

Suppliment tal-Gazzetta tal-Gvern ta' Malta, Nru. 19,522, 15 ta' Jannar, 2016

Taqsima C

Nru. 138

15. 01. 2016

MALTA

KAMRA TAD-DEPUTATI

HOUSE OF REPRESENTATIVES

ABBOZZ ta' Ligi mressaq mill-Onorevoli Edward Scicluna, M.P., Ministru għall-Finanzi, u moqri għall-Ewwel darba fis-Seduta tal-11 ta' Jannar, 2016.

A BILL introduced by the Honourable Edward Scicluna, M.P., Minister for Finance, and read the First time at the Sitting of the 11th January, 2016.

ATT li jemenda l-Att dwar il-Professjoni tal-*Accountancy*, Kap. 281.

AN ACT to amend the *Accountancy Profession Act*, Cap. 281.

RAYMOND SCICLUNA
Skrivan tal-Kamra tad-Deputati

RAYMOND SCICLUNA
Clerk of the House of Representatives

ABBOZZ TA' LIĠI msejjah

ATT li jemenda l-Att dwar il-Professjoni tal-Accountancy, Kap. 281.

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:-

1. (1) It-titolu fil-qosor ta' dan l-Att huwa l-Att tal-2016 li jemenda l-Att dwar il-Professjoni tal-*Accountancy*, u dan l-Att għandu jinqara u jinftiehem haġa wahda mal-Att dwar il-Professjoni tal-*Accountancy*, hawn iżjed 'il quddiem imsejjah "l-Att prinċipali".

Titolu fil-qosor u bidu fis-sehħ.

Kap. 281.

(2) Id-dispożizzjonijiet ta' dan l-Att għandhom jidhlu fis-sehħ fl-1 ta' Frar 2016.

2. L-artikolu 2 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 2 tal-Att prinċipali

(a) it-tifsira "katina ta' kmand" għandha tiġi mħassra;

(b) it-tifsira "ditta" għandha tiġi sostitwita b'dan li ġej:

" "ditta" tfisser, sakemm ma jiġix speċifikat mod ieħor f'direttiva mahruġa jew regolament magħmul taħt dan l-Att, ditta tal-awditjar jew ditta tal-*accountancy*"; u

(ċ) it-tifsira "prinċipal" għandha tiġi sostitwita b'dan li ġej:

" "prinċipal" tfisser kull membru tal-korp amministrattiv jew tal-*management* tad-ditta, u kwalunkwe individwu li huwa awtorizzat jiffirma rapport f'isem id-ditta; u fil-każ ta' ditta tal-awditjar, tinkludi kwalunkwe individwu responsabbli għat-tmexxija tal-inkarigu:

Izda kull individwu li jaqdi l-irwol ta' eżaminatur tal-kontroll tal-kwalità tal-inkarigu fuq eżerċizzju tal-awditjar statutorju, u li mhux awtorizzat li jiffirma rapport f'isem id-ditta fl-ebda kapacità, mhux meqjus bhala prinċipal:

Izda ukoll, detentur ta' *warrant* jew detentur ta' ċertifikat ta' prattika li jaġixxi bhala prattikant uniku, ma jistax iqabbad prinċipal sabiex jaġixxi f'ismu;"

Emenda tal-artikolu 3 tal-Att prinċipali.

3. Is-subparagrafu (i) tal-paragrafu (ċ) tas-subartikolu (2) tal-artikolu 3 tal-Att prinċipali jiġi sostitwit b'dan li ġej:

"tkun temmet b'suċċess il-kors li jwassal għall-ghoti tal-grad professjonali fl-*accountancy* organizzat mill-Università ta' Malta; jew".

Żjieda ta' artikolu ġdid mal-Att prinċipali.

4. Minnufih wara l-artikolu 5 tal-Att prinċipali għandu jiżdied l-artikolu ġdid li ġej:

"Obbligu ta' għoti ta' informazzjoni.

5A. Kull detentur ta' *warrant* għandu jagħti lill-Bord dik informazzjoni li l-Bord jista' raġonevolment jirrikjedi jew skont kif ikun preskritt, u għandu javża lill-Bord bi kwalunkwe bidla rilevanti fl-informazzjoni mogħtija qabel fi żmien hmistax-il ġurnata minn meta tokkorri l-bidla."

Emenda tal-artikolu 6 tal-Att prinċipali.

5. L-artikolu 6 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) is-subartikolu (1) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(1) Għandu jkun hemm Bord, li jkun magħruf bhala l-Bord tal-*Accountancy*, li jkun magħmul minn *Chairman* u sitt membri oħra, li kollha ma jkunux jipprattikaw u li jkollhom għarfien fl-oqsma rilevanti tal-awditjar statutorju u l-*accounting*, u li jkunu mahtura mill-Ministru skont id-dispożizzjonijiet ta' dan l-Att u għandhom iżommu l-kariga għal terminu li ma jaqbiżx tliet snin, u taht dawk il-kundizzjonijiet li jistgħu jiġu stabbiliti fl-ittra tal-hatra rispettiva tagħhom:

Izda meta jgħaddi ż-żmien tal-hatra ta' persuna skont dan is-subartikolu, dik il-persuna tkun tista' tiġi mahtura mill-ġdid.";

(b) is-subartikolu (2) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(2) Il-Bord għandu jkun magħmul minn:

(a) *chairman* li jkollu fama u esperjenza rikonoxxuta fil-professjoni tal-*accountancy* u tal-awditjar;

(b) membru minn lista ta' tnejn nominati mill-Università ta' Malta minn fost il-persunal akkademiku tal-Fakultà jew Fakultajiet li fihom jiġu organizzati t-tagħlim u r-riċerka fil-qasam tal-*accountancy* u l-awditjar;

(ċ) uffiċjal anzjan tal-Ministeru responsabbli għall-finanzi;

(d) żewġ membri minn lista ta' erbgħa nominati minn korp rikonoxxut tal-*accountancy*;

(e) żewġ membri oħra."; u

(ċ) fis-subartikolu (3) tiegħu, minflok il-kliem "biex ikun hemm *quorum* ikun ta' sitta" għandhom jidhlu l-kliem "biex ikun hemm *quorum* ikun ta' erbgħa".

6. Minnufih wara l-artikolu 6 tal-Att prinċipali għandu jizzied l-artikolu ġdid li ġej:

Żjieda ta' artikolu ġdid mal-Att prinċipali.

"Setgħat tal-Bord.

6A. (1) Il-Bord għandu jqabbaż żewġ persuni prattikanti fi rwol permanenti sabiex jassistuh fil-qadi tal-funzjonijiet tiegħu. Iż-żewġ persuni prattikanti jkunu maħtura mill-Bord għal terminu ta' sena u magħzula minn lista ta' sitta nominati minn korp rikonoxxut tal-*accountancy*. Fil-qadi ta' dmirijiet, il-persuni prattikanti ma għandhom ikunu involuti fl-ebda teħid ta' deċiżjonijiet tal-Bord. Il-persuni prattikanti għandhom joħorġu mill-kamra kull darba li jkun ser jittiehed vot jew ikun hemm nuqqas ta' ftehim bejn il-membri tal-Bord. Il-persuni prattikanti għandhom jieqfu mid-doveri tagħhom meta jinqala' xi konflitt possibbli ta' interess. Persuna prattikanti li tkun serviet għal terminu ta' sena tkun eligibbli biss biex terġa' tiġi appuntata mill-ġdid wara li jkunu għaddew tliet snin mill-perjodu li tkun serviet fih.

(2) Il-Bord għandu jkun indipendenti mill-awdituri statutorji u mid-ditti tal-awditjar.

(3) Il-Bord għandu jaġixxi b'mod trasparenti; dan jinkludi l-pubblikazzjoni ta' programmi ta' hidma u rapporti annwali tal-attività.

(4) Is-sistema ta' sorveljanza pubblika għandha tiġi ffinanzjata b'mod adegwat u għandu jkollha rizorsi adegwati biex tibda' u twettaq investigazzjonijiet. Il-finanzjament tas-sistema ta' sorveljanza pubblika għandu jkun sigur u hieles minn kwalunkwe influwenza mhux dovuta minn awdituri statutorji jew ditti tal-awditjar."

Emenda tal-
artikolu 7 tal-
Att prinċipali.

7. L-artikolu 7 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) il-paragrafi (j) u (k) tas-subartikolu (1) tiegħu għandhom jiġu enumerati mill-gdid bhala l-paragrafi (k) u (l) rispettivament;

(b) minnufih wara l-paragrafu (i) tas-subartikolu (1) tiegħu, għandu jiżdied il-paragrafu li ġej:

"(j) li jinforma lil kwalunkwe awtorità li jidhiru xierqa dwar kull sanzjoni jew restrizzjoni imposta minnu jew kwalunkwe materja oħra li l-Bord iqis neċessarja sabiex jiġi protett l-interess pubbliku, fuq kwalunkwe detentur ta' *warrant* u detenturi ta' ċertifikat ta' Prattika, ditti tal-awditjar, u ditti tal-*accounting*"; u

(c) fil-paragrafu (c) tas-subartikolu (4) tiegħu, minflok il-kliem "u entitajiet ta' awditjar ta' pajjizi terzi." għandhom jidhlu l-kliem "u entitajiet ta' awditjar ta' pajjizi terzi"; u minnufih wara għandhom jiżdiedu l-paragrafi ġodda li ġejjin:

"(d) *warrants* u ċertifikati ta' Prattika sospizi, revokati u rtirati;

(e) reġistrazzjonijiet ta' ditti sospizi, revokati u rtirati;

(f) detenturi ta' *warrants* u detenturi ta' ċertifikati ta' Prattika li huma inadempjenti;

(g) ditti tal-awditjar u ditti tal-*accountancy* li huma inadempjenti; u

(h) detenturi ta' *warrant* u detenturi ta' ċertifikati ta' Prattika li kisbu eżenzjoni mill-Edukazzjoni Professionali Kontinwa skont it-termini tad-Direttiva 1 u li temporanjament mhux qed jipprattikaw."

Għanijiet u Raġunijiet

L-għan ta' dan l-Abbozz ta' Ligi huwa biex jemenda l-Att dwar il-Professjoni tal-*Accountancy* sabiex il-kompożizzjoni tal-Bord tal-*Accountancy* tingħieb konformi mad-Direttiva 2014/56/UE u r-Regolament 537/2014, jagħti certu setgħat lill-Bord tal-*Accountancy* u jirrikonoxxi l-grad professjonali tal-*Accountancy* organizzat mill-Università ta' Malta għall-għoti tal-*warrant* ta' *accountant*.

BILL
entitled

AN ACT to amend the Accountancy Profession Act, Cap. 281.

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:-

Short title and
commencement.
Cap. 281.

1. (1) The short title of this Act is the Accountancy Profession (Amendment) Act, 2016, and this Act shall be read and construed as one with the Accountancy Profession Act, hereinafter referred to as "the principal Act".

(2) This Act shall come into force on 1st February 2016.

Amendment of
article 2 of the
principal Act.

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

(a) the definition "chain of command" shall be deleted;

(b) the definition "firm" shall be substituted by the following:

" "firm" means, unless otherwise specified in a directive issued or regulation made under this Act, an audit firm or an accountancy firm;"

(c) the definition "principal" shall be substituted by the following:

" "principal" means every member of the administrative or management body of a firm, and any individual who is authorised to sign a report on behalf of a firm; and in the case of an audit firm, shall include any individual responsible for leading the engagement:

Provided that any individual carrying out the role of an engagement quality control reviewer on a statutory

audit, and who is not authorised to sign a report on behalf of the firm in any capacity, is not deemed a principal:

Provided further that a warrant holder or a holder of a practicing certificate who acts as a sole practitioner, may not engage a principal to act on his behalf;"

3. Sub-paragraph (i) of paragraph (c) of sub-article 2 of article 3 of the principal Act shall be substituted by the following: Amendment of article 3 of the principal Act.

"(i) successfully completed the course leading to the award of the professional accountancy degree organized by the University of Malta; or".

4. Immediately after article 5 of the principal Act, there shall be added the following new article: Addition of new article to the principal Act.

"Duty to provide information.

5A. Every warrant holder shall give to the Board such information as the Board may reasonably require or as may be prescribed, and shall give notice to the Board of any relevant change in any information previously given to it within fifteen days after the date on which the change occurs."

5. Article 6 of the principal Act shall be amended as follows: Amendment of article 6 of the principal Act.
- (a) sub-article (1) thereof shall be substituted by the following:

"(1) There shall be a Board, to be known as the Accountancy Board, consisting of a Chairman and six other members, all of whom shall be non-practitioners and who are knowledgeable in the areas relevant to statutory audit and accounting, who shall be appointed by the Minister in accordance with the provisions of this Act and shall hold office for such term not exceeding three years, and under such conditions as may be set out in their respective letter of appointment:

Provided that on the expiration of the term for which a person is appointed under this sub-article, he shall be eligible for re-appointment.";

- (b) sub-article (2) thereof shall be substituted by the following:

"(2) The Board shall consist of:

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(a) a chairman of recognised standing and experience in the accountancy and auditing profession;

(b) a member from a list of two nominated by the University of Malta from among the teaching staff of the Faculty or Faculties in which teaching of and research in the field of accountancy and auditing is organised;

(c) a senior official of the Ministry responsible for finance;

(d) two members from a list of four nominated by a recognised accountancy body; and

(e) two other members."; and

(c) in sub-article (3) thereof, for the words "to form a quorum shall be six" there shall be substituted the words "to form a quorum shall be four".

Addition of new article to the principal Act.

6. Immediately after article 6 of the principal Act, there shall be added the following new article:

"Powers of the Board.

6A. (1) The Board shall engage two practitioners in a permanent role to assist it in the proper discharge of its duties. The two practitioners shall be appointed by the Board for a one-year term and chosen from a panel of six, nominated by a recognised accountancy body. In the fulfilment of their duties, the practitioners shall not be involved in any decision-making of the Board. The practitioners shall leave the room each time a vote is taken or there is dissension among board members. The practitioners shall be required to desist from their work when any possible conflict of interest arises. A practitioner who has served for a one-year term shall only be eligible for re-appointment after three years have elapsed from his term of duty.

(2) The Board shall be independent of statutory auditors and audit firms.

(3) The Board shall act in a transparent manner; this shall include the publication of annual work programmes and activity reports.

(4) The system of public oversight shall be adequately funded and shall have adequate resources to initiate and conduct investigations. The funding of the public oversight system shall be secure and free from any undue influence by statutory auditors or audit firms."

7. Article 7 of the principal Act shall be amended as follows: Amendment of article 7 of the principal Act.

(a) paragraphs (j) and (k) of sub-article (1) thereof shall be re-numbered as paragraphs (k) and (l) respectively;

(b) immediately after paragraph (i) of sub-article (1) thereof, there shall be added the following paragraph:

"(j) to inform any authority that it deems appropriate of any sanctions or restrictions imposed by it or any other matters that the Board considers necessary to protect the public interest, on any warrant holder and holders of a practising certificate, audit firms and accounting firms;"; and

(c) in paragraph (c) of sub-article (4) thereof, for the words "and third-country audit entities." there shall be substituted the words "and third-country audit entities;"; and immediately thereafter there shall be added the following new paragraphs:

"(d) suspended, revoked and withdrawn warrants and practising certificates;

(e) suspended, revoked and withdrawn firm registrations;

(f) defaulter warrant holders and holders of a practising certificate;

(g) defaulter audit and accountancy firms; and

(h) warrant holders and holders of a practising certificate who have obtained an exemption from Continued Professional Education in terms of Directive 1 and are temporarily not in practice."

Objects and Reasons

The objects of this Bill is to amend the Accountancy Profession Act so that the composition of the Accountancy Board is brought in line with Directive 2014/56/EU and Regulation 537/2014, give certain other powers to the Accountancy Board and to recognise the professional accountancy degree organized by the University of Malta for the grant of the warrant of accountant.

