

Suppliment tal-Gazzetta tal-Gvern ta' Malta, Nru. 19,891, 27 ta' Ottubru, 2017
Taqsim C

Nru. 13

27. 10. 2017

MALTA

KAMRA TAD-DEPUTATI

HOUSE OF REPRESENTATIVES

ABBOZZ ta' Ligi mressaq mill-Onorevoli Silvio Schembri, M.P., Segretarju Parlamentari għas-Servizzi Finanzjarji, Ekonomija Digitali u Innovazzjoni, f'isem il-Ministru għall-Affarijiet Barranin u Promozzjoni tal-Kummerċ, u moqri għall-Ewwel darba fis-Seduta tat-23 ta' Ottubru, 2017.

ABILL introduced by the Honourable Silvio Schembri, M.P., Parliamentary Secretary for Financial Services, Digital Economy and Innovation, on behalf of the Minister for Foreign Affairs and Trade Promotion, and read the First time at the Sitting of the 23 October, 2017.

ATT li jemenda l-Att dwar poteri li jsiru Regolamenti fl-Interess Nazzjonali, Kap. 365, u biex jipprova għal hwejjeg ancillari jew konsegwenzjali għal dan.

AN ACT to amend the National Interest (Enabling Powers) Act, Cap. 365, and to provide for matters ancillary or consequential thereto.

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 poteri li jsiru Regolamenti fl-Interess Nazzjonali, Kap. 365, u biex jipprovi għal hwejjeġ ancillari jew konsegwenzjali għal dan.

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

1. It-titolu fil-qosor ta' dan l-Att huwa l-Att tal-2017 li jemenda l-Att dwar Poteri li jsiru Regolamenti fl-Interess Nazzjonali, u dan l-Att għandu jinqara u jinftiehem haġa waħda mal-Att dwar Poteri li jsiru Regolamenti fl-Interess Nazzjonali, hawn iżjed 'il quddiem imsejjaħ "l-Att prinċipali".

Titolu fil-qosor.

Kap. 365

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

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

Emenda tal-artikolu 2 tal-Att prinċipali.

" "il-Bord" tfisser il-Bord ta' Sorveljanza fuq Sanzjonijiet stabbilit taht it-Tieni Taqsima ta' dan l-Att;"

(b) minnufih wara t-tifsira "Kunsill tas-Sigurtà" għandha tiżdied it-tifsira ġdida li ġejja:

" "il-Ministru" tfisser il-Ministru responsabbli għall-Affarijiet Barranin;"

(ċ) minnufih wara t-tifsira "projbizzjoni" għandha tiżdied it-tifsira ġdida li ġejja:

" "Regolament tal-Kunsill" tfisser kwalunkwe

Regolament tal-Kunsill li minn żmien għal żmien jista' jiġi ppublikat mill-Unjoni Ewropea li jimponi sanzjonijiet ta' kwalunkwe natura, li jkun hemm riferenza għalih fil-Ġurnal Uffiċjali tal-Unjoni Ewropea,* u jinkludi kwalunkwe Regolament li jemenda u jħassar dak ir-Regolament;"

(d) minnufih wara t-tifsira ġdida "Regolament tal-Kunsill" għandha tiżdied it-tifsira ġdida li ġejja:

" "Riżoluzzjoni tal-Kunsill tas-Sigurtà tan-Nazzjonijiet Uniti" tfisser kwalunkwe Riżoluzzjoni tal-Kunsill li minn żmien għal żmien tista' tiġi ppublikata mill-Kunsill tas-Sigurtà tan-Nazzjonijiet Uniti li timponi sanzjonijiet ta' kwalunkwe natura, li jkun hemm riferenza għaliha fil-kompendju annwali tar-riżoluzzjonijiet u d-deċiżjonijiet tal-Kunsill tas-Sigurtà tan-Nazzjonijiet Uniti,** u tinkludi kwalunkwe Riżoluzzjoni li temenda u tħassar Riżoluzzjoni ta' qabel."

(e) minnufih wara t-tifsira ġdida "Riżoluzzjoni tal-Kunsill tas-Sigurtà tan-Nazzjonijiet Uniti" għandha tiżdied it-tifsira ġdida li ġejja:

" "it-Trattat" tfisser it-Tratta msemmi fl-Kap. 460. artikolu 2 tal-Att dwar l-Unjoni Ewropea;" u

(f) minnufih wara t-tifsira "trattat internazzjonali" għandha tiżdied it-tifsira ġdida li ġejja:

" "l-Unjoni Ewropea" tfisser l-Unjoni Ewropea kif imfissra fit-Trattat;"

3. L-artikolu 3 tal-Att prinċipali għandu jiġi emendat kif ġejj:

(a) fis-subartikolu (1) tiegħu, minflok il-kliem "subartikoli (4), (7) u (8) ta' dan l-artikolu" għandhom jidhlu l-kliem "subartikolu (4)";

(b) fis-subartikolu (2) tiegħu, minflok il-kliem "subartikoli (4), (7) u (8) ta' dan l-artikolu" għandhom jidhlu l-kliem "subartikolu (4)";

(ċ) fis-subartikolu (3) tiegħu, il-kliem "u bla ħsara għad-dispożizzjonijiet tas-subartikoli (7) u (8)" għandhom

Emenda tal-artikolu 3 tal-Att prinċipali.

* <http://eur-lex.europa.eu/collection/eu-law/legislation/recent.html?locale=mt>

** <http://www.un.org/en/sc/documents/volumes/>

jithassru;

(d) is-subartikolu (4) tiegħu għandu jiġi sostitwit b'dan li ġej:

"Miżuri u Sanzjonijiet Domestiċi Restrittivi..

(4) (a) Meta l-Prim Ministru jikkunsidra li l-interessi nazzjonali u internazzjoni ta' Malta hekk jeħtieġu, huwa jista' permezz ta' regolamenti taħt dan l-Att, jordna -

(i) it-tismija ta' kwalunkwe persuna jew entità,

(ii) l-iffriżar ta' proprjetà tal-persuna jew entità msemmija, jew

(iii) ir-revoka ta' kwalunkwe ordni magħmula taħt is-subparagrafi (i) u (ii),

kif jista' jkun imfisser fir-regolamenti.

(b) Xejn m'għandu jipprekludi l-applikazzjoni tal-miżuri stabbiliti f'dan l-Att fir-rigward ta' organizzazzjonijiet jew fazzjonijiet fi kwalunkwe pajjiż jew pajjiżi jew parti minnhom, kif jista' jkun imfisser fir-regolamenti.

(ċ) Għall-finijiet ta' dan l-Att:

"persuna" għandha tinkludi korp jew assoċjazzjoni ta' persuni, kemm korporata jew mhux korporata;

"proprjetà" għandu jkollha l-istess tifsira mgħotija lilha taħt l-Att kontra *Money Laundering*.";

Kap. 373.

(e) fis-subartikolu (5) tiegħu, minflok il-kliem "skond dan l-artikolu" għandhom jidhlu l-kliem "skont dan l-Att";

(f) fis-subartikolu (6) tiegħu, minflok il-kliem "skond dan l-artikolu" għandhom jidhlu l-kliem "skont dan l-Att"; u

(g) is-subartikoli (7) u (8) tiegħu għandhom jithassru.

4. Minnufih wara l-artikolu 3 tal-Att prinċipali għandhom jiżdiedu l-artikoli l-ġodda li ġejjin:

Żjieda ta' artikoli ġodda fl-Att prinċipali.

"Regolamenti tal-Unjoni Ewropea. Kap. 460.

4. (1) Għall-finijiet ta' dan l-Att u tal-artikolu 3 tal-Att dwar l-Unjoni Ewropea, ir-Regolamenti tal-Kunsill li jimponu sanzjonijiet jew japplikaw miżuri restrittivi ta' kwalunkwe natura, jew li jahtu parir lil, jidderiġu jew jordnaw Stati Membri tal-Unjoni Ewropea biex jieħdu azzjoni kif jista' jingħata l-parir, tingħata direzzjoni jew jiġi ordnat, għandhom jorbtu fis-siġġ f'Malta u għandhom ikunu parti mil-liġi domestika ta' Malta taħt il-kundizzjonijiet stabbiliti fit-Trattat.

Kap. 249.

(2) Id-dispożizzjonijiet tal-artikolu 3(4)(e) tal-Att dwar l-Interpretazzjoni għandhom japplikaw għal Regolamenti tal-Kunsill imsemmija f'dan l-Att u għal kwalunkwe Regolament li jemenda u li jhassar dawk ir-Regolamenti.

Rizoluzzjonijiet tal-Kunsill tas-Sigurtà tan-Nazzjonijiet Uniti.

5. (1) Għall-finijiet ta' dan l-Att, ir-Rizoluzzjonijiet tal-Kunsill tas-Sigurtà tan-Nazzjonijiet Uniti li jimponu sanzjonijiet jew japplikaw miżuri restrettivi ta' kwalunkwe natura, jew li jagħtu parir lil, jidderieġu jew jordnaw Stati Membri tan-Nazzjonijiet Uniti biex jieħdu azzjoni kif jingħata l-parir, tingħata direzzjoni jew jiġi ordnat, għandhom jorbtu fis-siġġ f'Malta u għandhom u ikunu parti mil-liġi domestika ta' Malta.

Kap. 249.

(2) Id-dispożizzjonijiet tal-artikolu 3(4)(e) tal-Att dwar l-Interpretazzjoni għandhom japplikaw għal Rizoluzzjonijiet tal-Kunsill tas-Sigurtà tan-Nazzjonijiet Uniti msemmija f'dan l-Att u għal kwalunkur Rizoluzzjoni li temenda u thassar xi Rizoluzzjoni ta' qabel.

Reati u pieni.

6. (1) Kull min jaġixxi b'mod li jikser ir-regolamenti magħmula taħt dan l-Att jew Regolament tal-Kunsill jew Rizoluzzjoni tal-Kunsill tas-Sigurtà tan-Nazzjonijiet Uniti jkun ħati ta' reat u jehel, meta jinstab ħati, priġunerija għal żmien minn tnax-il xahar sa tnax-il sena jew multa ta' mhux anqas minn hamsa u għoxrin elf euro (€25,000) u mhux aktar minn hames miljun euro (€5,000,000), jew dik il-priġunerija u l-multa flimkien.

Kap. 9. (2) Id-dispożizzjonijiet tal-artikolu 121D tal-Kodiċi Kriminali għandu *mutatis mutandis* japplika għar-reati taħt dan l-Att, hekk iżda li l-piena li għaliha l-korp magħqud jehel taħt dan is-subartikolu għandha tkun dik tal-ħlas ta' multa ta' mhux anqas minn tmenin elf euro (€80,000) u mmhux iżjed minn għaxar miljun euro (€10,000,000).

Kap. 9. (3) Il-korp maqgħud għandu wkoll jibstab ħati għal reat taħt dan l-artikolu fejn inuqqas ta' superviżjoni jew kontroll minn persuna msemmija fl-artikolu 121D tal-Kodiċi Kriminali jkun għamel possibbli t-twettiq tar-reat għall-benefiċċju tal-korp magħqud, li meta jinsab ħati għandu jehel il-piena stabbilita fis-subartikolu (2).

(4) Mingħajr preġudizzju għal kull piena oħra li għaliha r-reat jista' jkun soġġett taħt dan l-Att jew xi liġi oħra, fejn min iwettaq ir-reat huwa korp magħqud soġġett għal piena taħt id-dispożizzjonijiet tas-subartikoli (2) u (3), il-Qorti tista', fuq talba tal-prosekuzzjoni, tordna -

(a) is-sospensjoni jew ir-revoka ta' kwalunkwe liċenza, permess jew awtorità oħra biex wieħed imexxi kwalunkwe kummerċ, negozju jew attività kummerċjali oħra;

(b) l-għeluq temporanju jew permanenti ta' kwalunkwe stabbiliment li jista' jkun intuża għall-għemil tar-reat;

(ċ) l-istralċ obbligatorju tal-korp magħqud;

(d) l-esklużjoni mill-jedd għal benefiċċji jew għajnuna pubblika.

Kap. 9.
Kap. 446. (6) Id-dispożizzjonijiet ta' artikoli 21 u 28A tal-Kodiċi Kriminali u d-dispożizzjonijiet tal-Att dwar il-*Probation* m'għandhomx japplikaw fir-rigward ta' kwalunkwe persuna li tinstab ħatja ta' reat taħt dan l-Att.

Kap. 9. (7) Mingħajr preġudizzju għad-dispożizzjonijiet tal-artikolu 5 tal-Kodiċi Kriminali, il-qrati ta' Malta għandhom ukoll ikollhom ġurisdizzjoni fuq ir-reati msemmija f'dan l-Att meta:

(a) parti biss mill-azzjoni li tikkostitwixxi l-esekuzzjoni tar-reat tkun saret gewwa Malta; jew

(b) min jagħmel ir-reat ikun cittadin ta' Malta jew residenti permanenti f'Malta, jew ir-reat twettaq għall-benefiċċju ta' korp magħqud registrat f'Malta; jew

(ċ) meta r-rikavat mit-twettieq tar-reat gie riċevut f'Malta; jew

(d) meta persuna f'Malta għenet xjentement jew hegget persuna oħra biex twettaq ir-reat.

Taqsimha II

Bord ta' Sorveljanza fuq Sanzjonijiet

Għamla u funzjonijiet tal-Bord ta' Sorveljanza fuq Sanzjonijiet.

7. (1) Qieghed jitwaqqaf Bord ta' Sorveljanza fuq Sanzjonijiet li jkollu l-funzjonijiet stabbiliti f'dan l-Att.

(2) Il-Bord ta' Sorveljanza fuq Sanzjonijiet ikun magħmul minn rappreżentant tal-Ministeru tal-Affarijiet Barranin li jkun *Chairman*, l-Avukat Ġenerali jew ir-rappreżentant tiegħu, il-Kummissarju tal-Pulizija jew ir-rappreżentant tiegħu, rappreżentant tal-Uffiċċju tal-Prim Ministru, rappreżentant tal-Ministeru responsabbli għall-affarijiet interni, rappreżentant tal-Ministeru responsabbli għad-difiża, rappreżentant tal-Ministeru responsabbli għall-finanzi, rappreżentant tal-Ministeru responsabbli għall-ekonomija, rappreżentant tal-Ministeru responsabbli għad-Dipartiment tal-Kummerċ, rappreżentant tad-Dipartiment tad-Dwana, rappreżentant tal-Bank Ċentrali ta' Malta, rappreżentant tal-Awtorità għas-Servizzi Finanzjarji ta' Malta, rappreżentant tal-Ministeru responsabbli għall-affarijiet marittimi u rappreżentant tal-Ministeru responsabbli għal affarijiet tal-avjazzjoni.

(3) Għandu jkun mahtur Viċi *Chairman* mill-Ministru fost il-membri tal-Bord.

(4) Il-Bord ikollu l-funzjoni li jissorvelja t-tħaddim ta' regolamenti magħmulin bis-saħħa ta' dan l-Att bil-ghan, fejn applikabbli, li t-twettiq ta' dawk ir-regolamenti jkun konformi mat-twettiq li jsir minn Stati oħra li jkunu qegħdin iġibu fis-seħħ is-sanzjonijiet relattivi għall-istess regolamenti, u dawk il-gunzjonijiet oħra li jistgħu jiġu delegati lill-Prim Ministru permezz ta' regolamenti magħmulin taħt dan l-Att.

(5) Il-Bord għandu fi tmiem kull sena jew iktar qabel jekk ikun hekk mitlub, jaġmel rapport dwar l-attivitajiet tiegħu lill-Prim Ministru u lill-Ministru responsabbli għall-affarijiet barranin.

Setgħat u funzjonijiet tal-Viċi *Chairman*.

8. Iċ-*Chairman* għandu jkun il-Kap tal-Bord u l-Viċi *Chairman* għandu jkollu s-setgħat kollha u għandu jwettaq il-funzjonijiet taċ-*Chairman* fl-assenza tiegħu jew f'każ li ma jkunx jista' jaġixxi ta' *Chairman* jew waqt li jkun fuq btala jew waqt perjodu ta' kwalunkwe vakanza fil-kariga taċ-*chairman*.

Laqgħat tal-Bord.

9. (1) Il-Bord għandu jiltaqa' fi żmien xahar minn meta jkun ġie stabbilit u wara dan kull darba li jkun meħtieġ jew spedjenti, iżda f'ebda każ anqas minn darbtejn fis-sena. Il-laqgħat tal-Bord għandhom jissejhu miċ-*Chairman* fuq l-inizjattiva tiegħu jew fuq talba ta' għall-inqas żewġ membri oħra.

(2) Il-Bord m'għandux jaġixxi sakemm ma jkunx hemm kworum li jikkonsisti fiċ-*Chairman* jew il-Viċi *Chairman* u mhux anqas minn żewġ membri oħra preżenti.

(3) Il-laqgħat tal-Bord għandhom ikunu mmexxija miċ-*Chairman* jew, fl-assenza tiegħu, mill-Viċi *Chairman*.

(4) Id-deċiżjonijiet tal-Bord għandhom jiġu adottati permezz ta' maġġoranza sempliċi ta' voti tal-membri preżenti u li qed jivvotaw u f'każ ta' parità l-membri li jkun qed jippresjedi l-laqgħa għandu jeżercita t-tieni jew vot deċiżiv.

(5) Kull vakanza fost il-membri tal-Bord u kull parteċipazzjoni fiha minn persuna li ma tkunx intitolata li tagħmel dan, ma' tinvalidax il-hidma tal-Bord.

(6) Bla ħsara għad-dispożizzjonijiet ta' dan l-Att, il-Bord jista' jirregola l-proċeduri tiegħu stess.

(7) Iċ-*Chairman* jista', wara konsultazzjoni mal-membri tal-Bord, jistieden osservaturi fuq il-Bord, kull meta dan ikun meħtieġ sakemm dawn ikunu għadew mit-test meħtieġ ta' approvazzjoni tas-sigurtà.

(8) L-azzjonijiet kollha magħmula *bona fide* minn kull persuna bħala membru tal-Bord għandha tkun valida daqs li kieku dik il-persuna kienet membru minkejja li wara jiġi skopert xi difett fil-ħatra jew fil-kwalifika tagħha.

Deċiżjonijiet f'każ ta' emerġenza.

10. F'każijiet ta' emerġenza, id-deċiżjonijiet għandhom jittieħdu minn tal-anqas żewġ membri tal-Bord, li wieħed minnhom għandu jkun iċ-*Chairman* jew il-Viċi *Chairman*.

Deċiżjoni tal-Bord ta' Sorveljanza fuq Sanzjonijiet.

11. Persuna tista' titlob, bil-miktub, lill-Bord biex jagħti deċiżjoni dwar jekk xi azzjoni li tkun bi ħsiebha tagħmel dik il-persuna hijiex projbita minn xi regolament partikolari magħmul bis-saħħa ta' dan l-Att, jew minn xi Regolament tal-Kunsill jew minn xi Riżoluzzjoni tal-Kunsill tas-Sigurtà tan-Nazzjonijiet Uniti u persuna ma jkollha ebda responsabbiltà taħt dawk ir-regolamenti jew Regolament tal-Kunsill meta dik il-persuna tkun aġixxiet b'mod konformi ma' deċiżjoni bħal dik.

Eżenzjoni minn responsabbiltà.

12. Ebda responsabbiltà, sew kriminali sew ċivili, ma għandha tinkombi fuq xi membru tal-Bord għal xi azzjoni li ssir *bona fide* bħala membru ta' dak il-Bord.

Segretezza.

13. Il-membri tal-Bord għandhom iqisu kull kwistjoni li huma jsiru jafu biha f'xi talba li ssir skont l-artikolu 11 bħala li tkun sigrieta u kunfidenzjali, u ma għandhomx f'xi rapport li jsir skont l-artikolu 7(5), jiżvelaw l-ismijiet jew partikolarijiet oħra ta' identità li huma jistgħu jkunu jafu bihom f'dak li għandu x'jaqsam ma' talba għal-liberazzjoni negattiva li ssir skont l-artikolu 11.

Rappreżentanza legali u ġudizzjarja.

14. (1) Ir-rappreżentanza legali u ġuridika tal-Bord għandha tkun vestita fiċ-*Chairman* u, fl-assenza tiegħu, fil-Viċi *Chairman*:

Iżda l-Bord jista' jahtar xi wiehed jew aktar mill-membri tiegħu l-oħra jew mill-uffiċjali jew impjegati sabiex jidher f'isem jew biex jirrappreżenta lill-Bord fi kwalunkwe proċeduri legali u fi kwalunkwe att, kuntratt, strument jew dokument ieħor ikun x'ikun.

(2) Kull dokument li juri li huwa strument magħmul jew maħruġ mill-Bord u li għandu jkun iffirmit miċ-*Chairman* jew mill-Viċi *Chairman* f'isem il-Bord għandu jkun riċevut bħala prova u għandu, sakemm ma jkunx pruvat xorta oħra, jkun meqjus bħala strument magħmul jew maħruġ mill-Bord.

Kooperazzjoni
mal-Bord.

15. (1) Mingħajr preġudizzju għall-ġeneralità tad-dispożizzjonijiet ta' dan l-Att, il-Bord għandu, fit-twertieq tal-funzjonijiet tiegħu taħt dan l-Att, jikkoopera mal-awtoritajiet kompetenti li jinfurzaw il-liġi, is-Servizzi tas-Sigurtà u l-awtoritajiet regolatorji sabiex jiżgura li r-regolamenti magħmula taħt dan l-Att u r-Regolamenti tal-Kunsill ikunu osservati.

(2) Mingħajr preġudizzju għad-dispożizzjonijiet speċjali ta' kwalunkwe liġi oħra applikabbli għalihom, l-imsemmija awtoritajiet għandhom jestendu l-assistenza u l-kooperazzjoni kollha lill-Bord fi twertieq tar-responsabbilitajiet tiegħu taħt dan l-Att.

Kap. 377.

(3) Minkejja kull ma jinsab fl-Att dwar is-Segretezza Professjonali u kull obbligu ta' segretezza jew kunfidenzjalità taħt xi liġi oħra, kull persuna, fiżika jew ġuridika, u kull awtorità jew entità li minnha l-Bord ikun talab informazzjoni għat-twertieq tal-funzjonijiet tiegħu taħt dan l-Att, għandha tibgħat l-informazzjoni mitluba lill-Bord u għall-finijiet tal-artikolu 257 tal-Kodiċi Kriminali, dak l-iżvelar għandu jitqies bħala żvelar ta' informazzjoni mogħtija lil awtorità pubblika ordnat skont il-liġi:

Kap. 9.

Iżda xejn f'dan is-subartikolu ma għandu jimplika xi obbligu fuq l-Avukat Ġenerali sabiex jikkomunika lill-Bord xi informazzjoni li b'xi mod tirrelata jew hija konnessa ma' jew giet fil-pussess tiegħu bħala riżultat tal-eżerċizzju li jkun sar minnu to' xi waħda mis-setgħat imsemmija fl-artikolu 91(3) tal-Kostituzzjoni jew xi obbligu fuq xi persuna sabiex tikkomunika lill-Bord xi informazzjoni li fi proċeduri legali tkun protetta milli tiġi żvelata bl-artikolu 642(1) tal-Kodiċi Kriminal jew bl-artikolu 588(1) tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili.

Kap. 9.

Kap. 12.

Informazzjoni meqjusa bħala relevanti mill-Bord.

16. (1) Minkejja kull haġa oħra li tinsab fi kwalunkwe liġi oħra, il-Bord jista' bl-istess mod jitlob mingħand kwalunkwe persuna, mill-pulizija, minn kull Ministeru tal-Gvern, dipartiment, aġenzija jew kull awtorità pubblika, jew minn kull persuna oħra, fiżika jew ġuridika, u minn kull awtorità superviżorja, kull informazzjoni li jqis rilevanti u ta' użu għall-finijiet tat-twettieq tal-funzjonijiet tiegħu taht dan l-Att.

(2) Id-dispożizzjonijiet tal-artikolu 15(3) għandhom *mutatis mutandis* japplikaw fejn xi informazzjoni tkun mitluba mill-Bord taht dan l-artikolu.

Taqsimha III

Sanzjonijiet li jimponu miżuri ta' ffriżar

Miżuri ta' ffriżar.

17. (1) Minkejja d-dispożizzjonijiet ta' dan l-Att jew ta' kwalunkwe liġi oħra, meta regolamenti magħmula taht l-artikolu 3(4)(a) jew meta riżoluzzjoni tal-Kunsill tas-Sigurtà tan-Nazzjonijiet Uniti jew Regolament tal-Kunsill huma magħmula sabiex jiġu imposti miżuri ta' ffriżar fuq proprjetà ta' persuni msemmija li jkun elenkati fl-imsemmija Riżoluzzjoni jew Regolament jew annessi tiegħu, tali regolamenti, Riżoluzzjoni jew Regolament għandhom jitqiesu bħala ordni ta' ffriżar li jkollu l-forza ta' liġi.

(2) Dak l-ordni għandu jkollu l-effett li -

(a) jissekwestra f'idejn terzi b'mod ġenerali l-flejjes kollha u proprjetà mobbli oħra li jkunu dovuti lil jew jappartjenu lill-persuna jew lill-entità elenkati, u

(b) jipprojbixxi lill-presuni jew lill-entità elenkati milli jitrasferixxu, jagħtu bħala garanzija, jipotekaw jew mod ieħor jiddisponu minn kwalunkwe proprjetà mobbli jew immobbli.

(3) Dak l-ordni għandu -

(a) jidhol fis-seħħ u jkun vinkolanti fuq terzi minnufih malli jiġi ppubblikat, u -

(i) fil-każ ta' ordni magħmul taħt l-artikolu 3(4)(a), l-ordni jiġi ppubblikata fil-Gazzetta;

(ii) fil-każ ta' Regolament tal-Kunsill imsemmi fl-artikolu 4 jew ta' Riżoluzzjoni tal-Kunsill tas-Sigurtà tan-Nazzjonijiet Uniti magħmula taħt l-artikolu 5, in-notifika tiegħu għandha tiġi ppubblikata minnufih fil-Gazzetta,

u kopja tiegħu għandha tiġi registrata fir-Registru Pubbliku fir-rigward ta' proprjetà immobbli; u

(b) jibqa' fis-seħħ sakemm ikun hemm tneħħija mil-lista magħmula mill-Kunsill tas-Sigurtà tan-Nazzjonijiet Uniti jew mill-Kunsill tal-Unjoni Ewropea, kif ikun il-każ, jew fuq inizzjattiva tagħhom stess jew fuq talba għal dak il-għan mill-Bord.

(3) Meta xi flus ikunu dovuti jew isiru dovuti lill-persuna jew entità elenkati mingħand xi persuna waqt li tali ordni jkun fis-seħħ dawk il-flus għandhom, sakemm ma jkunx ġie ordnat mod ieħor f'dak l-ordni, jiġu depożitati f'bank għall-kreditu tal-persuna jew entità elenkati.

(4) Meta dak l-ordni ma jibqax fis-seħħ kif previst fis-subartikolu (3)(b), għandu jiġi ppubblikat avviz għal dak il-għan fil-Gazzetta, u nota ta' kancellament tar-registrazzjoni ta' dak l-ordni għandha ssir fir-Registru Pubbliku."

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Emenda
ġenerali fl-Att
prinċipali.

5. Minflok il-kliem "Kunsill tas-Sigurezza" kull fejn jidhru fl-Att prinċipali, għandhom jidhru l-kliem "Kunsill tas-Sigurtà".

Revoka u
emendi
konsegwenzjali.
L.S. 365.08

6. (1) Regolamenti dwar Bord ta' Sorveljanza dwar is-Sanzjonijiet huma b'dan revokati mingħajr ħsara għal dak kollu li sar jew naqas milli jsir taħthom.

(2) Kwalunkwe referenza fi kwalunkwe liġi għar-"Regolamenti dwar Bord ta' Sorveljanza" għandha tinftiehem bħala referenza għal dan l-Att.

(3) Kwalunkwe referenza fi kwalunkwe regolament magħmul taħt l-Att prinċipali għall-artikolu 4 tal-Att prinċipali għandha tinftiehem bħala referenza għall-imsemmi artikolu li kien fis-seħħ qabel ma dan l-Att daħal fis-seħħ.

Għanijiet u Raġunijiet

L-għan ewlieni ta' dan l-Abbozz ta' Liġi huwa sabiex iwessa' l-iskop tal-Bord ta' Sorveljanza fuq Sanzjonijiet. Ir-Regolamenti dwar Bord ta' Sorveljanza qed jiġu revokati u, bħala riżultat ta' dan, id-dispożizzjonijiet ewlenin ta' daww ir-regolamenti qed jiżdiedu fl-Att prinċipali, flimkien ma' dispożizzjonijiet oħra relatati mal-kompożizzjoni u l-funzjonijiet tal-Bord u l-pubblikazzjoni ta' Regolamenti tal-Kunsill tal-Unjoni Ewropea u ta' Riżoluzzjonijiet tal-Kunsill tas-Sigurtà tan-Nazzjonijiet Uniti li jaqgħu taħt l-isfera tal-operat tal-Att prinċipali.

**A Bill
entitled**

AN ACT to amend the National Interest (Enabling Powers) Act, Cap. 365, and to provide for matters ancillary or consequential 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:-

1. The short title of this Act is the National Interest (Enabling Powers) (Amendment) Act, 2017, and this Act shall be read and construed as one with the National Interest (Enabling Powers) Act, hereinafter referred to as "the principal Act".

Short title.

Cap. 365.

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

Amendment of article 2 of the principal Act.

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

" "the Board" means the Sanctions Monitoring Board established under Part II of this Act;"

(b) immediately after the definition "Charter" there shall be added the following new definition:

" "Council Regulation" means any Council Regulation which from time to time may be published by the European Union imposing sanctions of whatever nature, referred to in the Official Journal of the European Union,* and includes any amendment thereto and any repealing Regulation;"

* <http://eur-lex.europa.eu/browse/directories/legislation.html>

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(c) immediately after the definition "Council Regulation" there shall be added the following new definition:

" "the European Union" means the European Union as referred to in the Treaty;"

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

" "the Minister" means the Minister responsible for foreign affairs;"

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

Cap. 460. " "the Treaty" means the Treaty referred to in article 2 of the European Union Act;" and

(f) immediately after the definition "United Nations" there shall be added the following new definition:

" "United Nations Security Council Resolution" means any Council Resolution which from time to time may be published by the United Nations Security Council imposing sanctions of whatever nature, referred to in the yearly compendiums of United Nations Security Council resolutions and decisions,* and includes any amendment thereto and any repealing Resolution."

Amendment of article 3 of the principal Act.

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

(a) in sub-article (1) thereof, for the words "sub-articles (4), (7) and (8) of this article" there shall be substituted the words "sub-article (4)";

(b) in sub-article (2) thereof, for the words "sub-articles (4), (7) and (8) of this article" there shall be substituted the words "sub-article (4)";

(c) in sub-article (3) thereof, the words "and subject to the provisions of sub-articles (7) and (8)" shall be deleted;

(d) sub-article (4) thereof shall be substituted by the following:

* <http://www.un.org/en/sc/documents/volumes/>

"Domestic
Restrictive
Measures and
Sanctions.

(4) (a) Whenever the Prime Minister considers that the national or international interests of Malta so require, he may by regulations under this Act, order -

(i) the designation of any person or entity,

(ii) the freezing of property of designated persons and entities, or

(iii) the revocation of any order made under sub-paragraphs (i) and (ii),

as may be stated in the regulations.

(b) Nothing shall preclude the application of the measures referred to in this Act with respect to organizations or factions in any country or countries or part thereof, as may be stated in the regulations.

(c) For purposes of this Act:

"person" shall include a body or association of persons, whether corporate or incorporate;

"property" shall have the meaning assigned to it under the Prevention of Money Laundering Act.";

Cap. 373.

(e) in sub-article (5) thereof, for the words "under this article" there shall be substituted the words "under this Act";

(f) in sub-article (6) thereof, for the words "under this article" there shall be substituted the words "under this Act";
and

(g) sub-articles (7) and (8) thereof shall be deleted.

4. Immediately after article 3 of the principal Act there shall be added the following new articles:

Addition of new
articles to the
principal Act.

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"European
Union
Regulations.
Cap. 460.

4. (1) For the purposes of this Act and of article 3 of the European Union Act, Council Regulations imposing sanctions or applying restrictive measures of whatever nature, or which advise, direct or order Member States of the European Union to take such action as may be advised, directed or ordered, shall be binding in their entirety in Malta and shall be part of the domestic law thereof under conditions laid down in the Treaty.

Cap. 249.

(2) The provisions of article 3(4)(e) of the Interpretation Act shall apply to Council Regulations referred to in this Act and to any amendment thereto and any repealing Regulation.

United Nations
Security
Council
Resolutions.

5. (1) For the purposes of this Act, United Nations Security Council Resolutions imposing sanctions or applying restrictive measures of whatever nature, or which advise, direct or order Member States of the United Nations to take such action as may be advised, directed or ordered, shall be automatically binding in their entirety in Malta and shall be part of the domestic law thereof.

Cap. 249.

(2) The provisions of article 3(4)(e) of the Interpretation Act shall apply to United Nations Security Council Resolutions referred to in this Act and to any amendment thereto and any repealing Resolution.

Offences and
penalties.

6. (1) Any person who acts in violation of regulations made under this Act or of a Council Regulation or of a United Nations Security Council Resolution shall be guilty of an offence and shall, on conviction, be liable to imprisonment for a term from twelve months to twelve years or to a fine (*multa*) of not less than twenty-five thousand euro (€25,000) and not exceeding five million euro (€5,000,000), or to both such imprisonment and fine.

Cap. 9. (2) The provisions of article 121D of the Criminal Code shall *mutatis mutandis* apply to the offences under this Act, so however that the punishment to which the body corporate shall be liable under this sub-article shall be that of the payment of a fine (*multa*) of not less than eighty thousand euro (€80,000) and not exceeding ten million euro (€10,000,000).

Cap. 9. (3) The body corporate shall also be held liable for an offence under this article where the lack of supervision or control by a person referred to in article 121D of the Criminal Code has made possible the commission of the offence for the benefit of the body corporate, which shall upon conviction be liable to the punishment laid down in sub-article (2).

(4) Without prejudice to any other punishment to which the offence may be liable under this Act or any other law, where the offender is a body corporate liable to punishment under the provisions of sub-articles (2) and (3), the Court may, at the request of the prosecution, order -

(a) the suspension or cancellation of any licence, permit or other authority to engage in any trade, business or other commercial activity;

(b) the temporary or permanent closure of any establishment which may have been used for the commission of the offence;

(c) the compulsory winding up of the body corporate;

(d) exclusion from entitlement to public benefits or aid.

Cap. 9.
Cap. 446. (6) The provisions of articles 21 and 28A of the Criminal Code and the provisions of the Probation Act shall not apply in respect of any person convicted of an offence under this Act.

Cap. 9. (7) Without prejudice to the provisions of article 5 of the Criminal Code, the Maltese courts shall also have jurisdiction over the offences referred to in this Act where:

(a) only part of the action giving execution to the offence took place in Malta; or

(b) the offender is a Maltese national or habitual resident in Malta or the offence was committed for the benefit of a body corporate registered in Malta; or

(c) where the gain from the commission of the offence was received in Malta; or

(d) where a person in Malta knowingly assisted or induced another person to commit the offence.

Part II

Sanctions Monitoring Board

Sanctions
Monitoring
Board,
composition
and functions.

7. (1) There shall be a Sanctions Monitoring Board having the functions set out in this Act.

(2) The Sanctions Monitoring Board shall be composed of a representative of the Ministry for Foreign Affairs who shall be Chairman, the Attorney General or his representative, the Commissioner of Police or his representative, a representative of the Office of the Prime Minister, a representative of the ministry responsible for home affairs, a representative of the ministry responsible for defence, a representative of the ministry responsible for finance, a representative of the ministry responsible for the economy, a representative of the Trade Department, a representative of the Customs Department, a representative of the Central Bank of Malta, a representative of the Malta Financial Services Authority, a representative of the ministry responsible for maritime affairs and a representative of the ministry responsible for aviation matters.

(3) A Deputy Chairman shall be appointed by the Minister from among the members of the Board.

(4) The Board shall have the function to monitor the operation of regulations made under this Act with a view, where applicable, of harmonising practice thereon with that followed by other States enforcing the sanctions relative to the same regulations, and such other functions as may be delegated to it by the Prime Minister by regulations made under this Act.

(5) The Board shall at the end of each year, or earlier if so requested, make a report of its activities to the Prime Minister and to the Minister responsible for foreign affairs.

Powers and functions of the Deputy Chairman.

8. The Chairman shall be the Head of the Board and the Deputy Chairman shall have all the powers and perform all the functions of the Chairman during his absence or inability to act as Chairman or while he is on vacation or during any vacancy in the office of chairman.

Meetings of the Board.

9. (1) The Board shall meet within one month from its constitution and as often as may be necessary or expedient thereafter, but in no case less frequently than twice in each year. The meetings of the Board shall be called by the Chairman on his own initiative or at the request of any two of the other members.

(2) The Board shall not act unless a quorum consisting of the Chairman or Deputy Chairman and not less than two other members is present.

(3) The meetings of the Board shall be chaired by the Chairman or, in his absence, by the Deputy Chairman.

(4) The decisions of the Board shall be adopted by a simple majority of the votes of the members present and voting and in the event of an equality of votes the member presiding at the meeting shall have and exercise a second or casting vote.

(5) Any vacancy among the members of the Board, and any participation therein by a person not entitled so to do, shall not invalidate the proceedings of the Board.

(6) Subject to the provisions of this Act, the Board may regulate its own procedure.

(7) The Chairman may, following consultation with Board members, invite observers on the Board as and when required provided they have the necessary security clearance.

(8) All acts done by any person acting in good faith as a member of the Board shall be valid as if he were a member notwithstanding that some defect in his appointment or qualification be afterwards discovered.

Decisions in cases of emergency.

10. In cases of emergency, decisions shall be taken by at least two members of the Board, one of whom shall be the Chairman or Deputy Chairman.

Sanctions Monitoring Board Ruling.

11. A person may, in writing, request the Board to give a ruling on whether an action intended by him falls to be prohibited by any particular regulation made under the Act, or by any Council Regulation, or by any United Nations Security Council Resolution and no liability shall attach under any such regulations or Council Regulation where a person has acted in conformity with any such ruling.

Exemption from liability.

12. No liability, criminal or civil, shall attach to any member of the Board for any action done in good faith as a member thereof.

Secrecy.

13. The members of the Board shall regard any matter coming to their knowledge in any request under article 11 as secret and confidential, and shall not in any report made in accordance with article 7(5), reveal the names or other identifying particulars known to them in connection with a request for negative clearance made in accordance with article 11.

Legal and judicial representation.

14. (1) The legal and judicial representation of the Board shall vest in the Chairman and, in his absence, in the Deputy Chairman:

Provided that the Board may appoint any one or more of its other members or of its officers or employees to appear in the name and on behalf of the Board in any judicial proceedings and in any act, contract, instrument or other document whatsoever.

(2) Any document purporting to be an instrument made or issued by the Board and to be signed by the Chairman or by the Deputy Chairman on behalf of the Board shall be received in evidence and shall, until the contrary is proved, be deemed to be an instrument made or issued by the Board.

Co-operation
with Board.

15. (1) Without prejudice to the generality of the provisions of this Act, the Board shall, in the exercise of its functions under this Act, co-operate with competent law enforcement authorities, the Security Service and regulatory authorities to ensure that regulations made under this Act and the Council Regulations are observed.

(2) Without prejudice to the special provisions of any other law applicable to them, the said authorities shall extend all assistance and co-operation to the Board in the fulfilment of its responsibilities under this Act.

Cap. 377.

(3) Notwithstanding anything contained in the Professional Secrecy Act and any obligation of secrecy or confidentiality under any other law, any person, physical or legal, and any authority or entity from whom information is demanded by the Board in pursuance of its functions under this Act, shall communicate the information requested to the Board and for the purposes of article 257 of the Criminal Code any such disclosure shall be deemed to be a disclosure of information to a public authority compelled by law:

Cap. 9.

Provided that nothing in this sub-article shall imply any obligation on the Attorney General to communicate to the Board any information which in any way relates to or is connected with or came into his possession as a result of the exercise by him of any powers referred to in article 91(3) of the Constitution or any obligation on any person to communicate to the Board any information which would in legal proceedings be protected from disclosure by article 642(1) of the Criminal Code or by article 588(1) of the Code of Organization and Civil Procedure.

Cap. 9.

Cap. 12.

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Information
deemed
relevant by the
Board.

16. (1) Notwithstanding anything contained in any other law, the Board may likewise demand from any person, the police, any Government Ministry, department, agency or other public authority, or any other person, physical or legal, and from any supervisory authority, any information it deems relevant and useful for the purpose of pursuing its functions under this Act.

(2) The provisions of article 15(3) shall *mutatis mutandis* apply where any information is demanded by the Board under this article.

Part III

Sanctions imposing freezing measures

Freezing
measures.

17. (1) Notwithstanding the provisions of this Act or of any other law, when regulations are made under article 3(4)(a) or when a United Nations Security Council Resolution or a Council Regulation is made imposing freezing measures on property of designated persons who will be listed in the said Resolution or Regulation or annexes thereto, such regulations, Resolution or Regulation shall be tantamount to a freezing order having the force of law.

(2) Such an order shall have the effect of -

(a) attaching in the hands of third parties in general all moneys and other movable property due or pertaining or belonging to the listed person or entity, and

(b) prohibiting the listed person or entity from transferring, pledging, hypothecating or otherwise disposing of any movable or immovable property.

(3) Such order shall -

(a) become operative and binding on all third parties immediately it is published, and -

(i) in the case of an order made under article 3(4)(a), the order is published in the Gazette;

(ii) in the case of a Council Regulation referred to in article 4 or a United Nations Security Council Resolution made under article 5, notice thereof shall be published without delay in the Gazette,

and a copy thereof shall be registered in the Public Registry in respect of immovable property; and

(b) remain in force until any de-listing is made by the United Nations Security Council or by the Council of the European Union, as the case may be, of their own motion or upon a request to that effect by the Board.

(3) Where any money is or becomes due to the listed person or entity from any person while such order is in force such money shall, unless otherwise directed in that order, be deposited in a bank to the credit of the listed person or entity.

(4) When such order ceases to be in force as provided in sub-article (3)(b), a notice to that effect shall be published in the Gazette, and a note of cancellation of the registration of that order shall be entered in the Public Registry."

5. For the words "Kunsill tas-Sigurezza" wherever they appear in the Maltese text of the principal Act, there shall be substituted the words "Kunsill tas-Sigurtà".

General amendment in the principal Act.

6. (1) The Sanctions (Monitoring Board) Regulations are hereby being revoked, without prejudice to anything done or omitted to be done thereunder.

Revocation and consequential amendments. S.L. 365.08

(2) Any reference in any law to the "Sanctions (Monitoring Board) Regulations" shall be construed as a reference to this Act.

(3) Any reference in any regulation made under the principal Act to article 4 of the principal Act shall be construed as a reference to the said article as in force prior to the coming into force of this Act.

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Objects and Reasons

The main object of this Bill is to widen the scope of the Sanctions Monitoring Board. The Sanctions Monitoring Board Regulations are being revoked and, as a result, the salient provisions of those regulations are being added to the principal Act, together with other provisions relating to the composition and functions of the Board and the publication of European Union Council Regulation and United Nations Security Council Resolution which fall within the sphere of operation of the principal Act.

