to their contents.

Signature of family members:

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Name of family members:

Date:

Appendices

(Where applicable)

Appendix A - Revised and updated copy of Schedule 1, indicating any amendments that have been made to any parts thereof, and in such case, a declaration signed by at least two family members.

Appendix B - Copy of letter of refusal for benefit requested.

Objects and Reasons

The objects and reasons of this Bill are to provide a legal framework to assist and facilitate family businesses to prepare themselves for transferring the business from one generation to the next by providing benefits including governance and incentives for the better management and organisation within the family and the business.

