

Suppliment tal-Gazzetta tal-Gvern ta' Malta, Nru. 20,059, 20 ta' Settembru, 2018
Taqsim C

Nru. 58

20. 09. 2018

MALTA

KAMRA TAD-DEPUTATI

HOUSE OF REPRESENTATIVES

ABBOZZ ta' Liġi mressaq mill-Onorevoli Evarist Bartolo, M.P., Ministru għall-Edukazzjoni u x-Xogħol, u moqri għall-Ewwel darba fis-Seduta tal-4 ta' Lulju, 2018.

A BILL introduced by the Honourable Evarist Bartolo, M.P., Minister for Education and Employment, and read the First time at the Sitting of the 4th July, 2018.

ATT biex jemenda l-Att dwar Organizzazzjonijiet Volontarji u biex jagħmel emendi konsegwenzjali u oħrajn fil-Kodiċi Ċivili u fit-Tieni Skeda li tinsab mal-Kodiċi Ċivili, l-Att dwar il-Ġbir Pubbliku, l-Att dwar il-Professjoni Nutarili u l-Arkivji Nutarili, l-Att dwar l-Arbitraġġ, l-Att dwar il-Kumpanniji u l-Att dwar ir-Registru Pubbliku.

AN ACT to amend the Voluntary Organisations Act and to make consequential and other amendments to the Civil Code and to the Second Schedule to the Civil Code, the Public Collections Act, the Notarial Profession and Notarial Archives Act, the Arbitration Act, the Companies Act and the Public Registry Act.

RAYMOND SCICLUNA
Skrivan tal-Kamra tad-Deputati

RAYMOND SCICLUNA
Clerk of the House of Representatives

Abbozz ta' Liġi msejjah

ATT biex jemenda l-Att dwar l-Organizzazzjonijiet Volontarji u biex jagħmel emendi konsegwenzjali u oħrajn fil-Kodiċi Ċivili u fit-Tieni Skeda li tinsab mal-Kodiċi Ċivili, l-Att dwar il-Ġbir Pubbliku, l-Att dwar il-Professjoni Nutarili u l-Arkivji Nutarili, l-Att dwar l-Arbitraġġ, l-Att dwar il-Kumpanniji u l-Att dwar ir-Registru Pubbliku.

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 ġejj:-

1. It-titolu fil-qosor ta' dan l-Att huwa l-Att tal-2018 li jemenda l-Att dwar l-Organizzazzjonijiet Volontarji. Titolu fil-qosor.

Taqsimi I – Emendi għall-Att dwar l-Organizzazzjonijiet Volontarji

2. Din it-Taqsimi temenda u għandha tinqara u tinftiehem ħaġa waħda mal-Att dwar l-Organizzazzjonijiet Volontarji, hawn iżjed 'il quddiem imsejjah "l-Att prinċipali". Emendi għall-Att dwar l-Organizzazzjonijiet Volontarji. Kap. 492.

3. L-artikolu 2 tal-Att prinċipali għandu jiġi emendat kif ġejj: Emenda tal-artikolu 2 tal-Att prinċipali.

(a) fis-subartikolu (1) tiegħu:

(i) minnufih qabel it-tifsira "amministratur", għandha tiżdied it-tifsira ġdida li ġejja:

" "aġenzija pubblika" tfisser kull entità ta' kwalunkwe forma legali stabbilita għat-twettiq tal-amministrazzjoni pubblika skont l-Att dwar l-Amministrazzjoni Pubblika jew kwalunkwe liġi oħra u tinkludi korp statutorju;" Kap. 497.

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(ii) minnufih wara t-tifsira "amministratur", għandha tiżdied it-tifsira ġdida li ġejja:

Kap. 16. " "entità ekkleżjastika" għandu jkollha l-istess tifsira mogħtija lilha fl-artikolu 26 tat-Tieni Skeda tal-Kodiċi Ċivili;"

(iii) minnufih wara t-tifsira "filantropiku", għandha tiżdied it-tifsira ġdida li ġejja:

Kap. 9. " "finanzjament ta' terroriżmu" tfisser il-kondotta mfissra fl-artikoli 328B u 328F sa 328I, it-tnejn inklużi, tal-Kodiċi Kriminali;"

(iv) it-tifsira "fondazzjoni pija" għandha tiġi sostitwita bit-tifsira ġdida li ġejja:

Kap. 9. " "fondazzjoni pija" għandu jkollha l-istess tifsira mogħtija lilha fl-artikolu 26 tat-Tieni Skeda tal-Kodiċi Ċivili;"

(v) minnufih wara t-tifsira "gabra pubblika", għandha tiżdied it-tifsira ġdida li ġejja:

" "Gvern" tfisser il-Gvern ta' Malta u tinkludi kwalunkwe Kunsill Lokali, korporazzjoni statutorja, aġenzija pubblika u kull organizzazzjoni oħra kkontrollata mill-Gvern, tkun li tkun il-forma legali tagħha u tinkludi wkoll il-President ta' Malta;"

(vi) it-tifsira "kontrollat mill-Gvern" għandha tiġi sostitwita bit-tifsira ġdida li ġejja:

" "kontrollata mill-Gvern" tfisser li l-Gvern ta' Malta għandu l-poter, direttament jew indirettament, li jinnomina, jahtar, jibdel jew inehhi kwalunkwe mill-amministraturi tal-organizzazzjoni;"

(vii) minnufih wara t-tifsira "kontrollata mill-Gvern" kif sostitwita, għandha tiżdied it-tifsira ġdida li ġejja:

" "kontrollata minn organizzazzjoni reliġjuża" tfisser li l-organizzazzjoni reliġjuża jew l-awtorità li tkun qed tirrappreżentaha taht il-liġi Kanonika applikabbli jew xi leġislazzjoni oħra li tirregola l-organizzazzjonijiet reliġjużi, ikollha s-setgħa, direttament jew indirettament li tinnomina, tahtar, tibdel jew tneħhi aktar minn nofs l-amministraturi tal-organizzazzjoni;"

(viii) minnufih wara t-tifsira "kontrollata minn organizzazzjoni reliġjuża", kif miżjuda, għandha tiżdied it-tifsira ġdida li ġejja:

" "kontrollata minn, relatata jew affiljata ma' partit politiku" jew termini simili tfisser, fil-każ tal-organizzazzjoni kkontrollata, relatata jew affiljata, li:

(a) l-istatut, id-dikjarazzjonijiet finanzjarji jew dokumenti oħra tagħha jistipulaw b'mod esplicitu li hija kkontrollata minn, relatata jew affiljata ma' partit politiku; jew

(b) għet stabbilita mill-partit politiku li jsostniha finanzjarjament; jew

(ċ) l-assi rimanenti tagħha jaqgħu, max-xoljiment tagħha, fuq il-partit politiku u fil-każ ta' partit politiku, li partit politiku kif mfisser fl-Att dwar il-Finanzjament ta' Partiti Poliċi, kemm jekk registrat taht dan l-Att kif ukoll jekk le: Kap. 544.

(i) għandu s-setgħa, direttament jew indirettament li jinnomina, jahtar, ibiddel jew ineħħi aktar minn nofs l-amministraturi tal-organizzazzjoni; jew

(ii) huwa benefiċjarju, bi kwalunkwe mod u fi kwalunkwe waqt, tad-dħul jew kapital tal-organizzazzjoni; jew

(iii) huwa l-benefiċjarju tal-għanijiet tal-organizzazzjoni, inkluża l-promozzjoni tal-viżjoni speċifika, tal-politiki u tal-għanijiet tal-partit politiku jew tal-kandidati tiegħu;"

(ix) minnufih wara t-tifsira "kontrollata minn, relatata jew affiljata ma' partit politiku", kif miżjuda, għandha tiżdied it-tifsira ġdida li ġejja:

" "Korp għall-Analisi ta' Informazzjoni Finanzjarja" tfisser il-korp stabbilit permezz tal-artikolu 15 tal-Att kontra *Money Laundering*"; Kap. 373.

(x) minnufih wara t-tifsira "Korp għall-Analisi ta' Informazzjoni Finanzjarja", kif miżjuda, għandha tiżdied it-tifsira ġdida li ġejja:

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" "korrissettiv finanzjarju" tfisser kull onorarja, paga, salarju, dritt jew pagament iehor għal servizzi, kemm taht kuntratt jew xort'oħra, iżda m'għandhiex tinkludi r-rifużjoni ta' kwalunkwe spejjeż magħmula għan-nom tal-organizzazzjoni;"

(xi) minnufih wara t-tifsira "korrissettiv finanzjarju" kif miżjuda, għandha tiżdied it-tifsira ġdida li ġejja:

" "kundizzjonijiet tas-suq" u "livelli tas-suq" tfisser:

(a) f'każ ta' oġġetti, il-prezz standard li normalment jithallas għal dawk l-oġġetti f'suq hieles;

(b) f'każ ta' servizzi, l-istandard jew livell ta' korrissettiv finanzjarju li normalment jithallas:

(i) minn organizzazzjonijiet volontarji tal-istess forma legali u li joperaw fl-istess jew f'qasam simili ta' attività; u

(ii) lil persuni fl-istess jew f'kariga jew rwol simili u, jew taht l-istess jew kundizzjonijiet simili u li jkollhom l-istess jew kwalifiki simili; u

(ċ) fil-każijiet l-oħra kollha, l-istandards kummerċjali normali:

Iżda fuq livell lokali għandhom japplikaw dawn il-livelli u kundizzjonijiet tas-suq:

(i) fil-każ ta' organizzazzjonijiet volontarji bi dħul jew qliegh iġġenerat ta' anqas minn ħamsin elf euro (€50,000), dawn għandhom ikunu soġġetti għal Kategorija 1 tal-organizzazzjonijiet iskritti skont ir-Regolamenti dwar l-Organizzazzjonijiet Volontarji (Prospetti Annwali u Kontijiet Annwali);

(ii) fil-każ ta' organizzazzjonijiet volontarji bi dħul jew qliegh iġġenerat ta' aktar minn ħamsin elf euro (€50,000) iżda ta' anqas minn mitejn u ħamsin elf euro (€250,000), dawn għandhom ikunu soġġetti għall-Prinċipji Ġenerali tal-Kontabilità għal Entitajiet Żgħar u ta' Daqs Medju (GAPSME) skont ir-Regolamenti dwar il-Professjoni tal-*Accoutancy*

L.S. 492.01.

L.S. 281.05.

(General Accounting Principles for Small and Medium-Sized Entities); u

(iii) fil-każ ta' organizzazzjonijiet volontarji bi dhul jew qligħ iġġenerat ta' aktar minn mitejn u ħamsin elf euro (€250,000), dawn għandhom ikunu soġġetti għal verifika shiħa minn awditur:

Iżda wkoll sabiex japplikaw il-prinċipji hawn fuq indikati, għandha ssir referenza għall-prezzijiet, standards jew livelli tas-suq fil-pajjiż fejn jiżvolġu l-attivitajiet rilevanti:

Iżda wkoll li fil-każ ta' organizzazzjonijiet internazzjonali li joperaw minn Malta jew f'każ ta' organizzazzjonijiet lokali li joperaw internazzjonalment, dawn l-organizzazzjonijiet għandhom ikunu soġġetti għall-Istandards Finanzjarji Internazzjonali ta' Rappurtar (IRFS) li għandhom japplikaw mingħajr ħsara għar-Regolamenti dwar l-Organizzazzjonijiet Volontarji (Prospetti Annwali u Kontijiet Annwali);";

L.S. 492.01.

(xii) it-tifsira "il-Kunsill" għandha tiġi sostitwita bit-tifsira ġdida li ġejja:

" "il-Kunsill" tfisser il-Kunsill Malti għas-Settur tal-Volontarjat, stabbilit bl-artikolu 35;";

(xiii) it-tifsira "li ma tagħmilx profitt" għandha tiġi sostitwita bit-tifsira ġdida li ġejja:

" "li ma tagħmilx profitt", "mhux għal profitt", "mingħajr profitt" u frażijiet simili għandhom jiġu interpretati, skont kif jitlob il-kuntest, skont il-prinċipji, regoli u linjigwida fl-Ewwel Skeda ta' dan l-Att;";

(xiv) minnufih wara t-tifsira "il-Ministru" għandha tiżdied it-tifsira ġdida li ġejja:

" "organizzazzjoni reliġjuża", tfisser:

(a) fondazzjoni pija;

(b) entità ekkleżjastika u tikkwalifika bħala djoċesi, parroċċa, knisja jew post ta' qima, provinċja jew diviżjoni simili ta' kwalunkwe ordni reliġjuża, istitut ta' ħajja kkonsagrata u soċjetà ta' ħajja

apostolika jew komunità ekkleżjastika; jew

(ċ) sptar, skola, istitut ta' taġlim jew li jagħti pariri, orfanatrofju jew ċentru residenzjali jew ta' mistrieħ disponibbli għall-pubbliku, kontrollati minn organizzazzjoni reliġjuża msemmija fil-paragrafi (a) u (b), kemm jekk sostnuti mill-volontiera u anke jekk le;"

(xv) it-tifsira "organizzazzjoni volontarja" għandha tiġi sostitwita b'dan li ġej:

" "organizzazzjoni volontarja", tfisser fondazzjoni, *trust*, assoċjazzjoni ta' persuni jew organizzazzjoni temporanja li tikkwalifika taħt l-artikolu 3;"

(xvi) minnufih wara t-tifsira "organizzazzjoni volontarja" kif sostitwita, għandha tiżdied it-tifsira ġdida li ġejja:

" "parti interessata" tfisser persuna li hija mogħtija drittijiet li jistgħu jiġu evalwati ekonomikament, preżenti jew futuri, attwali jew kontingenti, fl-istatut ta' organizzazzjoni jew li hija mogħtija setgħat jew funzjonijiet fiha u m'għandhiex tinkludi persuni oħra kemm-il darba l-kuntest ma jitlobx xort'oħra u dan mingħajr ħsara għad-dritt ta' kull persuna li tinforza kwalunkwe dritt jew rimedju ċivili li jista' jkollha;"

(xvii) minnufih wara t-tifsira "parti interessata" kif miżjuda, għandha tiżdied it-tifsira ġdida li ġejja:

" "partit politiku" għandu jkollha l-istess tifsira mogħtija lilha fl-artikolu 2 tal-Att dwar il-Finanzjament ta' Partiti Poliċi u għall-finijiet ta' dan l-Att għandha tinkludi kull organizzazzjoni oħra, ta' kwalunkwe forma legali, li hija kkontrollata minn, relatata jew affiljata mal-partit politiku u t-termini "kandidat politiku" u "organizzazzjoni politika" għandhom jinftiehm u f'dan is-sens;"

(xviii) minnufih wara t-tifsira "settur tal-volontarjat" għandha tiżdied it-tifsira ġdida li ġejja:

" "skop legittimu" tfisser għan ħlief għan soċjali jew pubbliku jew benefiċċju pubbliku, li jkun għan legittimu skont dawn id-dispożizzjonijiet u li jista' jinkludi benefiċċju privat, kemm-il darba dak il-benefiċċju privat ikun soġġett għar-reqwiżiti kondizzjonali li ġejjin:

(a) huwa limitat biss u huwa inċidentali jew anċillari għall-għan prinċipali u l-oġġettivi tal-organizzazzjoni;

(b) mhuwiex direttament attribwibbli għal individwi privati jew membri tal-organizzazzjoni; u

(ċ) mhuwiex kapaċi li jippromwovi xi tip ta' interess privat, irrispettivament minn jekk dak l-interess privat jinvolvix jew le xi interessi ekonomiċi jew xi forma ta' kontribuzzjonijiet ekonomiċi jew huwa kapaċi xort'oħra li jiġi evalwat ekonomikament;"

(xix) minnufih wara t-tifsira "skop leġittimu", kif miżjuda, għandha tiżdid it-tifsira ġdida li ġejja:

" "skop politiku" tfisser il-promozzjoni tal-interessi ta' partit politiku jew ta' kandidat politiku, kemm jekk fuq livell lokali, nazzjonali jew internazzjonali;"

(xx) minnufih wara t-tifsira "skop politiku", kif miżjuda, għandha tiżdid it-tifsira ġdida li ġejja:

" "skop pubbliku" jew "benefiċċju pubbliku" jfissru skop soċjali li:

(a) jippromwovi jew iservi l-interess pubbliku ġenerali jew l-interess ta' settur tal-pubbliku ġenerali, kemm jekk direttament jew indirettament:

Iżda:

(i) jekk, fil-fehma tal-Kummissarju, l-organizzazzjoni ma tilhaqx livelli suffiċjenti ta' promozzjoni jew servizz lil interess pubbliku ġenerali jew l-interess ta' settur tal-pubbliku ġenerali, jista' jiddeciedi li dan il-kriterju ma ġiex sodisfatt; u

(ii) dan l-għan m'għandux jitqies li jeżisti biss għaliex l-organizzazzjoni għandha "skop soċjali" kif imfisser fl-Att;

(b) ma jippromwovix jew ma jservix xi benefiċċju privat, sakemm dak il-benefiċċju ma jkunx biss limitat u inċidentali jew anċillari għall-għanijiet prinċipali u l-oġġettivi tal-organizzazzjoni u kif

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permess b'dan l-Att u, jew bit-Tieni Skeda tal-Kodiċi Ċivili;

(ċ) huwa ta' natura kontinwa u għandu japplika tul l-eżistenza kollha tal-organizzazzjoni volontarja; u

(d) ma jinkludix skop politiku;"

(xxi) it-tifsira "skop soċjali" għandha tiġi emendata kif ġej:

A. il-paragrafu (d) tagħha għandu jiġi sostitwit bil-paragrafu ġdid li ġej:

"(d) l-avvanz soċjali u komunitarju, inkluża l-promozzjoni tal-aspetti etiċi, edukattivi u soċjali ta' professjoni jew sengħa partikolari, iżda ma tinkludix il-promozzjoni ta' xi interess privat ekonomiku;"

B. fil-paragrafu (h) tagħha, il-kliem "organizzazzjonijiet oħra bi skop soċjali", għandhom jiġu sostitwiti bil-kliem "organizzazzjonijiet oħra ta' benefiċċju pubbliku" u l-kelma "jew" għandha tiġi mħassra;"

Ċ. il-paragrafu (i) tagħha għandu jiġi enumerat mill-ġdid bħala l-paragrafu (j);

D. minnufih wara l-paragrafu (h) tagħha, għandu jiżdied il-paragrafu ġdid li ġej:

"(i) it-twettiq ta' attivitajiet intiżi sabiex jingabru fondi għas-sostenn ta' xi benefiċċju pubbliku ieħor, ta' organizzazzjonijiet li ma jagħmlux profitt jew volontarji jew għas-sostenn tas-settur tal-volontarjat in ġenerali jew ta' partijiet minnu permezz tal-applikazzjoni, l-għotja, it-trasferiment jew permezz tad-disponibilità tal-fondi hekk miġbura lilhom jew għall-benefiċċju tagħhom; jew"; u

E. minnufih wara l-paragrafu (j), għandu jiżdied il-paragrafu ġdid li ġej:

"(k) m'għandhiex tinkludi skop politiku;"

(xxii) it-tifsira "statut" għandha tiġi sostitwita bit-tifsira ġdida li ġejja:

"statut" tfisser dokument li jirregola l-ġestjoni kontinwa u l-operat ta' organizzazzjoni volontarja jew kwalunkwe strument kostituttiv jew kuntratt pubbliku tal-organizzazzjoni li jstabilixxi dik l-organizzazzjoni, inkluż testment li jipprovdi għat-twaqqif ta dik l-organizzazzjoni;"

(xxiii) it-tifsira "volontarja" għandha tiġi emendata kif ġej:

A. il-kliem "l-eżistenza ta' xi wieħed jew iżjed minn dawn l-elementi li ġejjin" għandhom jiġu sostitwiti bil-kliem "l-eżistenza ta' żewġ elementi jew iżjed minn dawn l-elementi li ġejjin";

B. fil-paragrafu (a) tagħha, il-kliem "skont ma hu permess hawn iktar 'l isfel" għandhom jiġu sostitwiti bil-kliem "skont ma hu permess f'dan l-Att";

C. fil-paragrafu (c) tagħha:

(aa) minnufih qabel l-kliem "bla ħsara għal limitazzjonijiet dovuti għax-xorta jew għad-daqs tal-organizzazzjoni", għandhom jidhlu l-kliem "fil-każ ta' assoċjazzjoni,";

(bb) il-kliem "fl-attivitajiet tal-organizzazzjoni; u" għandhom jiġu sostitwiti bil-kliem "fl-attivitajiet tal-organizzazzjoni u kull partecipant fl-organizzazzjoni għandu d-dritt li jitlaq mill-organizzazzjoni bil-libertà kollha:";

D. il-paragrafu (d) tagħha għandu jiġi mħassar; u

E. is-subparagrafi (i) u (ii) tal-proviso tagħha għandhom jiġu sostitwiti bis-subparagrafi ġodda li ġejjin:

"(i) meta organizzazzjoni volontarja tiġi stabbilita f'forma ta' fondazzjoni, l-eżistenza ta' wieħed mill-elementi imsemmija aktar 'il fuq tkun biżżejjed sabiex l-organizzazzjoni titqies bħala waħda "volontarja";

(ii) meta membru ta' ordni reliġjuża jew awtorità iwettaq xi funzjonijiet f'organizzazzjoni volontarja mingħajr ħlas, dawk il-funzjonijiet għandhom jitqiesu bħala "volontarji" għall-finijiet ta' din it-tifsira jekk hu jew hi ma jkunux ġew maħtura jew tqabbd u jagħmlu dan għat-twettiq tad-dmirijiet

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vokazzjonali tagħhom mill-ordni reliġjuża jew awtorità li minnha jagħmlu parti;

Kap. 319.

(iii) għall-finijiet tal-paragrafu (ċ), huma biss dawk il-limitazzjonijiet u d-diskrezzjonijiet li huma konsistenti mal-Kostituzzjoni ta' Malta u mal-Att dwar il-Konvenzjoni Ewropea, li għandhom jitqiesu bħala limitazzjonijiet u diskrezzjonijiet validi;"

(b) fis-subartikolu (2) tiegħu, il-kliem " "skop soċjali", "volontarja" ", għandhom jiġu sostitwiti bil-kliem " "skop soċjali", "benefiċċju pubbliku", "skop pubbliku" "volontarja" ".

Emenda tal-artikolu 3 tal-Att.

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

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

"(1) Organizzazzjoni volontarja hija organizzazzjoni li tinholoq jew tiġi stabbilita;

(a) għal kwalunkwe skop soċjali li jikkwalifika bħala skop pubbliku jew għall-benefiċċju pubbliku;

(b) mingħajr skop ta' profitt; u

(ċ) hija volontarja, kemm jekk hija registrata, jew tista' tiġi registrata bħala persuna legali skont it-Tieni Skeda tal-Kodiċi Ċivil, u anke jekk le, u kemm jekk hija iskritta jew tista' tiġi iskritta taħt dan l-Att u anke jekk le.

Kap. 16.

Għall-finijiet ta' dan l-Att ir-rekwiżiti hawn fuq imsemmija għandhom ikunu ta' natura kontinwa u għandhom japplikaw matul l-eżistenza kollha tal-organizzazzjoni volontarja.";

(b) is-subartikolu (2) tiegħu għandu jiġi enumerat mill-ġdid bħala l-paragrafu (a) tal-imsemmi subartikolu, u minnufih warajh għandhom jiżdiedu l-paragrafi godda li ġejjin:

"(b) L-amministraturi ta' organizzazzjoni volontarja huma marbuta jaġixxu b'mod awtonomu u indipendenti fil-milja tal-iskopijiet espressi ta' dik l-organizzazzjoni u m'għandhomx ikunu soġġetti għall-kontroll ta' xi persuna jew awtorità oħra, lanqas għandhom b'xi mod ikunu marbuta, direttament jew indirettament, li jaġixxu taħt id-direzzjoni jew fl-interess ta' xi persuna oħra.

(ċ) Id-dispożizzjonijiet fi kwalunkwe statut ta' organizzazzjoni volontarja jew fi kwalunkwe liġi applikabbli, li l-

amministraturi huma marbuta li josservaw, m'għandhomx jitqiesu li jaffettwaw l-awtonomija jew l-indipendenza tal-amministraturi:

Iżda dispożizzjonijiet ta' din ix-xorta fi statut, jew kwalunkwe setgħat li ġew vestiti f'xi persuna jew korp bis-saħħa tagħhom, m'għandhomx ikunu tali li jikkontradixxu l-iskop pubbliku tal-organizzazzjoni:

Iżda wkoll tali statut jew liġi applikabbli għandhom jinkludu:

(i) kwalunkwe dikjarazzjoni tal-iskop, standards ta' kondotta, linjigwida dwar governanza korporattiva jew dikjarazzjonijiet simili fl-istatut, inklużi dawk relatati mal-pożizzjonijiet etiċi, ta' reputazzjoni jew kummerċjali adottati mill-fondatur;

(ii) kwalunkwe dispożizzjonijiet li jirriżervaw setgħat jew drittijiet favur il-fondatur tal-fondazzjoni bi skop pubbliku jew favur is-*settlor* ta' *trust* ta' karità skont id-dispożizzjonijiet tat-Tieni Skeda tal-Kodiċi Ċivili u l-Att dwar *Trusts* u *Trustees* rispettivament;

Kap. 16.
Kap. 331.

(iii) kwalunkwe dispożizzjonijiet dwar il-kunsill ta' superviżjoni jew il-protettur li jista' jingħata setgħat relatati mal-azzjonijiet tal-amministraturi jew *trustees* skont il-liġi applikabbli;

(iv) kwalunkwe dispożizzjonijiet li jagħtu setgħat lil Qrati jew lil awtorità oħra li joħroġu direzzjonijiet dwar kwalunkwe kwistjoni relatata ma' fondazzjoni, assoċjazzjoni jew *trust* jew b'mod ġenerali b'konnessjoni ma' kwalunkwe organizzazzjoni volontarja;

(v) kwalunkwe dispożizzjonijiet tal-liġi applikabbli li abbażi tagħhom l-amministraturi jistgħu jkunu marbuta li jsegwu d-direzzjonijiet ta' persuna maħtura fir-rigward ta' kwistjonijiet speċifiċi jew jistgħu jkunu taħt vot ta' ubbidjenza jew xort'oħra soġġetti għal-liġijiet jew regoli tal-awtorità kompetenti ekkleżjastika jew awtorità reliġjuża oħra; jew

(vi) kwalunkwe dispożizzjonijiet li bis-saħħa tagħhom l-awtorità ekkleżjastika kompetenti jew awtorità reliġjuża oħra jistgħu jgawdu setgħat fir-rigward tal-organizzazzjoni.";

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(ċ) is-subartikolu (3) tiegħu għandu jigi sostitwit b'dan li ġej:

"Organizzazzjonijiet governattivi u oħrajn.

(3) (a) Organizzazzjoni m'għandhiex titqies li hija organizzazzjoni volontarja jekk hija:

(i) kkontrollata mill-Gvern; jew

(ii) aġenzija pubblika.

(b) Għall-finijiet ta' dan is-subartikolu:

(i) meta persuna tokkupa l-pożizzjoni ta' Prim Ministru, Ministru, Segretarju Parlamentari, Segretarju Permanenti, sindku jew tokkupa xi kariga pubblika oħra b'setgħat li taġixxi għan-nom tal-Gvern u dik il-persuna tokkupa wkoll l-pożizzjoni ta' amministratur fi hdan organizzazzjoni volontarja fil-kapaċità personali tagħha, ir-rwol tagħha f'din l-aħhar pożizzjoni għandu jitqies li huwa separat u distint mill-kariga pubblika li tista' tkun qed tokkupa mal-Gvern u dik l-organizzazzjoni m'għandhiex, għal din ir-raġuni, titqies li hija "kontrollata mill-Gvern", sakemm l-istatut jew xi dokument li jirregola l-ħatra b'mod espress ma jistabbilixxix xort'oħra:

Izda meta, fi kwalunkwe waqt, tali persuna tkun qed tokkupa ż-żewġ karigi fl-istess ħin, dik il-persuna għandha tissottometti dikjarazzjoni lill-Kummissarju li tikkonferma li hija qed tokkupa l-pożizzjoni ta' amministratur fi hdan l-organizzazzjoni volontarja fil-kapaċità tagħha personali:

Izda wkoll f'każijiet bħal dawn il-Kummissarju jista', jekk iqis li d-dmirijiet jew il-profil ta' dik il-persuna li tkun qed tokkupa l-kariga pubblika huma inkompatibbli mad-dmirijiet tagħha bħala amministratur tal-organizzazzjoni volontarja partikolari jew mas-settur tal-volontarjat ingenerali, jitlob ir-rizenja ta' dik il-persuna mill-pożizzjoni tagħha bħala amministratur tal-organizzazzjoni volontarja;

(ii) arrangamenti ta' kooperazzjoni, id-delega tal-ġestjoni, kuraziji jew kuntratti simili kif ukoll soċjetajiet pubbliċi privati m'għandhomx jimplikaw "kontroll mill-Gvern";

(iii) il-ħatra mill-Gvern ta' persuni bħala protetturi jew bħala membri ta' kunsill superviżorju għandha timplika "kontroll mill-Gvern", sakemm l-istatut jew kwalunkwe dokument li jirregola l-ħatra tagħhom ma jistipulax espressament li l-persuni maħtura mill-Gvern huma indipendenti u awtonomi, li għandhom jaġixxu skont id-diskrezzjoni u bir-responsabbiltà tagħhom u li m'għandhomx ikunu marbuta li jsegwu d-direzzjonijiet maħruġa mill-Gvern fit-twettiq tad-dmirijiet tagħhom, minkejja l-fatt li huma maħtura mill-Gvern, għalkemm jibqgħu marbuta li jipproteġu l-interess pubbliku anke jekk b'konsultazzjoni mal-Gvern.

Għall-finijiet tas-subparagrafu (i), jekk, taht id-dispożizzjonijiet tal-istatut tal-organizzazzjoni, is-suċċessur li jkun qed jokkupa l-istess kariga pubblika jsir l-amministratur hekk kif jirtira l-uffiċjal pubbliku li kien jokkupa l-kariga preċedentement, dan għandu jitqies li jimplika li l-persuna rilevanti mhux qegħda tokkupa l-pożizzjoni ta' amministratur fil-kapaċità personali tagħha. It-terminu "persuna rilevanti" għandha l-istess tifsira bħal dik mogħtija lilha taht it-Tieni Skeda tal-Kodiċi Ċivili.

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(ċ) L-organizzazzjonijiet reliġjużi ma jistgħux jirreġistraw taħt dan l-Att u m'għandhomx jiġu trattati bħala organizzazzjonijiet għall-finijiet ta' dan l-Att. Dan l-artikolu bl-ebda mod ma għandu jimpedixxi organizzazzjoni reliġjuża milli tistabbilixxi organizzazzjoni li fiha nnifisha mhix organizzazzjoni reliġjuża kif imfisser aktar 'il fuq. Mingħajr ħsara għad-dispożizzjonijiet ta' dan l-Att tali organizzazzjoni tista' tiġi iskritta u, fejn jitlob dan l-Att, għandha l-obbligu li tiġi iskritta.

(d) Tali organizzazzjoni m'għandhiex tkun eliġibbli għad-drittijiet, privileġġi u benefiċċji ta' organizzazzjoni privata sakemm ma tkunx iskritta bħala organizzazzjoni volontarja taħt dan l-Att.

(e) Meta organizzazzjoni reliġjuża tkun diġà iskritta taħt dan l-Att fid-data tad-dhul fis-seħh ta' din id-dispożizzjoni, dik l-organizzazzjoni għandha tkompli titqies li hija organizzazzjoni volontarja, bid-drittijiet, privileġġi u benefiċċji kollha relattivi, sakemm l-iskrizzjoni tagħha tibqa' effettiva.

(f) Organizzazzjoni m'għandhiex titqies li hija organizzazzjoni volontarja jekk hija partit politiku, għandha skopijiet politiċi jew hija kkontrollata minn, relatata jew affiljata ma' partit politiku. Tali organizzazzjonijiet ma jistgħux jiġu iskritti taħt dan l-Att u m'għandhomx jiġu ttrattati bħala organizzazzjonijiet volontarji għall-finijiet ta' dan l-Att. Dan l-artikolu bl-ebda mod ma għandu jimpedixxi organizzazzjoni bi skopijiet politiċi milli tistabbilixxi organizzazzjoni li fiha nnifisha mhix organizzazzjoni politika kif definit f'dan l-Att. Mingħajr ħsara għad-dispożizzjonijiet ta' dan l-Att, tali organizzazzjoni tista' tiġi iskritta u, fejn jitlob dan l-Att, għandha l-obbligu li tiġi iskritta.

(g) Meta organizzazzjoni bi skopijiet politiċi tiġi iskritta skont dan l-Att fid-data tad-dhul fis-seħħ ta' din id-dispożizzjoni, dik l-organizzazzjoni għandha tikkancella l-iskrizzjoni tagħha taht dan l-Att, u fin-nuqqas il-Kummissarju għandu jipproċedi billi jikkancella l-iskrizzjoni wara avviż skont dan l-Att."; u

(d) minnufih wara s-subartikolu (5) tiegħu, għandhom jiżdiedu s-subartikoli ġodda li ġejjin:

"(6) Kemm-il darba l-artikolu 38 ma jippermettix xort'oħra, u sakemm japplika l-artikolu 32A tat-Tieni Skeda tal-Kodiċi Ċivili, organizzazzjoni volontarja m'għandhiex tkun stabbilita biex tinnegozja jew twettaq attivitajiet kummerċjali. Kap. 16.

(7) Għall-finijiet tal-iskrizzjoni ta' organizzazzjoni barranija jew internazzjonali taht dan l-Att, meta l-organizzazzjoni tiegħu l-forma ta' fondazzjoni jew assoċjazzjoni, l-organizzazzjoni għandu jkollha jew:

(a) minimu ta' tliet amministraturi; jew

(b) żewġ amministraturi u rappreżentant residenti Malta;

(ċ) fil-każ ta' *trust* minn tal-inqas *trustee* wieħed u rappreżentant residenti Malta."

5. L-artikolu 4 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 4 tal-Att prinċipali.

(a) fis-subartikolu (1) tiegħu, il-kliem "Kull organizzazzjoni volontarja" għandhom jiġu sostitwiti bil-kliem "Mingħajr hsara għad-dispożizzjonijiet tal-artikolu 12B, kull organizzazzjoni volontarja li għandha skop pubbliku jew hija għall-benefiċċju pubbliku";

(b) fis-subartikolu (2) tiegħu, minnufih wara l-kliem "tista' tagħmel ġbir pubbliku" għandhom jiżdiedu l-kliem "għall-finijiet tal-organizzazzjoni, jew fejn l-iskop tal-organizzazzjoni huwa l-ġbir ta' fondi għal organizzazzjonijiet volontarji oħra bi skopijiet soċjali jew pubbliċi identifikati, għall-finijiet ta' daww l-organizzazzjonijiet l-oħra".

(ċ) is-subartikolu (3) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(3) Kull kollezzjoni pubblika magħmula minn

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kwalunkwe organizzazzjoni volontarja iskritta, għandha ssir għall-iskopijiet pubbliċi tal-organizzazzjoni rilevanti u skont kwalunkwe regolamenti magħmulin mill-Ministru u, jew ta' kwalunkwe linjigwida li jistgħu jinħarġu mill-Kummissarju minn żmien għal żmien. Sakemm ma tiġix iskritta, l-organizzazzjoni volontarja ma tistax tagħmel kollezzjonijiet pubbliċi.";

(d) fis-subartikolu (4) tiegħu:

(a) il-kliem "Organizzazzjoni iskritta tista'"; għandhom jiġu sostitwiti bil-kliem "Organizzazzjoni volontarja li mhix iskritta skont dan l-Att, ma tistax:";

(b) fil-paragrafu (d) tiegħu:

(i) il-kliem "l-iskop soċjali tagħha" għandhom jiġu sostitwiti bil-kliem "l-iskop pubbliku tagħha";

(ii) il-kliem "xi entità kontrollata mill-Gvern:" għandhom jiġu sostitwiti bil-kliem "xi entità kontrollata mill-Gvern:";

(iii) minnufih wara l-paragrafu (d) tiegħu, għandha tiżdied is-sentenza ġdida li ġejja:

"u kwalunkwe att li jikser dan is-subartikolu għandu jitqies li huwa soġġett għar-revoka fuq talba tal-Avukat Ġenerali, li jista' jaġixxi fuq inizjattiva tiegħu jew fid-diskrezzjoni tiegħu fuq ilment imressaq mill-Kummissarju jew fuq ilment imressaq mill-organizzazzjoni volontarja iskritta:";

(iv) l-ewwel *proviso* tiegħu għandu jiġi sostitwit b'dan li ġej:

"Iżda:

(i) organizzazzjoni volontarja iskritta tista' tibbenifika taħt il-paragrafi (a), (b), (c) u (d) unikament jekk thares għal kollox id-dispożizzjonijiet ta' dan l-Att u kwalunkwe regolamenti magħmulin taħtu; u

(ii) jekk organizzazzjoni volontarja iskritta, li tkun qed tibbenifika taħt il-paragrafi

(a), (b), (ċ) u (d) ma tibqax tħares għal kollox id-dispożizzjonijiet ta' dan l-Att u kwalunkwe regolamenti magħmulin tahtu, dik l-organizzazzjoni volontarja iskritta għandha tingħata perjodu mill-Kummissarju jew mill-awtorità rilevanti li tkun qed tagħti l-benefiċċju, skont il-każ, sabiex tirretifika l-pożizzjoni tagħha:";

(e) is-subartikoli (5) u (6) tiegħu għandhom jiġu mħassra, u s-subartikolu (7) tiegħu għandu jiġi enumerat mill-ġdid bħala s-subartikolu (5); u

(f) minnufih wara s-subartikolu (5) tiegħu kif enumerat mill-ġdid, għandhom jiżdedu s-subartikoli ġodda li ġejjin:

"(6) Mingħajr ħsara għad-dispożizzjonijiet l-oħra ta' dan l-Att, fl-implimentazzjoni tad-dispożizzjonijiet ta' dan l-artikolu, fl-għoti ta' benefiċċji jew fondi jew fl-estensjoni ta' privileġġi lil organizzazzjonijiet volontarji iskritti, jew fiċ-ċaħda ta' benefiċċji jew fondi jew privileġġi minħabba nuqqas ta' iskrizzjoni tal-organizzazzjoni, il-Gvern għandu jikkonsulta u jista' joqgħod fuq l-informazzjoni misjuba fir-Reġistru ta' Organizzazzjonijiet Volontarji kif miżmum mill-Kummissarju.

(7) (a) Il-Gvern għandu, minn żmien għal żmien, jiddikjara meta l-fondi għall-għotjiet, sponsorizzazzjonijiet jew għajnuna oħra finanzjarja jkunu disponibbli għas-settur volontarju.

(b) Għall-finijiet tal-paragrafu (a), il-Gvern għandu jiddistingwi bejn:

(i) fondi li huma disponibbli għall-organizzazzjonijiet fis-settur volontarju b'attivitajiet f'Malta, kemm jekk l-organizzazzjonijiet ikunu organizzazzjonijiet Maltin jew organizzazzjonijiet barranin b'attivitajiet f'Malta; u

(ii) fondi li huma disponibbli sabiex isostnu attivitajiet barra minn Malta ta' organizzazzjonijiet, sew jekk daww l-organizzazzjonijiet huma Maltin u sew jekk huma barranin.

(ċ) fil-każ ta' fondi disponibbli kif imsemmi fil-paragrafu (b)(i), dawn għandhom ikunu disponibbli

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esklussivament għall-organizzazzjonijiet volontarji iskritti, sew Maltin u sew barranin.

(d) fil-każ ta' fondi disponibbli kif imsemmi fil-paragrafu (b)(ii):

(i) fil-każ ta' organizzazzjonijiet riċevituri Maltin, dawn għandhom ikunu disponibbli esklussivament għall-organizzazzjonijiet volontarji iskritti; u

(ii) fil-każ ta' organizzazzjonijiet riċevituri li mhumiex Maltin, il-Gvern għandu jiżgura kemm jista' jkun, li dawk l-organizzazzjonijiet jissodisfaw b'mod generali l-ekwivalenti tal-benefiċċju pubbliku, tar-registrazzjoni u tal-istandards tat-trasparenza fl-istat tagħhom ta' registrazzjoni, bħall-organizzazzjonijiet volontarji registrati taht dan l-Att.

Il-Ministru jista', minn żmien għal żmien, joħroġ regolamenti li jistabilixxu kwistjonijiet li jirrikjedu l-ekwivalenza u l-mod kif dan għandu jsir u jista' minn żmien għal żmien jiddikjara meta r-registrazzjoni ta' organizzazzjoni ta' karità, ta' benefiċċju pubbliku, li ma tagħmilx profitt jew volontarja f'pajjiżi speċifiċi, timplika l-ekwivalenza għall-finijiet ta' dan il-paragrafu."

Emenda tal-artikolu 5 tal-Att prinċipali.

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

(a) is-subartikolu (3) tiegħu għandu jiġi emendat kif ġej:

(i) fil-paragrafu (d) tiegħu, il-kliem "reat ieħor kontra dan l-Att." għandhom jiġu sostitwiti bil-kliem "reat ieħor kontra dan l-Att; jew";

(ii) minnufih wara l-paragrafu (d) tiegħu, għandu jiżdied il-paragrafu ġdid li ġej:

"(e) hija uffiċjal pubbliku jew issir uffiċjal pubbliku."; u

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

"(4) Il-ħatra ta' persuna bħala Kummissarju m'għandhiex tagħmilha uffiċjal pubbliku. Matul it-terminu tagħha bħala Kummissarju, dik il-persuna m'għandhiex ikollha kariga li tirriżulta f'kunflitt ta' interess jew li hija inkompatibbli mat-

twettiq xieraq tad-dmirijiet ufficjali tagħha bħala Kummissarju, jew mal-imparzjalità mistennija minn din il-kariga jew mal-kunfidenza pubblika li fiha dik il-kariga."

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

Emenda tal-artikolu 7 tal-Att prinċipali.

(a) is-subartikolu (1) tiegħu għandu jiġi emendat kif ġej:

(i) il-paragrafu (k) tiegħu għandu jiġi enumerat mill-ġdid bħala l-paragrafu (m);

(ii) minnufih wara l-paragrafu (j) tiegħu, għandhom jiżdiedu l-paragrafi ġodda li ġejjin:

"(k) jirrevedi perjodikament informazzjoni ġdida dwar il-vulnerabilitajiet potenzjali tas-settur volontarju għall-ħasil tal-flus u l-finanzjament tat-terroriżmu;

(l) jekk jiskopri fatti jew jikseb informazzjoni li jkajmu suspett li l-fondi li tkun irċeviet organizzazzjoni volontarja jistgħu jkunu ġejjin minn attività kriminali jew li l-attivitajiet ta' organizzazzjoni volontarja jistgħu jkunu relatati ma' ħasil ta' flus jew finanzjament ta' terroriżmu, għandu minnufih jiżvela dawn il-fatti jew dik l-informazzjoni, sostnuti b'dokumentazzjoni rilevanti u ta' sostenn li jista' jkollu għad-dispożizzjoni tiegħu, lill-Korp għall-Analisi ta' Informazzjoni Finanzjarja;"

(b) is-subartikoli (3) u (4) tiegħu għandhom jiġu enumerati mill-ġdid bħala s-subartikoli (5) u (6) rispettivament; u

(ċ) minnufih wara s-subartikolu (2) tiegħu, għandhom jiżdiedu s-subartikoli ġodda li ġejjin:

"(3) L-Uffiċċju tal-Kummissarju għandu jitqies bħala korp ġuridiku, għandu jkollu personalità ġuridika distinta u għandu jkun kapaċi, mingħajr ħsara għad-dispożizzjonijiet ta' dan l-Att jew ta' kwalunkwe regolamenti magħmulin tahtu, li jidhol f'kuntratti, li jakkwista, jzomm u jiddisponi minn kwalunkwe tip ta' proprjetà għall-finijiet tal-funzjonijiet tiegħu, li jħarrek u jiġi mħarrek, u li jwettaq dawk il-ħwejjeġ u jidhol f'dawk it-transazzjonijiet kollha li huma incidentali jew li jwasslu għall-eżerċizzju jew twettiq tal-funzjonijiet tal-Kummissarju taht dan l-Att. Il-Kummissarju jgawdi r-rappreżentanza legali u ġudizzjarja tal-Uffiċċju tal-Kummissarju bħala persuna legali.

(4) Il-Kummissarju jista', għan-nom tal-Uffiċċju tal-Kummissarju, bil-miktub minnu stess, jiddelega lil kwalunkwe

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persuna funzjonijiet speċifiċi, setgħat jew awtoritajiet assenjati lilu jew attribwiti lilu taħt dan l-Att jew b'xi liġi oħra, u tali delega tista' tiġi revokata jew varjata fi f'kull waqt:

Iżda ebda minn dawn id-delegi ma għandha titqies li tnaqqas lil Kummissarju minn xi funzjonijiet, setgħat jew awtoritajiet u huwa jista', jekk iqis li dan huwa xieraq, jeżerċita dawk il-funzjonijiet, setgħat jew awtoritajiet kollateralment mal-persuna li tkun ġiet hekk iddelegata."

Emenda tal-artikolu 8 tal-Att prinċipali.

8. Is-subartikolu (2) tal-artikolu 8 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

"(2) Il-Kummissarju għandu:

(a) jfittex li jrawwem ambjent fejn il-kredibilità u r-reputazzjoni tajba tas-settur tal-volontarjat tiġi kontinwament imsaħħa permezz ta' standards għoljin fl-operat tal-organizzazzjonijiet volontarji u l-amministraturi tagħhom, tat-trasparenza u l-għarfien pubbliku u r-responsabbiltà xierqa; u

(b) jfittex li jassisti lill-organizzazzjonijiet volontarji sabiex jiproteġu lilhom infushom milli jiġu abbużati għal skopijiet ta' hasil ta' flus jew finanzjament ta' terroriżmu, billi jiżdied l-għarfien tagħhom dwar dawn ir-riskji u billi jiġu infurmati dwar miżuri disponibbli għall-protezzjoni tagħhom kontra dan l-abbuż."

Emenda tal-artikolu 9 tal-Att prinċipali.

9. L-artikolu 9 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) il-paragrafu (a) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(a) ir-rikonoxximent, l-inkoraġġiment u l-promozzjoni tal-valur u l-importanza tal-azzjoni volontarja u tal-organizzazzjonijiet volontarji, kemm jekk ikunu qed joperaw indipendentament mill-Gvern, organizzazzjonijiet reliġjużi jew istituzzjonijiet pubbliċi oħra jew f'rwol ta' sostenn, u l-benefiċċju favur il-ħajja soċjali u kulturali f'Malta"; u

(b) fil-paragrafu (d) tiegħu, il-kliem "fl-aħjar interess tal-benefiċjarji tagħhom; u" għandhom jiġu sostitwiti bil-kliem "fl-aħjar interess tal-benefiċjarji tagħhom:" u minnufih wara għandu jiżdied il-*proviso* ġdid li ġej:

"Iżda l-Kummissarju m'għandux jirrifjuta l-iskrizzjoni ta' organizzazzjoni unikament minħabba il-potenzjal tad-duplikazzjoni tal-isforzi minn organizzazzjonijiet oħra bi skopijiet simili; u".

10. Is-subartikolu (1) tal-artikolu 10 tal-Att prinċipali għandu jiġi emendat kif ġej: Emenda tal-artikolu 10 tal-Att prinċipali.

(a) fil-paragrafu (a) tiegħu, minnufih wara l-kliem "is-sena ta' qabel", għandhom jiżdiedu l-kliem "inklużi dawk relatati mal-monitoraġġ tal-organizzazzjonijiet volontarji"; u

(b) fil-paragrafu (ċ) tiegħu, minnufih wara l-kliem "affarijiet oħra li jolqtu lis-settur tal-volontarjat", għandhom jiżdiedu l-kliem "sabiex jiġi żgurat r-regolament adegwat ta' dan is-settur inklużi inizjattivi għall-prevenzjoni kontra l-ħasil tal-flus u l-finanzjament tat-terroriżmu".

11. L-artikolu 11 tal-Att prinċipali għandu jiġi emendat kif ġej: Emenda tal-artikolu 11 tal-Att prinċipali.

(a) fis-subartikolu (2) tiegħu:

(i) minnufih wara l-kliem "jiddiskutih mal-Kummissarju", għandhom jiżdiedu l-kliem "u kemm-il darba ma jintlaħaqx ftehim bejn il-Kummissarju u r-riċevitur, il-Kummissarju jista' jipproċedi bil-pubblikazzjoni tal-informazzjoni mingħajr ebda rekwiżiti ulterjuri"; u

(b) il-*proviso* tiegħu għandu jiġi sostitwit b'dan li ġej:

"Izda fil-każ ta' abbuż manifest, ta' frodi jew riskji oħra lil pubbliku ingenerali, il-Kummissarju jista' jippubblika dik l-informazzjoni mingħajr avviż preċedenti kif imsemmi hawn qabel:

"Izda wkoll l-organizzazzjoni jew il-persuna li tippretendi li taġixxi kif imsemmi fis-subartikolu (1), tista' fi kwalunkwe waqt tappella lit-Tribunal li jista' joħroġ ordnijiet li huma vinkolanti fuq il-Kummissarju fir-rigward ta' dawk id-dikjarazzjonijiet pubbliċi.";

(ċ) is-subartikolu (3) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(3) Minkejja d-dispożizzjonijiet ta' kwalunkwe liġi oħra, il-Kummissarju nnifsu u kull uffiċjal tiegħu li jaġixxi għan-nom tiegħu, għandhom ikunu eżentati minn kull imputabilità jew responsabbiltà kemm ċivili kif ukoll kriminali, fir-rigward ta' kull publikazzjoni, dikjarazzjoni jew komunikazzjoni jew attività oħra, imwettqa bil-*bona fide* u intiża biss għall-informazzjoni imtejba, għall-edukazzjoni jew protezzjoni tal-pubbliku. Din l-eżenzjoni għandha tkun estiża għal dawk il-persuni li jippubblikaw, jistampaw, jirreġistraw, ixandru jew jinnotifikaw dik l-informazzjoni bi kwalunkwe mezz. Għall-finijiet ta' dan is-

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subartikolu, pubblikazzjoni, dikjarazzjoni, komunikazzjoni jew attività għandhom jitqiesu li twettqu bil-*bona fide* meta ma jkunux saru jew ġew eżegwiti b'nuqqas ta' hsieb jew dolożament u josservaw il-prinċipji ta' ekwità u oġġettività. Kull persuna li tallega l-mala fidi, ikollha l-oneru li tipprova dawk l-allegazzjonijiet."; u

(d) is-subartikolu (4) għandu jiġi mhassar.

Emenda tal-artikolu 12 tal-Att prinċipali.

12. L-artikolu 12 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) is-subartikolu (1) tiegħu għandu jiġi emendat kif ġej:

(i) il-kliem "fil-paragrafi (f) sa (i)" għandhom jiġu sostitwiti bil-kliem "fil-paragrafi (d) sa (i)";

(ii) il-paragrafi (d) sa (f) tiegħu għandhom jiġu sostitwiti b'dan li ġej:

"(d) l-ismijiet, in-numri tal-karti tal-identità, li jkollhom magħhom kopja awtentikata ta' kull karta tal-identità, jew numri tal-passaporti, li jkollhom magħhom kopja awtentikata ta' kull passaport, jew numri ta' registrazzjoni, jekk ikun il-każ, u l-indirizzi residenzjali tal-amministraturi tal-organizzazzjoni;

(e) fil-każ ta' organizzazzjonijiet barranin, l-isem, in-numru tal-karta tal-identità, li jkollha magħha kopja awtentikata tal-karta tal-identità, jew numru tal-passaport, li jkollu miegħu kopja awtentikata tal-passaport, jew numru ta' registrazzjoni, jekk ikun il-każ, u l-indirizz residenzjali tar-rappreżentant residenti Malta ta' dik l-organizzazzjoni;

(f) kopja tal-kuntratt kostituttiv tal-organizzazzjoni u kwalunkwe emendi fir-rigward tiegħu, awtentikata minn Nutar Pubbliku fil-każ ta' kuntratt pubbliku, u minn Nutar Pubbliku jew amministratur wieħed f'każijiet oħra, u dikjarazzjoni ffirmata mill-istess persuna kif stabbilit hawn qabel, fejn id-dati ma jkunux jidhru fuq il-faċċata tad-dokumenti preżentati, li tistabbilixxi d-data meta ġie magħmul il-kuntratt kostituttiv u d-dati meta sarulu l-emendi"; u

(b) minnufih wara s-subartikolu (3) tiegħu, għandu jiżdied is-subartikolu ġdid li ġej:

"(4) L-amministraturi u kwalunkwe rappreżentanti residenti Malta għandhom jissottomettu kopja awtentikata ta'

kwalunkwe karti tal-identità u passaporti mgedda fi żmien raġonevoli mid-data tal-iskadenza tad-dokument jew fi żmien tliet xhur minn meta l-Kummissarju jkun għamel talba għal dan il-għan."

13. Minnufih wara l-artikolu 12 tal-Att prinċipali, għandhom jiżiedu l-artikoli ġodda li ġejjin:

Żjieda ta' artikoli ġodda fl-Att prinċipali.

"Prinċipju ġenerali dwar l-iskrizzjoni.

12A. (1) Kull organizzazzjoni għandha d-dritt li tiġi iskritta bħala organizzazzjoni volontarja u li tgawdi l-privileġġi taht l-artikolu 4, kemm-il darba:

(a) l-iskop soċjali ta' dik l-organizzazzjoni jikkwalifika wkoll bħala skop pubbliku jew benefiċċju pubbliku kif imfisser f'dan l-Att; u

(b) tħares ir-regoli dwar il-forma u l-kontenut, kif jista', minn żmien għal żmien jiġi stabbilit mill-Kummissarju:

Iżda l-eżenzjoni mill-iskrizzjoni mandatorja taht l-artikolu 12B, m'għandhiex fiha nnifisha twaqqaf organizzazzjoni milli tiġi iskritta.

(2) Sakemm ma jkunux eżentati taht l-artikolu 12Ċ, l-organizzazzjonijiet imsemmija fl-artikolu 12B huma soġġetti għall-iskrizzjoni mandatorja skont dan l-Att.

(3) Kull organizzazzjoni volontarja li-

(a) mhix diġà iskritta skont dan l-Att;

(b) mhix soġġetta għall-iskrizzjoni mandatorja skont l-artikolu 12B;

(ċ) mhix organizzazzjoni volontarja eżentata skont l-artikolu 12Ċ(2); jew

(d) hija iskritta iżda fuq il-volontà tagħha u fejn dan l-Att jippermetti, ma tibqax hekk iskritta,

hija mitluba tinnotifika lill-Kummissarju bil-miktub dwar l-eżistenza u l-għan prinċipali tagħha skont l-artikolu 12D, sakemm ma tieqafx milli tkun organizzazzjoni volontarja.

(4) Meta organizzazzjoni volontarja jew tonqos milli tiġi iskritta u, jew tonqos milli tinnotifika meta tkun mitluba tagħmel dan skont dan l-Att, id-dispożizzjonijiet taht l-artikolu 12A għandhom japplikaw *mutatis mutandis*.

Iskrizzjoni mandatorja.

12B. Kull organizzazzjoni volontarja għandha tiġi iskritta taht dan l-Att fil-każijiet li ġejjin:

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Iskrizzjoni mandatorja abbażi ta' azzjonijiet u l-protezzjoni tal-interess pubbliku.

(a) tagħmel jew għandha l-intenzjoni li tagħmel kollezzjonijiet pubbliċi; jew

(b) tircievi jew hija l-benefiċjarja ta' għotjiet, sponsorizzazzjonijiet jew għajnuna oħra finanzjarja mill-Gvern jew inkella tgawdi mill-privileġġi kkontemplati f'dan l-Att, fi kwalunkwe regolamenti magħmulin tahtu jew kwalunkwe liġi oħra, jew għandha l-intenzjoni li tkun hekk elegibbli; jew

(c) hija l-benefiċjarja ta' kwalunkwe politiki li jsostnu l-azzjoni volontarja, kif jistgħu jiġu żviluppati mill-Gvern, jew għandha l-intenzjoni li tibbenifika minnhom; jew

(d) tircievi jew hija l-benefiċjarja ta' eżenzjonijiet, privileġġi jew intitolamenti oħra skont xi liġi, jew għandha l-intenzjoni li tibbenifika minnhom;

Iskrizzjoni mandatorja abbażi tal-fatturat u l-benefiċċju pubbliku preżunt.

(e) ma twettaqx attivitajiet kif stabbilit taht il-paragrafi (a) sa (d), iżda għandha dhul ta' aktar minn ħamsa u għoxrin elf euro (€25,000) fi kwalunkwe sena partikolari jew għandha dhul annwali ta' aktar minn ħamest elef euro (€5,000) għal tliet snin konsekuttivi:

Iżda dan il-paragrafu m'għandux japplika fil-każ ta' organizzazzjoni li twettaq għanijiet u, jew attivitajiet jew li għandha sorsi tad-dhul ħlief dawk relatati mal-pubbliku ġenerali jew sorsi pubbliċi, anke jekk dik l-organizzazzjoni għandha skop soċjali, sakemm dan ma jiġix deċiż mill-Kummissarju bil-miktub, fuq inizjattiva tiegħu jew fuq talba tal-organizzazzjoni abbażi tal-benefiċċju pubbliku preżunt:

Iżda wkoll l-obbligu li tinzamm l-iskrizzjoni m'għandux jibqa' japplika jekk il-livell tad-dhul tal-organizzazzjoni ma jissodisfax kwalunkwe limitu rilevanti għal aktar minn tliet snin konsekuttivi;

Iskrizzjoni mandatorja abbażi tal-kapital u l-benefiċċju pubbliku preżunt.

(f) ma twettaqx attivitajiet kif stabbilit taht l-artikoli (a) sa (d), iżda għandha assi kapitali ta' valur li jeċċedi l-ħames mitt elf euro (€500,000), irrispettivament mid-dhul tagħha f'sena waħda partikolari:

Iżda dan il-paragrafu m'għandux japplika fil-każ ta' organizzazzjoni li twettaq skopijiet u, jew attivitajiet jew li għandha sorsi tad-dhul hliet dawk relatati mal-pubbliku ġenerali jew sorsi pubbliċi, anke jekk dik l-organizzazzjoni għandha skop soċjali, sakemm dan ma jiġix deċiż mill-Kummissarju bil-miktub, fuq inizjattiva tiegħu jew fuq talba tal-organizzazzjoni abbażi tal-benefiċċju pubbliku preżunt:

Iżda wkoll l-obbligu li tinżamm l-iskrizzjoni għandu japplika minn tal-inqas għal hames snin u għandu jieqaf japplika jekk sussegwentement il-livell tal-kapital tal-organizzazzjoni ikun ta' anqas mill-valur ta' mitt elf euro (€100,000) u jibqa' hekk għal perjodu ta' tliet snin konsekuttivi;

Iskrizzjoni abbażi tal-istatut jew fuq talba tal-membri.

(g) L-amministraturi għandhom ikunu taht l-obbligu li jiskrivu l-organizzazzjoni jekk dan ikun mitlub mill-istatut, kemm dak oriġinali kif ukoll kif emendat, jew f'każ ta' assoċjazzjoni, jekk jiġi hekk riżolt f'laqgħa ġenerali tal-membri jew minn tal-inqas jekk dan jiġi mitlub bil-miktub minn hamsa u tletin fil-mija tal-membri, kemm-il darba l-iskop tal-organizzazzjoni huwa għal skop jew benefiċċju pubbliku.

(2) Għandu jkun hemm Lista ta' Organizzazzjonijiet Volontarji Iskritti li għandha tinżamm mill-Kummissarju skont dan l-Att u bil-mod li jista' jkoll adegwat, sabiex kull membru tal-pubbliku jkun jista' jivverifika l-eżistenza ta' organizzazzjoni volontarja iskritta u sabiex tinkiseb kwalunkwe informazzjoni oħra provduta minnha lill-Kummissarju.

(3) L-obbligu tal-iskrizzjoni jiskatta:

(a) fil-każ ta' organizzazzjoni stabbilita, fi żmien disgħin (90) ġurnata minn meta tkun għet stabbilita, iżda qabel ma twettaq xi attivitajiet jew qabel ma tircievi kwalukwe benefiċċju msemmi fis-subartikolu (1);

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(b) fil-każ ta' organizzazzjoni stabbilita, li d-dhul tagħha jeċċedi kwalunkwe limitu stabbilit fis-subartikolu (1)(e) jew li l-kapital tagħha jeċċedi l-limitu msemmi fis-subartikolu (1)(f), fi żmien disgħin (90) ġurnata mid-data li fiha jinqabzu l-limiti finanzjarji msemmija fis-subartikolu (1)(e) jew (f), u fi kwalunkwe każ, qabel tirċievi kwalunkwe benefiċċji addizzjonali msemmija fis-subartikolu (1); u

(ċ) fil-każijiet kontemplati fil-paragrafu (g), fi żmien disgħin (90) ġurnata mid-deċiżjoni rilevanti, riżoluzzjoni jew avveniment simili.

(4) Għandha tkun ir-responsabbiltà tal-amministraturi u, fil-każ tas-subartikolu (1)(e) u (f), anke ta' kull *accountant*, reviżur jew awditur, jekk ikun hemm, tal-organizzazzjoni volontarja li jiżguraw il-ħarsien mad-dispożizzjonijiet ta' dan l-artikolu.

(5) Kwalunkwe *accountant*, reviżur jew awditur, jekk ikun hemm, li jitqabbad sabiex jivverifika l-livelli tad-dhul stabbiliti fis-subartikolu (1)(e) u, jew il-kapital fis-subartikolu (1)(f), għandhom jinnotifikaw lill-amministraturi bil-miktub b'kopja lill-Kummissarju, jekk id-dmir tal-iskrizzjoni joħroġ minn dan l-artikolu u l-obbligu ma jkunx gie sodisfatt mill-amministraturi sal-limiti taż-żmien stabbiliti. F'dan il-każ, il-Kummissarju għandu jinnotifika lill-amministraturi b'limitu taż-żmien għall-iskrizzjoni, li m'għandux ikun ta' anqas minn disgħin (90) ġurnata, u l-amministraturi għandhom ikunu obbligati jiskrivu l-organizzazzjoni sa dak il-limitu taż-żmien kif notifikat mill-Kummissarju.

(6) Għall-finijiet ta' dan l-artikolu:

(a) "dhul" tinkludi:

(i) kwalunkwe sussidji, għotjiet u donazzjonijiet magħmulin lill-organizzazzjoni rilevanti, iżda ma tinkludix trasferimenti interni fi hdan u bejn organizzazzjonijiet affiljati u kwalunkwe referenza għad-dhul annwali ta' organizzazzjoni rilevanti għandha tinqara, bħala haġa waħda maż-żmien partikolari, bħala referenza għad-dhul gross konsolidat tal-organizzazzjoni fis-sena finanzjarja tagħha li tigi minnufih qabel dak iż-żmien, b'importanza tingħata lill-organizzazzjonijiet kollha affiljati. "Organizzazzjonijiet affiljati" għall-finijiet ta' dan l-artikolu tinkludi kull organizzazzjoni ("*parent*") flimkien mal-organizzazzjonijiet kollha stabbiliti

mill-istess organizzazzjoni ("*sussidjarji*"), organizzazzjonijiet oħra stabbiliti minn kwalunkwe sussidjarja u, kwalunkwe organizzazzjonijiet stabbiliti mill-istess fondaturi jew promoturi għall-kisba tal-istess għanijiet jew għanijiet kumplementari minn sforzi komuni, fondi jew opportunitajiet;

(ii) self, hliet self minn istituzzjoni ta' kreditu, miġbur minn organizzazzjoni, kull depożitu fi flus kontanti magħmul lill-organizzazzjoni jew kwalunkwe trasferiment ieħor ta' fondi taħt kundizzjonijiet li jindikaw li mhux arrangament ordinarju kummerċjali iżda huwa intiż li jopera bħala għotja jew donazzjoni lill-organizzazzjoni; u

(iii) miżati ta' sħubija;

(b) "għajnuna finanzjarja" għandha tinkludi kull għajnuna finanzjarja li hija disponibbli għas-settur tal-volontarjat mill-Unjoni Ewropea.

(7) F'każ li l-istatut tal-organizzazzjoni jiddeskriviha bħala waħda għal skopijiet pubbliċi, volontarji jew li ma tagħmilx profitt, u l-organizzazzjoni tidher li tkun qed twettaq kwalunkwe attività fis-subartikolu (1)(a) sa (d); u –

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(a) l-istatut jissodisfa hafna mir-reqwiziti kif msemmija f'dan l-Att sabiex l-organizzazzjoni tikkwalifika bħala waħda volontarja iżda għandha wkoll karatteristiċi u elementi fl-istatut tagħha li jeskluduha milli tikkwalifika bħala tali taħt dan l-Att; u

(b) issir dikjarazzjoni pubblika, verbali jew bil-miktub, minn kwalunkwe amministratur jew minn xi persuna oħra, bil-kunsens taċitu jew espress ta' kwalunkwe amministratur, li l-iskopijiet tal-organizzazzjoni huma esklussivament għall-benefiċċju pubbliku u li hija ma tagħmilx profitt, li permezz tagħha tfittex u tinkoraġġixxi s-sostenn pubbliku, l-organizzazzjoni għandha thares ir-reqwiziti ta' dan l-Att u għandha tiġi iskritta fi żmien disghin (90) ġurnata mid-dhul fis-seħh ta' dan l-artikolu jew fi żmien hmistax (15)-il ġurnata mill-avviż tal-Kummissarju, sakemm ma tirtirax jew tikkoreġi kwalunkwe rappreżentazzjoni falza u tiddikjara bil-miktub li dan mhux ser jerga' jsir, u temenda l-istatut tagħha u dokumentazzjoni oħra billi tistabbilixxi b'mod ċar li mhix organizzazzjoni volontarja u, fejn ikun japplika, li t-twertiq tal-iskopijiet tagħha u, jew attivitajiet mhumiex relatati mal-pubbliku iġenerali jew sorsi pubbliċi, u li għalhekk ma jikkwalifikawx bħala għan pubbliku jew benefiċċju pubbliku, anke jekk għandha għan soċjali.

Iżda:

(a) jekk fl-osservanza ta' dak imsemmi hawn qabel, fiż-żmien stabbilit, tiltaqa' ma' xi ostakoli, għandha tapplika lill-Kummissarju għal estensjoni taż-żmien għal dan il-għan; jew

(b) jekk ma tkunx tista' tindirizza xi karatteristiċi jew elementi ta' nuqqas ta' kwalifika li jistgħu jiġu ġustifikati, hija tista':

(i) tistaqsi lill-Kummissarju għal deċiżjoni li mhix obligata li tiġi iskritta sakemm jinstabu soluzzjonijiet, iżda jekk tinghata deċiżjoni bħal din, l-organizzazzjoni tkun projbta milli twettaq kwalunkwe mill-attivitajiet fis-subartikolu (1)(a) sa (d) u, jekk tagħmel dan, l-organizzazzjoni u l-amministraturi jkunu ħatja ta' reat; jew

(ii) tistaqsi lill-Kummissarju jip-permetti l-iskrizzjoni mingħajr il-ħarsien totali tad-dispożizzjonijiet ta' dan l-Att, flimkien ma' deċiżjoni dwar il-mod ta' kif il-karatteristiċi jew elementi ta' nuqqas ta' kwalifika għandhom jiġu amministrati.

(8) Meta japplikaw id-dispożizzjonijiet tas-subartikolu (7) u ma tkun saret l-ebda applikazzjoni minn organizzazzjoni li tkun meqjusa mill-Kummissjoni bħala waħda li hija soġġetta għall-iskrizzjoni mandatorja, il-Kummissarju jista' joħroġ avviż bil-miktub għall-iskrizzjoni ta' tali organizzazzjoni fiż-żmien stabbilit fl-ordni. L-organizzazzjoni tista', matul il-perjodu stabbilit fl-ordni, tappella lit-Tribunal li għandu:

(a) jikkonferma l-ordni tal-Kummissarju għall-iskrizzjoni mandatorja tal-organizzazzjoni; jew

(b) jiddikjara li l-organizzazzjoni mhix organizzazzjoni volontarja li għalhekk jagħmilha mhux soġġetta għall-iskrizzjoni mandatorja, iżda jikkonferma wkoll il-projbizzjonijiet li twettaq atti jew tgawdi mill-privileġġi msemmijin fl-artikolu 4(4).

(9) Is-subartikolu (1)(e) jew (f) għandu jkun mingħajr ħsara għall-iskrizzjoni kontinwa ta' organizzazzjoni li giet iskritta qabel id-data tad-dħul fis-seħħ ta' dan l-artikolu.

(10) Organizzazzjoni li hija soġġetta għall-iskrizzjoni mandatorja skont it-termini ta' dan l-artikolu għar-raġunijiet imsemmija fis-subartikolu (1)(c) jew (d) u li ilha iskritta minn tal-inqas ħames (5) snin tista' tapplika lill-Kummissarju sabiex tiġi eżentata mill-iskrizzjoni mandatorja jekk l-attivitajiet u, jew l-iskopijiet tal-organizzazzjoni u s-sorsi tad-dħul tagħha mhumiex relatati mal-pubbliku ġenerali jew sorsi pubbliċi u li għalhekk ma jikkwalifikawx bħala skop pubbliku jew benefiċċju pubbliku, anke jekk għandha skop soċjali.

(11) Tali organizzazzjoni għandha tissottometti l-kontijiet u r-rapporti tagħha l-aktar reċenti flimkien mat-talba għall-eżenzjoni u jekk din it-talba tiġi aċċettata mill-Kummissarju, l-organizzazzjoni ma tkunx intitolata li twettaq atti jew li tgawdi mill-privileġġi msemmija fl-artikolu 4(4) sakemm din tibqa' mhux iskritta.

(12) Il-lista tal-organizzazzjonijiet kollha volontarji iskritti, li tista' minn żmien għal żmien tiġi emendata, għandha tkun disponibbli għall-pubbliku jekk jiġi mitlub.

Eżenzjonijiet.

12Ċ (1) Mingħajr ħsara għad-dritt tal-iskrizzjoni taħt l-artikolu 12A, l-organizzazzjonijiet li ġejjin għandhom ikunu eżentati mill-iskrizzjoni mandatorja taħt l-artikolu 12B:

(a) minkejja l-eżistenza tar-rekwiżiti li jistgħu jagħtu lok għall-iskrizzjoni mandatorja, l-organizzazzjonijiet elenkati fit-Taqsima I tat-Tieni Skeda;

(b) l-organizzazzjonijiet elenkati fit-Taqsima II tat-Tieni Skeda;

(ċ) dawk l-organizzazzjonijiet jew klassijiet ta' organizzazzjonijiet li huma eżentati temporanjament jew b'mod permanenti b'ordni tal-Kummissarju, bil-kunsens preliminari tas-sottokomitati tal-Kunsill stabbilit skont it-termini tal-artikolu 35(13) u skont il-kundizzjonijiet għall-eżenzjoni.

(d) mal-ħruġ tad-deċiżjoni adegwata mill-Kummissarju, l-organizzazzjonijiet imsemmija fl-eċċezzjoni għall-artikolu 12B(e) jew (f); u

(e) kwalunkwe fondazzjoni bi skop pubbliku li twettaq l-attivitajiet taħt l-artikolu 32A tat-Tieni Skeda tal-Kodiċi Ċivili u ma teżegwixxi ebda attività fl-artikolu 12B(1)(a) sa (d):

Kap. 16.

Iżda offerta pubblika ta' ishma jew obligazzjonijiet, *bonds* jew noti jew strumenti oħra m'għandhomx jitqiesu bħala kollezzjoni pubblika u għandhom ikunu regolati mil-liġi applikabbli għal dawn l-offerti.

(2) L-organizzazzjonijiet imsemmija fis-subartikolu (1)(a), (b) u (ċ) għandhom ikunu wkoll eżentati mid-dmir li jinnotifikaw lill-Kummissarju taħt l-artikolu 12D.

Notifika.

12D. (1) L-organizzazzjonijiet volontarji li –

(a) mhumiex soġġetti għall-iskrizzjoni mandatorja;

(b) mhumiex eżentati taħt l-artikolu 12Ċ(2);

(ċ) abbażi ta' deċiżjoni tal-Kummissarju, ma jikkwalifikawx għall-iskrizzjoni peress li m'għandhomx skop soċjali li jikkwalifika wkoll bħala skop pubbliku jew benefiċċju pubbliku; jew

(d) għażlu li ma jigux iskritti anke jekk jistgħu jagħmlu dan taħt l-Att,

għandhom jinnotifikaw lill-Kummissarju dwar l-eżistenza tagħhom u l-għan prinċipali tagħhom permezz ta' "Nota għal Nuqqas ta' Iskrizzjoni", fil-forma stabbilita fit-Tielet Skeda.

(2) Għandu jkun hemm lista ta' Organizzazzjonijiet Volontarji Mhux Iskritti li għandha tinżamm mill-Kummissarju skont dan l-Att u bil-mod li huwa jista' jqis li huwa adegwat sabiex kull membru tal-pubbliku jkun jista' jivverifika l-eżistenza ta' organizzazzjoni volontarja mhux iskritta u sabiex jikseb kwalunkwe informazzjoni oħra provduta lill-Kummissarju.

(3) In-notifika msemija fis-subartikolu (1) m'għandha tagħti lill-Kummissarju l-ebda drittijiet kif lanqas ma għandha timponi xi obbligi fuqu fir-rigward ta' tali organizzazzjonijiet, lanqas ma għandha tagħti lil organizzazzjonijiet li jagħmlu din in-notifika xi drittijiet jew timponi xi obbligi fuqhom, ħlief kif stabbilit f'dan l-Att.

(4) L-amministraturi ta' organizzazzjoni volontarja mhux iskritta għandhom, permezz tal-formola rilevanti fit-Tielet Skeda, jinnotifikaw lill-Kummissarju dwar:

(a) kwalunkwe bidliet fl-isem jew l-indirizz tal-organizzazzjoni;

(b) kwalunkwe bidliet fl-amministratur jew rappreżentant lokali, fejn ikun japplika, li miegħu għandu jsir kuntatt għan-nom tal-organizzazzjoni; u

(ċ) l-amalgamazzjoni jew ix-xoljiment u l-istralċ tal-organizzazzjoni;

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u l-Kummissarju għandu jemenda jew ineħhi l-formola jew il-formoli relatati ma' tali organizzazzjoni fir-rekords relatati mal-Organizzazzjonijiet Volontarji Mhux Iskritti, skont il-każ u għandu jemenda l-Lista tal-Organizzazzjonijiet Volontarji Mhux Iskritti kif meħtieġ.

(5) Il-Lista tal-Organizzazzjonijiet Volontarji Mhux Iskritti, kif tista' tiġi emendata minn żmien għal żmien, għandha tkun aċċessibbli għall-pubbliku fuq talba għall-istess.

Nuqqas ta' iskrizzjoni jew nuqqas ta' notifika.

12E. (1) Organizzazzjoni li, meta tkun hekk obligata taht dan l-Att, tonqos milli tkun iskritta għandha, minkejja d-dispożizzjonijiet ta' xi liġi oħra, tkun skwalifikata milli tibbenifika taht kwalunkwe għotja, sponsorizzazzjoni u għajnuna oħra finanzjarja mill-Gvern jew politika governattiva li ssostni lill-organizzazzjonijiet volontarji jew milli tirċievi jew tkun il-benefiċjarja ta' kwalunkwe eżenzjonijiet, privileġġi jew intitolamenti oħra li jsostnu lil organizzazzjonijiet taht xi liġi, u kwalunkwe att imwettaq minn tali organizzazzjoni li jikser dan is-subartikolu għandu jkun soġġett għar-revoka fuq talba tal-Avukat Ġenerali li jista' jaġixxi fuq inizjattiva tiegħu jew bid-diskrezzjoni tiegħu, fuq ilment magħmul mill-Kummissarju jew fuq ilment magħmul minn xi organizzazzjoni volontarja iskritta.

(2) L-amministraturi li jonqsu milli jiskrivu l-organizzazzjoni meta dik l-iskrizzjoni tkun mandatorja skont l-artikolu 12B jew li jonqsu milli jinnotifikaw lill-Kummissarju dwar l-eżistenza tal-organizzazzjoni skont l-artikolu 12D għandhom, mal-iskadenza ta' tletin (30) ġurnata wara li jkunu ġew notifikati bil-miktub mill-Kummissarju dwar in-nuqqas u l-konsegwenzi tal-istess, jew mal-iskadenza tal-limitu taż-żmien stabbilit fl-artikolu 12G(2), ikunu ħatja ta' reat u għandhom ikunu responsabbli, meta jinstabu ħatja, għal multa ta' mhux anqas minn mija u għoxrin euro (€120) għal kull nuqqas, u għal multa ta' ħdax-il euro u ħamsa u sittin ċenteżmu (€11.65) għal kull ġurnata li fiha n-nuqqas ikompli.

Iskrizzjoni mandatorja għal organizzazzjonijiet barranin.

12F. (1) Organizzazzjoni barranija li b'xi mod topera f'Malta u li hija stabbilita –

(a) għal skop pubbliku jew benefiċċju pubbliku;

(b) bl-għan li ma tagħmilx profitt; u

(ċ) hija volontarja,

għandha tapplika għall-iskrizzjoni billi tissottometti l-formola rilevanti fit-Tielet Skeda lill-Kummissarju.

(2) Il-Kummissarju jista' joħroġ linjigwida li jikkonċernaw l-iskrizzjoni ta' organizzazzjonijiet barranin skont dan l-Att.

Dritt ta' appell.

12G. (1) Jekk organizzazzjoni volontarja tqis li jeżistu ċirkostanzi li joħolqu dubju dwar jekk hix soġġetta għall-iskrizzjoni jew għan-notifika mandatorja taħt dan l-Att u hija tal-fehma li mhix obbligata li tiġi iskritta jew li tinnotifika għal kwalunkwe raġuni, għandha tkun intitolata tagħti parir formali lill-Kummissarju dwar il-pożizzjoni tagħha, u sakemm il-Kummissarju ma jordnax mod ieħor, l-organizzazzjoni m'għandhiex titqies li tkun qed tikser l-artikolu 12B jew l-artikolu 12D.

(2) Ladarba l-Kummissarju jiddeċiedi li l-organizzazzjoni hija mitluba li tiskrivi jew li tinnotifika skont l-artikoli preċedenti, il-Kummissarju għandu jordna, bil-miktub, lil dik l-organizzazzjoni sabiex tagħmel dan u għandu jistabbilixxi limitu taż-żmien għal tali azzjoni.

(3) L-organizzazzjoni tista' tappella kontra dik l-ordni skont l-artikolu 25.

(4) Sakemm il-Kummissarju jiddetermina kwalunkwe kwistjoni taħt is-subartikolu (1) jew sakemm it-Tribunal jiddeċiedi dwar kwalunkwe appell, dik l-organizzazzjoni m'għandhiex titqies li tkun qed tikser l-artikolu 12B jew l-artikolu 12D, iżda ma tkunx tista' twettaq l-atti fl-artikolu 12B(1)(a) sa (d) sakemm id-deċiżjoni finali tkun pendenti."

14. L-artikolu 13 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 13 tal-Att prinċipali.

(a) is-subartikolu (1) tiegħu għandu jiġi sostitwit kif ġej:

"(1) L-applikazzjonijiet kollha għall-iskrizzjoni għandhom isiru permezz tal-formola tal-applikazzjoni kif stabbilita u preżentata lill-Kummissarju, li għandu jkollha magħha:

(a) l-orijinal jew kopja tal-kuntratt jew tal-istatut kostituttiv tal-organizzazzjoni u kwalunkwe emendi fir-rigward, li għandhom ikunu awtentikati minn Nutar Pubbliku f'każ ta' kuntratt pubbliku u minn Nutar Pubbliku

jew amministratur wieħed f'kazijiet oħra, u dikjarazzjoni ffirmata mill-istess persuna li tkun awtentikat il-kuntratt jew l-istatut u kwalunkwe emendi fir-rigward, kif intqal hawn qabel. Meta d-dati ma jkunux jirrizultaw mid-dokumenti preżentati, b'mod li jistabbilixxu d-data jew id-data apossimattiva, fejn dan mhux disponibbli minn rekords oħra, dokument li juri d-data meta l-kuntratt kostituttiv jew l-istatut ġew imħejjija u d-dati meta saru xi emendi fir-rigward;

(b) spjegazzjoni ta' kif ser jintlaħaq l-iskop pubbliku permezz tal-attivitajiet u l-għanijiet tal-organizzazzjoni;

(ċ) il-kunsens bil-miktub tal-amministraturi kollha li jkunu ser jokkupaw kariga wara l-iskrizzjoni;

(d) id-drittijiet tal-iskrizzjoni; u

(e) kwalunkwe dokument ieħor kif jitlob l-Att jew kwalunkwe regolamenti magħmulin taħtu jew kif jista' jintalab mill-Kummissarju.";

(b) fis-subartikolu (2) tiegħu, il-kliem "Meta l-Kummissarju ikun qiegħed iqis xi applikazzjoni, huwa jista' jitlob lil min japplika jipprovdi", għandhom jiġu sostitwiti bil-kliem "Meta l-Kummissarju ikun qiegħed iqis xi applikazzjoni u sussegwentement fi kwalunkwe waqt, huwa jista' jitlob lil organizzazzjoni volontarja tipprovdi";

(ċ) fil-paragrafu (b) tas-subartikolu (3) tiegħu, il-kliem "dispożizzjoni espressa ta' dan l-Att", għandhom jiġu sostitwiti bil-kliem "dispożizzjoni ta' dan l-Att inklużi kwalunkwe element li jikkwalifika kif stabbilit fl-artikolu 3";

(d) fil-paragrafu (ċ) tas-subartikolu (4) tiegħu, il-kliem "wara dik id-deċiżjoni." għandhom jiġu sostitwiti bil-kliem "wara dik id-deċiżjoni u meta r-raġunijiet ikunu relatati man-nuqqas jew mal-insuffiċjenza tal-element tal-benefiċċju pubbliku tal-għanijiet tal-organizzazzjoni, jipprovdi analiżi motivata tal-konsiderazzjonijiet tiegħu, f'liema każ l-organizzazzjoni għandha tingħata opportunità raġonevoli sabiex tagħmel rappreżentazzjonijiet lill-Kummissarju dwar din il-kwistjoni qabel ma l-Kummissarju jieħu d-deċiżjoni finali.";

(e) is-subartikolu (5) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(5) Il-Kummissarju għandu jfittex li jiddeċiedi dwar l-applikazzjonijiet kollha sa mhux aktar tard minn tliet (3) xhur mid-

data tal-applikazzjoni u n-nuqqas ta' tali deċiżjoni u notifika lil applikant skont is-subartikolu (4) fi żmien dan il-limitu għandu jitqies li jfisser li l-iskrizzjoni giet aċċettata u l-Kummissarju għandu jipproċessa l-iskrizzjoni mingħajr dewmien ulterjuri:

Iżda f'każ li l-applikant huwa fondazzjoni li għadha ma gietx registrata mar-Registratur għal Persuni Ġuridiċi kif mitlub mil-liġi, id-dmir tal-Kummissarju taht dan is-subartikolu sabiex jipproċedi bl-iskrizzjoni għandu jkun sospiż sad-data meta l-fondazzjoni tiġi registrata:

Iżda wkoll f'każ li l-iskrizzjoni ssir fin-nuqqas tad-deċiżjoni imsemmija hawn qabel, il-Kummissarju jista' jitlob bil-miktub lil organizzazzjoni volontarja sabiex tħares ir-rekwiżiti legali taht dan l-Att li jistgħu japplikaw u li ma jkunux għadhom ġew osservati. L-organizzazzjoni volontarja iskritta hija obligata tissodisfa dawn il-kundizzjonijiet fi żmien sitt (6) xhur sabiex tkun tista' iżomm l-iskrizzjoni tagħha:

Iżda wkoll f'każ li r-rekwiżiti ma jintlaħqux fiż-żmien stabbilit hawn qabel, il-Kummissarju għandu jordna l-kancellazzjoni tal-organizzazzjoni volontarja iskritta, bil-ħruġ ta' Ordni ta' Kancellazzjoni, wara li jkun ta avviż bil-miktub ta' tletin (30) ġurnata lil organizzazzjoni:

Iżda wkoll, jekk il-Kummissarju, madankollu, jiddetermina wara li tkun saret l-iskrizzjoni taht dan l-artikolu, li l-element tal-iskop pubbliku jew tal-benefiċċju pubbliku skont dawn id-dispożizzjonijiet huwa nieqes fl-organizzazzjoni rilevanti, jista' permezz ta' avviż bil-miktub, jordna s-sospensjoni jew il-kancellazzjoni tal-iskrizzjoni tal-organizzazzjoni volontarja bil-ħruġ ta' Ordni ta' Sospensjoni jew Ordni ta' Kancellazzjoni, kif jidher li jkun adegwat fiċ-ċirkostanzi, unikament fuq din il-bażi.";

(f) fis-subartikolu (6) tiegħu, minnufih wara l-kliem "amministratur ta' xi organizzazzjoni" għandhom jiżdiedu l-kliem "jew trustee ta' trust"; u

(g) is-subartikolu (7) tiegħu għandu jiġi mħassar.

15. L-artikolu 14 tal-Att prinċipali għandu jiġi emendat kif ġej:

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

"(2) Iċ-Ċertifikati tal-Iskrizzjoni għandhom jitqiesu li huma strumenti pubbliċi u għandhom jiġu mgħoddija lill-Kummissarju fuq talba tiegħu bil-miktub. Il-Kummissarju għandu jkun marbut li jipprovdi raġunijiet bil-miktub għal kwalunkwe

Emenda tal-artikolu 14 tal-Att prinċipali.

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irtirar ta' Ċertifikat tal-Iskrizzjoni meta jkun qed jagħmel tali talba bil-miktub."; u

(b) minnufih wara s-subartikolu (3) tiegħu, għandu jiżdied is-subartikolu ġdid li ġej:

"(4) Meta Ċertifikat tal-Iskrizzjoni jiġi ċedut, kancellat jew xort'oħra irtirat, ikun illeġittimu li persuna tuża n-numru ta' identifikazzjoni tal-organizzazzjoni, sakemm il-Kummissarju ma jiddeċidix xort'oħra għal skopijiet leġittimi jew jekk iqis li dan huwa meħtieġ fiċ-ċirkostanzi."

Emenda tal-
artikolu 16 tal-
Att prinċipali.

16. L-artikolu 16 tal-Att prinċipali għandu jiġi emendat kif ġej:

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

"(1) Organizzazzjoni volontarja tista' tiġi stabbilita bħala organizzazzjoni temporanja, bl-użu tal-formola fir-Raba' Skeda, jekk l-organizzazzjoni giet iffurmata bi skop wieħed speċifiku, inkluż il-ġbir ta' fondi għal skop pubbliku speċifiku jew għas-sostenn ta' organizzazzjoni volontarja oħra jew, mingħajr ħsara għall-artikolu 16A, ikunu qegħdin jingabru fondi bħala għajjuna lil individwu speċifiku jew individwi speċifiċi li jistgħu jsofru minn htigijiet li jikkwalifikaw bħala skop soċjali."

(b) is-subartikolu (2) tiegħu għandu jiġi emendat kif ġej:

(i) fil-paragrafu (a) tiegħu, minnufih wara l-kliem "strument kostituttiv bil-miktub", għandhom jiżdiedu l-kliem "bl-użu tal-formola fir-Raba' Skeda,";

(ii) fil-paragrafu (b) tiegħu, minnufih wara l-kliem "hlief xi wieħed minn dawk li jkunu elenkati fl-istrument kostituttiv", għandhom jiżdiedu l-kliem "u l-atti anċillari u konċessi";

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

"(4) Il-Kummissarju jista', fuq talba bil-miktub tal-amministraturi, jagħti l-kunsens tiegħu għall-estensjoni tad-data tal-iskadenza ta' organizzazzjoni temporanja.";

(d) is-subartikolu (5) tiegħu għandu jiġi emendat kif ġej:

(i) il-kliem "sa mhux aktar tard mid-data ta' tmiemha" għandhom jiġu mħassra;

(ii) fil-paragrafu (b) tiegħu, minnufih wara l-kliem "ihallsu l-flus kollha u kull assi ieħor miġbur", għandhom jiżdiedu

l-kliem "għall-iskop intiż jew";

(e) is-subartikoli (6) u (7) tiegħu għandhom jiġu mhassra;

(f) is-subartikolu (8) tiegħu għandu jiġi enumerat mill-ġdid bħala s-subartikolu (6) u għandu jiġi emendat kif ġej:

(i) il-kliem "tkun twaqqfet regolarment" għandhom jiġu sostitwiti bil-kliem "tkun twaqqfet ripetutament"; u

(ii) il-kliem "jiċhad milli jaċċetta l-iskrizzjoni" għandhom jiġu sostitwiti bil-kliem "jiċhad milli jaċċetta l-iskrizzjoni ripetuta".

17. Minnufih wara l-artikolu 16 tal-Att prinċipali għandhom jiżdiedu l-artikoli godda li ġejjin:

Żjieda ta' artikoli godda mal-Att prinċipali.

"Kollezzjonijiet pubbliċi għall-benefiċċju ta' individwi speċifiċi. Kap. 279.

16A. (1) Minkejja d-dispożizzjonijiet ta' dan l-Att jew tal-Att dwar il-Ġbir Pubbliku, ebda persuna ma għandha tagħmel kollezzjoni pubblika jew titlob sostenn finanzjarju jew inkella tiġbor fondi mill-pubbliku għall-benefiċċju ta' individwu speċifiku, sew jekk ikun huwa stess jew xi hadd ieħor, li jista' jkun qed isofri minn bżonn partikolari soċjali jew fiżiku jew bżonn ieħor jew diżabilità li jikkwalifikaw bħala skop soċjali ħlief permezz tat-twaqqif u l-iskrizzjoni ta' organizzazzjoni volontarja u skont il-kundizzjonijiet stabbiliti f'dan l-artikolu.

(2) Meta tiġi stabbilita tali organizzazzjoni, dik l-organizzazzjoni għandha titqies li hija għal skop pubbliku, minkejja li jista' jkollha biss benefiċjarju wieħed, bil-kundizzjoni li:

(a) kwalunkwe fondi miġbura għandhom jintużaw biss għall-ħtiġijiet ta' dak l-individwu kif dikjarat fl-appell jew fil-materjal promozzjonali għall-kollezzjoni; u

(b) kwalunkwe eċċess ta' fondi mhux użati għall-benefiċċju ta' dak l-individwu għandhom jingħataw lil organizzazzjoni volontarja oħra iskritta bi skopijiet simili, sakemm l-organizzazzjoni temporanja ma tiġix hija stess mibdula f'organizzazzjoni volontarja għal perjodu estiż sabiex ikun jista' jintlaħaq l-iskop soċjali rilevanti ingenerali għall-benefiċċju pubbliku u mhux limitament għal benefiċjarju wieħed speċifiku.

Amministraturi, benefiċjarji u drittijiet tal-minuri. 16B. (1) L-organizzazzjonijiet volontarji għandu jkollhom minn tal-inqas tliet amministraturi:

Iżda l-benefiċjarji tagħha jew, fil-każ ta' minuri, il-persuna li tkun qed teżerċita s-setgħa tal-ġenituri jew il-minuri li jkunu l-benefiċjarji tagħha, ma jistgħux jaġixxu bħala amministraturi.

Kap. 16. (2) L-amministraturi tal-organizzazzjoni volontarja għandhom ikunu marbuta bid-dispożizzjonijiet ta' dan l-Att u bit-Tieni Skeda tal-Kodiċi Ċivili.

Kap. 16. (3) Minkejja d-dispożizzjonijiet tal-Kodiċi Ċivili li jirregolaw il-minuri, il-kustodja u t-tutela, il-minuri li jkunu laħqu l-età ta' sittax (16)-il sena għandhom ikunu elegibbli li jamministraw organizzazzjoni u għandhom ikunu vestiti bi kwalunkwe drittijiet li jappartjenu lilha u, jew li jirriżultaw minnha."

Emenda tal-artikolu 18 tal-Att prinċipali. **18.** Fis-subartikolu (4) tal-artikolu 18 tal-Att prinċipali, il-kliem "qabel ma jipprova jikseb" għandu jiġi sostitwit bil-kliem "qabel ma jipprova joħroġ".

Emenda tal-artikolu 19 tal-Att prinċipali. **19.** L-artikolu 19 tal-Att prinċipali għandu jiġi emendat kif ġej:

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

"(1) Il-Kummissarju jista' jordna:

(a) is-sospensjoni tal-attivitajiet ta' organizzazzjoni volontarja iskritta bil-ħruġ ta' Ordni ta' Sospensjoni, għal dak il-perjodu li għandu jiġi speċifikat f'dik l-Ordni ta' Sospensjoni, liema perjodu m'għandux jeċċedi t-tletin (30) gurnata għal kull Ordni ta' Sospensjoni; jew

(b) il-kancellazzjoni tal-iskrizzjoni tal-organizzazzjoni volontarja, bil-ħruġ ta' Ordni ta' Kancellazzjoni, li għandha tidhol fis-seħh fi żmien tletin

(30) ġurnata mid-data li fiha l-amministratur uniku jew minn tal-inqas wiehed mill-amministraturi jkun ġie nnotifikat b'dik l-ordni, sakemm ma jiġix preżentat appell fi żmien il-perjodu ta' appell provdut fl-artikolu 25(1), f'liema każ dik l-ordni ssir biss effettiva jekk jiġi hekk deċiż u mid-data stabbilita mit-Tribunal:

Iżda dan l-artikolu m'għandux jimpedixxi l-operat tal-Ordni ta' Sospensjoni, pendent d-deċiżjoni tat-Tribunal.";

(b) is-subartikolu (2) tiegħu għandu jiġi emendat kif ġej:

(i) fil-paragrafu (a) tiegħu, il-kliem "li kienet twaqqfet għalihom", għandhom jiġu sostitwiti bil-kliem "stabbiliti fl-istatut";

(ii) il-paragrafi (d) sa (g) tiegħu għandhom jiġu enumerati mill-ġdid bħala paragrafi (e) sa (h) rispettivament;

(iii) il-paragrafi (b) u (ċ) tiegħu għandhom jiġu sostitwiti b'dan li ġej:

"(b) qiegħda tagħmel kollezzjonijiet pubbliċi għal għanijiet li jaqgħu barra mill-objettivi tagħha;

(ċ) twettaq attivitajiet illegali jew qiegħda ripetutament taġixxi bi ksur tad-dispożizzjonijiet mandatorji ta' kwalunkwe liġi;

(d) qiegħda tonqos milli tosserva d-dispożizzjonijiet tal-istatut tagħha jew ta' dan l-Att jew kwalunkwe regolamenti magħmulin tahtu jew l-amministrazzjoni tagħha qiegħda titwettaq skont standards baxxi ta' governanza korporattiva għal perjodu li jeċċedi t-tliet xhur, minkejja twissija bil-miktub mill-Kummissarju";

(iv) minnufih wara l-paragrafu (h) tiegħu, kif enumerat mill-ġdid, għandu jiżdied il-paragrafu ġdid li ġej:

"(i) m'għandhiex skop pubbliku jew l-iskop pubbliku tagħha ma jissodisfax ir-rekwiżiti suffiċjenti, sew jekk dan huwa deċiż mill-Kummissarju wara l-iskrizzjoni tal-organizzazzjoni skont l-artikolu 13(5) jew xort'oħra; u f'każ bħal dan, id-dispożizzjonijiet tal-artikolu 13(4) relatati mal-għoti ta' raġunijiet għal tali deċiżjoni u l-opportunità li jsiru r-rappreżentazzjonijiet għandhom japplikaw *mutatis mutandis*.";

(v) minnufih wara l-paragrafu (i) tiegħu, għandhom jiżdiedu l-*provisos* godda li ġejjin għall-imsemmi subartikolu (2):

"Izda l-Kummissarju ma jistax jagħti struzzjonijiet lil amministraturi dwar kif għandhom jissodisfaw l-għanijiet tal-organizzazzjoni:

Izda wkoll fejn l-iskop tal-organizzazzjoni huwa l-avvanz tar-religjon, il-Kummissarju għandu joqgħod fuq dikjarazzjoni maħruġa mill-awtorità religjuża rilevanti dwar jekk l-għanijiet tal-organizzazzjoni hux qed jintlaħqu.";

(ċ) is-subartikolu (3) tiegħu għandu jiġi sostitwit b'dan li ġej:

(3) "F'dawk il-każijiet meta tinhareg Ordni ta' Sospensjoni, il-Kummissarju għandu jindika liema attività tal-organizzazzjoni għandha tiġi sospiza u għandu jiltaqa' jew jikkomunika mal-amministraturi tal-organizzazzjoni, mill-aktar fis possibbli, biex tiġi riveduta s-sitwazzjoni u biex jinkisbu informazzjoni u proġetti mill-amministraturi kif meħtieġ. Il-Kummissarju jista' juża tali informazzjoni meta jkun qed jirrevedi kwalunkwe ordnijiet maħruġa abbażi ta' dan l-artikolu.";

(d) fis-subartikolu (4) tiegħu, il-kliem "it-Tribunal" għandhom jiġu sostitwiti bil-kliem "il-Kummissarju"; u

(e) is-subartikoli (5), (6), (7), (8) u (9) tiegħu għandhom jiġu sostitwiti b'dan li ġej:

"(5) Il-Kummissarju għandu jkollu s-setgħa li jestendi, jemenda jew jirrevoka Ordni ta' Sospensjoni, kif jidhirlu li huwa xieraq, wara li tkun saritlu applikazzjoni mill-amministraturi tal-organizzazzjoni volontarja, jew fuq inizjattiva tiegħu stess.

(6) Sakemm l-Ordni ta' Kancellazzjoni ssir effettiva skont is-subartikolu (1)(b), il-ħwejjeġ tal-organizzazzjoni volontarja għandhom ikomplu jiġu amministrati mill-amministraturi, li għandhom iwettqu biss dawk l-atti ta' amministrazzjoni ordinarja jew, fil-każ fejn ikun hemm appell pendenti, dawk l-atti li jistgħu jiġu awtorizzati mill-Kummissarju jew mit-Tribunal.

(7) Il-Kummissarju jista' jiddeciedi jekk is-sospensjoni tal-attivitajiet tal-organizzazzjoni għandhiex issir permanenti fir-rigward tal-attivitajiet kollha tal-organizzazzjoni jew parti minnhom u jista' joffri kwalunkwe ordnijiet rilevanti fir-rigward tal-operat futur tal-organizzazzjoni.

(8) Fil-każ ta' Ordni ta' Kancellazzjoni imsejsa fuq ir-raġunijiet speċifikati fis-subartikoli (2)(a) sa (e), il-Kummissarju għandu jkollu s-setgħa li jordna lil organizzazzjoni sabiex tieqaf milli twettaq kwalunkwe attivitajiet ulterjuri. Fil-każijiet l-oħra kollha, l-Ordni ta' Kancellazzjoni għandha tinkludi d-deċiżjonijiet kollha taħt dawk it-termini u l-kundizzjonijiet li l-Kummissarju jista' jqis li huma xierqa fiċ-ċirkostanzi:

Iżda dik l-ordni m'għandiex timplika r-restrizzjoni tad-dritt ta' assoċjazzjoni ta' kwalunkwe persuni involuti fl-organizzazzjoni jew tad-dritt tat-tkomplija tal-operat tal-organizzazzjoni mingħajr il-benefiċċji kontinwi tal-iskrizzjoni taħt dan l-Att.

(9) Il-Kummissarju għandu jippubblika, f'gazzetta waħda lokali jew permezz ta' avviż fis-sit uffiċjali tal-Uffiċċju tal-Kummissarju għal Organizzazzjonijiet Volontarji, kif il-Kummissarju jista' jidhirlu li huwa xieraq fiċ-ċirkostanzi tal-każ, kwalunkwe Ordnijiet ta' Kancellazzjoni li jkunu saru finali b'dikjarazzjoni qasira dwar l-effetti tal-ordni u dik id-dikjarazzjoni għandha tiġi ppubblikata mill-ġdid b'mod regolari kemm-il darba l-Kummissarju jista' jidhirlu li dan huwa meħtieġ sabiex jiżgura li jkun intlaħaq l-għarfien meħtieġ tal-pubbliku."

20. Is-subartikoli (3) u (4) tal-artikolu 20 tal-Att prinċipali għandhom jiġu sostitwiti b'dan li ġej:

Emenda tal-artikolu 20 tal-Att prinċipali.

"(3) Il-kancellamenti li jsiru għar-raġunijiet imsemmija fl-artikolu 19(2)(b), (e) u (h) għandhom jintitolaw lill-Kummissarju jitlob bil-miktub ir-rifużjoni ta', jew il-kumpens xieraq għal, kwalunkwe benefiċċji riċevuti b'mod ingust mill-organizzazzjoni volontarja jew minn xi persuna oħra bis-saħħa tal-iskrizzjoni tagħha skont dan l-Att, u dik it-talba, meta ssir b'ittra uffiċjali, għandha tistabbilixxi titolu eżekuttiv kontra l-organizzazzjoni jew kwalunkwe amministratur imsemmi favur il-Kummissarju, f'ismu jew bħala *trustee* għall-persuna intitolata għar-rifużjoni jew kumpens xieraq kif imsemmi hawn qabel. Kull persuna aggravata b'dik l-ordni tista' tappella lit-Tribunal fi żmien tletin (30) ġurnata minn meta tkun irċevietha:

Iżda għandu jkun hemm dritt ta' appell mill-persuna aggravata lill-Qorti tal-Appell minn kwalunkwe konferma ta' responsabbiltà mit-Tribunal skont dan is-subartikolu.

(4) Ordni tal-Kummissarju kontra xi organizzazzjoni jew amministratur imsemmi tista' tiġi infurzata bħala titolu eżekuttiv ladarba l-appelli kollha jkunu ġew eżawriti jew ma jkunu ġew

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preżentati ebda appelli sal-limiti taż-żmien rilevanti."

Emenda tal-
artikolu 21 tal-
Att prinċipali.

21. L-artikolu 21 tal-Att prinċipali għandu jiġi emendat kif ġej:

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

"(1) Il-Kummissarju jista', bil-ħruġ ta' Ordni ta' Sospensjoni, jordna s-sospensjoni tal-attivitajiet tal-organizzazzjoni volontarja li ma tkunx iskritta jekk, fil-fehma raġonevoli tiegħu, japplikaw kwalunkwe raġunijiet imsemmija fl-artikolu 19(2)(b), (ċ), (d) u (e) u dan għal perjodu li għandu jiġi speċifikat fl-Ordni ta' Sospensjoni. Tali ordni għandha tiġi nnotifikata lill-amministraturi kollha jew lil xi wieħed minnhom, jew fl-assenza tagħhom lil dik il-persuna li għall-Kummissarju tkun tidher li qiegħda twettaq dawk l-attivitajiet:

Iżda għall-finijiet tal-artikolu 19(2)(b), l-attività rilevanti għandha tkun l-organizzazzjoni ta' kollezzjoni pubblika mingħajr l-awtorizzazzjonijiet meħtieġa jew, jekk awtorizzata, meta dik il-kollezzjoni teċċedi t-termini tal-awtorizzazzjoni:

Iżda wkoll tali sospensjoni m'għandhiex teċċedi t-tletin (30) ġurnata għal kull Ordni ta' Sospensjoni u m'għandhiex tiġi mġedda għal aktar minn żewġ idrabi konsekuttivi.";

(b) fis-subartikolu (2) tiegħu:

(i) il-kliem "notifikata b'avviż bħal dak", għandhom jiġu sostitwiti bil-kliem "notifikata b'Ordni ta' Sospensjoni bħal dik";
u

(ii) il-kliem "indikati fl-avviż", għandhom jiġu sostitwiti bil-kliem "indikati fl-Ordni ta' Sospensjoni";

(ċ) fis-subartikolu (3) tiegħu, il-kelma "l-avviż" għandha tiġi sostitwita bil-kliem "l-Ordni ta' Sospensjoni";

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

"(4) Il-Kummissarju jista' johroġ Ordni ta' Sospensjoni għas-sospensjoni permanenti tal-attivitajiet identifikati minn tali organizzazzjoni, jekk huwa jidhirlu li dan huwa meħtieġ, taħt dawk il-kundizzjonijiet li huwa jqis xierqa."; u

(e) fis-subartikolu (5) tiegħu, minnufih wara l-kliem "b'Ordni ta' Sospensjoni", għandhom jiżdiedu l-kliem "jew Ordni ta' Sospensjoni Permanenti".

22. L-artikolu 22 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-
artikolu 22 tal-
Att prinċipali.

(a) il-paragrafu (ċ) tas-subartikolu (1) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(ċ) (i) jieħu azzjoni sabiex jaqbad kwalunkwe fondi miġbura jew kollezzjonijiet pubbliċi magħmula minn dik il-persuna jew organizzazzjoni, sabiex daww il-fondi jingħataw lura lid-donatur tagħhom, jew jekk ma jkunx possibbli li d-donaturi jiġu lokalizzati fi żmien sitt (6) xhur minn dak il-qbid, sabiex daww il-fondi jithallsu lill-Fond għal Organizzazzjonijiet Volontarji;

(ii) jekk il-Kummissarju jqis li dan huwa meħtieġ minhabba nuqqas ta' kooperazzjoni mill-persuni involuti jew fiċ-ċirkostanzi, jista' jitlob lill-Prim'Awla tal-Qorti Ċivili sabiex toħroġ ordni għas-sekwestru ta' daww il-fondi f'idejn terzi persuni ingenerali u sabiex tipprojbixxi lil kwalunkwe persuna jew organizzazzjoni milli titrasferixxi jew tiddisponi xort'oħra minn daww il-fondi;

(iii) dik l-ordni għandha ssir operattiva u vinkolanti fuq it-terzi persuni kollha minnufih malli ssir, u l-Kummissarju għandu jiżgura li jiġi ppubblikat avviz fir-rigward mingħajr dewmien fil-Gazzetta u f'żewġ (2) gazzetti ta' kuljum;

(iv) il-Qorti tista', f'ċirkostanzi partikolari, tvarja dik l-ordni, u d-dispożizzjonijiet tal-paragrafi preċedenti għandhom japplikaw għal dik l-ordni kif varjata;

(v) kull waħda minn dawn l-ordnijiet għandu jkun fiha l-isem tal-persuna u n-numru tal-katra tal-identità jew passaport jew numru ta' identifikazzjoni, u jekk magħrufa, il-professjoni tiegħu, is-sengħa jew status ieħor, isem il-missier, isem l-omm u kunjom xubitha, il-post tat-twelid u l-post ta' residenza jew fil-każ ta' organizzazzjoni, isimha u n-numru tagħha ta' reġistrazzjoni jew in-numru ta' identifikazzjoni, jekk dan ikun jeżisti;

(vi) l-ordni m'għandhiex tibqa' fis-seħħ meta l-proċedimenti ċivili jew kriminali relatati jiġu deċiżi b'mod definit mill-Qorti jew meta l-Kummissarju jinforma lill-Qorti li dik l-ordni m'għadhiex meħtieġa u f'din l-eventwalità l-Kummissarju għandu jiżgura l-pubblikazzjoni ta' avviz f'dan is-sens, mingħajr dewmien, fil-Gazzetta u f'żewġ (2) gazzetti ta' kuljum."

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

"(2) Qabel ma tittieħed kwalunkwe azzjoni imsemmija fis-subartikolu (1)(a), (b), u (ċ)(i), il-Kummissarju għandu jinnotifika bil-miktub lil kull persuna jew organizzazzjoni li fil-fehma tiegħu jidhru *prima facie* li jkunu kisru d-dispożizzjonijiet tas-subartikolu (1), dwar is-sejbiet tiegħu u l-azzjonijiet li bi ħsiebu jieħu u dik il-persuna jew organizzazzjoni tkun intitolata sabieħ:

(a) tagħmel sottomissjonijiet lill-Kummissarju fi żmien ħamest (5) ijiem mid-data minn meta tkun irċeviet l-avviż bil-miktub; u

(b) tippreżenta appell lit-Tribunal fi żmien ħamest (5) ijiem min-notifika tad-deċiżjoni tal-Kummissarju, liema appell għandu jissospendi kwalunkwe azzjoni meħuda mill-Kummissarju skont is-subartikolu (1), sad-deċiżjoni finali tat-Tribunal:

Iżda sakemm isiru tali sottomissjonijiet lill-Kummissarju u sakemm id-deċiżjoni tat-Tribunal tkun għadha pendenti, kull min ikun irċieva dak l-avviż m'għandux jittrasferixxi jew jiddisponi minn dawk il-fondi li jista' jkollu fil-kontroll tiegħu u f'każ ta' ksur, kull min ikun irċieva l-avviż ikun ħati ta' reat."

Żjieda ta' artikoli godda mal-Att prinċipali.

23. Minnufih wara l-artikolu 22 tal-Att prinċipali, għandhom jiżdiedu l-artikoli godda li ġejjin:

"Il-Korp għall-Analisi ta' Informazzjoni Finanzjarja jista' jitlob aċċess għar-reġistru, informazzjoni eċċ. Kap. 373.

22A. (1) Il-Korp għall-Analisi ta' Informazzjoni Finanzjarja, fit-tweqqif tar-responsabbiltajiet assenjati lilu taħt l-Att kontra *Money Laundering* u kwalunkwe regolamenti magħmulin taħtu, jista' jitlob aċċess għar-Reġistru jew għal kwalunkwe informazzjoni jew dokumentazzjoni relatata mal-operat ta' organizzazzjoni volontarja iskritta u għal-Lista ta' Organizzazzjonijiet Volontarji mhux Iskritti.

(2) Malli jirċievi kwalunkwe talba ta' aċċess għar-reġistru jew għal-lista, kif imsemmi hawn qabel, jew għal kwalunkwe informazzjoni jew dokumentazzjoni skont is-subartikolu (1), il-Kummissarju għandu, hekk kif ikun raġonevolment prattikabbli iżda mhux aktar tard minn ħamest (5) ijiem ta' xogħol minn meta tkun saret it-talba l-ewwel darba u mingħajr l-impożizzjoni ta' ħlas kif provdut fl-artikolu 40, jagħti lill-Korp għall-Analisi ta' Informazzjoni Finanzjarja dak l-aċċess jew informazzjoni jew dokumentazzjoni, skont il-każ.

Dmirijiet tal-amministraturi fir-rigward ta' hasil ta' flus u finanzjament ta' terroriżmu.

22B. (1) Għandu jkun id-dmir tal-amministraturi kollha ta' organizzazzjoni volontarja li jimplimentaw proċeduri adegwati relatati mal-prevenzjoni tal-ħasil ta' flus u l-finanzjament tat-terroriżmu sabiex jiġi żgurat li l-organizzazzjoni tagħhom ma tintużax għal dawn l-iskopijiet. Dawn id-doveri għandhom jinkludu iżda ma għandhomx ikunu limitati għall:-

(a) konferma tal-identità, kredenzjali u reputazzjoni tajba tal-persuni jew organizzazzjonijiet li jsostnu l-organizzazzjonijiet volontarji u l-kisba tal-evidenza tal-identità tal-persuni li jikkontrollaw tali organizzazzjonijiet;

(b) konferma tal-identità, kredenzjali u reputazzjoni tajba ta' organizzazzjonijiet oħra volontarji, f'Malta jew barra minn Malta, kif ukoll persuni oħra li magħhom jassoċjaw ruħhom l-amministraturi fit-tweqqif tal-attivitajiet għall-milja tal-iskopijiet tal-organizzazzjoni tagħhom;

(ċ) identifikazzjoni ta' donaturi sinjifikanti tal-organizzazzjoni volontarja, sew jekk individwi kif ukoll organizzazzjonijiet oħra, u, filwaqt li tiġi osservata l-kunfidenzjalità tad-donaturi, il-kisba tal-identità tal-individwi rilevanti jew tal-persuni li jikkontrollaw dawk l-organizzazzjonijiet l-oħra;

(d) kisba ta' informazzjoni dwar s-sors tal-fondi li jingħataw lil organizzazzjoni;

(e) verifika li l-assi tal-organizzazzjoni qegħdin jintużaw b'mod leġittimu u b'mod li huwa konsistenti mal-iskopijiet u l-għanijiet tagħha.

(2) Għall-finijiet ta' dan l-artikolu:

(a) l-amministraturi għandhom iwettqu d-doveri tagħhom abbażi tal-aqwa ħiliet possibbli;

(b) l-amministraturi għandhom iqisu il-kuntest u r-riskju potenzjali ta' hasil ta' flus jew ta' finanzjament ta' terroriżmu; u

(ċ) "sinjifikanti" tfisser kwalunkwe donazzjonijiet ta' ħmistax-il elf euro (€15,000) jew aktar, sew jekk saru permezz ta' azzjoni waħda jew bosta azzjonijiet li jidhru li huma konnessi.

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(3) Fil-każ ta' organizzazzjonijiet volontarji li l-amministraturi tagħhom mhumiex residenti Malta b'mod ordinarju, id-dmirijiet imsemmija fis-subartikolu preċedenti għandhom jitwettqu mir-rappreżentanti lokali tal-organizzazzjoni.

(4) L-amministraturi jew ir-rappreżentant lokali tal-organizzazzjoni volontarja, skont il-każ, għandhom:

(a) iżommu rekords adegwati dwar id-dhul u l-użu tal-fondi kollha mill-organizzazzjoni volontarja, liema rekords għandhom ikunu dettaljati b'mod suffiċjenti biex ikun jista' jiġi vverifikat li l-fondi oriġinaw minn attività legali u li ntużaw b'mod legittimu u li huwa konsistenti mal-iskopijiet u mal-għanijiet tal-organizzazzjoni;

(b) jiżguraw li l-organizzazzjoni volontarja għandha l-kontrolli finanzjarji adegwati u għestjoni finanzjarja li huma essenzjali għall-protezzjoni kontra l-ħasil ta' flus u l-finanzjament tat-terroriżmu;

(ċ) jiżguraw l-eżistenza ta' proċeduri interni adegwati fi ħdan l-organizzazzjoni volontarja li jinkoraġġixxu lill-persunal u lill-voluntiera sabiex jirrapurtaw kwalunkwe vulnerabbiltà tal-organizzazzjoni għar-riskju tal-ħasil ta' flus u l-finanzjament tat-terroriżmu lill-amministraturi jew rappreżentant lokali sabiex l-organizzazzjoni tkun tista' tiegħu azzjoni ta' rimedju; u

(d) jipprovdu taħriġ adegwat għall-persunal u għall-voluntiera sabiex jiżguraw li huma familjari mal-proċeduri ta' rappurtaġġ u l-kontrolli finanzjarji tal-organizzazzjoni volontarja u jafu x'azzjoni għandhom jieħdu jekk jiġihom suspett ta' ħasil ta' flus u finanzjament tat-terroriżmu.

Setgħat tal-Kummissarju fir-rigward ta' hasil ta' flus u finanzjament tat-terroriżmu.

22Ċ (1) Jekk il-Kummissarju jiskopri xi fatti jew jikseb xi informazzjoni li jqajmu suspett li l-fondi li rċeviet organizzazzjoni volontarja jistgħu jkunu ġejjin minn attività kriminali jew li l-attivitajiet ta' organizzazzjoni volontarja jistgħu jkunu relatati mal-ħasil ta' flus jew mal-finanzjament tat-terroriżmu, għandu mingħajr dewmien jiżvela dawk il-fatti jew dik l-informazzjoni, bis-sostenn ta' kwalunkwe dokumentazzjoni rilevanti li jista' jkollu għad-dispożizzjoni tiegħu, lill-Korp għall-Analisi ta' Informazzjoni Finanzjarja.

(2) Il-Kummissarju jista' barra minn hekk jordna lill-organizzazzjoni volontarja taħtar, fi żmien stabbilit u għas-spejjeż tagħha, avukat, nutar pubbliku, awditur jew fornitur tas-servizzi tal-kumpannija awtorizzat, li jkunu indipendenti minn dik l-organizzazzjoni volontarja, sabiex jeżaminaw ir-rekords u l-attivitajiet tal-organizzazzjoni volontarja għal perjodu msemmi u sabiex jirrappurtaw lill-Kummissarju dwar l-osservanza, jew in-nuqqas tagħha, tad-dispożizzjonijiet ta' dan l-Att fir-rigward tal-prevenzjoni tal-ħasil ta' flus u l-finanzjament tat-terroriżmu.

Tifsir.

Kap. 373.

22D. Kwalunkwe termini relatati mal-prevenzjoni tal-ħasil ta' flus u l-finanzjament tat-terroriżmu u termini relatati għandu jkollhom it-tifsira mogħtija lilhom fl-Att kontra *Money Laundering* jew regolamenti magħmulin taħtu."

24. L-artikolu 25 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 25 tal-Att prinċipali.

(a) fin-nota marginali tiegħu, minnufih wara l-kliem "Dritt ta' appell" għandhom jiżdiedu l-kliem "minn deċiżjoni tal-Kummissarju.";

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

"(1) Kull persuna jew organizzazzjoni aggravata minn deċiżjoni tal-Kummissarju tista' tappella mid-deċiżjoni fi żmien tletin (30) ġurnata minn meta tkun irċevietha.";

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

"(2) L-appelli għandhom isiru bil-miktub u għandhom jiġu ppreżentati lit-Tribunal skont id-dispożizzjonijiet tal-Att dwar il-Ġustizzja Amministrattiva jew għandhom isiru bil-mod li jista' jiġi stabbilit permezz ta' regolamenti magħmulin mill-Ministru bis-saħħa ta' dan l-Att.";

Kap. 490.

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(d) is-subartikoli (3), (4) u (5) tiegħu għandhom jiġu enumerati mill-ġdid bħala s-subartikoli (4), (5) u (6) rispettivament;

(e) minnufih wara s-subartikolu (2) tiegħu, għandu jiżdied is-subartikolu ġdid li ġej:

"(3) L-appelli kollha għandhom isiru permezz ta' applikazzjoni lit-Tribunal, liema applikazzjoni għandha tiġi nnotifikata lill-Kummissarju mill-applikant.", u

(f) fis-subartikolu (4) tiegħu, kif enumerat mill-ġdid, il-kliem "mill-Kummissarju," għandhom jiġu mħassra.

Sostituzzjoni tal-artikolu 32 tal-Att prinċipali.

25. L-artikolu 32 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

"Reati.

32. Kwalunkwe persuna li –

(a) b'xi mod, tiffalsifika jew tbiddel Ċertifikat ta' Iskrizzjoni ta' organizzazzjoni volontarja;

(b) taġixxi jew tidher li tkun qed taġixxi għan-nom ta' organizzazzjoni volontarja iskritta, meta ma tkunx awtorizzata li tagħmel dan u tiġbor fondi jew takkwista assi jew takkwista kwalunkwe benefiċċju personali minn dan l-aġir;

(ċ) tagħti l-impressjoni li organizzazzjoni eżistenti hija organizzazzjoni għall-benefiċċju soċjali, ma tagħmilx profitt jew hija organizzazzjoni volontarja, meta ma tkunx;

(d) tagħmel użu abbużiv minn Ċertifikat ta' Iskrizzjoni jew minn numru ta' identifikazzjoni ta' organizzazzjoni volontarja;

(e) tagħti l-impressjoni li organizzazzjoni għandha numru ta' identifikazzjoni ta' organizzazzjoni volontarja meta m'għandhiex jew tuża numru ta' identifikazzjoni li ma jeżistix;

(f) taġixxi jew tidher li tkun qed taġixxi f'isem benefiċċju pubbliku, organizzazzjoni li ma tagħmilx profitt jew organizzazzjoni volontarja li ma teżistix,

tkun haġta ta' reat u għandha tkun soġġetta għall-istess piena provduta fl-artikolu 183 tal-Kodiċi Kriminali."

Kap. 9.

26. L-artikolu 33 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 33 tal-Att prinċipali.

(a) fis-subartikolu (1) tiegħu, minnufih wara l-kliem "amministratur ta' dik l-organizzazzjoni", għandhom jiżdiedu l-kliem "iżda li ma jakkwistax assi jew jikseb xi benefiċċju personali minn dan l-aġir"; u

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

"(2) Kwalunkwe persuna li tagħmel jew tapprova tagħmel kollezzjoni pubblika meta ma tkunx iskritta bħala organizzazzjoni volontarja taħt dan l-Att, tkun haġta ta' reat sakemm dik il-persuna ma tkunx kisbet liċenzja jew hija eżentata mir-rekwiżit li tikseb liċenzja skont l-Att dwar il-Ġbir Pubbliku."

Kap. 279.

27. L-artikolu 34 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 34 tal-Att prinċipali.

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

"(1) Il-Kummissarju jista', fil-kazijiet imsemmijin fl-artikolu 19(2), jinvestiga dak li jkun għaddej fi kwalunkwe organizzazzjoni volontarja f'kull waqt u jista' jitlob lil kull persuna, bil-miktub, kwalunkwe informazzjoni rilevanti relatata mal-operat tal-organizzazzjoni volontarja jew relatata ma' kwalunkwe persuna involuta fl-attivitajiet tal-organizzazzjoni volontarja, jekk huwa jirċievi ilment li jqis li huwa validu jew għandu raġuni biex jemmen li dik l-informazzjoni hija meħtieġa biex jiġi stabbilit jekk organizzazzjoni volontarja tkunx qiegħda taġixxi skont id-dispożizzjonijiet ta' dan l-Att jew kwalunkwe regolamenti magħmulin taħtu:

Iżda meta l-ilment ikun ġej minn membru tal-pubbliku li jkun qed ifittex informazzjoni li għandha tiġi ppreżentata lill-Kummissarju taħt dan l-Att, li għal xi raġuni tkun nieqsa mir-Registru, l-ilment m'għandux għalfejn ikun bil-miktub u l-Kummissarju għandu jkun intolat jippreżumi li l-ilment huwa validu hekk kif jistabbilixxi li l-informazzjoni hija nieqsa mir-Registru u mbagħad jista' jipproċedi billi jieħu azzjoni kontra l-organizzazzjoni u, jew l-amministraturi tagħha, mingħajr il-ħtieġa ta' investigazzjoni formali taħt dan l-artikolu.";

(b) fis-subartikolu (4) tiegħu, minnufih wara l-kliem "Il-Kummissarju jista' jagħti żmien biex ikun hemm konformità ma'", għandhom jiżdiedu l-kliem "kwalunkwe direttivi li jista' jagħti jew għall-ħarsien ta'"; u

(ċ) minnufih wara s-subartikolu (5) tiegħu, għandhom jiżdiedu s-subartikoli godda li ġejjin:

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Kap. 377.

"(6) Talba taht dan l-artikolu tista' wkoll tintbagħat lill-persuna li hija marbuta bid-dmir tas-segretezza professjonali taht l-Att dwar Segretezza Professjonali u għall-finijiet tal-artikolu 6A ta' dan l-Att, il-Kummissarju għandu jitqies li huwa awtorità pubblika. Kull informazzjoni miksuba mill-Kummissarju wara talba bħal din għandha tintuża esklussivament għall-finijiet ta' dan l-artikolu.

Kap. 586.

(7) Minkejja d-dispożizzjonijiet tas-subartikolu (1), il-Kummissarju għandu d-dritt li jitlob kull informazzjoni oħra meħtieġa skont it-termini tad-dispożizzjonijiet ta' dan l-Att, inkluża informazzjoni personali u kwalunkwe data oħra għall-identifikazzjoni ta' persuna, sakemm dik id-data ma tiġix żvelata lil terzi persuni mingħajr il-kunsens bil-miktub tal-persuni involuti u sakemm dik l-informazzjoni hija konformi mad-dispożizzjonijiet tal-Att dwar il-Protezzjoni u l-Privatezza tad-Data.

(8) Għall-finijiet tas-subartikolu (7) kwalunkwe informazzjoni tista' tinkludi iżda m'għandhiex tkun limitata għal:

(a) ismijiet tad-donaturi u benefiċjarji;

(b) ismijiet ta' *sponsors*;

(ċ) dettalji ta' xi persuna oħra li magħha l-organizzazzjoni għamlet xi tip ta' transazzjoni, inklużi transazzjonijiet finanzjarji;

(d) dettalji personali tal-impjegati inklużi riċevuti tal-paga;

(e) benefiċjarji ta' kumpanniji (inklużi l-azzjonisti):

Iżda r-rekwiżiti msemmijin fil-paragrafi (a), (b) u (ċ) huma meħtieġa għall-finijiet tat-trasparenza massima u għat-teħid tar-responsabbiltà u jistgħu jippermettu lill-Kummissarju jidentifika kwalunkwe irregolaritajiet jew suspetti mill-prospetti annwali u mir-rapporti u eventwalment jieħu l-azzjoni meħtieġa:

Iżda wkoll ir-rekwiżiti taht il-paragrafi (d) u (e) għandhom jiġu mitluba biss mill-Kummissarju f'każijiet eċċezzjonali u m'għandhomx ikunu aċċessibbli għall-pubbliku.

(9) Għall-finijiet ta' dan l-artikolu, il-Kummissarju għandu wkoll ikun vestit bis-setgħa li jitlob lill-banek jew kwalunkwe awtorità finanzjarja jew entità, kull informazzjoni

oħra meħtieġa skont id-dispożizzjonijiet ta' dan l-Att u għandu jkollu d-dritt li jikseb dik l-informazzjoni skont il-ħtieġa, mingħajr ma jkollu għalfejn jippreżenta azzjoni quddiem it-Tribunal jew il-Qorti Ċivili."

28. L-artikolu 35 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

Sostituzzjoni tal-artikolu 35 tal-Att prinċipali.

"Kunsill Malti għas-Settur tal-Volontarjat.

35. Għandu jkun hemm korp, magħruf bħala l-Kunsill Malti għas-Settur tal-Volontarjat, li għandu jkollu personalità ġuridika separata. Ir-rwol tal-Kunsill ikun li jippromwovi s-settur tal-volontarjat, li jipprovdi forum għas-settur tal-volontarjat u pjattaforma għall-iżvilupp ta' kooperazzjoni bejn l-organizzazzjonijiet volontarji u l-Gvern u bejn l-organizzazzjonijiet volontarji infushom. Il-Kunsill Malti għas-Settur tal-Volontarjat għandu wkoll jassisti u jagħti pariri lill-Kummissarju għas-Settur tal-Volontarjat.

(2) Il-Kunsill għandu jkun magħmul minn President u għaxar membri oħra, li għandhom jiġu maħtura kif ġej:

(a) membru wieħed (1) għandu jiġi maħtur mill-Ministru biex jirrappreżenta lill-Gvern;

(b) erba' (4) membri għandhom jiġu maħtura mill-Ministru skont is-subartikolu (3) minn fost is-settur tal-volontarjat sabiex jirrappreżentaw l-organizzazzjonijiet volontarji; u

(c) sitt (6) membri għandhom jiġu eletti direttament mis-settur tal-volontarjat.

(3) L-erba' (4) membri tal-Kunsill li jinħatru mill-Ministru sabiex jirrappreżentaw l-organizzazzjonijiet volontarji, għandhom jiġu maħtura wara li jkunu daħlu n-nomini, sussegwentement għal sejha pubblika mill-Ministru għan-nomini kif ġej:

(a) membru wieħed (1) biex jirrappreżenta lil fondaturi u lid-donaturi tal-organizzazzjonijiet volontarji;

(b) membru wieħed (1) biex jirrappreżenta lil membri tal-organizzazzjonijiet volontarji u lil voluntiera;

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(ċ) membru wieħed (1) biex jirrappreżenta lil amministraturi tal-organizzazzjonijiet volontarji; u

(d) membru wieħed (1) biex jirrappreżenta lil organizzazzjonijiet barranin u internazzjonali:

Iżda fejn ikun hemm aktar minn nomina waħda li tirrappreżenta settur partikolari, il-Ministru għandu jahtar dawn il-membri minn fost in-nomini li jkunu daħlu:

Iżda wkoll fejn ma jkunu saru l-ebda nomini, il-Ministru għandu jahtar dawn il-membri fid-diskrezzjoni tiegħu:

Iżda wkoll qabel l-hatra tal-membri tal-Kunsill, il-Ministru għandu jikkonsulta mal-Kumitat għall-Affarijiet Barranin tal-Kamra tar-Rappreżentanti jew ma' kwalunkwe kumitat ieħor li jkun qed jissostitwixxih, minnufih malli jidhlu n-nomini.

(4) (a) Is-sitt (6) membri tal-Kunsill li huma eletti direttament mill-organizzazzjonijiet volontarji iskritti mal-Kummissarju għal Organizzazzjonijiet Volontarji għandhom ikunu rappreżentattivi tal-gruppi settorjali li ġejjin:

(i) membru wieħed (1) mis-Settur Soċjali u Umanitarju;

(ii) membru wieħed (1) mis-Settur tas-Saħħa u Bżonnijiet Speċjali;

(iii) membru wieħed (1) mis-Settur tal-Edukazzjoni, Żgħażaġh u Sport;

(iv) membru wieħed (1) mis-Settur Ambjentali u s-Settur għat-Trattament Xieraq tal-Animali;

(v) membru wieħed (1) mis-Settur tal-Arti u l-Kultura; u

(vi) membru wieħed (1) mis-Settur tal-Organizzazzjonijiet Nongovernattivi f'Għawdex.

(b) Il-membri kollha tal-Kunsill għandhom jirċievu korrispettiv finanzjarju għas-servizzi tagħhom relatati mad-dmirijiet u l-funzjonijiet tagħhom imwettqa skont l-artikolu 36(2) u (3):

Iżda dak il-korrispettiv finanzjarju għandu jiġi stabbilit għal tmien mitt euro (€800) fis-sena.

(5) Il-President tal-Kunsill u d-Deputat President għandhom jinhatru mill-Kunsill minn fost il-Membri tal-Kunsill. Il-Bord għandu jkun assistit minn Segretarju.

(6) Meta l-President ikun assenti minn Malta jew inkella jkun temporanjament indispost li jwettaq il-funzjonijiet tal-kariga tiegħu, id-Deputat President għandu jaġixxi bħala President u jeżerċita s-setgħat u l-funzjonijiet kollha tal-President.

(7) Persuna m'għandhiex tikkwalifika biex tiġi maħtura jew tokkupa kariga bħala membru tal-Kunsill jekk hija:

(a) Imħallef, Maġistrat, Membru tal-Kamra tar-Rappreżentanti jew Kunsill Lokali, jew kandidat għall-elezzjoni tal-Kamra tar-Rappreżentanti jew Kunsill Lokali; jew

(b) legalment inabilitata jew interdett; jew

(ċ) ġiet dikjarata falluta jew għamlet kompożizzjoni jew arrangament mal-kredituri tagħha; jew

(d) instabet hatja ta' reat li jaffettwa l-fiducja pubblika jew ta' serq jew frodi jew li xjentement irċeviet proprjetà miksuba minn serq jew frodi; jew

(e) soġġetta għal skwalifika taħt l-artikolu 320 tal-Att dwar il-Kumpanniji jew hija involuta jew għandha interess fi kwalunkwe impriza jew attività li x'aktarx jaffettwaw it-twertiq xieraq tal-funzjoni tagħha bħala membru tal-Kunsill.

(8) Mingħajr ħsara għad-dispożizzjonijiet ta' dan l-artikolu, il-kariga ta' membru tal-Kunsill issir vakanti:

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(a) mal-iskadenza tat-terminu tal-kariga tiegħu;

(b) jekk membru tal-Kunsill ikun assenti għal aktar min-nofs il-laqgħat tal-istess Kunsill f'sena waħda kalendarja jew għal tliet laqgħat konsekuttivi mingħajr raġuni; jew

(c) jekk ikun hemm ċirkostanzi illi, li kieku ma kienx membru tal-Kunsill, kienu jiskwalifikawh milli jinhatar bħala tali.

(9) Membru tal-Kunsill jista' jiġi rilaxxat mill-kariga mill-Ministru għar-raġuni ta' inabbiltà li jwettaq il-funzjonijiet tal-kariga tiegħu, sew minħabba mard mentali jew tal-ġisem, jew kwalunkwe kawża oħra, jew minħabba imġieba hażina.

(10) Membru tal-Kunsill jista' jirriżenja mill-Kunsill permezz ta' ittra lill-Ministru. Jekk xi membru jirriżenja jew jiġi rilaxxat mill-kariga mill-Ministru jew jekk il-kariga ta' membru tal-Kunsill issir vakanti għal xi raġuni oħra, il-post vakanti għandu jimtela b'mod li jkun jirrifletti l-hatra tal-persuna abbażi tas-subartikolu (3), skont il-każ, u l-persuna hekk mahtura għandha tkompli fil-kariga għall-perjodu rimanenti tat-terminu tal-kariga tal-persuna li tkun qed tissostitwixxi u għandha tkun eliġibbli biex tinhatar mill-ġdid.

(11) Il-Kunsill għandu jiltaqa' minn tal-inqas darba kull tliet (3) xhur u għandu jitlaqqa' mill-President:

Iżda l-President għandu jikkonferixxi laqgħa tal-Kunsill meta jiġi mitlub li jagħmel dan minn tal-inqas minn tliet (3) membri tiegħu.

(12) Il-Kunsill għandu, mingħajr ħsara għad-dispożizzjonijiet ta' dan l-Att, jirregola l-proċeduri tiegħu.

(13) Il-Kunsill għandu jahtar sottokomitat magħmul minn tliet (3) membri tal-Kunsill u għandu jiġi konsultat mill-Kunsill fil-każijiet imsemmijin fl-artikolu 7(3). Is-sottokomitat għandu jkollu kworum ta' żewġ (2) membri u t-tweġiba bil-miktub ta' żewġ (2) membri li jkun jew ma jkunux qed jaqblu mal-pjan ta' azzjoni rakkomandat, għandha tkun biżżejjed bħala espressjoni tal-fehmiet tal-komitat."

29. L-artikolu 36 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

Sostituzzjoni tal-artikolu 36 tal-Att prinċipali.

"Setgħat tal-Kunsill.

36. (1) Is-setgħat tal-Kunsill huma:

(a) li jwettaq dawk il-funzjonijiet u li jkollu dawk is-setgħat li jistgħu jiġu stabbiliti, minn żmien għal żmien, mill-Ministru responsabbli għas-settur tal-volontarjat permezz ta' regolamenti magħmulin taħt dan l-Att;

(b) li jipprovdi forum konsultattiv li jista' jindirizza b'mod effettiv kwistjonijiet relatati mas-settur tal-volontarjat;

(ċ) li jassisti lill-Kummissarju għal Organizzazzjonijiet Volontarji;

(d) li jipprovdi pjattaforma għall-iżvilupp ta' kooperazzjoni bejn l-organizzazzjonijiet volontarji u l-Gvern;

(e) li jstimula l-kooperazzjoni u t-tħaddim ta' netwerk bejn l-organizzazzjonijiet volontarji;

(f) li jamministra l-Fond għal Organizzazzjonijiet Volontarji skont l-artikolu 37(3);

(g) li jipromwovi u jinkoraġġixxi kultura ta' volontarjat u parteċipazzjoni f'attivitajiet tal-volontarjat fost in-nies, speċjalment tfal u żgħażaġh, bħala aspekk tal-iżvilupp personali u soċjali;

(h) li jrawwem kooperazzjoni fis-settur tal-volontarjat ma' korpi lokali u internazzjonali, entitajiet jew persuni oħra għall-inkoraġġiment u l-promozzjoni tal-iżvilupp ta' programmi tal-volontarjat, inizjattivi u attivitajiet; u

(i) li jinkoraġġixxi, għall-avvanz tal-prinċipju tas-sussidjarjetà, korpi nongovernattivi u entitajiet privati jew persuni u kunsilli lokali sabiex jikkontribwixxu għall-promozzjoni tal-volontarjat f'Malta.

(2) Il-funzjonijiet tal-Kunsill huma:

(a) li jipprovdi gwida kontinwa u pariri relatati mal-implimentazzjoni tal-istrategija tal-Kunsill;

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(b) li jsostni, jiżviluppa u jippromwovi l-interessi u x-xogħol tal-organizzazzjonijiet volontarji kollha f'Malta u Għawdex;

(c) li jissodisfa l-ħtiġijiet tas-settur tal-volontarjat li aktar ma jmur aktar jikbru;

(d) li jagħmel rakkomandazzjonijiet lill-Ministru dwar politika nazzjonali għall-volontarjat, jew inkella fir-rigward tal-iżvilupp tal-volontarjat;

(e) li jiżviluppa u jimplimenta politiki u strategiji għall-avvanz tal-oġettivi u l-funzjonijiet tiegħu, li jinizja u jiffaċilita r-riċerka u l-iżvilupp fir-rigward tal-volontarjat;

(f) li jippromwovi u jiżgura l-edukazzjoni u t-taħriġ tal-amministraturi u l-uffiċjali bil-kompetenzi vokazzjonali u professjonali meħtieġa, u li jippromwovi, jorganizza jew jassisti bi kwalunkwe mezzi, skemi edukattivi għall-voluntiera;

(g) li jippromwovi u jiżgura t-twaqqif, l-iżvilupp, iż-żamma u l-użu adegwat taċ-Ċentru għall-Organizzazzjonijiet Volontarji, li jkun ta' servizz u riżors għal organizzazzjonijiet volontarji;

(h) meta l-Ministru jagħti direzzjoni f'dan is-sens, li jirrappreżenta lill-Gvern ta' Malta internazzjonalment u reġjonalment fi kwistjonijiet relatati mas-settur tal-volontarjat kif jista' jiġi identifikat mill-Ministru;

(i) li jsostni lill-organizzazzjonijiet volontarji fl-akkwist ta' fondi, sew lokali kif ukoll tal-UE;

(j) li jiġbor u jiddistribwixxi informazzjoni, u jipprovdi pariri dwar kwistjonijiet relatati mal-attivitajiet tal-Kunsill;

(k) li jżomm regjistru tal-organizzazzjonijiet ta' *bona fide*, entitajiet u persuni oħra meqjusa bħala organizzazzjonijiet volontarji;

(l) li jiġbor il-flus u li jamministra u juża l-flus allokatu mill-Kamra tar-Rappreżentanti jew li jkunu ġejjin minn sorsi oħra;

(m) li jikkonsulta u jikkoopera mal-kunsilli lokali u persuni oħra dwar kwistjonijiet relatati mas-settur tal-volontarjat;

(n) li jhejji, jiżviluppa u jemenda, minn żmien għal żmien, Kodiċi ta' Etika li għandu jiġi segwit mill-voluntiera u mill-organizzazzjonijiet volontarji; u

(o) li jwettaq dawk il-funzjonijiet u li jkollu dawk is-setgħat li jistgħu jiġu preskritti, minn żmien għal żmien, mill-Ministru responsabbli għall-Politika Soċjali permezz ta' regolamenti magħmulin taħt dan l-Att.

(3) Mingħajr ħsara għad-dispożizzjonijiet ta' dan l-Att, il-Kunsill għandu s-setgħat li jagħmel dawk il-ħwejjeġ kollha li huma meħtieġa jew konvenjenti li jsiru għat-twertiq tal-funzjonijiet tiegħu u għandu jkun jista', mingħajr ħsara għad-dispożizzjonijiet ta' dan l-Att, li jidhol f'kuntratti, li jakkwista, iżomm jew jiddisponi minn kwalunkwe tip ta' proprjetà għall-finijiet tal-funzjonijiet tiegħu, li jħarrek u jiġi mħarrek, li jagħmel dawk il-ħwejjeġ kollha u li jidhol f'dawk it-transazzjonijiet li huma incidentali jew li jwasslu għall-eżerċizzju jew għat-twertiq tal-funzjonijiet tiegħu taħt dan l-Att, inkluż li jsellef u li jissellef il-flus.

(4) Ir-rappreżentanza legali u gudizzjarja għandha tkun vestita fil-President jew fil-Viċi-President fl-assenza tal-President jew fi kwalunkwe persuna oħra taħt dawk it-termini u l-kundizzjonijiet u b'dawk is-setgħat li l-Kunsill jista', minn żmien għal żmien, b'riżoluzzjoni jiddetermina.

(5) Kull dokument li jidher li huwa strument magħmul jew maħruġ mill-Kunsill u ffirmat mill-President għandu jiġi ammess bħala evidenza u għandu, sakemm ma jiġix pruvat xort'oħra, jitqies li huwa strument magħmul jew maħruġ mill-Kunsill.

(6) Il-Kunsill jista' jqabba jew jimpjega persuni sabiex iwettqu servizzi għall-Kunsill u jista' jidhol fi kwalunkwe ftehim għall-eżerċizzju ta' kwalunkwe mill-funzjonijiet tiegħu permezz tal-aġenzija jew tas-servizzi ta' kwalunkwe persuna.

(7) Il-Kunsill għandu jqabbaq Uffiċjal Kap Eżekuttiv skont l-Att dwar l-Amministrazzjoni Pubblika, u:

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(a) mingħajr ħsara għad-dispożizzjonijiet l-oħra ta' dan l-Att u għal kwalunkwe direzzjonijiet tal-Kunsill, il-kondotta eżekuttiva tal-Kunsill, l-amministrazzjoni u l-organizzazzjoni tiegħu u l-kontroll amministrattiv tal-uffiċjali u tal-persunal tiegħu, għandhom ikunu r-responsabbiltà tal-Uffiċjal Kap Eżekuttiv, li għandu wkoll ikollu dawk is-setgħat l-oħra li jistgħu minn żmien għal żmien jigu delegati lil mill-Kunsill;

(b) l-Uffiċjal Kap Eżekuttiv għandu wkoll ikun responsabbli għall-implimentazzjoni tal-oġġettivi tal-Kunsill u l-eżerċizzju tal-funzjonijiet tiegħu u mingħajr ħsara għall-ġeneralità ta' dak stabbilit precedentement, għandu jiżviluppa l-istrateġiji meħtieġa, il-politiki u r-regolamenti għall-implimentazzjoni tal-oġġettivi tal-Kunsill, jagħti pariri lill-Kunsill dwar kwalunkwe kwistjoni li jista' jirreferilu jew li jista' jqis li hija meħtieġa jew spedjenti, u jwettaq dawk id-dmirijiet l-oħra kollha li l-Kunsill jista' jassenjalu minn żmien għal żmien;

(ċ) l-Uffiċjal Kap Eżekuttiv għandu d-dritt li jattendi għal-laqgħat kollha tal-Kunsill. L-Uffiċjal Kap Eżekuttiv m'għandux, madankollu, ikollu vot jew jingħadd għall-finijiet tal-kostituzzjoni tal-kworum; u

(d) l-Uffiċjal Kap Eżekuttiv għandu jwettaq id-dmirijiet tiegħu unikament taħt id-direzzjoni tal-Kunsill.

(8) Il-Kunsill jista':

(a) jikseb sponsorizzazzjoni kummerċjali għall-Kunsill u jipparteċipa f'arranġamenti ta' kummerċjalizzazzjoni li jinvolvu l-approvazzjoni mill-Kunsill ta' prodotti u servizzi assoċjati mal-volontarjat;

(b) jagħmel arranġamenti għall-manifattura u d-distribuzzjoni (sew bi profitt jew mingħajr) ta' kwalunkwe artikolu jew oġġett li juri sinjal, simbolu jew kitba li huma assoċjati mal-Kunsill; u

(ċ) jipprovdli (sew bi profitt jew mingħajr) oġġetti u servizzi lil persuni li jkun qad jużaw jew inkella jattendu l-faċilitajiet tal-Kunsill.

(9) Il-Kunsill jista' jitlob jew jimponi dawk il-miżati raġonevoli fir-rigward ta':

(a) aċċess għal, jew l-użu ta' kwalunkwe mir-rizorsi jew faċilitajiet tiegħu; u

(b) il-provvista, min-naħa tiegħu, ta' programmi, servizzi, informazzjoni u pariri.

(10) Il-Kunsill għandu jiltaqa' kull meta jkun meħtieġ jew spedjenti. Il-laqgħat tal-Kunsill għandhom jissejhu mill-President jew fuq inizzjattiva tiegħu jew fuq talba ta' mhux anqas minn erbgħa (4) mill-membri tiegħu.

(11) Il-Kunsill m'għandux jaġixxi sakemm ma jkunx hemm kworum prezenti ta' mhux anqas minn ħamsin fil-mija u wieħed (50% + 1) tal-membri maħtura.

(12) Il-laqgħat tal-Kunsill għandhom ikunu preseduti mill-President jew, fin-nuqqas, mid-Deputat President.

(13) Id-deċiżjonijiet tal-Kunsill għandhom jittiehdu b'maġġoranza sempliċi tal-voti tal-membri prezenti u votanti. F'każ ta' ugwajanza tal-voti, il-President jew fin-nuqqas tiegħu, id-Deputat President għandu jkollu t-tieni vot jew vot deċiżiv.

(14) Mingħajr ħsara għad-dispożizzjonijiet l-oħra ta' dan l-Att, l-ebda deċiżjoni m'għandha tkun valida jekk ma tkunx sostnuta minn tal-anqas minn erba' (4) membri tal-Kunsill.

(15) Kwalunkwe post vakanti fost il-Membri tal-Kunsill, u kwalunkwe parteċipazzjoni fih minn persuna li mhix intitolata li tagħmel dan, m'għandhomx jinvalidaw il-proċedimenti tal-Kunsill.

(16) Il-Ministru jista', wara konsultazzjoni mal-Kunsill, jagħti minn żmien għal żmien, dawk id-direttivi bil-miktub lill-Kunsill, kif jista' jidhirlu li huwa xieraq u li ma jkunux inkonsistenti mad-dispożizzjonijiet ta' dan l-Att, u l-Kunsill għandu, mill-aktar fis possibbli, josserva u jagħti effett lil dawk id-direttivi u jwettaq dmirijietu skont l-istess.

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(17) Il-Kunsill għandu jagħti lill-Ministru l-faċilitajiet kollha meħtieġa għall-kisba tal-informazzjoni fir-rigward tal-proprjetà u tal-attivitajiet tal-Kunsill u għandu jipprovdi prospetti, kontijiet u informazzjoni oħra relatati magħhom, u jagħtih il-faċilitajiet meħtieġa għall-verifika tal-informazzjoni pprovduta, b'dak il-mod li u meta jista' raġonevolment jitlobhom.

(18) Għall-finijiet ta' dan l-Att, il-Kunsill jista' jissottometti lill-Ministru għall-approvazzjoni tiegħu, pjan strateġiku ta' sentejn li jistabilixxi objettivi u miri ċari għall-kisba tal-iskopijiet u tal-objettivi principali tiegħu matul l-imsemmi perjodu, biex jintlaħqu l-funzjonijiet tiegħu taħt dan l-Att.

(19) Il-pjan strateġiku msemmi hawn qabel għandu jiġi ppreżentat lill-Ministru għall-approvazzjoni tiegħu mhux anqas minn xahrejn (2) qabel il-bidu tal-perjodu li miegħu jirrelata l-pjan strateġiku, u għandu jidhol fis-seħh fil-gurnata li fiha jiġi approvat mill-Ministru, jew fil-gurnata li fiha jibda jiddekorri l-perjodi li miegħu jirrelata, skont liema tiġi l-aħħar:

Iżda l-ewwel pjan strateġiku għandu jithejja mill-Kunsill u jiġi ppreżentat lill-Ministru għall-approvazzjoni fi żmien sitt (6) gimgħat mid-data tal-hatra tal-Kunsill.

(20) Il-Kunsill għandu wkoll, minn żmien għal żmien, matul il-perjodu li fir-rigward tiegħu l-pjan strateġiku jkun fis-seħh, iqis u jipproponi lill-Ministru kwalunkwe varjazzjonijiet li l-imsemmi pjan jista' jkun jeħtieġ u wara l-approvazzjoni mill-Ministru, l-imsemmi pjan jista' jiġi varjat.

(21) Il-Kunsill għandu, fil-bidu ta' kull sena li fir-rigward tagħha l-pjan strateġiku jkun fis-seħh, ihejji pjan operattiv li jartikola l-programmi, l-inizjattivi u l-attivitajiet li jkun ser iwettaq biex jilħaq l-objettivi tiegħu mfissra fl-imsemmi pjan strateġiku għall-imsemmija sena.

(22) (a) Mingħajr ħsara għad-dispożizzjonijiet tal-Kostituzzjoni u ta' kwalunkwe liġi oħra applikabbli fir-rigward, inkluż dan l-Att, il-Kunsill, bi ftehim mal-Ministru, jista' jahtar jew jimpjega dawk l-uffiċjali u impjegati oħra b'dak il-korrispettiv finanzjarju u taħt dawk it-termini u kundizzjonijiet li l-Kunsill jista', minn żmien għal żmien, jiddetermina.

(b) L-Uffiċjal Kap Eżekuttiv għandu jinħatar sabiex jaġixxi bħala l-uffiċjal amministrattiv tal-Kunsill u sabiex jiġġestixxi l-operat kollu relatat.

(ċ) L-uffiċjal inkarigat biex jaqdi dmirijietu mal-Kunsill, għandu f'kull waqt ikun taħt l-awtorità amministrattiva u l-kontroll tal-Kunsill, iżda għandu għall-finijiet u effetti kollha jibqa' u jkun ikkunsidrat bħala uffiċjal pubbliku.

(d) Mingħajr ħsara għall-ġeneralità tal-paragrafi (a) sa (ċ), l-uffiċjal inkarigat biex jaqdi dmirijietu kif stabbilit hawn qabel, m'għandux matul l-imsemmi perjodu li matulu jkun hekk maħtur:

(i) jiġi prekluz milli japplika għal trasferiment f'dipartiment tal-Gvern skont it-termini u l-kundizzjonijiet tas-servizz marbuta mal-ħatra Governattiva miżmuma minnu fid-data li fiha jkun hekk inkarigat biex jaqdi dmirijietu; jew

(ii) ikun impjegat b'mod li l-korrispettiv finanzjarju u l-kundizzjonijiet tiegħu tas-servizz ikunu anqas favorevoli minn dawk marbuta mal-ħatra Governattiva miżmuma fid-data stabbilita hawn qabel, jew li kienu jkunu marbuta ma' dik il-ħatra, matul l-imsemmi perjodu, li kieku dak l-uffiċjal ma giex inkarigat biex jaqdi dmirijietu mal-Kunsill; u

(e) Mingħajr ħsara għall-ġeneralità tal-paragrafi (a) sa (d), l-uffiċjal inkarigat biex jaqdi dmirijietu kif stabbilit hawn qabel, għandu, matul il-perjodu li matulu jkun hekk inkarigat:

(i) ikun intitolat li jkollu s-servizz tiegħu mal-Kunsill meqjus bħala servizz mal-Gvern, għall-finijiet ta' kwalunkwe pensjoni, gratwità jew benefiċċju taħt l-Ordinanza dwar il-Pensjonijiet jew l-Att dwar il-Pensjonijiet lil Nisa Romol u Tfal Iltiema u għal kwalunkwe dritt ieħor jew privileġġ li għalih ikun intitolat; u, jew

(ii) iwieġeb għal kwalunkwe responsabbiltà:

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Iżda għall-finijiet ta' tali pensjoni, gratwità jew benefiċċju, għandu jitqies biss il-grad sostantiv mal-Gvern tal-uffiċjal hekk inkarigat."

Emenda tal-artikolu 37 tal-Att prinċipali.

30. L-artikolu 37 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) is-subartikolu (3) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(3) L-għanijiet tal-Fond għal Organizzazzjonijiet Volontarji għandhom ikunu li jassisti u jsostni lill-organizzazzjonijiet volontarji iskritti permezz tal-edukazzjoni, ġestjoni u sostenn u għotjiet finanzjarji għall-imsemmija skopijiet."; u

(b) is-subartikolu (8) tiegħu għandu jiġi mħassar.

Sostituzzjoni tal-artikolu 38 tal-Att prinċipali.

31. L-artikolu 38 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

"L-organizzazzjonijiet volontarji m'għandhomx jiġu stabbiliti għan-negożju.

38. (1) L-organizzazzjonijiet volontarji m'għandhomx jiġu stabbiliti prinċipalment għal skopijiet ta' negożju, kif lanqas m'għandhom jeżerċitaw atti tal-kummerċ b'mod regolari, iżda sakemm ikunu stabbiliti għal skopijiet pubbliċi li jintlaħqu permezz tat-tweqqif ta' tali atti tan-negożju kif provdut fis-subartikolu (2), l-organizzazzjonijiet volontarji jistgħu iwettqu dawk l-atti tan-negożju b'mod regolari, li huma relatati ma', jew anċillari għall-iskop u objettivi prinċipali tal-organizzazzjonijiet, sabiex ikunu jistgħu jintlaħqu l-iskopijiet pubbliċi tagħhom:

Iżda l-attivitajiet tan-negożju li ma jaqgħux taħt l-eżenzjonijiet tas-subartikolu (2) iżda li huma biss marginali għad-dhul tal-organizzazzjoni volontarja, jistgħu wkoll jitwettqu mill-organizzazzjoni volontarja nnifisha, mingħajr ħsara għar-rekwiżiti stabbiliti taħt l-artikolu (6).

(2) Għall-finijiet ta' dan l-artikolu, l-attivitajiet li ġejjin li jitwettqu minn organizzazzjoni volontarja u, jew id-dhul segwenti ġġenerat direttament biex jintlaħqu l-iskopijiet pubbliċi ta' tali organizzazzjoni, għandhom ikunu prezunti bhala permessi taħt is-subartikolu (1):

(a) l-operati u l-attivitajiet li jitwettqu mill-iskejjel, ċentri ta' taħriġ u istituzzjonijiet oħra edukattivi u l-miżati għal servizzi edukattivi;

(b) dħul iġġenerat mill-bejgħ ta' oġġetti u, jew mill-provvista ta' servizzi provduti minn organizzazzjoni volontarja meta dawn l-oġġetti u, jew servizzi nfushom jiġu mogħtija lil organizzazzjoni volontarja;

(c) dħul iġġenerat mill-bejgħ ta' oġġetti u, jew mill-provvista ta' servizzi unikament lil membri, sostenituri, *sponsors* jew kontributori tal-organizzazzjoni volontarja jew tal-grupp ta' organizzazzjonijiet volontarji li minnhom tagħmel parti;

(d) dħul iġġenerat mill-bejgħ ta' oġġetti jew mill-provvista ta' servizzi f'siti amministrati mill-organizzazzjoni volontarja u offruti lil viżitaturi ta' *bona fide* mill-organizzazzjoni nnifisha permezz tal-voluntiera jew l-impjegati:

Iżda dan m'għandux japplika għal ħwienet, *bars*, ristoranti u ħwienet oħra f'siti bħal dawn, jew is-siti nfushom meta dawn ikunu qed joperaw taħt arrangamenti ta' kera, ftehim ta' ġestjoni, liċenzji jew inkella minn terzi persuni għall-profitt;

(e) l-operat u l-attivitajiet ta' postijiet għall-esibizzjoni tal-arti, esibizzjonijiet, mużewijiet u organizzazzjonijiet oħra stabbiliti għall-avvanz tal-kultura, tal-arti iġġenerali u wirt nazzjonali u t-tariffi mħallsa għad-dħul f'attivitajiet teatrali, miżukali jew aktivitajiet oħra bħal dawn;

(f) miżati ta' parteċipazzjoni f'kompetizzjonijiet;

(g) pagament għal akkomodazzjoni residenzjali, kura u sostenn filantropiku ieħor, provdut abbażi ta' kemm jiswa jew fuq bażi sussidjata; u

(h) dawk l-attivitajiet l-oħra intiżi biex jiġbru fondi sabiex jintlaħqu l-iskop u l-oġġettivi prinċipali tal-organizzazzjoni li jirriżultaw fi:

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(i) dħul minn għoti b'kiri jew kuntratt għal ġestjoni ta' art jew bini jew proprjetà kummerċjali oħra lil terza persuna, meta ebda servizzi ma jkunu qegħdin jiġu offruti mill-organizzazzjoni volontarja;

(ii) dħul mill-investment tal-assi tal-organizzazzjoni volontarja, inkluża ż-żamma tal-ishma jew interessi oħra f'organizzazzjoni legali oħra;

(iii) dħul li jista' jkun pagabbli lill-organizzazzjonijiet volontarji li huma l-proprjetarji, jamministraw jew inkella joperaw arrangament teknoloġiku innovattiv; u

(iv) attivitajiet oħra jew klassifikazzjonijiet tad-dħul li jistgħu jiġu stabbiliti permezz ta' regolamenti mill-Ministru fuq rakkomandazzjoni tal-Kunsill.

(3) F'każijiet hlief għal dawk kontemplati fis-subartikoli (1) u (2), sakemm l-atti tal-kummerċ u l-attivitajiet kummerċjali ma jkunux biss marginali għaddħul tal-organizzazzjoni volontarja, dik l-organizzazzjoni volontarja għandha tistabbilixxi kumpannija ta' responsabbiltà limitata sabiex twettaq atti tal-kummerċ u l-amministraturi tal-organizzazzjoni volontarja għandhom jiżguraw li dan it-twaqqif m'għandux ikun ta' piż fuq ir-riżorsi umanitarji u finanzjarji ta' tali organizzazzjoni, li jeċċedi l-mezzi tagħha.

(4) Il-kumpannija ta' responsabbiltà limitata stabbilita skont is-subartikolu (3):

(a) għandha tkun tista', fil-każijiet kollha, twettaq dawk l-atti tal-kummerċ li huma relatati ma', jew anċillari għall-iskop u għall-obiettivi prinċipali tal-organizzazzjoni volontarja, jew jekk permess b'mod espress fl-istatut ta' dik l-organizzazzjoni volontarja, kif soġġett għad-diskrezzjoni u għas-sodisfazzjon tal-Kummissarju;

(b) għandha tkun mingħajr skop ta' profitt skont dan l-Att;

(ċ) għandu jkollha diretturi li ma jirċevux korrispettiv finanzjarju għas-servizzi tagħhom ta' twettiq ta' tali funzjonijiet hliet skont kif permess minn dan l-Att u, jew mill-istatut tal-organizzazzjoni volontarja; u

(d) m'għandhiex tippermetti l-evazzjoni tal-limiti imposti fuq l-organizzazzjonijiet volontarji fl-Ewwel Skeda minn kwalunkwe persuna fl-organizzazzjoni volontarja jew fil-kumpannija ta' responsabbiltà limitata u l-istess limitazzjonijiet għandhom japplikaw ukoll f'dan il-każ għall-kumpannija ta' responsabbiltà limitata bl-istess mod.

(5) Għall-finijiet ta' dan l-artikolu, "marginali" tfisser mhux aktar minn għaxra fil-mija (10%) tad-dhul iġġenerat mill-organizzazzjoni volontarja fi kwalunkwe sena u l-amministraturi għandu jkollhom id-dmir li jiddeterminaw jekk xi attività, li tkun att tal-kummerċ, hix marginali jew le, għall-finijiet ta' dan l-artikolu, u meta ssehh tali kwistjoni, għandhom jissottomettu dikjarazzjoni f'dan ir-rigward lill-Kummissarju li jista':

(a) fi kwalunkwe waqt joħroġ direttivi bil-miktub dwar dawn il-kwistjonijiet, jekk jidhirlu li d-dikjarazzjoni preżentata mill-amministraturi ma tissodisfax l-kriterji stabbiliti skont dan l-artikolu u jista' jimponi kundizzjonijiet relatati ma' dawn l-attivitajiet sabiex jaċċerta l-osservanza tal-prinċipji stabbiliti taht dan l-artikolu; u

(b) joħroġ deċiżjoni dwar il-kwistjoni bir-raġunijiet għall-istess, u kwalunkwe amministratur jew parti interessata jkunu jistgħu jappellaw minn tali deċiżjoni quddiem it-Tribunal Amministrattiv.

(6) L-organizzazzjonijiet volontarji m'għandhomx ikunu eżentati mill-obbligu li jiksbu kwalunkwe awtorizzazzjonijiet jew liċenzji li jistgħu jkunu meħtieġa għat-twettiq ta' xi attività partikolari msemmija f'dan l-artikolu skont it-termini ta' xi liġi oħra.

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(7) Il-Kummissarju jista' joħroġ linjigwida dwar id-dmirijiet u r-responsabbiltajiet tal-amministraturi tal-organizzazzjonijiet volontarji li jwettqu atti tal-kummerċ kif permess minn dan l-artikolu jew fir-rigward tal-aspetti kollha relatati ma' kumpanniji ta' responsabbiltà limitata stabbiliti mill-organizzazzjonijiet volontarji skont dan l-artikolu.

(8) F'każijiet li jaqgħu taħt is-subartikolu (4), għandu jiġi preżunt li:

(a) kumpannija ta' responsabbiltà limitata, minkejja li għandha personalità legali separata u distinta, hija biss strument sabiex iżzomm l-attivitajiet kummerċjali distinti mill-attivitajiet tal-organizzazzjoni volontarja li tkun qed tippromwovi l-iskopijiet soċjali u pubbliċi tagħha; u

(b) l-eżistenza ta' kumpannija ta' responsabbiltà limitata m'għandhiex topera b'tali mod li jippreġudika terzi persuni ta' *bona fide* jew l-organizzazzjoni volontarja nnifisha, li jnaqqas it-trasparenza tal-organizzazzjoni volontarja jew li joħloq kwalunkwe benefiċċju lil terzi persuni li mhux permess fi hdan l-organizzazzjoni volontarja nnifisha.

(9) Kumpannija ta' responsabbiltà limitata li hija proprjetà intera u stabbilita skont dan l-artikolu, li tista' tkun qed twettaq attivitajiet kummerċjali minn fond jew sit miżmum taħt kwalunkwe titolu mill-organizzazzjoni volontarja, m'għandu jkollha l-ebda drittijiet fir-rigward ta' kwalunkwe kirjiet ta' konċessjoni jew għotjiet oħra ta' proprjetà lill-imsemmija organizzazzjoni volontarja, inkluż il-Gvern, li għandu jkun preżunt li jippermetti l-użu ta' dik il-proprjetà mill-kumpannija ta' responsabbiltà limitata bi proprjetà intera:

Iżda kwalunkwe arrangamenti dokumentarji stabbiliti għall-finijiet ta' governanza bejn l-organizzazzjoni volontarja u l-kumpannija ta' responsabbiltà limitata bi proprjetà intera, għandhom ma jitqiesux fir-rigward tal-organizzazzjoni konċedenti u meta l-konċessjoni tiġi emendata jew terminata għal xi raġuni, minn, jew fir-rigward tal-organizzazzjoni volontarja, dan għandu awtomatikament jaffettwa l-kumpannija ta' responsabbiltà limitata.

(10) Kull meta organizzazzjoni volontarja tistabbilixxi kumpanija ta' responsabbiltà limitata skont is-subartikolu (3), l-amministraturi għandhom jinnotifikaw lill-Kummissarju permezz tal-formola stabbilita, liema formola għandha tiġi inkluża fir-Registru u tkun aċċessibbli għall-pubbliku. Il-Kummissarju għandu jinnotifika lill-Kummissarju tat-Taxxi Interni dwar l-isem u n-numru ta' registrazzjoni ta' dik il-kumpanija ta' responsabbiltà limitata malli jiġi nnotifikat. Għandhom japplikaw l-istess regoli *mutatis mutandis* għax-xoljiment ta' dik il-kumpanija ta' responsabbiltà limitata."

32. L-artikolu 39 tal-Att prinċipali għandu jiġi mħassar.

Thassir tal-artikolu 39 tal-Att prinċipali.

33. L-artikoli 40, 41 u 42 tal-Att prinċipali għandhom jiġu enumerati mill-ġdid bħala l-artikoli 39, 40 u 41 rispettivament.

Enumerazzjoni mill-ġdid tal-artikoli tal-Att prinċipali.

34. L-artikolu 39 tal-Att prinċipali, kif enumerat mill-ġdid, għandu jiġi sostitwit b'dan li ġej:

Sostituzzjoni tal-artikolu 39 tal-Att prinċipali kif enumerat mill-ġdid.

"Linjigwida mahruġa mill-Kummissarju.

39. (1) Il-Kummissarju jista', minn żmien għal żmien, wara konsultazzjoni mal-Kunsill, joħroġ linjigwida –

(a) relatati mal-organizzazzjonijiet volontarji u l-attivitajiet tagħhom;

(b) relatati mas-settur tal-volontarjat ingenerali,

u dawn il-linjigwida għandhom ikunu vinkolanti fuq l-organizzazzjonijiet volontarji, l-amministraturi u l-voluntiera, skont il-każ.

(2) Il-Kummissarju jista', bil-kunsens tal-Ministru, joħroġ linjigwida dwar il-klassifikazzjoni oġġettiva tal-kategoriji ta' "skop soċjali" jew "benefiċċju pubbliku" u kuncetti relatati, li jistgħu jintużaw fl-interpretazzjoni ta' dan l-Att għal kwalunkwe skop tiegħu.

(3) Dawn il-linjigwida għandhom ikunu msejsa fuq metodoloġiji ta' klassifikazzjoni li huma rikonoxxuti internazzjonalment u għandhom ikunu implimentati fl-amministrazzjoni tad-dispożizzjonijiet ta' dan l-Att u kwalunkwe liġijiet relatati:

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Iżda dawn il-linjigwida m'ghadux ikollhom effett retroattiv."

Emenda tal-artikolu 41 tal-Att prinċipali, kif enumerat mill-ġdid.

35. L-artikolu 41 tal-Att prinċipali, kif enumerat mill-ġdid, għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu:

(i) minnufih wara l-kliem "ta' organizzazzjonijiet volontarji jew tas-settur tal-volontarjat", għandhom jiżdiedu l-kliem "u li joħorġu linjigwida fir-rigward";

(ii) il-paragrafu (p) tiegħu, għandu jiġi enumerat mill-ġdid bħala l-paragrafu (s);

(iii) minnufih wara l-paragrafu (o) tiegħu, għandhom jiżdiedu l-paragrafi ġodda li ġejjin:

"(p) fir-rigward ta' ordni għall-iffriżar u kwistjonijiet relatati għas-sostenn tas-setgħat tal-Kummissarju f'każ ta' frodi;

(q) fir-rigward tal-iskrizzjoni ta' organizzazzjonijiet, inkluż, wara konsultazzjoni mal-Kunsill, għall-bidla tal-limiti taħt l-artikolu 12B(1)(e), (f) u (g) fir-rigward tal-iskrizzjoni mandatorja u għall-emenda tal-kategoriji jew tal-klassifikazzjoni ta' attivitajiet fit-tifsira ta' "skop soċjali" f'dan l-Att;

(r) għar-regolament tal-prevenzjoni tal-ħasil tal-flus u l-finanzjament tat-terroriżmu fl-organizzazzjonijiet volontarji;" u

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

"(3) Il-Ministru jista', permezz ta' ordni ppubblikat fil-Gazzetta u b'konsultazzjoni mal-Kummissarju u mal-Kunsill, jirrevedi jew jemenda kwalunkwe mill-iskedi annessi ma' dan l-Att."

Żjieda ta' skedi ġodda mal-Att prinċipali.

36. Minnufih wara l-artikolu 41 tal-Att prinċipali, kif enumerat mill-ġdid, għandhom jiżdiedu l-Iskedi ġodda li ġejjin:

**"L-EWWEL SKEDA
(Artikoli 2 u 38)**

Regoli, Principji u Linjigwida dwar ir-reqwizit tan-nuqqas
ta' profitt kif użat f'dan l-Att

L-għan principali ta' din l-Iskeda huwa li jiżgura li kwalunkwe interess materjali privat fi kwalunkwe organizzazzjoni volontarja jiġi evitat, minhabba s-sostenn pubbliku u l-fiduċja f'dawn l-organizzazzjonijiet abbażi tal-kwalitajiet tagħhom ta' nuqqas ta' profitt.

I. Applikabilità

1. Il-paragrafi li ġejjin għandhom japplikaw speċifikament għall-interpretazzjoni u għall-applikazzjoni tad-dispożizzjonijiet ta' dan l-Att u b'mod partikolari għall-organizzazzjonijiet volontarji iskritti sakemm dawn jibqgħu iskritti u għandhom jiġu applikati bħala regoli sabiex jiġi aċċertat livell għoli ta' osservanza kemm fil-forma kif ukoll fis-sustanza mill-organizzazzjonijiet volontarji kollha iskritti.

2. Għandhom japplikaw bħala principji fir-rigward tal-organizzazzjonijiet volontarji mhux iskritti.

3. Għandhom japplikaw ukoll għall-interpretazzjoni tad-dispożizzjonijiet ta' liġijiet oħra, fejn dawn il-liġijiet jadottaw il-kunċett ta' nuqqas ta' profitt għall-finijiet u skont it-termini ta' dawn id-dispożizzjonijiet, u jistgħu japplikaw għal organizzazzjonijiet li ma jagħmlux profitt, li, għal xi raġuni, ma jikkwalifikawx bħala organizzazzjonijiet volontarji taħt dan l-Att, organizzazzjonijiet politiċi, jew organizzazzjonijiet reliġjużi:

Iżda, f'dawn il-każijiet, dawn il-paragrafi għandhom biss joperaw bħala linjigwida mhux vinkolanti.

II. Tifsira

4. Organizzazzjoni għandha titqies li ma tagħmilx profitt meta:

(a) l-istatut tal-organizzazzjoni jkun fih dispożizzjoni espressa li teskludi l-iskop li tagħmel profitt; u

(b) l-iskopijiet tal-organizzazzjoni ma jinkludux il-promozzjoni ta' interessi privati; u

(ċ) l-iskopijiet tal-organizzazzjoni jinkludu kwalunkwe mill-iskopijiet stabbiliti u permessi taħt:

(i) l-artikolu 32(8) u (10) tat-Tieni Skeda tal-Kodiċi

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Ċivili;

(ii) l-artikolu 38 ta' dan l-Att li jirregola l-attivitajiet kummerċjali permissibbli, fejn dawn l-attivitajiet huma mwettqa sabiex jinkisbu l-iskop u l-oġġettivi prinċipali tal-organizzazzjoni;

(iii) din l-Iskeda; u

(d) ħlief kif permess taht din l-Iskeda jew taht it-Tieni Skeda tal-Kodiċi Ċivili, l-ebda parti mid-dhul, kapital jew proprjetà ma hija disponibbli direttament jew indirettament:

(i) lill-amministratur; jew

(ii) lil xi promotur, fondatur, membru, donatur jew benefiċjarju; jew

(iii) xi interess ieħor privat:

Iżda dan id-dhul, kapital, proprjetà, jew parti minnhom għandhom ikunu amministrati esklussivament sabiex jintlaħqu l-iskop u l-oġġettivi li għalihom l-organizzazzjoni giet stabbilita.

5. Jekk l-amministratur, il-promuttur, il-fondatur, il-membru, id-donatur jew il-benefiċjarju huma –

(a) organizzazzjoni volontarja oħra iskritta; jew

(b) fondazzjoni pija, entità ekkleżjastika jew persuna rappreżentanti tal-istess; jew

(ċ) il-Gvern, jew organizzazzjoni kkontrollata mill-Gvern jew persuna rappreżentanti tal-istess; jew

(d) il-Fond għal Organizzazzjonijiet Volontarji, jew

(e) partit politiku kif imfisser fl-Att dwar il-Finanzjament ta' Partiti Poliċi (Kap. 544),

il-limitazzjoni fil-paragrafu 4(d) ma tapplikax sakemm id-disponibbiltà ta' dak id-dhul, kapital jew dik il-proprjetà ikunu soġġetti għall-kundizzjonijiet, li huma konsistenti mal-iskopijiet ġenerali u mal-oġġettivi tal-organizzazzjoni konċedenti.

6. (1) Dotazzjoni ta' proprjetà ta' organizzazzjoni volontarja bi drittijiet ta' riżerva jew assi favur id-donatur, tista' biss tiġi aċċettata mill-organizzazzjoni volontarja jekk id-donatur jaċċetta li jikkumpensa

lil organizzazzjoni volontarja għal kwalunkwe spejjeż magħmula mill-organizzazzjoni, hliet spejjeż minhabba użu normali, għal kwalunkwe titjib fil-proprjetà li ma akkrexxiex għal kollox favur l-organizzazzjoni matul il-perjodu ta' tgawdija. Tali kumpens għandu jsir mid-donatur skont il-prinċipji miftehma bejn il-partijiet.

(2) F'każ ta' riverżjoni tal-assi dotati lill-organizzazzjoni volontarja taht titolu temporanju, l-ebda amministratur, soċju, promotur, fondatur, membru, donatur jew membru tal-familja tiegħu ma jistgħu jagħmlu gwadann. Din il-projbizzjoni għandha tapplika wkoll għall-ishma jew interessi oħra ta' organizzazzjonijiet, unikament fejn iż-żjieda fil-valur ta' tali ishma jew interessi, fir-riverżjoni tagħhom, huwa direttament attribwibbli għall-kontribuzzjonijiet u spejjeż magħmula mill-organizzazzjoni volontarja:

Iżda l-projbizzjoni msemmija hawn qabel ma tapplikax jekk it-gawdija tal-organizzazzjoni volontarja toriġina taht titolu temporanju, hija oneruża, inkluzi kirja, u hija raġonevoli skont il-livell standard tas-suq jew kundizzjonijiet tas-suq stabbiliti skont dawn id-dispożizzjonijiet.

(3) Jekk ir-riverżjoni tal-assi, hliet ishma jew interessi oħra, favur id-donatur, telgħet fil-valur minhabba nefqa diretta mill-organizzazzjoni volontarja, id-donatur għandu jkun obligat li jirrifondi lil organizzazzjoni volontarja għall-ispejjeż magħmula mill-organizzazzjoni volontarja, billi tingħata importanza għad-deprezzament għal użu normali, fejn ikun japplika:

Iżda dan ma japplikax jekk id-donatur huwa organizzazzjoni għall-benefiċċju pubbliku, kif imfisser fit-Tieni Skeda tal-Kodiċi Ċivili.

(4) Meta sseħħ tali riverżjoni, għandha tiġi notifikata lill-Kummissarju. Din in-notifika għandu jkollha magħha rapport tal-awditur dwar l-ispejjeż li jkunu saru, hsara minhabba użu normali u gwadann li jkun sar mar-reverżjoni, irrISPettivament mill-valur involut u l-Kummissarju għandu jkollu s-setgħat li jordna daww ir-rifużjonijiet li jidhirlu li huma meħtieġa, sabiex jiżgura li ma jkun hemm l-ebda abbuż, minhabba jew li jirriżulta minn tali transazzjonijiet. Din l-ordni għandha tkun soġġetta għal appell taht l-artikolu 25 ta' dan l-Att.

7. Organizzazzjoni għandha titqies li ma tagħmilx profitt minkejja li:

(a) tikseb gwadann monetarju mill-attivitajiet tagħha meta dak il-gwadann ma jiġix riċevut jew akkreditat lil membri tagħha, iżda huwa intiż esklussivament sabiex jintlaħqu l-iskopijiet u l-oġġettivi tal-organizzazzjoni kif provdut fl-istatut;

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(b) tixtri jew tbiegħ ogġetti jew servizzi jew hija xort'ohra involuta f'attivitajiet kummerċjali ta' ogġetti jew servizzi, meta dawn l-attivitajiet huma imwettqa esklussivament sabiex jintlaħqu l-iskopijiet u l-obiettivi prinċipali skont l-artikolu 38 ta' dan l-Att;

(ċ) hija stabbilita għad-divertiment ingenerali, passatempj, edukazzjoni jew benefiċċji oħra simili tal-membri tagħha; jew

(d) hija stabbilita għall-promozzjoni tar-rwol soċjali, l-etika, l-edukazzjoni u valuri professjonali li jkunu eżerċitati mill-membri tagħha, sakemm ma tippromwovix l-interessi privati tal-membri tagħha jew ta' individwi privati.

III. Benefiċċju Privat Permissibbli

8. Huwa permissibbli li organizzazzjoni volontarja jkollha fl-obiettivi u s-setgħat tagħha, l-għoti ta' benefiċċju privat limitat jew anċillari lil persuni identifikabbli jew klassifikazzjonijiet ta' persuni, sakemm l-obiettiv jew is-setgħa jkunu konformi mal-kundizzjonijiet li ġejjin:

(a) l-iskopijiet li għalihom giet stabbilita, jistgħu, minnufih jew wara li jkun għadda ż-żmien jew giet sodisfatta xi kundizzjoni, jintlaħqu minkejja l-benefiċċju privat;

(b) il-fondi disponibbli għall-użu taht dak l-obiettiv jew dik is-setgħa ma jingabru minn kollezzjoni pubblika, minn għotja jew mill-pubbliku ingenerali, iżda jingabru mill-fondatur jew organizzazzjonijiet kontrollati minnu, bħala kundizzjoni għad-dotazzjoni inizjali jew kwalunkwe dotazzjoni addizzjonali; u

(ċ) il-Kummissarju japprova l-benefiċċju privat partikolari bil-miktub u taht dawh il-kundizzjonijiet kif jidhirlu li huwa xieraq sabiex jiġu salvagwardati l-prevalenza u l-identità tal-iskop tal-organizzazzjoni, li mhux privat:

Iżda sakemm il-Kummissarju japprova dak il-benefiċċju privat kif stabbilit hawn qabel, l-organizzazzjoni ma tkunx obligata li tiġi iskritta, lanqas ma tkun eliġibbli għall-iskrizzjoni, jew meta tkun diġà iskritta, li żżomm dik l-iskrizzjoni, iżda f'dawn il-każijiet l-organizzazzjoni għandha tkun projbita milli twettaq kwalunkwe attività fl-artikolu 12B(1)(a) sa (d) ta' dan l-Att.

9. Ir-riżerva mill-fondatur ta' kwalunkwe dritt fuq l-assi tal-organizzazzjoni volontarja m'għandux jippreġudika l-istatus ta' nuqqas ta' profitt tal-organizzazzjoni.

IV. Tifsira ta' Benefiċċju Privat

10. It-terminu "benefiċċju privat" ifisser benefiċċju hlief għal dak li jikkwalifika bħala benefiċċju soċjali jew pubbliku, attribwit indirettament lil xi amministratur tal-organizzazzjoni, u jekk ikun hekk stabbilit fl-istatut, jinkludi wkoll donatur, fondatur jew promotur, membru tal-organizzazzjoni, benefiċjarju jew voluntier ta' flus, oġġetti, servizzi jew proprjetà:

Iżda dan il-benefiċċju privat huwa limitat u huwa biss anċillari jew inċidentali għall-iskop prinċipali jew għall-għanijiet tal-organizzazzjoni:

Iżda wkoll dak il-benefiċċju jista' jinholoq għal skop legittimu fl-ambitu tat-tifsira ta' dawn id-dispożizzjonijiet.

V. Prinċipji ta' Korrispettiv Finanzjarju

A. Donaturi, Fondaturi, Promoturi, Membri, Voluntiera

11. Mingħajr ħsara għad-dispożizzjonijiet tal-paragrafu 8 ta' din l-Iskeda, kwalunkwe donatur, fondatur, promotur, membru jew voluntier jista' jirċievi korrispettiv finanzjarju mill-organizzazzjoni meta jkun ingaġġat minn jew ikun impjegat tal-organizzazzjoni taht kuntratt bil-miktub jew meta jkun il-fornitur ta' kwalunkwe oġġetti jew servizzi tal-organizzazzjoni:

Iżda tali korrispettiv finanzjarju:

(a) huwa strettament attribwibbli lil dawk il-funzjonijiet li huma fil-mira tal-kuntratt bil-miktub jew tad-dispożizzjonijiet li jirregolaw l-oġġetti u s-servizzi provduti lil organizzazzjoni;

(b) mhux sostanzjali u huwa skont il-livelli tas-suq u l-kundizzjonijiet tas-suq stabbiliti skont dawn id-dispożizzjonijiet, u fi kwalunkwe każ, huwa materjalment irrelevanti meta mqabbel mad-dhul u man-nefqa ġenerali tal-organizzazzjoni;

(ċ) mhux tali li jippreġudika l-milja tal-iskopijiet u tal-għanijiet tal-organizzazzjoni jew is-sostenibilità tagħha;

(d) huwa fi kwalunkwe każ, soġġett għall-kontijiet annwali u prospetti annwali preżentati mill-organizzazzjoni, skont ir-Regolamenti dwar l-Organizzazzjonijiet Volontarji (Prospetti Annwali u Kontijiet Annwali) (L.S. 492.01); u

(e) huwa nnutat f'dettall suffiċjenti fil-minuti tal-amministraturi matul il-laqgħa ġenerali u f'każ ta' investigazzjoni

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sogġetta għal kwalunkwe ilment dwar dawn il-kwistjonijiet, dawn il-minuti għandhom jiġu preżentati lill-Kummissarju, fuq talba tiegħu bil-miktub, skont il-każ.

B. Amministraturi

12. (1) Mingħajr ħsara għad-dispożizzjonijiet tal-paragrafu 8 ta' din l-Iskeda u kwalunkwe projbizzjoni espressa fl-istatut ta' organizzazzjoni volontarja, amministratur jista' biss jirċievi korrispettiv finanzjarju mill-organizzazzjoni meta jitqabba minn jew ikun impjegat tal-organizzazzjoni taht kuntratt bil-miktub li, fi kwalunkwe każ, ma jippreġudikax il-milja tal-iskop u l-oġettivi prinċipali u sostenibbli tal-organizzazzjoni.

(2) L-organizzazzjoni tista' tirrimborsa lill-amministratur għal kwalunkwe spejjeż li jkun għamel, jekk ikunu direttament relatati max-xogħol tiegħu bhala amministratur tal-organizzazzjoni. L-istess regoli għandhom japplikaw għal uffiċjali li jkunu qed jiġbru l-fondi u għall-impjegati.

13. L-ebda organizzazzjoni volontarja ma għandha:

(a) tagħti lill-amministratur korrispettiv finanzjarju li huwa oġhla mil-livelli standard tas-suq jew kundizzjonijiet tas-suq stabbiliti skont dawn id-dispożizzjonijiet, sakemm il-Kummissarju ma jqisx li dan huwa meħtieġ fiċ-ċirkostanzi jew inkella huwa sodisfatt li l-amministratur għandu ħiliet speċifiċi li jikkorrispondu għall-ħtigijiet tal-organizzazzjoni, f'liema każ, il-korrispettiv finanzjarju jista' jeċċedi daww il-kundizzjonijiet tas-suq jew livelli tas-suq kif provdut fil-linjigwida maħruġa mill-Kummissarju, skont id-diskrezzjoni tiegħu, jew xort'oħra kif approvat minnu;

(b) tagħti korrispettiv finanzjarju lil xi persuna, impjegat jew xort'oħra, b'salarju, paga jew miżata, li huma oġhla mil-livelli tas-suq, sakemm il-Kummissarju ma jkunx sodisfatt li f'dak il-każ partikolari japplikaw kundizzjonijiet speċifiċi;

(ċ) tħallas l-interessi jew korrispettiv finanzjarju ieħor fuq self, kreditu u strumenti finanzjarji li għandhom kapacià ekonomika, li ngabbru jew ġew akkwistati minn organizzazzjonijiet li mhumiex liċenzjati, jew istituzzjonijiet finanzjarji, jekk mhux skont il-kundizzjonijiet tas-suq; jew

(d) tħallas prezz għal xi proprjetà li ġiet akkwistata bi prezz oġhla minn dak stabbilit fis-suq għall-istess, minkejja tnaqqis speċjali, bejgħ jew arrangamenti speċjali.

VI. Spejjeż

14. Kwalunkwe amministratur, donatur, promotur, fondatur, membru, voluntier, jew kwalunkwe persuna oħra li ssostni l-iskopijiet u l-objettivi tal-organizzazzjoni, tista' tirċievi rifużjoni raġonevoli għall-ispejjeż magħmula minnu għan-nom tal-organizzazzjoni.

VII. Prinċipju fir-rigward ta' ishma u ta' interessi

15. Meta ssir dotazzjoni ta' ishma lil organizzazzjoni volontarja għas-sostenn tal-iskopijiet, dħul jew kapital tal-organizzazzjoni volontarja, l-amministraturi jistgħu jaċċettaw u jżommu l-istess sakemm dik il-partecipazzjoni azzjonarja tkun fl-interess tal-organizzazzjoni. Din il-partecipazzjoni azzjonarja għandha wkoll tiġi ddikjarata u mdaħħla fil-prospetti annwali u l-karta tal-bilanċ skont ir-Regolamenti dwar l-Organizzazzjonijiet Volontarji (Prospetti Annwali u Kontijiet Annwali) (L.S. 492.01), u jkollha magħha rapport annwali, li t-tnejn flimkien għandhom jiġu preżentati lill-Kummissarju.

16. L-aċċettazzjoni u t-tgawdija minn organizzazzjoni volontarja ta' dotazzjoni ta' ishma jew interessi oħra jew ta' proprjetà miżmuma minn organizzazzjoni oħra li –

(a) m'għandhiex l-istess skopijiet jew użi li huma konsistenti mal-iskopijiet tal-organizzazzjoni li tkun qed tirċievi; jew

(b) tagħmel profitt,

m'għandhomx jaffetwaw l-iskop tal-organizzazzjoni volontarja li tkun qed tirċievi, lanqas l-istatus tan-nuqqas ta' profitt, għall-finijiet ta' dan l-Att:

Iżda tali dotazzjoni m'għandhiex tirriżulta f'xi riskju eċċessiv għall-assi l-oħra tal-organizzazzjoni volontarja, lanqas m'għandha ttelef lill-organizzazzjoni volontarja milli tilhaq tal-iskopijiet u l-objettivi tagħha:

Iżda wkoll għandhom japplikaw il-kriterji u l-kundizzjonijiet li ġejjin:

(a) l-organizzazzjoni konċedenti li tagħha jkunu qed jiġu ddotati l-ishma, l-interessi jew il-valur tal-proprjetà lil organizzazzjoni volontarja li tirċievi, għandha strettament tosserva l-prinċipji applikabbli għal-livelli tas-suq u l-kundizzjonijiet tas-suq kif stabbilit skont it-termini ta' dawn id-dispożizzjonijiet; u

(b) ir-reqwiżiti stabbiliti taħt partita 15 ta' din l-Iskeda

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għandhom japplikaw.

(2) Mingħajr hsara għal xi liġi oħra li tirregola l-eżenzjonijiet fiskali, b'referenza partikolari għall-artikolu 12 tal-Att dwar it-Taxxa fuq l-*Income* (Kap. 123,) ir-rekwiżiti kondizzjonali msemmija taħt il-paragrafu 15 u s-subparagrafu (1) ta' dan il-paragrafu għandhom, b'mod partikolari japplikaw sabiex:

(a) tiġi eliminata kwalunkwe forma ta' abbuż fiskali li jista' potenzjalment jirriżulta meta jitwaqqfu l-organizzazzjonijiet u sabiex jiġu osservati għal kollox il-kundizzjonijiet ta' nuqqas ta' profitt;

(b) jiġi żgurat li t-twaqqif tal-organizzazzjonijiet volontarji u l-attivitajiet tagħhom li jibbenefikaw mill-eżenzjonijiet tat-taxxa, jinżammu separati u distinti minn kwalunkwe attivitajiet tan-negozju jew kummerċjali stabbiliti minn entitajiet kummerċjali jew mill-membri tagħhom jew partijiet relatati;

(c) jiġi żgurat li kwalunkwe dħul, ishma, kapital, interessi jew valur ta' proprjetà miżmuma minn entitajiet kummerċjali ma jiddahlux bhala dħul eżentat;

(d) jiġi żgurat li kwalunkwe spejjeż li huma relatati ma' attivitajiet eżentati ma jiddaħħlux bhala spejjeż ta' entitajiet taxxabli li għandhom jiġu paċuti kontra dħul taxxabli bi ksur tar-regolamenti għall-eżenzjoni mit-taxxa; u

(e) jiġi żgurat li l-eżenzjonijiet mit-taxxa ma jirriżultawx fit-tixkil tar-regoli u l-kundizzjonijiet li jirregolaw il-kompetizzjoni ġusta.

17. Meta l-organizzazzjoni volontarja ma tkunx l-unika azzjonista fil-kumpannija ta' responsabbiltà limitata, l-ebda parti mid-dħul, kapital, interessi jew valur tal-proprjetà ta' dik il-kumpannija ta' responsabbiltà limitata m'għandha tkun disponibbli direttament jew indirettament għall-persuni involuti fl-organizzazzjoni volontarja:

Iżda d-dispożizzjonijiet ta' din it-Taqsima VII m'għandhomx japplikaw għal fondazzjonijiet privati li jkunu qed iwettqu l-attivitajiet elenkati taħt l-artikolu 31B tat-Tieni Skeda tal-Kodiċi Ċivili.

18. Il-Kummissarju jista' joħroġ linjigwida lill-kumpanniji konċedenti jew organizzazzjonijiet oħra li l-ishma, il-kapital, l-interessi jew il-valur tal-proprjetà tagħhom jiġu dotati lil organizzazzjonijiet volontarji li jirċevuhom, sabiex tiġi żgurata l-osservanza tal-prinċipji ta'

dan l-Att u kwalunkwe regolamenti magħmula tahtu jew taht it-Tieni Skeda tal-Kodiċi Ċivili.

19. Meta l-organizzazzjoni volontarja jkollha assi, inklużi ishma jew interessi oħra, f'organizzazzjoni legali oħra, dawk l-assi ma jistgħux jinbiegħu jew inkella jiġu ttrasferiti lil xi amministratur, soċju, promotur, fondatur, membru, donatur jew xi membru tal-familja tiegħu, tal-organizzazzjoni volontarja.

VIII. Estensjoni tal-Obbligi Fiducjarji

20. Mingħajr ma jiġu mittiefsa l-obbligi fiducjarji ta' kwalunkwe amministratur jew ufficjal ta' xi organizzazzjoni, kull persuna li għandha xi rwol f'organizzazzjoni li għalih tithallas xi forma ta' korrispettiv finanzjarju u, jew li l-ispejjeż tagħha jiġu rifiżi, jew għandha xi kontroll jew setgħat ta' dispożizzjoni fuq l-assi tal-organizzazzjoni volontarja, anke jekk mhux ufficjal, għandha titqies li hija soġġetta għall-obbligi fiducjarji.

IX. Setgħat tal-Kummissarju

21. Il-Kummissarju jista' jitlob informazzjoni mingħand kwalunkwe persuna sabiex ikun jista' jistabbilixxi jekk l-organizzazzjoni tikkwalifikax bħala waħda li ma tagħmilx profitt skont din l-Iskeda u jekk il-prinċipji, regoli jew linjigwida ta' din l-Iskeda humiex qed jiġu osservati.

X. Deċiżjonijiet

22. Kwalunkwe promotur, fondatur, membru, amministratur jew donatur jew persuna oħra imsemmija f'din l-Iskeda tista' tapplika lill-Kummissarju bil-miktub għal deċiżjoni dwar kwalunkwe kwistjoni relatata mal-kwalifika jew xort'oħra tal-organizzazzjoni bħala waħda li ma tagħmilx profitt skont din l-Iskeda, b'referenza għalih innifsu jew għal xi persuna oħra involuta fl-organizzazzjoni.

Id-deċiżjoni tal-Kummissarju hija soġġetta għal appell kif stabbilit fl-artikolu 25 ta' dan l-Att.

XI. Ksur

23. Kwalunkwe amministratur li jonqos milli josserva d-dispożizzjonijiet ta' din l-Iskeda għandu jkun ħati ta' ksur tad-dmir u għandu jkun responsabbli għar-rifiżjoni favur l-organizzazzjoni:

(a) jekk huwa permess li jirċievi korrispettiv finanzjarju, dak il-korrispettiv finanzjarju li jkun irċieva kwalunkwe amministratur li jkun jeċċedi il-livell permess;

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(b) jekk mhux permess li jirċievi korrispettiv finanzjarju, is-somom kollha li jkun irċieva hlief l-ispejjeż.

24. Meta l-amministratur jaqbel li jhallas is-somom lil persuni ohra li mhumiex permessi li jitħallsu jew li jeċċedu l-livelli permessi kif hawnhekk stabbilit, għandu jkun responsabbli *in solidum* magħhom għar-rifużjoni ta' tali somom lill-organizzazzjoni volontarja.

XII. Applikabbiltà fiż-Żmien

25. Dawn id-dispożizzjonijiet m'għandhomx japplikaw retrospettivament u għandhom ikunu mingħajr preġudizzju għall-applikazzjoni ta' kwalunkwe regoli fis-sehħ fid-data (id-"data rilevanti") meta dawn id-dispożizzjonijiet għandhom jidhlu fis-sehħ. L-organizzazzjonijiet volontarji kollha iskritti għandhom ifittxu li jkunu konformi ma' dawn id-dispożizzjonijiet fi żmien sentejn (2) mid-data rilevanti u f'każ ta' dubju jistgħu jitolbu lill-Kummissarju deċiżjoni dwar dawn il-kwistjonijiet. Il-kontenut ta' dawn id-dispożizzjonijiet m'għandu jinvalida l-ebda att li jkun twettaq qabel id-data rilevanti meta dan ikun konformi mal-liġi applikabbli, lanqas m'għandu jrendi lil xi persuna responsabbli għal xi twettiq li ma kienx projbit taħt il-liġi applikabbli.

IT-TIENI SKEDA

Organizzazzjonijiet li huma eżentati mill-iskrizzjoni mandatorja mal-Kummissarju skont l-artikolu 12Ċ ta' dan l-Att*

TAQSIMA I

Benefiċċju pubbliku internazzjonali, organizzazzjonijiet li ma jagħmlux profitt jew organizzazzjoniet volontarji stabbiliti bi trattati internazzjonali, jew il-fergħa lokali tagħhom, li huma eżentati b'xi liġi speċjali milli jkunu soġġetti għall-iskrizzjoni.

L-eżenzjoni taħt Taqsima I għandha tapplika, kemm-il darba tali organizzazzjonijiet internazzjonali ma jagħmlux jew m'għandhomx l-intenzjoni li jagħmlu kollezzjonijiet pubbliċi, u dan mingħajr ħsara għal kwalunkwe dispożizzjonijiet applikabbli ta' xi trattat, xi liġi speċjali jew arrangament ieħor relatat ma' dawn l-organizzazzjonijiet.

* Dawn l-organizzazzjonijiet jistgħu jiskrivu ruħhom fi kwalunkwe waqt hekk kif ikunu konformi mar-rekwiżiti ta' dan l-Att.

TAQSIMA II

L-organizzazzjonijiet li huma registrati ma' SportMalta skont l-Att dwar l-I-sports.

L-eżenzjoni taħt din it-Taqsima II għandha tapplika kemm-il darba dawn l-organizzazzjonijiet ma jwettqu ebda attività fl-artikolu 12B(1)(a) sa (d) ta' dan l-Att.

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IT-TIELET SKEDA

Formola A

**ATT DWAR L-ORGANIZZAZZJONIJIET VOLONTARJI
(KAP. 492)**

**Nota għal Nuqqas ta' Iskriżzjoni - Notifika minn organizzazzjoni
volontarja mhux iskritta lill-Kummissarju
Skont l-artikolu 12D**

Isem tal-Organizzazzjoni ("l-Organizzazzjoni")

Mogħtija minn

Lill-Kummissarju għal Organizzazzjonijiet Volontarji:

L-Organizzazzjoni tgħarraf lill-Kummissarju li:

- (a) hija organizzazzjoni volontarja skont l-artikolu 3 tal-Att dwar l-Organizzazzjonijiet Volontarji ("l-Att") stabbilita bil-miktub bħala assoċjazzjoni, fondazzjoni jew *trust*⁽¹⁾ fi⁽²⁾ u mhux iskritta skont it-termini ta' dak il-Att;
- (b) mhix suġġetta għall-iskriżzjoni obbligatorja skont it-termini tal-Att peress li:

.....
.....

l-indirizz tal-Organizzazzjoni huwa:

.....

(fejn applikabbli) hija persuna legali u n-numru tar-reġistrazzjoni tagħha huwa

.....

is-settur tal-attività li fih topera hu

u l-għan ewlieni tagħha huwa

.....

il-komunikazzjonijiet kollha jistgħu jsiru minn u lil⁽³⁾ bħala l-amministratur responsabbli maħtur għal dan l-iskop fl-indirizz imsemmi f'(b) aktar 'il fuq.

L-amministraturi huma konxji li jekk l-attivitajiet tal-organizzazzjoni huma dawk li jaqgħu taħt it-termini tal-artikolu 12B tal-Att huma obbligati li jiskrivu l-organizzazzjoni skont l-artikolu 12B tal-Att.

Firma:

Isem:

Amministratur Responsabbli

Iddatata dan jum ta' tas-sena

(1) Hassar kif applikabbli

(2) Niżżel id-data tat-twaqqif

(3) Dahhal l-isem u l-kunjom tal-amministratur responsabbli

Formola B
ATT DWAR L-ORGANIZZAZZJONIJIET VOLONTARJI
(KAP. 492)
Avviż ta' bidla fl-isem/indirizz ⁽¹⁾ ta' organizzazzjoni
volontarja mhux iskritta
Skont l-artikolu 12D

Isem tal-Organizzazzjoni⁽²⁾ ("l-Organizzazzjoni")

Indirizz:.....

.....⁽²⁾

Mogħtija minn:.....

Lill-Kummissarju għal Organizzazzjonijiet Volontarji:

L-Organizzazzjoni b'dan tavża, skont l-artikolu 12D tal-Att dwar l-Organizzazzjonijiet Volontarji, li:

(i) b'effett minn ⁽³⁾ isimha gie mibdul

għal

(ii) b'effett minn⁽⁴⁾ inbidel l-indirizz

tagħha u l-indirizz il-ġdid tagħha huwa

.....

Firma:.....

Isem:.....

Amministratur Responsabbli

Iddatata dan jum ta' tas-sena

 (1) Hassar kif applikabbli

(2) Indika l-isem/indirizz il-qadim kif applikabbli

(3) Niżżel id-data meta sehħet il-bidla fl-isem

(4) Niżżel id-data meta sehħet il-bidla fl-indirizz

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Formola Ċ
ATT DWAR L-ORGANIZZAZZJONIJIET VOLONTARJI
(KAP. 492)
Avviż ta' bidla fir-rappreżentant/amministratur lokali⁽¹⁾ ta'
organizzazzjoni volontarja mhux iskritta
Skont l-artikolu 12D

Isem tal-Organizzazzjoni ("l-Organizzazzjoni")

Indirizz:
.....

Mogħtija minn:

Lill-Kummissarju għal Organizzazzjonijiet Volontarji:

L-Organizzazzjoni b'dan tavża, skont l-artikolu 12D tal-Att dwar l-Organizzazzjonijiet Volontarji li:

b'effett minn⁽²⁾..... il-persuna li bħalissa qed tagixxi bħala rappreżentant lokali tal-Organizzazzjoni m'għadhiex teżercita dik il-funzjoni u:

Isem:

Indirizz:

Numru ta' identifikazzjoni:

inħatar/inħatret bħala rappreżentant lokali minfloku/minflokha.

b'effett minn⁽²⁾..... l-amministratur li kien responsabbli biex jagħmel u jirċievi komunikazzjonijiet f'isem l-Organizzazzjoni m'għadux jeżercita dik il-funzjoni u:

Isem:

Indirizz:

Numru ta' identifikazzjoni:

inħatar/inħatret biex iwettaq/twettaq dik il-funzjoni minfloku/minflokha.

Firma:

Isem:
Amministratur Responsabbli

Iddatata dan jum ta' tas-sena

(1) Ħassar kif applikabbli

(2) Niżżel id-data meta saret il-hatra l-ġdida

Formola D
ATT DWAR L-ORGANIZZAZZJONIJIET VOLONTARJI
(KAP. 492)

*Avviż ta' amalgamazzjoni ta' organizzazzjoni
 volontarja mhux iskritta*
 Skont l-artikolu 12D

Isem tal-Organizzazzjoni: ("l-Organizzazzjoni")

Indirizz:

.....

Mogħtija minn:

Lill-Kummissarju għal Organizzazzjonijiet Volontarji:

- (a) residenti f' b'dan javża, skont l-artikolu 12D tal-Att dwar l-Organizzazzjonijiet Volontarji li l-Organizzazzjoni għet amalgamata mal-organizzazzjoni/jiet li ġejjin:
- (b) u se tkompli bħala organizzazzjoni bid-dettalji li ġejjin:

Isem:

Indirizz:

Numru ta' Registrazzjoni:

In-notifika tal-Organizzazzjoni tista' titneħħa mil-Lista ta' Organizzazzjonijiet Volontarji Mhux Iskritti.

Firma:

Isem:
 Amministratur Responsabbli

Iddatata dan il-jum ta' tas-sena

-
- (a) Niżżel l-isem u r-residenza tal-Amministratur Responsabbli
 - (b) Niżżel l-isem (ismijiet) tal-organizzazzjoni/jiet li qed tingħaqad/jingħaqdu mal-Organizzazzjoni

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Formola E
ATT DWAR L-ORGANIZZAZZJONIJIET VOLONTARJI
(KAP. 492)

*Avviż ta' xoljiment u stralċ ta' organizzazzjoni
volontarja mhux iskritta*
Skont l-artikolu 12D

Isem tal-Organizzazzjoni ("l-Organizzazzjoni")

Inderizz:

.....

Mogħti minn:

Lill-Kummissarju għal Organizzazzjonijiet Volontarji:

- (a) residenti fi b'dan javża/tavża,
skont l-artikolu 12D tal-Att dwar l-Organizzazzjonijiet Volontarji li l-
Organizzazzjoni giet xolta u stralċjata u li n-notifika tagħha tista'
titneħħa mil-Lista tal-Organizzazzjonijiet Volontarji mhux Iskritti.

Firma:

Isem:
Amministratur Responsabbli

Iddatata dan jum ta' tas-sena

(a) Niżżel l-isem u r-residenza tal-Amministratur Responsabbli

Formola F
 ATT DWAR L-ORGANIZZAZZJONIJIET VOLONTARJI
 (KAP. 492)
Registrazzjoni ta' Organizzazzjoni Barranija
 Skont l-artikolu 12F

Isem tal-Organizzazzjoni ("l-Organizzazzjoni")

Mogħtija minn:

L-Organizzazzjoni tgħarraf lill-Kummissarju li:

- (i) hija registrata jew stabbilita taht il-ligijiet ta' li għandha n-numru ta' registrazzjoni u li għandhom ufficċju registrat fi
- (ii) hija sostanzjalment stabbilita għall-iskop pubbliku jew benefiċċju pubbliku ta'
- (iii) hija sostanzjalment ma tagħmilx profitt u hija volontarja għall-finijiet tal-Att dwar l-Organizzazzjonijiet Volontarji.

L-Organizzazzjoni tavża li:

Isem:

Indirizz:

Numru ta' identifikazzjoni:.....

inħatar/inħatret bħala rappreżentant lokali tal-Organizzazzjoni. L-Organizzazzjoni tikkonferma li l-imsemmija persuna aċċettat li taġixxi f'dan is-sens.

Firma:

Isem:

Amministratur Responsabbli

Iddatata dan jum ta' tas-sena

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IR-RABA' SKEDA

ORGANIZZAZZJONI TEMPORANJA

Applikazzjoni għall-iskrizzjoni ta' organizzazzjoni temporanja u l-istrument kostitutiv ta' dik l-organizzazzjoni temporanja stabbilita

skont l-Att dwar l-Organizzazzjonijiet Volontarji

Skont l-artikolu 16

Isem tal-Organizzazzjoni ("l-Organizzazzjoni")

Mogħtija minn:

Isem

L-isem tal-organizzazzjoni hu

Indirizz

L-indirizz tal-organizzazzjoni hu

Skop

L-organizzazzjoni hija ffurmata bl-għan speċifiku wiehed ta'*

Atti Meħtieġa

L-organizzazzjoni temporanja għandha twettaq l-atti meħtieġa li ġejjin sabiex tikseb l-iskop li għalih hija stabbilita**

.....
.....
.....

* Dan l-iskop speċifiku uniku jista' jinkludi l-ġbir ta' fondi għal skop pubbliku speċifiku jew biex isostni organizzazzjoni volontarja oħra iskritta u jista' jkun ukoll għall-benefiċċju ta' individwu msemmi li jista' jkollu bżonn appoġġ umanitarju.

** Atti tal-Istat bħal hlas għal assistenza medika, hlas għal titjiriet jew akkomodazzjoni, hlas għal tiswijiet, tagħmir u affarijiet simili.

Atti li ma jistgħux jitwettqu mill-organizzazzjoni temporanja

L-organizzazzjoni temporanja tista' twettaq biss l-atti elenkati f'dan l-istrument kostituttiv u atti anċillari u konnessi. L-organizzazzjoni temporanja ma tistax:

- (a) tissellef il-flus; jew
- (b) tidhol f'obbligazzjonijiet finanzjarji vinkolanti qabel ma tiġbor l-fondi meħtieġa biex twettaq dawk l-obbligi.

Amministraturi*

L-amministraturi tal-organizzazzjoni temporanja, li jiffirmaw hdejn isimhom biex jikkonfermaw il-kunsens tagħhom biex jaġixxu, għandhom ikunu:

- 1.
- 2.
- 3.

Tul ta' zmien

Din l-organizzazzjoni temporanja hija stabbilita għal xhur/Sena 1^{**}. L-organizzazzjoni temporanja għandha tħallas, tapplika jew b'xi mod ieħor tqassam l-assi kollha tagħha biex tilhaq l-iskop sad-data tal-iskadenza tat-terminu tagħha. Jekk għal xi raġuni dak li huwa hawn fuq indikat ma jkunx jista' jiġi imħares, l-amministraturi għandhom, meta jiskadi l-perjodu msemmi hawn fuq, jaġhżlu waħda minn dawn li ġejjin:

- a. iħallsu l-fondi lil xi organizzazzjoni volontarja iskritta oħra b'għanijiet simili għal tagħha, bi struzzjoni biex iżzomm il-fondi u meta possibbli tużahom għall-iskop iddikjarat jew tħallas il-fondi lill-Fond għal Organizzazzjonijiet Volontarji;

* Il-beneficjarju, jew jekk minorenni, il-ġenituri tiegħu ma jistgħux ikunu amministraturi. Dan l-istrument irid jiġi kunsinnat lill-Kummissarju għal Organizzazzjonijiet Volontarji bil-kunsens bil-miktub tal-amministraturi approvat fuqha. Għandu jkun hemm mill-inqas tliet (3) amministraturi u għandu jiġi indikat isimhom, numru tal-karta tal-identità u indirizz.

** Ma jistax jaqbeż sena, iżda jista' jiġi estiż mill-Kummissarju.

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- b. jbiddu l-organizzazzjoni temporanja f'organizzazzjoni volontarja ġdida ta' tul ta' żmien estiż bl-istess skopijiet; jew
- ċ. japplikaw lill-Kummissarju għal estensjoni taht l-artikolu 16(4) tal-Att dwar l-Organizzazzjonijiet Volontarji.

Terminazzjoni

Qabel id-data tat-terminazzjoni tagħha, l-organizzazzjoni temporanja għandha tissottometti lill-Kummissarju dikjarazzjoni tal-għeluq tal-kont iffirmata mill-amministraturi fejn:

- (a) tispjega kif wettqet l-iskop li għalih giet stabbilita;
- (b) tispjega kif applikat l-assi kollha tagħha, inklużi l-irċevuti; u
- (ċ) tannetti kwalunkwe dokument jew ftehim originali li setgħu saru mill-organizzazzjoni temporanja b'konnessjoni mad-disponiment jew l-applikazzjoni ta' dawk l-assi.

Firem: *

".

Taqsim II - Emendi għall-Kodiċi Ċivili

Emendi għall-Kodiċi Ċivili. Kap. 16.

37. Din it-Taqsima temenda u għandha tinqara u tinftiehem haġa waħda mal-Kodiċi Ċivili jew mat-Tieni Skeda tal-Kodiċi Ċivili, skont il-każ, hawnhekk iżjed 'il quddiem f'din it-Taqsima msejhin "il-Kodiċi" jew "it-Tieni Skeda", skont il-każ.

Emenda tal-artikolu 1124A tal-Kodiċi.

38. L-artikolu 1124A tal-Kodiċi għandu jiġi emendat kif ġej:

- (a) is-subartikolu (1) tiegħu għandu jiġi emendat kif ġej:
 - (i) minnufih wara l-kliem "kważi kuntratt", għandhom jiżdiedu l-kliem "dikjarazzjonijiet unilaterali inklużi testmenti,";

* Dan l-istrument kostituttiv għandu jiġi ffirmat ukoll mill-promoturi, li jistgħu wkoll ikunu l-amministraturi.

(ii) fil-paragrafu (a) tiegħu, minnufih wara l-kliem "ta' persuna oħra", għandhom jiżdiedu l-kliem "u għandu jiġi preżunt li din l-obbligazzjoni, meta l-fiduċjarju jaġixxi fi, jew jokkupa pożizzjoni ta' fiduċja, hija favur persuna oħra";

(iii) fil-paragrafu (b) tiegħu, il-kliem "żżomm, teżerċita kontroll jew jkollha setgħat ta' disponiment fuq proprjetà", għandhom jiġu sostitwiti bil-kliem "reġistrat f'isimha, iżżomm, teżerċita kontroll jew ikollha setgħat ta' disponiment fuq proprjetà";

(b) is-subartikolu (4) tiegħu għandu jiġi emendat kif ġej:

(i) fil-paragrafu (a) tiegħu, il-kliem "fit-twettiq tal-obbligazzjonijiet tiegħu", għandhom jiġu sostitwiti bil-kliem "fit-twettiq tal-obbligazzjonijiet fiduċjarji tiegħu";

(ii) fil-paragrafu (b) tiegħu, minnufih wara l-kliem "kull konflitt ta' interess", għandhom jiżdiedu l-kliem "jew kull kunflitt ta' fiduċja jew obbligazzjonijiet fiduċjarji";

(iii) fil-paragrafu (ċ) tiegħu, minnufih wara l-kliem "mill-kariga jew funzjonijiet tiegħu" għandhom jiżdiedu l-kliem "kif lanqas ma għandu jippermetti lil xi persuna oħra li tagħmel dan, jew li tidhol f'xi transazzjoni relatata mal-proprjetà, direttament jew indirettament, sakemm ma tkunx awtorizzata li tagħmel dan permezz tal-istrument li johloq l-obbligazzjoni fiduċjarja jew ma tkunx permessa minn persuna jew awtorità li għandha s-setgħa tapprova dawn in-negozji taht l-istrument jew liġi applikabbli jew inkella kif awtorizzata mill-Qorti."; u minnufih wara għandu jiżdied il-proviso ġdid li ġej:

"Iżda kwalunkwe referenzi għall-"Qorti", għandhom jinftiehem li huma referenzi għall-Qorti Ċivili (Sezzjoni ta' Ġurisdizzjoni Volontarja), kemm-il darba ma jkunx stabbilit xort' oħra jew kemm-il darba il-kuntest ma jkunx jirreferi għal xi qorti li quddiemha tkun tressqet xi kwistjoni, f'liema każ tkun il-qorti fejn tkun qamet il-kwistjoni";

(iv) fil-paragrafu (e) tiegħu, minnufih wara l-kliem "obbligazzjonijiet simili" għandhom jiżdiedu l-kliem "u li jwettaq bidla fir-reġistrazzjoni ta' kwalunkwe proprjetà rilevanti, kif jista' jkun meħtieġ għal dan il-għan";

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(v) fil-paragrafu (g) tal-verżjoni Ingliża, il-kelma "and" għandha tiġi mhassra;

(vi) il-paragrafu (h) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(h) li jirritorna fuq talba li ssirli kull proprjetà miżmuma taht obligazzjonijiet fiduċjarji lill-persuna li legittimament hija intitolata għaliha jew kif ordnat minnha jew kif xort'oħra mitlub mill-istrument bil-miktub li jirregola l-obbligazzjoni fiduċjarja jew mill-igi applikabbli, u għal dan il-għan, li jeżegwixxi dawn l-arrangamenti, inkluż kull kuntratt pubbliku, jew strumenti oħra u, jew li jwettaq bidla fir-reġistrazzjoni ta' kwalunkwe proprjetà rilevanti, kif jista' jkun meħtieġ"; u

(vii) minnufih wara l-paragrafu (h) tiegħu, għandhom jiżdiedu l-paragrafi ġodda li ġejjin:

(i) li jirritorna kull proprjetà miżmuma taht l-obbligazzjonijiet fiduċjarji, hekk kif jintemmu l-obbligazzjonijiet fiduċjarji, lill-persuna li legittimament hija intitolata għaliha, kif mitlub mill-istrument bil-miktub li jirregola l-obbligazzjoni fiduċjarja jew mill-igi applikabbli, u għal dan il-għan, li jeżegwixxi dawn l-arrangamenti, inkluż kwalunkwe kuntratt pubbliku, jew strumenti oħra u, jew li jwettaq bidla fir-reġistrazzjoni ta' kwalunkwe proprjetà rilevanti, kif jista' jkun meħtieġ;

(j) li jzomm kunfidenzjali l-affarijiet tal-persuna li lilha huma dovuti d-dmirijiet fiduċjarji, bla ħsara għad-dmir tal-fiduċjarju li jipprovdi informazzjoni lil benefiċjarju tal-obbligazzjoni fiduċjarja speċifika jew lil persuni oħra, skont u bla ħsara għal kwalunkwe restrizzjonijiet misjuba fl-istrument bil-miktub, jekk ikun hemm, li jaġħti lok għall-obbligazzjoni fiduċjarja f'referenza għal dan is-subtitolu, sakemm il-fiduċjarju ma jingħatax il-kunsens mill-persuna li lilha huma dovuti d-dmirijiet fiduċjarji sabiex tiżvela dik l-informazzjoni:

Iżda l-fiduċjarju għandu d-dritt jiddikjara fi kwalunkwe strument bil-miktub jew fit-twettiq ta' xi att, li huwa jkun qed jaġixxi bħala fiduċjarju f'dak il-kuntest u dik id-dikjarazzjoni m'għandhiex titqies li

tikser dan is-subartikolu; u

(k) li jwettaq l-iskop identifikat, meta jkun gie fdat bil-proprjetà."; u

(è) minnufih wara s-subartikolu (6) tiegħu, għandhom jizdiedu s-subartikoli godda li ġejjin:

"(7) Bla ħsara għad-dispożizzjonijiet tas-subartikolu (8), meta l-qorti kompetenti, fi kwalunkwe proċedimenti, issib li persuna hija l-proprjetarja ta', għandha registrata f'isimha, iżżomm, teżerċita kontroll jew għandha setgħat ta' dispożizzjoni fuq proprjetà u hija marbuta b'obbligazzjonijiet fiduċjarji li jirriżultaw bi kwalunkwe mod b'rabta ma' dik il-proprjetà, il-qorti tista' tagħmel kwalunkwe ordni jew dikjarazzjoni favur, jew għall-benefiċċju ta' dawk il-persuni, taħt dawk it-termini u l-kundizzjonijiet li jista' jidhrilha li huma adegwati fiċ-ċirkostanzi għall-protezzjoni tal-benefiċċjarju ta' dawk l-obbligazzjonijiet taħt id-dispożizzjonijiet ta' dan it-Titolu u kwalunkwe liġi speċjali, inkluż li:

(a) tordna t-trasferiment, ir-restituzzjoni jew il-kunsinna ta' kwalunkwe proprjetà, jew il-bidla fir-reġistrazzjoni tal-istess, lil fiduċjarju ieħor jew tordna li din tinzamm b'mod kongunt ma' fiduċjarju ieħor;

(b) twaqqaf is-setgħat ta' dispożizzjoni tal-proprjetà;

(è) tordna lill-fiduċjarju jagħti sigurtà adegwata;

(d) tistabbilixxi *trust* b'rabta mal-proprjetà soġġetta għall-obbligazzjoni fiduċjarja u tistabbilixxi t-termini ta' dik it-*trust*;

(e) tirrevoka kwalunkwe trasferiment jew transazzjoni oħra jew tiddikjarhom nulli u bla effett; jew

(f) timponi danni fuq il-fiduċjarju.

(8) Il-qorti għandu wkoll ikollha l-istess setgħat, sew jekk il-proċedimenti jiġu istitwiti taħt l-artikolu 1124E jew taħt xi dispożizzjoni oħra tal-liġi, minn xi benefiċċjarju, suċċessur fit-titolu ta' dak il-benefiċċjarju, kreditur ta' dak il-benefiċċjarju meta dak il-kreditur ikun jista' jeżerċita d-

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drittijiet tal-benefiċjarju taħt il-liġi applikabbli, jew minn kull persuna oħra li l-qorti tqis li hija intitolata taħt l-obbligazzjoni fiduċjarja rilevanti, skont il-każ, u abbażi tat-talbiet fil-proċedimenti rilevanti. Meta terza persuna takkwista xi proprjetà taħt titolu oneruż jew takkwista drittijiet fuq xi proprjetà appartenenti, miżmuma jew registrata f'isem il-fiduċjarju, din m'għandhiex tkun preġudikata minn xi rimedju mogħti mill-qorti lil xi persuna kif stabbilit hawn qabel:

Iżda t-terza persuna li takkwista xi proprjetà taħt dan is-subartikolu m'għandux ikollha għarfien li kienet qegħda titratta mal-fiduċjarju.

(9) L-obbligazzjonijiet fiduċjarji jistgħu, f'każijiet partikolari, jitwarrbu b'mod impliċitu jew jiġu varjati f'ċerti ċirkustanzi, pereżempju:

(a) il-metodu użat biex jiġi inkarigat il-fiduċjarju, b'mod partikolari meta l-fiduċjarju jiġi inkarigat fir-rigward ta' żewġ għanijiet, funzjonijiet jew karigi jew aktar, jew meta l-fiduċjarju jiġi inkarigat għal għan, funzjoni jew kariga fl-istess waqt bħal meta l-fiduċjarju jingħata intitolament;

(b) l-iskop, l-għanijiet u l-kuntesti tal-obbligazzjonijiet fiduċjarji imposti;

(ċ) l-għoti lura ta' proprjetà, permezz tal-kunsinna, reġistrazzjoni f'isem persuna oħra, ċessjoni jew trasferiment, lil jew għall-benefiċċju ta' kreditur tal-benefiċjarju għal skop ta' sigurtà jew skop ieħor li huwa distint minn dak tal-benefiċjarju; jew

(d) il-mod ta' kif il-fiduċjarju jaċċetta jew jassumi jew jieħu r-responsabbiltà għall-obbligazzjonijiet fiduċjarji.

(10) Meta jkun hemm rinunzja espressa tal-obbligazzjonijiet fiduċjarji kif stabbilit fis-subartikolu (4) jew rinunzja espressa kif stabbilit fis-subartikolu (9), il-fiduċjarju jista', f'każ ta' dubju, japplika għal direzzjonijiet mill-qorti kompetenti dwar kif għandu jaġixxi fiċ-ċirkostanzi. Il-qorti għandha tqis b'mod xieraq l-intenzjonijiet tal-persuna li tkun stabbilixxiet jew imponiet l-obbligazzjonijiet fiduċjarji u l-interessi kemm tal-fiduċjarju kif ukoll tal-benefiċjarju."

39. L-artikolu 1124B tal-Kodiċi għandu jiġi emendat kif ġej:

Emenda tal-artikolu 1124B tal-Kodiċi.

(a) in-nota marginali tiegħu għandha tiġi sostitwita b'dan li ġej:

"Negozjar ma' terzi li jkunu jafu dwar l-obbligazzjonijiet fidiċjarji.";

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

"(2) Meta terza persuna tkun taf li l-fiduċjarju huwa vestit bil-proprjetà, għandu registrat f'ismu, iżomm, jeżerċita kontroll jew setgħat ta' dispożizzjoni fuq proprjetà li hija soġġetta għall-obbligazzjonijiet fiduċjarji, it-terzi persuni jistgħu, bil-*bona fide*, jaġixxu fir-rigward tal-fiduċjarju daqs li kieku kien il-proprjetarju assolut tagħha.";

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

"(2) Terza persuna li takkwista proprjetà taht titolu oneruż kif provdut fis-subartikolu (1), m'għandhiex tiġi affetwata mill-obbligazzjonijiet fiduċjarji li għalihom hija soġġetta l-imsemmija proprjetà, kemm-il darba ma jkunx ġie miftiehem xort'oħra fir-rigward.";

(d) minnufih wara s-subartikolu (2) tiegħu, kif sostitwit, għandu jiżdied is-subartikolu ġdid li ġej:

"(2A) Meta terza persuna takkwista proprjetà taht titolu gratuwitu kif provdut fis-subartikolu (1), mingħand fiduċjarju li jaġixxi bi ksur tal-obbligazzjoni fiduċjarja jew meta t-terza persuna tkun akkwistat il-proprjetà taht titolu gratuwitu għad-detriment tal-benefiċjarju, it-terza persuna għandha tkun soġġetta għall-istess obbligazzjonijiet fiduċjarji li għalihom kien soġġett il-fiduċjarju, b'effett minn meta t-terza persuna ssir taf jew kellha raġonevolment issir taf miċ-ċirkostanzi dwar il-ksur tal-obbligazzjonijiet fiduċjarji:

Iżda l-obbligazzjonijiet fiduċjarji li għalihom hija soġġetta t-terza persuna, għandhom ikunu ristretti b'mod limitat għall-ksur jew għall-gwadann mhux awtorizzat, kemm-il darba l-qorti ma tipprovdux xort'oħra skont ir-rimedji tal-artikolu 1124A:

Iżda wkoll it-tweqqiġ tal-obbligazzjonijiet fiduċjarji

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skont it-termini u l-kundizzjonijiet li l-fiduċjarju huwa soġġett għalihom, m'għandux jitqies li huwa gratuwitu għall-finijiet ta' dan l-artikolu.";

(e) il-paragrafu (a) tas-subartikolu (3) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(a) tistaqsi dwar it-termini u l-kundizzjonijiet tal-awtorità, hlief fil-każ ta' transazzjoni gratuwita; jew";

(f) minnufih wara s-subartikolu (3) tiegħu, għandu jiżdied is-subartikolu ġdid li ġej:

"(3A) Kwalunkwe terza persuna li tkun qiegħda titratta ma' fiduċjarju f'xi transazzjoni għandha tkun intitolata li tistaqsi dwar l-iskopijiet tal-obbligazzjoni fiduċjarja, inkluża l-obbligazzjoni li ma jinqabizx il-valur li jirriżulta mit-transazzjoni, jew li jirrelata xort'oħra mal-proprjetà soġġetta għat-transazzjoni jew l-applikabbiltà tal-fondi inkwistjoni.";

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(g) minnufih wara s-subartikolu (5) tiegħu, għandhom jiżdiedu s-subartikoli ġodda li ġejjin:

"(6) Meta fiduċjarju li jkun vestit bid-dritt tal-proprjetà, li jkollu registrat f'ismu, iżomm, jeżerċita kontroll jew setgħat ta' dispożizzjoni fuq proprjetà, jinforma terza persuna li magħha jkun qiegħed jittratta li jkun qiegħed jaġixxi bħala fiduċjarju, meta t-terza persuna tkun taf xort'oħra jew għandha raġonevolment tkun taf, il-fiduċjarju m'għandux ikun responsabbli personalment għall-obbligazzjonijiet li jkun daħal fihom fil-konfront ta' dik it-terza persuna, hlief għal dawk magħmula fl-eżerċizzju tal-obbligazzjonijiet tiegħu. Meta t-terza persuna ma tkunx taf dwar l-obbligazzjonijiet fiduċjarji, il-fiduċjarju għandu, bla ħsara għall-kundizzjonijiet li setgħu ġew stabbiliti jew inkella li japplikaw taħt il-liġi applikabbli, ikun personalment responsabbli fil-konfront ta' dik it-terza persuna għal kwalunkwe obbligazzjoni li jkollu.

(7) Il-fiduċjarju għandu dritt li jieħu azzjoni kontra l-benefiċjarju, meta dan ikun stabbilit fid-dispożizzjonijiet ta' dan il-Kodiċi jew f'xi liġi speċjali, bħala kumpens kontra dik ir-responsabbiltà, sakemm ma jkunx aġixxa bi ksur tad-dmirijiet tiegħu, f'liema każ m'għandux ikun intitolat għall-kumpens.

(8) Il-fiduċjarju għandu jkun prezunt li għandu s-setgħat kollha fil-liġi li huma mitluba minnu sabiex iwettaq l-obbligazzjonijiet fiduċjarji kollha fir-rigward tal-benefiċjarji jew skopijiet."

40. Minnufih wara l-artikolu 1124B tal-Kodiċi, għandhom jiżdiedu l-artikoli l-godda li ġejjin:

Żjieda ta' artikoli godda mal-Kodiċi.

"Proprjeta soġġetta għal obbligazzjonijiet fiduċjarji u għad-dritt tal-proprjeta.

1124Ċ. (1) Meta persuna tingħata d-dritt tal-proprjeta, ikollha registrat f'isimha, iżżomm, teżerċita kontroll jew setgħat ta' dispożizzjoni fuq proprjeta soġġetta għall-obbligazzjonijiet fiduċjarji, dik il-proprjeta għandha tistabbilixxi patrimonju distint u separat, konsistenti fid-drittijiet kollha relattivi u l-obbligazzjonijiet fir-rigward tal-istess, u dik il-proprjeta m'għandhiex tkun soġġetta għal talbiet jew drittijiet ta' azzjoni tal-kredituri personali tal-fiduċjarju, lanqas tal-konjuġi jew tal-eredi tiegħu, hliet kif stabbilit fid-dispożizzjonijiet ta' dan il-Kodiċi jew liġijiet speċjali.

(2) L-appartenenza fiduċjarja tal-proprjeta hija dik kif kontemplata fit-Titolu II tat-Tieni Ktieb tal-Kodiċi għal dak li għandu x'jaqsam ma' terzi persuni, iżda kif modifikata permezz tad-dispożizzjonijiet ta' dan it-Titolu u kwalunkwe liġijiet speċjali u dispożizzjonijiet oħra ta' dan il-Kodiċi li jistgħu jkunu japplikaw, sakemm tkun soġġetta għall-obbligazzjonijiet fil-konfront ta' u għall-benefiċċju ta' persuna oħra, li tissejjaħ il-benefiċjarju, jew għall-kisba ta' għan partikolari jew it-tnejn flimkien. Dawn il-modifiki jimplikaw restrizzjonijiet u limitazzjonijiet fuq id-dritt tal-proprjeta konsistenti mad-dispożizzjonijiet ta' dan it-Titolu, il-liġijiet speċjali tat-*trusts* u dispożizzjonijiet oħra ta' dan il-Kodiċi.

(3) Meta proprjeta li tkun soġġetta għall-obbligazzjoni fiduċjarja tkun fil-pussess tal-fiduċjarju u tkun il-proprjeta tal-benefiċjarju, għandhom japplikaw id-dispożizzjonijiet ta' dan il-Kodiċi jew ta' xi liġi speċjali oħra li tirregola ir-relazzjoni tagħhom, skont it-termini u l-kundizzjonijiet stabbiliti mill-fiduċjarju u l-benefiċjarju:

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Iżda dawk it-termini u l-kundizzjonijiet jistgħu jiġu modifikati skont it-termini tad-dispożizzjonijiet ta' dan it-Titolu għall-protezzjoni tal-benefiċjarju u, jew biex titwettaq l-obbligazzjoni.

Irtirar tal-fiduċjarju u hatra tas-suċċessur tiegħu.

1124D. Meta l-fiduċjarju jkun vestit bl-appartenenza ta' proprjetà, meta din tkun reġistrata f'ismu, iżomm, jeżerċita kontroll jew setgħat ta' dispożizzjoni fuq dik il-proprjetà, u għal kwalunkwe raġuni, jieqaf jaġixxi bħala fiduċjarju u sussegwentement jiġi sostitwit minn fiduċjarju ieħor, dan tal-aħħar għandu jkompli jwettaq l-istess obbligazzjonijiet fiduċjarji, li jistgħu jkunu japplikaw fiż-żmien rilevanti:

Iżda:

(a) it-trasferiment ta' drittijiet u obbligazzjonijiet fir-rigward tal-proprjetà li hija soġġetta għall-obbligazzjonijiet fiduċjarji għandu jsir effettiv favur il-benefiċjarji u terzi persuni mal-eżekuzzjoni ta' strument bil-miktub bejn il-fiduċjarju li jkun qed iċedi l-obbligazzjoni fiduċjarja tiegħu u l-fiduċjarju li jkun qed jissostitwih. L-istrument bil-miktub għandu jispeċifika l-proprjetà li hija soġġetta għall-obbligazzjonijiet fiduċjarji, u għandu jagħti setgħa lill-fiduċjarju l-ġdid li jittrasferixxi d-drittijiet u l-obbligazzjonijiet kollha, inkluż il-pussess u, jew il-kunsinna tal-proprjetà favur il-benefiċjarju u kwalunkwe terza persuna, skont il-każ, ħlief kif stabbilit fil-paragrafi (d) u (e);

(b) sabiex id-drittijiet fuq l-immobbli jiġu vestiti b'mod validu fil-fiduċjarju l-ġdid, tkun meħtieġa l-eżekuzzjoni ta' kuntratt pubbliku;

(ċ) l-unika importanza li għandha tingħata għall-imsemmija transazzjoni għandha tkun dik imsemmija fl-artikolu 958L, li għandha tapplika *mutatis mutandis* fil-każ tal-obbligazzjonijiet fiduċjarji ħlief għal dawk li jirriżultaw minn *trusts*, u minkejja kwalunkwe liġi oħra, mhux meħtieġ li jiġi stabbilit fl-istrument relattiv, inkluż kwalunkwe kuntratt pubbliku, il-valur tal-proprjetà li tkun qiegħda tiġi trasferita jew kunsinnata;

(e) id-drittijiet u l-obbligazzjonijiet kollha, inklużi kwalunkwe kuntratti li jistgħu jkunu fis-seħħ, għandhom ikomplu joperaw skont il-kundizzjonijiet tagħhom b'referenza għall-proprjetà li tkun soġġetta għall-obbligazzjonijiet fiduċjarji u għandhom jgħaddu għal u jorbtu lil fiduċjarju l-gdid mat-trasferiment u, jew mal-kunsinna lilu tal-proprjetà skont il-liġi applikabbli u kwalunkwe strument bil-miktub li jirregola l-obbligazzjonijiet fiduċjarji u l-proprjetà li tkun soġġetta għall-obbligazzjoni fiduċjarja u dan mingħajr il-ħtieġa ta' kwalunkwe avviz lil, jew kunsens ta' xi persuna oħra ħlief kif provdut f'dan is-subartikolu jew liġi applikabbli;

(f) il-fiduċjarju li ma jibqax jaġixxi bħala tali ma jibqax intitolat għad-drittijiet u s-setgħat kollha u, bla ħsara għall-paragrafu (g), għandu jiġi rilaxxat mill-obbligazzjonijiet fiduċjarji kollha relatati mal-proprjetà li hija soġġetta għall-obbligazzjonijiet fiduċjarji, inklużi obbligazzjonijiet taħt kwalunkwe kuntratti, ladarba jkun wettaq it-trasferiment u l-kunsinna tal-proprjetà lis-suċċessur fiduċjarju wara li jkun kiseb il-kunsensi kollha kif mitlub għat-terminazzjoni tal-kariga tiegħu bħala fiduċjarju taħt kwalunkwe strument bil-miktub u bl-osservanza għal-liġi applikabbli;

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(g) il-fiduċjarju li ma jibqax jaġixxi bħala tali, m'għandux jiġi rilaxxat mill-obbligazzjonijiet tiegħu fir-rigward tal-benefiċjarju għal dak li għandu x'jaqsam ma' kwalunkwe proprjetà soġġetta għall-obbligazzjonijiet fiduċjarji li jista' ma jkunx trasferixxa, ikkunsinna jew ta rendikont fir-rigward tagħha, jew li tista' tiġi fil-pussess tiegħu sussegwentement jew minhabba kwalunkwe ksur tal-obbligazzjonijiet fiduċjarji meta kien qed jaġixxi bħala fiduċjarju;

(h) il-fiduċjarju li ma jibqax jaġixxi bħala tali m'għandux jiġi rilaxxat minn kwalunkwe obbligazzjonijiet fir-rigward ta' terzi persuni li:

(i) jkun espressament daħal għalihom fil-kapaċità personali tiegħu u mhux f'kapaċità fiduċjarja; jew

(ii) għalihom huwa responsabbli personalment taħt id-dispożizzjonijiet ta' dan it-Titolu fir-rigward ta' terza persuna li ma kinitx taf li kien qed jaġixxi bħala fiduċjarju, kemm-il darba t-terza persuna ma tirrilaxxahx mir-responsabbiltà;

(i) il-ħatra ta' fiduċjarju ieħor, kif imsemmi hawn qabel, m'għandhiex tkun soġġetta għad-dispożizzjonijiet dwar iċ-ċessjoni ta' jeddijiet, lanqas ma għandha tistabbilixxi novazzjoni taħt id-dispożizzjonijiet ta' dan il-Kodiċi, iżda għandha tiġi regolata permezz tad-dispożizzjonijiet tal-Att dwar *Trusts* u *Trustees*, meta jkun japplika.

(j) kwalunkwe responsabbiltà, garanzija, ipoteka, rahan jew kwalunkwe forma oħra ta' sigurtà mogħtija mill-fiduċjarju, jew fuq, jew li jkollha x'taqsam mal-proprjetà, bl-ebda mod ma għandhom jiġu affetwati bis-sostituzzjoni tal-fiduċjarju u għandhom jibqgħu imposti fuq il-proprjetà skont il-kundizzjonijiet u l-liġi applikabbli u meta proprjetà li tkun soġġetta għal ipoteka jew privileġġ tkun is-soġġett ta' transazzjoni meta fiduċjarju ieħor jissostitwixxi lill-fiduċjarju, il-fiduċjarju li jissostitwixxi lill-fiduċjarju precedenti u d-dispożizzjonijiet tal-artikoli 2070 sa 2083 m'għandhomx japplikaw; iżda dan il-paragrafu m'għandux japplika meta l-fiduċjarju li jkun qiegħed jirtira jkun diġà terza persuna li jkollha l-pussess, f'liema każ għandhom japplikaw l-artikoli 2070 sa 2083.

(k) il-fiduċjarju li jkun qiegħed jieqaf mill-funzjonijiet tiegħu jew li jkun qiegħed jissostitwixxi lill-fiduċjarju għandu:

(i) jinnotifika lil terzi persuni dwar dik is-sostituzzjoni, meta u sa fejn tkun saret, filwaqt li josserva kull obligazzjoni ta' kunfidenzjalità fir-rigward tal-benefiċjarji u l-interessi tagħhom;

(ii) meta d-drittijiet fuq proprjeta immobbli huma soġġetti għall-obbligazzjonijiet fiduċjarji, jeżegwixxi kuntratt pubbliku mal-fiduċjarju li jkun waqaf iwettaq l-obbligazzjonijiet fiduċjarji tiegħu, sabiex jiġi nnutat li l-obbligazzjonijiet fiduċjarji relatati ma' dik il-proprjeta ġew trasferiti lil fiduċjarju ieħor. Madankollu, jekk għal xi raġuni l-fiduċjarju li jkun waqaf mill-funzjonijiet tiegħu ma jistax jidher għal dan il-kuntratt pubbliku u l-proprjeta tkun qiegħda fil-pussess tal-fiduċjarju li jkun qiegħed jissostitwih, dan tal-aħħar jista' jstabbilixxi l-fatti kif magħrufa lilo, jikkonferma li dik il-proprjeta qiegħda fil-pussess tiegħu u għandu jiddikjara permezz ta' dikjarazzjoni bil-miktub jew notifika, l-akkwist tat-titolu fuq il-proprjeta u t-teħid tar-responsabbiltà tal-obbligazzjonijiet fiduċjarji. It-trasferiment tad-dritt tal-proprjeta fuq dik il-proprjeta għandu jseħħ mal-eżekuzzjoni ta' dak il-kuntratt pubbliku u għandhom japplikaw l-istess regoli *mutatis mutandis* għal xi proprjeta oħra mobbli reġistrata, permezz tal-eżekuzzjoni ta' kuntratt privat u kwalunkwe reġistrazzjonijiet u notifiċi li jkunu japplikaw kif jista' jkun mitlub mil-liġi;

(iii) jekk ikun hemm xi sigurtà li tiffirma parti mill-proprjeta soġġetta għall-obbligazzjonijiet fiduċjarji u tkun reġistrata mar-Registru Pubbliku, il-fiduċjarju l-ġdid għandu, mat-twetiq tad-dikjarazzjoni unilaterali relatata mas-sigurtà rilevanti, skont il-liġi applikabbli, jirreġistra s-sostituzzjoni li tirriżulta mill-istrument bil-miktub bejnu u bejn il-fiduċjarju preċedenti fl-imsemmi registru;

(l) f'kazijiet fejn is-sostituzzjoni hija ordnata jew approvata minn qorti kompetenti jew awtorità regolatorja, ebda kunsens jew arrangamenti ulterjuri, li setgħu fin-nuqqas ikunu meħtieġa taħt dan l-artikolu, taħt il-liġi applikabbli jew l-istrument bil-miktub li jirregola l-obbligazzjonijiet fiduċjarji, ma għandhom ikunu meħtieġa;

(m) il-fiduċjarju li waqaf iwettaq il-funzjonijiet tiegħu, għandu jkun intitolat għall-kumpens fir-rigward ta' obbligazzjonijiet, spejjeż jew telf li seta' soffra b'referenza għall-proprjetà soġġetta għall-obbligazzjonijiet fiduċjarji, anke wara li jkun waqaf iwettaq il-funzjonijiet tiegħu, hliet għal xi ksur tal-istess;

(n) meta l-fiduċjarju jmut waqt li jkun għadu qiegħed iwettaq l-obbligazzjoni fiduċjarja tiegħu:

(i) l-eredi universali tiegħu li jkunu laħqu l-età maġġuri u jkunu legalment kapaċi, jew jekk ikun hemm aktar minn wiehed, kull wiehed minn dawn separatament, għandhom jitqiesu li huma l-eżekuturi *ex lege* tal-proprjetà u għandhom minnufih jittrasferixxu jew jikkunsinnaw il-proprjetà lil fiduċjarju suċċessur jew lil benefiċjarju;

(ii) jekk l-eredi jonqos milli jwettaq l-obbligazzjonijiet tiegħu taħt is-subparagrafu (i) fi żmien tletin (30) gurnata, li jistgħu jiġu estiżi mill-Qorti, għandu jitqies li huwa l-fiduċjarju suċċessur temporanju u għandu jkollu l-istess obbligazzjonijiet fir-rigward tal-benefiċjarji, bħall-fiduċjarju li jkun miet, sakemm iwettaq l-obbligazzjonijiet tiegħu kif stabbilit hawn qabel;

(iii) jekk l-eredi ma jkunx jista' jwettaq id-dmirijiet tiegħu fis-subparagrafu (i) għal xi raġuni mhux attribwibbli lilu, għandu japplika lil qorti kompetenti sabiex jipprovi l-informazzjoni rilevanti u jitlob ordni, kif stabbilit hawn aktar 'il quddiem;

(iv) meta l-fiduċjarju li jkun miet ikun ħatar eżekutor testamentarju, id-dmirijiet imsemmijin aktar 'il fuq u s-setgħat kollha sabiex ikun jista' jaġixxi, għandhom jorbtu biss lill-eżekutor, sakemm l-eżekutor ma jkunx ukoll l-eredi universali, f'liema każ għandu japplika s-subparagrafu (i), dak l-eżekutor testamentarju għandu jitqies li għandu s-setgħat kollha meħtieġa biss għall-finijiet tal-irkupru, tat-trasferiment jew tar-ritorn tal-proprjetà lil fiduċjarju ieħor jew lil benefiċjarju;

(v) minkejja dak stabbilit hawn qabel, il-benefiċjarju, l-eredi, l-eżekutor, skont il-każ, jistgħu japplikaw lill-Qorti għall-konferma tas-setgħat tagħhom jew jistgħu jaħtru eżekutor testamentarju *ad hoc* fi kwalunkwe waqt, sabiex jaġixxi għall-patrimonju tal-fiduċjarju li jkun miet għall-finijiet tal-irkupru, tat-trasferiment jew tar-ritorn tal-proprjetà lil fiduċjarju ieħor jew lil benefiċjarju u l-qorti kompetenti tista' tikkonferma għal-liema proprjetà jirreferu dawk is-setgħat jew tista' tilqa' dik it-talba minkejja kwalunkwe kontestazzjoni tat-testment jew tal-ħatra tiegħu;

(vi) is-suċċessur fiduċjarju huwa dik il-persuna:

A. maħtura fi kwalunkwe strument li jirregola l-obbligazzjonijiet fiduċjarji; jew

B. maħtura skont kwalunkwe liġi li tkun tapplika; jew

Ċ. mahtura mill-Qorti għal dawn il-finijiet, anke jekk biss temporanjament għal dan il-għan, fuq talba mressqa b'rikors minn xi parti interessata;

(o) meta l-fiduċjarju jkun persuna ġuridika li giet dikjarata falluta, giet xolta jew stralċjata, dawn l-obbligazzjonijiet għandhom ikunu jorbtu lill-aħħar diretturi *in solidum*, jew jekk ikun gie appuntat likwidatur, fuq il-likwidatur, skont il-każ, u d-dispożizzjonijiet tal-paragrafu (j) għandhom japplikaw *mutatis mutandis*;

(p) meta jkun hemm aktar minn fiduċjarju wiehed li jzomm, jeżerċita kontroll jew setgħat ta' dispożizzjoni fuq il-proprjetà għall-benefiċjarju, dik il-proprjetà għandha, b'operat tal-liġi, tikkonsolida mad-dritt tal-proprjetà tal-fiduċjarju jew fiduċjarji rimanenti, mal-mewt, reżenja jew tneħħija tal-kofiduċjarju. Il-fiduċjarju jew fiduċjarji rimanenti għandhom jeżegwixxu dikjarazzjoni unilaterali permezz ta' kuntratt pubbliku jew kitba oħra skont il-liġi applikabbli, li għandha tiġi reġistrata fir-reġistru rilevanti, għad-dikjarazzjoni tal-konsolidazzjoni f'ismu jew f'isimhom, tat-titolu jew kontroll ta' dik il-proprjetà u l-konsolidazzjoni għandha minnufih ssir effettiva mingħajr il-htieġa ta' xi formalità ulterjuri.

Azzjoni
fiduċjarja.

1124E. (1) Kwalunkwe benefiċjarju jista', sabiex jinforza l-obbligazzjonijiet fiduċjarji dovuti lilu, jeżerċita dritt ta' azzjoni abbażi tad-dispożizzjonijiet ta' dan it-Titolu.

(2) It-talba tista' ssir flimkien ma' kwalunkwe azzjoni oħra disponibbli taht id-dispożizzjonijiet ta' dan il-Kodiċi jew kwalunkwe liġi oħra u fejn dan id-dritt ta' azzjoni speċifiku ma jigix eżerċitat, ir-rimedji hawnhekk ikkontemplati jistgħu wkoll jintalbu permezz ta' talba addizzjonali lil qorti, f'kull waqt tal-proċedimenti sakemm tingħata s-sentenza finali mill-qorti kompetenti jew mill-Qorti tal-Appell.

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(3) Fil-każ ta' obligazzjoni fiduċjarja li għet assunta biss għall-kisba ta' skop u fin-nuqqas ta' kwalunkwe benefiċjarju, id-dritt ta' azzjoni msemmi hawn qabel jista' jiġi eżerċitat minn kull persuna jew entità li ġew mogħtija s-setgħa li jipproteġu, jissorveljaw jew jinfurzaw l-iskop fl-istrument li jistabblixxi l-obbligazzjoni jew, fil-każ ta' obligazzjoni assunta minn organizzazzjoni għall-benefiċċju pubbliku, anke mill-Avukat Ġenerali.

Preskrizzjoni. 1124F. (1) Minkejja kwalunkwe dispożizzjoni ta' dan il-Kodiċi jew ta' xi liġi oħra, azzjoni li tingħieb kontra il-fiduċjarju jew persuna li titqies bħala tali taħt id-dispożizzjonijiet tal-artikolu 1124A –

(a) għal xi frodi jew diżonestà li fir-rigward tagħhom dik il-persuna kienet parti jew kellha għarfien; jew

(b) għall-irkupru mingħand il-fiduċjarju, jew kwalunkwe persuna meqjusa bħala fiduċjarju kif stabbilit hawn qabel, ta' kull proprjetà soġġetta għall-obbligazzjonijiet fiduċjarji jew li l-fiduċjarju jkun preċedement irċieva u kkonverta għall-użu tiegħu, jew għall-benefiċċji jew gwadann li jkun irċieva bħala riżultat tal-ksur tal-obbligazzjonijiet,

m'għandhiex tiġi preskritta minkejja l-iskadenza taż-żmien.

L-azzjoni m'għandhiex tiġi preskritta, irrISPETTIVAMENT minn jekk tingħiebx kontra l-fiduċjarju mill-benefiċjarju li jkun sofra preġudizzju bħala riżultat tal-aġir tal-fiduċjarju fir-rigward tal-istess proprjetà jew tal-proprjetà li tissostitwixxi l-istess.

(2) Minkejja d-dispożizzjonijiet tal-artikolu 2140 u bla ħsara għall-artikolu 2155, il-fiduċjarju jew kwalunkwe persuna meqjusa li hija soġġetta għall-obbligazzjonijiet fiduċjarji taħt dan it-Titolu, m'għandhiex takkwista bil-preskrizzjoni kwalunkwe proprjetà miżmuma taħt obligazzjonijiet fiduċjarji.

(3) Meta l-fiduċjarju jew il-benefiċjarju jaġixxi bil-mala fidi taħt id-dispożizzjonijiet ta' dan il-Kodiċi, dak l-att għandu jkun biżżejjed sabiex l-azzjoni ma tiġix preskritta.

(4) Bl-eċċezzjoni ta' kwistjonijiet li jaqgħu fl-ambitu tal-iskop tas-subartikolu preċedenti li għalihom il-preskrizzjoni ma tapplikax, ebda azzjoni ma tista' tingieb kontra l-fiduċjarju għall-ksur ta' obligazzjonijiet oħra fiduċjarji msemmija fis-subartikolu (4) tal-artikolu 1124A, wara l-iskadenza ta' hames snin. Dan il-perjodu għandu jibda jiddekorri –

(a) mid-data tal-kunsinna ta' rendikont bil-miktub, jew parti minnu, tal-attività fiduċjarja lil benefiċjarju; jew

(b) mid-data li fiha l-benefiċjarju kellu l-ewwel għarfien dwar l-okkorenza tal-ksur tal-obbligazzjonijiet fiduċjarji,

skont liema data tiġi l-ewwel:

Iżda jekk ir-rendikont jew parti minnu huwa fih nnifsu frawdolenti jew diżonest, allura fir-rigward tar-rendikont jew tal-parti rilevanti tiegħu, il-perjodu għandu biss jibda fid-data msemmija fil-paragrafu (b).

Obbligazzjonijiet fiduċjarji għal skop partikolari.

1124G. (1) Meta obbligazzjoni fiduċjarja hija imposta jew assunta biss għall-kisba ta' jintlaħaq skop jew skopijiet identifikati, inkluż fil-każ ta' *trust* ta' karità jew fondazzjoni b'għan, mingħajr ma jkun hemm benefiċjarju, dik l-obbligazzjoni għandha tkun valida u infurzabbli, u:

(a) meta jkun hemm aktar minn persuna waħda li hija hekk marbuta, l-obbligazzjonijiet tagħhom għandhom ikunu *in solidum*; u

(b) fil-każ ta' fondazzjoni, l-amministraturi ta' fondazzjoni għandhom ikunu obbligati *in solidum* sabiex iwettqu l-obbligazzjonijiet fiduċjarji mal-fondazzjoni nnifisha.

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(2) Id-dispożizzjonijiet ta' dan it-Titolu għandhom japplikaw *mutatis mutandis* u l-obbligazzjonijiet tal-fiduċjarju għandhom jiġu attribwiti sabiex jintlaħaq l-iskop identifikat skont it-termini tal-obbligazzjoni fiduċjarja, ta' kwalunkwe liġi applikabbli u tad-dispożizzjonijiet ta' dan it-Titolu.

(3) Meta obbligazzjoni fiduċjarja hija imposta jew assunta minn organizzazzjoni reliġjuża, għandhom japplikaw il-liġi Kanonika u leġislazzjoni oħra li tirregola l-organizzazzjonijiet reliġjużi u għandhom jissuperaw fuq id-dispożizzjonijiet ta' dan it-Titolu.

Obbligazzjonijiet tal-benefiċjarju fir-rigward tal-fiduċjarju.

1124H. (1) Il-benefiċjarju għandu jkun marbut fil-konfront tal-fiduċjarju:

(a) li jwettaq dawk l-obbligazzjonijiet kollha kif miftiehna minnu bil-miktub jew kif jistgħu jiġu stabbiliti fl-istrument relattiv li minnu jirriżultaw l-obbligazzjonijiet fiduċjarji jew kif jistgħu jirriżultaw taħt il-liġi applikabbli;

(b) li jhallas il-korrispettiv finanzjarju lil, u l-ispejjeż kollha magħmula mill-fiduċjarju kif jista' jiġi stabbilit fl-istrument relattiv minn fejn jirriżultaw jew huma regolati l-obbligazzjonijiet fiduċjarji;

(ċ) bla ħsara għad-dispożizzjonijiet ta' kwalunkwe liġi speċjali jew ta' dan il-Kodiċi li jeskludu l-korrispettiv finanzjarju, fejn ma jkunx ġie miftiehem b'mod espress fl-istrument relattiv:

(i) li jithallsu dawk il-miżati raġonevoli kif stabbilit fil-ftehim mal-benefiċjarji kollha ta' età magġuri jew kif jista' jiġi stabbilit mill-Qorti; u

(ii) il-fiduċjarju jista' jirrimborsa lilu nnifsu jew iħallas mill-proprjeta' soġġetta għall-obbligazzjonijiet fiduċjarji l-ispejjeż kollha magħmula minnu b'rabta mad-dmirijiet tiegħu, f'liema każ il-fiduċjarju għandu jinnotifika lil benefiċjarju, jew lil persuni li skont l-istrument rilevanti jew il-liġi applikabbli għandhom jiġu nnotifikati, dwar dan ir-rimbors, bil-mod u filwaqt stabbilit mil-liġi applikabbli.

(2) Il-benefiċjarju għandu, f'kull waqt, jaġixxi bil-*bona fide* fil-konfront tal-fiduċjarju, irrispettivament mill-mod li bih, jew mill-persuna li minnha ġie maħtur.

(3) Bla ħsara għat-termini tal-istrument li jirregola l-obbligazzjonijiet fiduċjarji, il-benefiċjarju għandu, sa fejn għandha x'taqsam il-proprjeta', kemm-il darba il-benefiċjarju ma jkunx ftiehem xort'oħra, jikkumpensa lil fiduċjarju għal kwalunkwe responsabbiltà li jista' jkollu fit-twettiq tad-dmirijiet fiduċjarji tiegħu, sakemm il-fiduċjarju ma jkunx ħati ta' negliġenza, kondotta ħażina volontarja jew frodi.

(4) Dan l-artikolu bl-ebda mod ma għandu jillimita d-drittijiet u r-rimedji li jirriżultaw mill-mala fidi jew atti oħra ta' dannu min-naħa tal-benefiċjarju.

Direzzjonijiet
mill-Qorti.

1124I. (1) Il-fiduċjarju jista', f'kull waqt, japplika lill-Qorti għal direzzjonijiet fir-rigward tat-twettiq tal-obbligazzjonijiet tiegħu.

(2) Meta ssir tali applikazzjoni, il-Qorti tista' toħroġ kwalunkwe ordnijiet jew direzzjonijiet kif jidhrilha li huwa xieraq.

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Applikabilità tad-dispożizzjonijiet ta' dan it-Titolu. 1124J. Fl-applikazzjoni tad-dispożizzjonijiet ta' dan it-Titolu, għandhom japplikaw il-prinċipji li ġejjin:

(a) meta relazzjoni fiduċjarja tkun regolata minn regoli partikolari, sew minhabba s-sors u t-tip tal-obbligazzjonijiet jew minhabba xi liġi speċjali, dawk ir-regoli partikolari għandhom japplikaw fil-kuntest u dawn id-dispożizzjonijiet għandhom japplikaw kif meħtieġ għas-sostenn tal-interpretazzjoni tal-imsemmija regoli;

(b) għandu jiġi preżunt li dawn id-dispożizzjonijiet joperaw b'mod konsistenti mar-regoli partikolari applikabbli għal kwalunkwe relazzjoni fiduċjarja jew obbligazzjoni iżda, f'każ ta' inkonsistenza, ir-regoli partikolari għandhom jissuperaw fuq id-dispożizzjonijiet ta' dan it-Titolu;

(c) id-dispożizzjonijiet ta' dan it-Titolu għandhom japplikaw għall-obbligazzjonijiet fiduċjarji kollha li jkunu jeżistu fil-mument tad-dhul fis-seħh ta' dawn id-dispożizzjonijiet, jew kwalunkwe emendi fir-rigward, anke jekk jirriżultaw qabel tali data, kif ukoll għal kwalunkwe obbligazzjonijiet fiduċjarji li jirriżultaw sussegwentement:

Iżda dawn id-dispożizzjonijiet m'għandhomx japplikaw retrospettivament meta l-effett tagħhom ikun li jcaħħad jew jirrestringi kwalunkwe dritt vestit jew li johloq xi responsabbiltà li ma kinitx teżisti fil-liġi qabel id-dhul fis-seħh ta' dawn id-dispożizzjonijiet;

(d) meta l-obbligazzjoni fiduċjarja tkun mittiefsa minhabba ksur jew attentat ta' ksur tal-liġi mill-partijiet jew xi hadd minnhom, biex b'hekk ma tkunx tista' tiġi infurzata minhabba l-falsità jew l-illegalità tal-kawża, l-osservanza mill-benefiċjarju jew mill-fiduċjarji, jew mit-tnejn flimkien, ta' dik il-liġi jew emenda fil-liġi li permezz tagħha il-kawża ma tibqax falza jew illegali, għandha tagħmel l-obbligazzjoni enforzabbli b'effett mill-istess. F'każijiet bħal dawn il-qorti tista' tagħti dawk l-ordnijiet temporanji adegwati sabiex tiżgura l-osservanza għall-liġi jew bħala prevenzjoni ta' abbuż ulterjuri mill-partijiet jew xi wieħed minnhom."

41. L-artikolu 1 tat-Tieni Skeda għadu jiġi emendat kif ġej:

Emenda tal-artikolu 1 tat-Tieni Skeda.

(a) is-subartikoli (2), (3), (4), (5), (6), (7), (8) u (9) tiegħu, għandhom jiġu enumerati mill-ġdid bħala s-subartikoli (6), (7), (8), (9), (10), (11), (12) u (13) rispettivament;

(b) minnufih wara s-subartikolu (1) tiegħu, għandhom jiżdiedu s-subartikoli ġodda li ġejjin:

"(2) L-Organizzazzjonijiet jistgħu jiġu stabbiliti f'forom ġuridiċi differenti.

(3) L-iskop leġittimu ta' organizzazzjoni msemmi fis-subartikolu (1) m'għandux ikun kontra l-morali u l-politika pubblika, liema skop jew skopijiet għandhom jikkonsistu f'waħda mill-kategoriji msemminjin fis-subparagrafu (4).

(4) Kull organizzazzjoni għandha tiġi kkategorizzata skont l-għan tagħha u l-għan ta' kwalunkwe organizzazzjoni jista' jkun li:

(a) tippromwovi esklussivament skop soċjali jew pubbliku fuq bażi ta' nuqqas ta' profitt, bl-esklużjoni ta' kwalunkwe benefiċċju pubbliku, jew jekk għandha xi benefiċjarji, għandha tkun għall-benefiċċju ta' benefiċjarji b'interess pubbliku. Għall-finijiet ta' dan il-paragrafu, "benefiċjarji b'interess pubbliku" għandha tfisser kull waħda mis-segwenti:

(i) organizzazzjonijiet, li huma nfushom huma stabbiliti esklussivament għal

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skopijiet soċjali jew pubbliċi fuq bażi ta' nuqqas ta' profitt;

(ii) organizzazzjonijiet reliġjużi;

(iii) organizzazzjonijiet pubbliċi; jew

(iv) benefiċjarji msemmijin fl-artikolu 32(8):

Iżda dan jeskludi kwalunkwe benefiċċju privat ħlief għal dak elenkat taħt l-Ewwel Skeda tal-Att dwar l-Organizzazzjonijiet Volontarji (Kap. 492) jew taħt din l-Iskeda, f'liema każ issir referenza għall-istess bhala "organizzazzjoni għall-benefiċċju pubbliku".

(b) tippromwovi kwalunkwe skop legittimu skont l-Att dwar l-Organizzazzjonijiet Volontarji (Kap. 492), ħlief dawk imsemmijin fis-subparagrafu (1), sew jekk għall-benefiċċju privat u anke jekk le, f'liema każ issir referenza għaliha bhala "organizzazzjoni għall-benefiċċju privat".

(5) Meta organizzazzjoni għall-benefiċċju privat hija stabbilita bil-benefiċjarji, l-organizzazzjoni għandha tkun għall-benefiċċju ta' persuna jew klassifikazzjoni ta' persuni li jistgħu jiġi aċċertati, permezz tal-ħatra ta' persuni msemmija, sew jekk huma membri, azzjonisti jew interessi jew drittijiet oħra, jew jistgħu xort'oħra jiġu aċċertati.";

(ċ) fis-subartikolu (6) tiegħu, kif enumerat mill-ġdid, minnufih wara l-kliem "strument li johloqha" għandhom jiżdiedu l-kliem "jew fi statut";

(d) fis-subartikolu (11) tiegħu kif enumerat mill-ġdid, il-kliem "għandhom jgħoddu d-dispożizzjonijiet applikabbli għal dik il-forma partikolari.", għandhom jiġu sostitwiti bil-kliem "għandhom jgħoddu wkoll d-dispożizzjonijiet applikabbli għal dik il-forma partikolari.";

(e) is-subartikolu (13) tiegħu, kif enumerat mill-ġdid, għandu jiġi sostitwit b'danli ġej:

"(13) F'din l-Iskeda:

(a) "strument kostituttiv" tfisser kuntratt pubbliku, skrittura privata, riżoluzzjoni jew

kwalunkwe strument ieħor bil-miktub jew dokument, jew il-parti rilevanti tiegħu, li jistabbilixxi organizzazzjoni ta' kwalunkwe forma u jinkludi testament li jipprovdi għat-twaqqif ta' organizzazzjoni;

(b) kwalunkwe referenza għall-"Qorti" għandha titqies li hija referenza għall-Qorti Ċivili (Sezzjoni ta' Ġurisdizzjoni Volontarja), kemm-il darba ma jiġix espressament provdut xort'oħra;

(ċ) "att tal-fondazzjoni" tfisser il-kuntratt pubbliku jew parti minnu, li jistabbilixxi fondazzjoni u jirregola l-governanza tagħha skont l-artikolu 29. Meta xi dispożizzjoni ta' din l-Iskeda tistabbilixxi rekwizit relatat mal-att tal-fondazzjoni, dan għandu jkun intlaħaq jekk dak ir-rekwizit ikun jinsab fl-istrument kostituttiv jew fl-istatut, jew fit-tnejn li huma, skont il-kaz;

(d) "parti interessata" tfisser persuna li hija mogħtija drittijiet li jista' jkollhom valutazzjoni ekonomika, fil-preżent jew fil-futur, attwali jew kontingenti, fl-istrument kostituttiv jew statut tal-organizzazzjoni jew li hija mogħtija setgħat jew funzjonijiet lilha u m'għandhiex tinkludi persuni oħra kemm-il darba il-kuntest ma jitlobx xort'oħra u dan, mingħajr ħsara għad-dritt ta' kwalunkwe persuna li tinforza kwalunkwe dritt jew rimedju li jista' jkollha;

(e) "organizzazzjoni internazzjonali" tfisser organizzazzjoni li jkollha biss bħala membri Stati jew organizzazzjonijiet internazzjonali oħra;

(f) it-terminu "li ma tagħmilx profitt" għandu jkollu l-istess tifsira mogħtija lilu fl-artikolu 2 tal-Att dwar l-Organizzazzjonijiet Volontarji (Kap. 492);

(g) "skop politiku" tfisser il-promozzjoni tal-interessi ta' partit politiku jew ta' kandidat politiku, fuq livell lokali, nazzjonali jew internazzjonali u "partit politiku" għandu jkollha l-istess tifsira mogħtija lilha fl-Att dwar il-Finanzjament ta' Partiti Poliċi (Kap. 544) u għall-finijiet ta' din l-Iskeda għandha tinkludi kull organizzazzjoni oħra, ta' kwalunkwe forma ġuridika li hija finanzjarjament kontrollata minn, jew affiljata ma' partit politiku jew l-għan tiegħu, kif stabbilit fl-istatut tagħha jew strument

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kostituttiv jew kuntratt pubbliku, jew organizzazzjoni li taġixxi b'tali mod li mhux awtonomu mill-partit politiku u t-termini "kandidat politiku" u "organizzazzjoni politika" għandhom jinftehm u f'dan is-sens;

(h) "promotur" tfisser persuna li tippromwovi t-twaqqif ta' organizzazzjoni jew tipprezenta lilha nnifisha lil terzi persuni bħala tali u wara t-twaqqif tal-organizzazzjoni, fil-każ ta' fondazzjoni, tfisser il-fundatur u fil-każ ta' assoċjazzjoni tfisser l-ewwel membri assoċjati;

(i) "att pubbliku" għandha tinkludi kwalunkwe dokumenti annessi ma' dak l-att pubbliku skont l-Att dwar il-Professjoni Nutarili u l-Arkivji Nutarili (Kap. 55);

(j) it-termini "skop pubbliku", "benefiċċju pubbliku" u frażijiet simili jfissru skop soċjali u kwalunkwe skop jew benefiċċju ieħor li jippromwovi jew iservi lill-pubbliku ġenerali jew interess ġenerali jew settur tal-pubbliku ġenerali u ma jippromwovix u ma jservix xi benefiċċju privat ħlief kif permess bl-Att dwar l-Organizzazzjonijiet Volontarji (Kap. 492) u b'din l-Iskeda;

(k) it-terminu "organizzazzjoni pubblika" ifisser kull organizzazzjoni li hija kkontrollata, direttament jew indirettament mill-Gvern u organizzazzjoni hija "kontrollata mill-Gvern" meta l-Gvern jkollu s-setgħa li jahtar jew inehhi l-maġġoranza tal-amministraturi tal-organizzazzjoni;

(l) "data rilevanti" tfisser l-1 ta' April 2008;

(m) "persuni rilevanti" tfisser:

(i) l-amministraturi;

(ii) il-protettur jew membri tal-kunsill ta' superviżjoni, jekk ikun hemm; u

(iii) kwalunkwe persuna naturali oħra li teżercita kontroll aħħari u effettiv fuq l-assoċjazzjoni permezz tad-dritt indirett tal-proprietà jew mezzi oħra, inkluża kwalunkwe

persuna, hlief dawk li digà ssir referenza għalihom fil-paragrafi (a) u (b) ta' din it-tifsira, li l-kunsens tagħha għandu jinkiseb jew li d-direzzjoni tagħha tkun torbot, skont l-istatut tal-assocjazzjoni jew kwalunkwe strument ieħor bil-miktub, għat-tehid ta' azzjonijiet materjali mill-amministraturi tagħha;

(n) "organizzazzjoni reliġjuża" tfisser organizzazzjoni stabbilita minn awtorità reliġjuża jew organizzazzjoni reliġjuża oħra ta' kwalunkwe denominazzjoni sabiex jintlaħaq għan reliġjuż, inkluża fondazzjoni pija jew entità ekkleżjastika, kif imfisser f'din l-Iskeda;

(o) "skop soċjali" tfisser kwalunkwe skop karitattiv jew filantropiku, u bla ħsara għall-ġeneralità ta' dak stabbilit hawn qabel, tinkludi:

(i) l-avvanz tal-edukazzjoni, inkluża l-edukazzjoni fiżika u l-isport;

(ii) l-avvanz tar-religjon;

(iii) l-avvanz tas-saħħa;

(iv) l-avvanz soċjali u komunitarju, inkluża l-promozzjoni tal-aspetti etiċi, edukattivi u soċjali ta' professjoni jew sengħa partikolari;

(v) l-avvanz tal-kultura, l-arti iġenerali u wirt nazzjonali;

(vi) l-avvanz tal-ħarsien u tat-titjib ambjentali, inkluż il-ħarsien tal-annimali;

(vii) il-promozzjoni tad-drittijiet tal-bniedem, riżoluzzjoni ta' kunflitti, demokrazija u rikonċiljazzjoni;

(viii) il-promozzjoni u l-ħarsien tal-interessi ta' organizzazzjonijiet oħra għall-benefiċċju pubbliku, inklużi l-federazzjonijiet ta' dawn l-organizzazzjonijiet;

(ix) it-twettiq ta' attivitajiet intizi għall-ġbir ta' fondi għas-sostenn ta' organizzazzjonijiet oħra li huma esklussivament

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organizzazzjonijiet għall-benefiċċju pubbliku jew għas-sostenn tas-settur volontarju ingenerali jew partijiet minnu, permezz tal-applikazzjoni, l-għotja, it-trasferiment jew id-disponibbiltà xort'oħra ta' fondi hekk miġbura, lilhom jew għall-benefiċċju tagħhom;

(x) kwalunkwe skop ieħor li jista' jiġi stabbilit mill-Ministru responsabbli għall-ġustizzja permezz ta' regolamenti magħmula taħt din l-Iskeda,

u għall-finijiet ta' din l-Iskeda, tinkludi skop politiku;

(p) "ligi speċjali" tfisser Att tal-Parlament jew kwalunkwe regolamenti magħmulin tahtu jew parti minn dan il-Kodiċi jew parti minn din l-Iskeda li tirregola speċifikament forma ġuridika partikolari jew forom ta' organizzazzjonijiet, inklużi soċjetajiet ċivili, fondazzjonijiet u assoċjazzjonijiet;

(q) "statut" tfisser att pubbliku, skrittura privata, riżoluzzjoni jew kwalunkwe strument bil-miktub jew dokument, jew il-parti rilevanti tiegħu, li tirregola l-għanijiet, l-oġettivi, il-ġestjoni interna u l-amministrazzjoni ta' organizzazzjoni fuq bażi kontinwa wara li l-organizzazzjoni tkun ġiet stabbilita, kemm jekk jifforma parti mill-istrument kostitutiv, bħala anness jew xort'oħra, jew huwa strument indipendenti;

(r) "kitba" meta użata b'rabta ma' avviż li għandu jintbagħat, għandha tfisser rappreżentazzjoni stampata, ittajpjata jew alternattivament viżibbli, ikkupjata jew riprodotta, inkluż bil-fax jew posta elettronika jew mezzi oħra elettronici u fil-każ ta' skrittura privata, l-amalgamazzjoni ta' għadd ta' kopji ffirmati tal-istess strument għandha tkun biżżejjed."

Emenda tal-
artikolu 2 tat-
Tieni Skeda.

42. L-artikolu 2 tat-Tieni Skeda għandu jiġi emendat kif ġej:

(a) is-subartikolu (1) tiegħu għandu jiġi emendat kif ġej:

(i) minnufih wara l-kliem "skont il-ligijiet li bihom huma stabbiliti", għandhom jiżdiedu l-kliem "jew jekk ikunu registrati barra minn Malta, skont il-ligijiet tal-post ta' registrazzjoni,"; u

(ii) il-kliem "għall-finijiet kollha tal-liġi" għandhom jiġu sostitwiti bil-kliem "għall-finijiet kollha tal-liġi, bil-karatteristiċi tal-forma ġuridika li jista' jkollhom taħt il-liġi applikabbli";

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

"(2) L-organizzazzjonijiet internazzjonali li huma mogħtija l-personalità ġuridika permezz ta' xi trattat multilaterali jew bilaterali jew ftehim li fih l-Istati Membri bħala soġġetti tal-liġi internazzjonali jkunu partijiet, għandhom jiġu rikonoxxuti bħala persuni ġuridiċi għall-finijiet kollha tal-liġi, liema personalità għandha tiġi regolata permezz tat-trattat rilevanti jew ftehim jew permezz tad-dritt ta' kwalunkwe Stat magħżul għal dan il-għan mill-partijiet għall-istess. Il-Ministru responsabbli għall-ġustizzja għandu, minn żmien għal żmien, jippubblika lista ta' dawn l-organizzazzjonijiet fil-Gazzetta.";

(ċ) is-subartikolu (3) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(3) Fil-każ ta' organizzazzjoni barranija jew internazzjonali li għandha personalità ġuridika, il-liġi, it-trattat jew il-ftehim applikabbli skont it-termini tas-subartikoli (1) u (2) għandhom japplikaw għall-kwistjonijiet kollha li jikkonċernaw tali persuni ġuridiċi, inkluża l-forma tagħhom, l-eżistenza tagħhom, it-twaqqif u l-effetti tal-istatut tagħhom, l-istrument kostitutiv jew l-att pubbliku u l-amministrazzjoni tagħhom, ir-responsabbiltà tal-persuni li għandhom il-kontroll jew il-ġestjoni jew huma xort'oħra involuti f'dawn l-organizzazzjonijiet u fix-xoljiment tagħhom, u sa fejn l-organizzazzjoni internazzjonali tkun soġġetta għal xi liġi speċjali wara r-ratifikkazzjoni mill-Istat tat-trattat li jstabilixxi tali organizzazzjoni, dik l-organizzazzjoni għandha wkoll tkun regolata minn dik il-liġi u f'każ ta' inkonsistenza mal-Istatut jew il-ftehim tagħha, għandu jissupera dan tal-aħħar.";

(d) is-subartikolu (4) tiegħu għandu jiġi enumerat mill-ġdid bħala s-subartikolu (6);

(e) minnufih wara s-subartikolu (3) tiegħu, għandhom jiżdiedu s-subartikoli ġodda li ġejjin:

"(4) Bla ħsara għad-dispożizzjonijiet tal-artikolu

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19(8), organizzazzjoni barranija jew internazzjonali li m'għandhiex personalità ġuridika taħt il-liġi applikabbli, għandha tiġi rikonoxxuta bħala organizzazzjoni ġuridika u l-kwistjonijiet kollha li jikkonċernaw tali organizzazzjoni barranija jew internazzjonali, inklużi l-forma tagħha, l-eżistenza tagħha, il-kostruzzjoni u l-effetti tal-istrument kostitutiv jew l-istatut, ir-responsabbiltà jew xort'oħra tal-promoturi, membri jew amministraturi tagħha, l-amministrazzjoni jew ix-xoljiment tagħha għandhom ikunu regolati bil-liġi adegwata applikabbli għall-istrument kostitutiv jew l-istatut, jew b'mod espress jew skont il-liġi li tkun tapplika.

(5) Minkejja l-liġi applikabbli skont id-dispożizzjonijiet preċedenti, jekk teżisti s-setgħa biex titwettaq attività tan-negozju jew kummerċjali, il-limitazzjonijiet stabbiliti taħt l-artikolu 32A għandhom japplikaw għall-attivitajiet f'Malta fil-każ ta' fondazzjonijiet stabbiliti barra minn Malta.";

(f) is-subartikolu (6) tiegħu kif enumerat mill-ġdid, għandu jiġi emendat kif ġej:

(i) minnufih wara l-kliem "meħtieġa li tirreġistra", għandhom jiżdiedu l-kliem "permezz ta' avviż fil-forma stabbilita"; u

(ii) il-kliem "Għall-finijiet ta' dan l-artikolu "attività regolari" tfisser attività li ddum għaddejja aktar minn tliet xhur jew li titwettaq permezz ta' stabbiliment permanenti f'Malta.", għandhom jiġu sostitwiti b'dan li ġej:

"Għall-finijiet ta' dan is-subartikolu:

(a) "attività regolari" tfisser attività li ddum għal aktar minn tliet xhur jew li titwettaq permezz ta' stabbiliment permanenti f'Malta; u

(b) "stabbiliment permanenti" tinkludi post tan-negozju, uffiċċju jew fergħa li permezz tagħhom titwettaq attività fuq bażi stabbli u kontinwa:

Iżda l-obbligu ta' reġistrazzjoni ma japplikax għall-organizzazzjonijiet reliġjużi barranin."; u

(g) minnufih wara s-subartikolu (6) tiegħu, għandhom

jizdiedu s-subartikoli godda li ġejjin:

"(7) Meta organizzazzjoni barranija jew internazzjonali, sew jekk ikollha kif ukoll jekk ma jkollhiex personalità ġuridika, ma twettaqx attivitajiet regolari f'Malta, iżda għandha bżonn tipprova r-rikonoxximent tagħha taħt dan l-artikolu għall-finijiet tal-applikazzjoni tal-liġijiet ta' Malta ħlief din l-Iskeda, l-organizzazzjoni tista' tirreġistra taħt dan is-subartikolu permezz ta' avviż fil-forma stabbilita.

(8) Kull meta l-għanijiet u l-attivitajiet ta' organizzazzjoni barranija jew internazzjonali huma s-sugġett ta' liġijiet li jirregolaw istituzzjonijiet ta' kreditu, kumpanniji tal-assigurazzjoni, servizzi ta' investiment jew fondi jew il-provvista ta' *trustee*, fiduċjarju, jew servizzi relatati mal-kumpanniji jew attivitajiet oħra li jistgħu jiġu liċenzjati jew regolati, tali organizzazzjoni tista' tiġi biss tiġi reġistrata bil-kunsens preliminari bil-miktub tal-Awtorità Maltija għas-Servizzi Finanzjarji, meta dan ikun mitlub mill-liġi li tkun tapplika u fejn tkun tinsab, inkella, l-awtorità kompetenti taħt dik il-liġi, sakemm l-organizzazzjoni barranija jew internazzjonali ma tkunx eżentata b'mod espress milli tikseb awtorizzazzjoni taħt il-liġi Maltija.

(9) Il-Ministru responsabbli għall-Ġustizzja jista' minn żmien għal żmien jorogħ regolamenti sabiex ivarja jew ifisser mill-ġdid dak li jstabbilixxi "attività regolari" u sabiex jirregola r-reġistrazzjonijiet taħt dan l-artikolu."

43. L-artikolu 3 tat-Tieni Skeda għandu jiġi emendat kif ġej:

Emenda tal-artikolu 3 tat-Tieni Skeda.

(a) fis-subartikolu (1) tiegħu, il-kliem "Il-personalità ġuridika tingħata mar-reġistrazzjoni ta' organizzazzjoni fir-Registru Pubbliku skont l-artikolu 12 ta' din l-Iskeda.", għandhom jiġu sostitwiti bil-kliem "Ħlief meta l-personalità ġuridika tkun rikonoxxuta jew stabbilita bil-liġi jew trattat internazzjonali jew ftehim jew hija mogħtija bis-saħħa tar-reġistrazzjoni skont xi liġi speċjali, il-personalità ġuridika għandha tinkiseb biss minn organizzazzjoni meta din tiġi reġistrata mar-Registratur għall-Persuni Ġuridiċi skont l-artikolu 12."; u

(b) fis-subartikolu (4) tiegħu, il-kliem "jew għall-għanijiet tagħhom jew għat-tnejn" għandhom jiġu sostitwiti bil-kliem "jew għall-għanijiet tagħhom jew kategorija".

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Emenda tal-
artikolu 4 tat-
Tieni Skeda.**44.** L-artikolu 4 tat-Tieni Skeda għandu jiġi emendat kif ġej:

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

"(1) Kull persuna ġuridika għandha patrimonju li għandu jiġi allokat għal għan jew għanijiet skont l-artikolu 1.";

(b) fis-subartikolu (4) tiegħu, il-kliem "safejn ikollha membri", għandhom jiġu sostitwiti bil-kliem "safejn ikollhom membri";

(ċ) is-subartikolu (5) tiegħu għandu jiġi emendat kif ġej:

(i) il-kliem "tkun vestita bil-mod kif imsemmi fl-istatut tal-organizzazzjoni jew fil-liġi li tapplika u l-amministraturi", għandhom jiġu sostitwiti b'dan li ġej:

"għandha tingħata:

(a) fil-każijiet kollha, f'amministratur wieħed jew aktar, *in solidum*, bil-mod stabbilit fl-istatut jew fil-liġi applikabbli;

(b) mingħajr limitazzjoni għas-setgħat ta' rappreżentanza tal-amministraturi kif stabbilit fil-paragrafu (a), f'persuni oħra msemmija fl-istatut tal-organizzazzjoni jew persuni oħra li jzommu l-kariga, kif hemmhekk identifikat; u

(ċ) l-amministraturi;"

(ii) il-kliem "bl-att li joħloq l-organizzazzjoni" għandhom jiġu sostitwiti bil-kliem "bl-istatut";

(iii) fil-proviso tiegħu, il-kliem "mill-att ta' kostituzzjoni", għandhom jiġu sostitwiti bil-kliem "mill-istatut"; u

(iv) minnufih wara l-proviso tiegħu, għandu jiżdied il-proviso ġdid li ġej:

"Izda wkoll fl-assenza ta' kwalunkwe dikjarazzjoni dwar ir-rappreżentanza legali ta' xi organizzazzjoni fl-istatut, l-uniku amministratur, jew jekk hemm aktar minn wieħed, kwalunkwe żewġ amministraturi, għandu jkollhom ir-rappreżentanza

tal-organizzazzjoni skont dan is-subartikolu.";

(d) is-subartikolu (6) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(6) Kull persuna ġuridika għandu jkollha minn tal-inqas amministratur wiehed li jista' jaġixxi għan-nom tagħha jew għandu jkollha dak in-numru minimu ta' amministraturi li jista' jkun mitlub mil-liġi applikabbli għall-forma ġuridika tagħha, għan jew kategorija.";

(e) is-subartikolu (7) tiegħu għandu jiġi emendat kif ġej:

(i) il-kliem "li tassumi; ħlief kif jista' jkun previst mod ieħor f'xi liġi speċjali", għandhom jiġu sostitwiti bil-kliem "li tassumi u ħlief kif jista' jkun stabbilit xort'oħra fi kwalunkwe liġi speċjali";

(ii) minnufih wara l-proviso tiegħu, għandu jiżdied il-proviso ġdid li ġej:

"Izda wkoll, minkejja d-dispożizzjonijiet ta' dan is-subartikolu, meta terza persuna titratta bil-*bona fide* ma' persuni li jaġixxu f'isem jew għan-nom ta' persuna ġuridika qabel ma din tiġi stabbilita, kwalunkwe kuntratt jidhol fis-seħħ mid-data tal-eżistenza tal-organizzazzjoni, u l-organizzazzjoni għandha tkun intitolata għall-kumpens mill-persuni li jkunu aġixxew f'isimha jew għan-nom tagħha fir-rigward tar-responsabbiltà tagħha taħt dan is-subartikolu fil-konfront tal-imsemmija terza persuna.";

(f) is-subartikolu (9) tiegħu għandu jiġi emendat kif ġej:

(i) fil-paragrafu (a) tiegħu, minnufih wara l-kliem "għandhom jiġu revokati fuq talba", għandhom jiżdiedu l-kliem "permezz ta' rikors lill-Qorti,";

(ii) fil-paragrafu (b) tiegħu, minnufih wara l-kliem "għandhom jiġu revokati fuq talba tad-donatur", għandhom jiżdiedu l-kliem "permezz ta' rikors lill-Qorti," u

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(iii) fil-paragrafu (d) tiegħu, minnufih wara l-kliem "jew xi parti interessata oħra", għandhom jiżdiedu l-kliem "jew li tordna lill-amministratur jew persuna oħra rilevanti sabiex l-organizzazzjoni tiġi reġistrata u jitwettqu dawk l-atti kollha meħtieġa biex jiġi żgurat li l-intendiment tat-testatur jew donatur, skont il-każ, jintlaħaq", u

(g) is-subartikolu (10) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(10) Id-dispożizzjonijiet tas-subartikolu(9) m'għandhomx japplikaw għal dispożizzjonijiet testamentarji u donazzjonijiet favur fondazzjonijiet piji, legati taż-żwieġ u entitajiet ekkleżjastiċi."

Emenda tal-artikolu 5 tat-Tieni Skeda.

45. L-artikolu 5 tat-Tieni Skeda għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, il-kliem "att li joħloqha" għandhom jiġu sostitwiti bil-kliem "statut, strument kostituttiv jew att pubbliku"; u

(b) is-subartikolu (4) tiegħu għandu jiġi emendat kif ġej:

(i) fil-paragrafu (a) tiegħu, il-kliem "l-att li jikkostitwixxi" għandhom jiġu sostitwiti bil-kliem "statut, strument kostituttiv jew att pubbliku";

(ii) fis-subparagrafu (i) tal-paragrafu (b) tiegħu, il-kliem "fl-att li jikkostitwixxi l-organizzazzjoni" għandhom jiġu sostitwiti bil-kliem "fl-istrument kostituttiv jew fl-istatut";

(iii) fis-subparagrafu (ii) tal-paragrafu (b) tiegħu, il-kliem "għall-forma partikolari ta' dawk l-organizzazzjonijiet" għandhom jiġu sostitwiti bil-kliem "għall-forma ġuridika partikolari tagħha";

(iv) fil-paragrafu (c) tiegħu, il-kliem "l-għan li għalih ġew stabbiliti", għandhom jiġu sostitwiti bil-kliem "l-għan li għalih ġiet stabbilita";

(v) fil-paragrafu (d) tiegħu, minnufih wara l-kliem "meta ma jkunx hemm amministratur fil-kariga", għandhom jiżdiedu l-kliem "jew in-numru ta' amministraturi jaqa' taħt in-numru mitlub mil-liġi għall-forma ġuridika partikolari,"; u

(vi) il-paragrafu (e) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(e) meta n-numru tal-membri jaqa' taħt dak mitlub mill-Iskeda f'każ ta' assoċjazzjoni, jew meta ma jkunx hemm benefiċjarji fil-każ ta' fondazzjoni benefiċjarja."

46. L-artikolu 6 tat-Tieni Skeda għandu jiġi emendat kif ġej:

Emenda tal-artikolu 6 tat-Tieni Skeda.

(a) is-subartikolu (1) tiegħu għandu jiġi emendat kif ġej:

(i) il-kliem "il-liġi konswetudinarja jew" għandhom jiġu mhassra;

(ii) minnufih wara l-kliem "mogħtija minn xi Qorti" għandhom jiżdiedu l-kliem "relatata ma' dik l-organizzazzjoni partikolari";

(iii) fil-paragrafu (a) tiegħu, il-kliem "jew xi liġi speċjali, hu meħtieġ", għandhom jiġu sostitwiti bil-kliem "jew xi liġi speċjali, jew huwa meħtieġ";

(b) fis-subartikolu (3) tiegħu, il-kliem "skont is-subartikolu (1) iżda dik il-fondazzjoni, kif ukoll l-amministraturi tagħha, ikunu regolati bid-dispożizzjonijiet ta' din l-Iskeda applikabbli għal organizzazzjonijiet mhux reġistrati b'effett minn meta jiskadi l-perjodu ta' sentejn imsemmi fis-subartikolu (2).", għandhom jiġu sostitwiti bil-kliem "skont is-subartikolu (1).";

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

"(4) Organizzazzjonijiet reliġjużi u legati taż-żwieġ li huma mwaqqfa bħala fondazzjonijiet mhumiex obbligati jirreġistraw u għandhom ikomplu jiġu rikonoxxuti bħala persuni ġuridiċi sakemm jiġu xolti.";

(d) is-subartikoli (5) u (6) għandhom jiġu sostitwiti b'dan li ġej:

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"(5) Fondazzjoni eżistenti li giet stabbilita b'att pubbliku u minkejja li giet registrata skont din l-Iskeda u anke jekk le:

(a) għandu jkollha l-kapaċità ġuridika sħiħa u s-setgħat ta' persuna ġuridika registrata kif stabbilit f'din l-Iskeda u r-restrizzjonijiet tal-artikolu 14 m'għandhomx japplikaw għaliha;

(b) għandha tkompli tkun il-proprjetarja esklussiva tal-proprjetà tagħha kollha, anke jekk akkwistata wara l-iskadenza tal-perjodu msemmi fis-subartikolu (2) u għandha tkun responsabbli għall-obbligazzjonijiet tagħha;

(ċ) sakemm tkun registrata skont din l-Iskeda, ir-responsabbiltà tal-amministraturi tagħha għandha tkun regolata bid-dispożizzjonijiet tal-artikolu 17 u dispożizzjonijiet oħra applikabbli għal organizzazzjonijiet mhux registrati, għall-atti kollha mwettqa mill-iskadenza tal-perjodu msemmi fis-subartikolu (2) sad-data ta' registrazzjoni, iżda l-amministraturi bl-ebda mod ma għandhom ikunu responsabbli għall-obbligazzjonijiet mwettqa mill-fondazzjoni eżistenti qabel din id-data, sakemm ma jkunux wettqu dawn l-obbligazzjonijiet bil-miktub; u

(d) meta tkun registrata, id-dispożizzjonijiet tal-artikolu 16 għandhom, minn hemm 'il quddiem, japplikaw għall-atti kollha tal-amministraturi wara d-data ta' registrazzjoni.

(6) Fondazzjoni eżistenti li ma gietx stabbilita permezz ta' att pubbliku u li tonqos milli tirreġistra:

(a) għandu jkollha l-kapaċità biss li tilhaq l-għanijiet stabbiliti u l-hwejjeġ l-oħra kollha anċillari;

(b) għandha tkun soġġetta għar-restrizzjoni fl-artikolu 14(5);

(ċ) għandha titqies li hija l-proprjetarja esklussiva tal-proprjetà kollha tagħha li għandha tistabilixxi patrimonju distint; u

(d) għandu jkollha l-amministraturi tagħha responsabbli *in solidum* mal-organizzazzjoni, għall-

obbligazzjonijiet mwettqa mill-fondazzjoni, bla ħsara għad-dispożizzjonijiet tat-tieni proviso tal-artikolu 17(3)."; u

(e) minnufih wara s-subartikolu (6) tiegħu, kif sostitwit, għandhom jiżdiedu s-subartikoli godda li ġejjin:

"(7) L-assoċjazzjonijiet kollha, stabbiliti bil-miktub qabel id-data rilevanti, hawn aktar 'il quddiem imsejha l-"assoċjazzjonijiet eżistenti", li l-forma tagħhom hija rikonoxxuta bħala persuna ġuridika skont il-liġi applikabbli jew skont kwalunkwe sentenza finali mogħtija mill-Qorti relatata ma' dik l-organizzazzjoni partikolari qabel id-data rilevanti, għandhom ikompli jiġu rikonoxxuti bħala persuni ġuridiċi għalkemm mhumiex reġistrati; madankollu, l-assoċjazzjonijiet eżistenti li ma jirreġistrawx bħala persuni ġuridiċi, kif ukoll l-amministraturi tagħhom, għandhom ikunu regolati permezz tad-dispożizzjonijiet ta' din l-Iskeda, applikabbli għall-organizzazzjonijiet li mhumiex reġistrati, b'effett mill-iskadenza ta' erba' snin kalendarji mid-data rilevanti.

(8) Meta organizzazzjoni –

(a) hija stabbilita bħala assoċjazzjoni iżda għandha l-karatteristiċi ta' fondazzjoni; jew

(b) hija stabbilita bħala fondazzjoni iżda għandha l-karatteristiċi ta' assoċjazzjoni; jew

(ċ) tikkwalifika għar-reġistrazzjoni kemm bħala fondazzjoni kif ukoll bħala assoċjazzjoni,

għandha tissejjaħ "organizzazzjoni ibrida" u għandha tkun regolata permezz tad-dispożizzjonijiet segwenti ta' dan l-artikolu.

(9) Organizzazzjoni ibrida għandha tiġi stabbilita permezz ta' statut, li jista' jiġi emendat minn żmien għal żmien, sabiex tiġi identifikata b'mod ċar il-forma tal-fondazzjoni jew assoċjazzjoni.

(10) Sakemm l-organizzazzjoni ibrida tikkonforma mas-subartikolu (9), l-amministraturi

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għandhom ikunu soġġetti, fl-amministrazzjoni tagħhom, għad-dispożizzjonijiet ta' din l-Iskeda applikabbli kemm għall-fondazzjonijiet kif ukoll għall-assocjazzjonijiet.

(11) Meta ma tittiehed ebda azzjoni għall-emenda tal-istatut ta' organizzazzjoni ibrida mill-fundaturi jew minn persuni oħra jew korpi awtorizzati mill-istatut, jew fil-każ ta' assocjazzjonijiet, mill-membri, jew huwa impossibbli jew mhux prattikabbli li dan isir, l-amministraturi ta' organizzazzjoni ibrida jistgħu, f'kull waqt, japplikaw il-Qorti sabiex tissanzjona dawk l-emendi adegwati għall-kjarifika tal-forma ġuridika ta' dik l-organizzazzjoni, jew bhala fondazzjoni jew assocjazzjoni u l-Qorti għandha tohroġ dawk l-ordnijiet li jidhrilha li huma xierqa, inkluzi emendi għall-istatut u għall-isem tal-organizzazzjoni, wara li tkun qieset l-evidenza kollha sottomessa lilha u wara li tkun semgħet il-partijiet kollha interessati li jixtiequ jagħmlu s-sottomissjonijiet.

(12) Sabiex tilhaq deċiżjoni skont is-subartikolu preċedenti, il-Qorti għandha tqis *inter alia* l-intenzjonijiet inizjali tal-promoturi, l-għanijiet tal-organizzazzjoni u l-operat kurrenti tagħha, d-drittijiet tal-benefiċjarji u tal-membri, il-kisba tal-għanijiet tagħha fil-futur u l-ġestjoni tal-organizzazzjoni.

(13) Il-Qorti għandha wkoll ikollha s-setgħa li:

(a) tordna, fuq rikors tal-amministraturi, l-organizzazzjoni mill-ġdid tal-organizzazzjoni bit-twaqqif ta' organizzazzjonijiet oħra, fejn promotur, fundatur, membru jew benefiċjarju wiehed jew aktar, skont il-każ:

(i) ma jibqgħux jiġu ttrattati bhala fundaturi jew xort'oħra tal-fondazzjoni u, jew jiffurmaw assocjazzjoni bl-għan uniku tas-sostenn ta' dik il-fondazzjoni jew tat-tgawdija tal-benefiċċji tas-sħubija; jew

(ii) ma jibqgħux jiġu ttrattati bhala membri ta' assocjazzjoni u, jew jiffurmaw fondazzjoni sabiex jintlaħqu l-għanijiet stabbiliti mingħajr il-benefiċċji tas-

shubija;

(b) tagħti direzzjoni hlief kif provdut fil-paragrafu (a) sabiex tiżgura l-kisba effettiva tal-għanijiet inizjali tal-organizzazzjoni.

(14) Meta l-Qorti tagħti ordni kif imsemmi fis-subartikolu preċedenti, il-Qorti għandha tiżgura li la l-għanijiet tal-organizzazzjoni u lanqas id-drittijiet vestiti fi kwalunkwe persuna ma jiġu affetwati, lanqas ma għandhom jirriżultaw, minn din il-bidla jew organizzazzjoni mill-ġdid, xi obligazzjonijiet hlief għal dawk imwettqa liberament minn kwalunkwe persuna.

(15) Ir-registrazzjoni ta' organizzazzjoni ibrida taħt din l-Iskeda mhix legali u r-Registratur għandu jitlob il-harsien mas-subartikolu (9) qabel ma jaċċetta r-registrazzjoni tagħha."

47. L-artikolu 7 tat-Tieni Skeda għandu jiġi emendat kif ġej:

Emenda tal-artikolu 7 tat-Tieni Skeda.

(a) is-subartikolu (1) tiegħu għandu jiġi emendat kif ġej:

(i) minnufih wara l-kliem "jiżguraw li jiġu osservati", għandhom jiżdiedu l-kliem "l-istrument kostitutiv u"; u

(ii) il-kliem "għall-forma legali partikolari" għandhom jiġu sostitwiti bil-kliem "għall-forma ġuridika partikolari, għan jew kategorija";

(b) is-subartikolu (3) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(3) L-istatut għandu jahtar l-ewwel amministraturi, kif dawn għandhom jiġu appuntati u mneħħija mill-kariga jew jekk mhux maħtura, kif għandhom jiġu appuntati u mneħħija l-amministraturi."; u

(ċ) minnufih wara s-subartikolu (4) tiegħu, għandu jiżdied is-subartikolu ġdid li ġej:

"(5) Jekk persuna ġuridika m'għandhiex minn tal-inqas amministratur wieħed fil-kariga jew in-numru minimu mitlub mil-liġi, l-Avukat Ġenerali jew kwalunkwe parti oħra interessata għandha tkun intitolata li titlob lill-Qorti sabiex tappunta amministratur jew amministraturi għal dawn il-

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finijiet, għal dak iż-żmien u taħt dawk il-kundizzjonijiet kif il-Qorti jista' jidhrilha li huwa xieraq. Meta jiġi pprezentat tali rikors, il-perjodu msemmi fl-artikolu 5(4)(d) għandu jiġi sospiż sakemm il-Qorti tiddeċiedi dwar ir-rikors u jekk isir rikors wara l-iskadenza tal-imsemmi perjodu, il-ħatra magħmula mill-Qorti għandha tkun effettiva, kemm-il darba dan issir qabel it-tħassir tal-persuna ġuridika mir-registru rilevanti."

Emenda tal-artikolu 8 tat-Tieni Skeda.

48. L-artikolu 8 tat-Tieni Skeda għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, minnufih wara l-kliem "fl-għaxar snin ta' qabel", għandhom jiżdiedu l-kliem "jew persuni li jkunu ġew interdetti b'ordni ta' xi qorti f'Malta skont il-Kodiċi Kriminali, jew barra minn Malta taħt liġijiet b'effett ekwivalenti,";

(b) is-subartikoli (2) u (3) tiegħu għandhom jiġu sostitwiti b'dan li ġej:

"(2) Persuni li jkunu nstabu ħatja ta' reati li jinvolvu ħasil ta' flus jew finanzjament ta' terroriżmu mhumiex eliġibbli sabiex jinħatru jew jiġu eletti għall-kariga ta' amministratur jew jekk ikunu diġà maħtura jew eletti, m'għandhomx ikunu eliġibbli sabiex jibqgħu fil-kariga.

(3) Il-Qorti tista', jew b'mod ġenerali jew b'referenza għal organizzazzjoni partikolari –

(a) tiskwalifika kwalunkwe persuna milli żżomm kariga fi ħdan organizzazzjoni; jew

(b) tiskwalifika kwalunkwe persuna milli twettaq funzjonijiet identifikati fi ħdan organizzazzjoni,

u dan abbażi ta' kwalunkwe raġuni imsemmija f'dan l-artikolu, wara rikors minn xi parti interessata, tal-Avukat Ġenerali, jew fil-każ ta' organizzazzjonijiet volontarji, tal-Kummissarju għal Organizzazzjonijiet Volontarji.

Il-Qorti tista' tirrijabilita lil dik il-persuna skont ir-regolamenti, li jistgħu jsiru mill-Ministru responsabbli għall-Ġustizzja minn żmien għal żmien, għar-regolament tal-iskwalifika tal-amministraturi, ir-rijabilitazzjoni tagħhom u r-registrazzjoni ta' dawk l-ordnijiet ta' skwalifika u rijabilitazzjoni fir-Registru għall-Persuni Ġuridici jew fir-Registru Pubbliku,

skont il-każ."; u

(ċ) minnufih wara s-subartikolu (3) tiegħu, kif sostitwit, għandu jiżdied is-subartikolu ġdid li ġej:

"(4) Il-persuni li huma soġġetti għal ordni ta' skwalifika maħruġa mill-Qorti skont is-subartikolu (3), m'għandhomx iwettqu dawn il-funzjonijiet, sew b'mod ġenerali kif ukoll b'referenza għal organizzazzjoni partikolari, u dan, għal dawk iż-żminijiet kif stabbilit fl-ordni."

49. L-artikolu 10 tat-Tieni Skeda għandu jiġi emendat kif ġej:

Emenda tal-artikolu 10 tat-Tieni Skeda.

(a) fis-subartikolu (2) tiegħu, minnufih wara l-kliem "għandhom jiġu riveduti" għandhom jiżdiedu l-kliem "u għandhom jiġu ppubblikati u, jew preżentati";

(b) is-subartikolu (3) tiegħu għandu jiġi enumerat mill-ġdid bħala s-subartikolu (4); u

(ċ) minnufih wara s-subartikolu (2) għandu jiżdied is-subartikolu ġdid li ġej:

"(3) Sa dak iż-żmien meta:

(a) l-forma tal-kontenut tal-kontijiet u tar-rapporti; u

(b) r-regoli dwar ir-reviżjoni, pubblikazzjoni u, jew is-sottomissjoni kif stabbilit skont is-subartikolu (2), għall-organizzazzjonijiet ġuridici, li l-forma tagħhom mhix diġà regolata permezz ta' liġi speċjali, f'liema każ għandha tapplika l-liġi speċjali, għandu japplika s-segwenti:

(i) fil-każ ta' organizzazzjonijiet stabbiliti esklussivament għall-benefiċċju pubbliku, għandhom japplikaw id-dispożizzjonijiet għall-organizzazzjonijiet volontarji iskritti, irrispettivament minn jekk tali organizzazzjonijiet humiex iskritti jew le:

Iżda dan il-paragrafu m'għandux japplika għal organizzazzjonijiet stabbiliti għal skop politiku, li għandhom jiġu regolati *mutatis mutandis* mill-Att dwar il-Finanzjament ta'

Partiti Politiċi (Kap. 544):

Iżda wkoll, meta l-organizzazzjoni ma tkunx partit politiku kif imfisser taht l-artikolu 2 tal-Att dwar il-Finanzjament ta' Partiti Politiċi (Kap. 544), iżda hija biss kontrollata minn jew affiljata ma' partit politiku, jew l-ghan tagħha kif stabbilit fl-istatut jew fl-att kostitutiv tagħha huwa tali li jagħmilha mhux awtonoma;

(ii) fil-każ ta' organizzazzjonijiet li jippromwovu xi forma ta' benefiċċju pubbliku:

A. fil-każ ta' fondazzjonijiet li jistgħu jwettqu attivitajiet kummerċjali taht l-artikolu 31B, minflok ir-rekwiziti stabbiliti taht l-artikoli 13 sa 18 tal-Kodiċi Kummerċjali, għandhom japplikaw *mutatis mutandis* id-dispożizzjonijiet tal-Kapitolu IX u X tat-Taqsima V tat-Titolu I tal-Att dwar il-Kumpanniji (Kap. 386) u kwalunkwe referenzi għar-Registratur tal-Kumpanniji għandhom ikunu għar-Registratur għall-Persuni Ġuridiċi:

Iżda l-Ministru għandu jkollu s-setgħa li johroġ regolamenti dwar kwistjonijiet stabbiliti fl-artikoli 188 u 189 tal-Att dwar il-Kumpanniji (Kap. 386) u anke sabiex tiġi eskluża l-applikazzjoni ta' artikoli speċifiċi jew subartikoli tal-imsemmi Att u sabiex jiġi ddeterminat il-mod ta' kif għandhom japplikaw f'tali kuntest;

B. fil-każ ta' fondazzjonijiet privati kif mfissra fl-artikolu 31B, il-linjigwida maħruġa mill-Awtorità għas-Servizzi Finanzjarji f'Malta relatati mat-*trustees*;

Ċ fil-każ ta' assoċjazzjonijiet li jippromwovu forma ta' benefiċċju pubbliku, fejn il-membri kollha huma kumpanniji b'responsabbiltà limitata, għandhom japplikaw ukoll is-subparagrafi A u B; u

D. fil-każijiet l-oħra kollha għandhom japplikaw id-dispożizzjonijiet tas-subartikolu (1):

Iżda l-Kummissarju għandu jkollu s-setgħa li johroġ linjigwida għall-esklużjoni tal-applikazzjoni ta' tali assoċjazzjonijiet, meta dawn ikunu qed jippromwovu xi forma ta' interess privat, li tmur lil hinn mil-limitu ta' benefiċċju privat inċidentali jew anċillari kif imfisser skont it-termini tad-dispożizzjonijiet tal-Att dwar l-Organizzazzjonijiet Volontarji (Kap. 492).".

50. Minnufih wara s-subartikolu (4) tal-artikolu 11 tat-Tieni Skeda, għandu jiżdied is-subartikolu ġdid li ġej:

Emenda tal-artikolu 11 tat-Tieni Skeda.

"(5) Ir-Registratur għall-Persuni Ġuridiċi għandu jamministra r-Registru għall-Persuni Ġuridiċi li għandu jiffirma parti mir-Registru Pubbliku u, fin-nuqqas ta' dispożizzjonijiet li jipprovdu xort'oħra, għandu japplika *mutatis mutandis* l-Att dwar ir-Registru Pubbliku (Kap. 56), għar-registrazzjonijiet magħmula skont din l-Iskeda. F'każ ta' inkonsistenza, għandhom jissuperaw d-dispożizzjonijiet ta' din l-Iskeda. Kemm-il darba ma jiġix provdut xort'oħra, ir-registrazzjonijiet kollha magħmula skont din l-Iskeda għandhom isiru mar-Registratur għall-Persuni Ġuridiċi, kemm-il darba ma tkunx meħtieġa speċifikament ir-registrazzjoni fir-Registru Pubbliku.

51. L-artikolu 12 tat-Tieni Skeda għandu jiġi emendat kif ġej:

Emenda tal-artikolu 12 tat-Tieni Skeda.

(a) fis-subartikolu (2) tiegħu, il-kliem "registrati fir-Registru Pubbliku" għandhom jiġu sostitwiti bil-kliem "registrati mar-Registratur għall-Persuni Ġuridiċi";

(b) fis-subartikolu (4) tiegħu, minnufih wara l-kliem "li huma diġà registrati", għandhom jiżdiedu l-kliem "fir-registru pubbliku;"

(ċ) is-subartikolu (5) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(5) Għandha tkun kundizzjoni għar-registrazzjoni ta' kwalunkwe organizzazzjoni li l-amministratur jew amministraturi tagħha mhumiex residenti Malta b'mod ordinarju, li jinhatru u jiġu miżmuma b'mod permanenti, persuna li hija residenti Malta b'mod ordinarju, sabiex

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tagixxi bħala r-rappreżentanta lokali u dik ir-rappreżentanta għandu jkollha, b'applikazzjoni tal-ligi u minghajr il-ħtieġa ta' kwalunkwe att min-naħa tal-amministraturi:

(a) ir-rappreżentanza legali ta' dik l-organizzazzjoni għall-finijiet kollha ta' kwalunkwe ligi f'Malta; u

(b) ir-rappreżentanza legali ta' dik l-organizzazzjoni limitatament għall-iffirmar ta' formoli u notifiċi oħra lir-Registatur u awtoritajiet kompetenti oħra f'Malta u l-iskrizzjoni ta' strumenti u dokumenti oħra eżegwiti mill-amministraturi ma' Nutar Pubbliku f'Malta, meta dan ikun meħtieġ għall-osservanza għall-obbligazzjonijiet legali tal-organizzazzjoni f'Malta:

Iżda jekk l-amministraturi jaħtru persuna jew persuni oħra sabiex iwettqu l-atti stabbiliti fil-paragrafi (a) u (b), ir-rappreżentant lokali għandu biss jaġixxi b'konsultazzjoni ma' dawn il-persuni l-oħra meta dik il-persuna ma tkunx jew dawk il-persuni ma jkunux Malta, jew jekk jonqsu milli jwettqu tali funzjoni meta dan ikun mitlub minnhom fiż-żmien stabbilit fl-Iskeda.

Għall-finijiet ta' dan is-subartikolu, ir-residenza għandha tiġi stabbilita abbażi ta' evidenza dokumetarja."; u

(d) minnufih wara s-subartikolu (6) tiegħu, għandu jiżdied is-subartikolu ġdid li ġej:

"(7) Id-dispożizzjonijiet ta' din l-Iskeda li jirregolaw ir-registrazzjoni u s-sottomissjoni ta' dokumenti u noti ta' registrazzjoni fir-Registru għall-Persuni Ġuridiċi għandhom japplikaw għar-registrazzjoni u għas-sottomissjoni ta' atti mill-organizzazzjonijiet ġuridiċi kollha registrati li huma regolati minn din l-Iskeda u d-dispożizzjonijiet ta' kwalunkwe ligi oħra li tirregola s-sottomissjoni u r-registrazzjoni ta' dokumenti fir-registru pubbliku m'għandhomx japplikaw kemm-il darba ma jigix provdut xort' oħra.".

Emenda tal-artikolu 13 tat-Tieni Skeda.

52. L-artikolu 13 tat-Tieni Skeda għandu jiġi emendat kif ġej:

(a) fis-subartikolu (2) tiegħu, il-kliem "li għalihom ġiet stabbilita l-organizzazzjoni, liema għanijiet għandhom jinftiehem

b'mod ristrett.", għandhom jiġu sostiwiti bil-kliem "li għalihom giet stabbilita l-organizzazzjoni.";

(b) is-subartikolu (4) tiegħu għandu jiġi emendat kif ġej:

(i) minnufih wara l-kliem "minkejja li mhumiex reġistrati", għandhom jiżdiedu l-kliem mar-Registatur għall-Persuni Ġuridiċi";

(ii) fil-paragrafu (b) tiegħu, il-kelma "u" għandha tiġi mhassra;

(iii) il-paragrafu (ċ) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(ċ) organizzazzjonijiet barranin u internazzjonali li mhumiex obbligati jirreġistraw f'Malta; u

(d) fondazzjonijiet piji, legati taż-żwieġ u entitajiet ekkleżjastiċi, li għandhom jiġu regolati mill-igi applikabbli għall-forma partikolari tagħhom jew għan jew kategorija u, hliet kif hawnhekk provdut, m'għandhomx ikunu soġġetti għad-dispożizzjonijiet ta' din l-Iskeda."

53. L-artikolu 14 tat Tieni Skeda għandu jiġi emendat kif ġej:

Emenda tal-artikolu 14 tat-Tieni Skeda.

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

"(1) Kemm-il darba ma jiġix provdut xort'oħra f'din l-Iskeda, organizzazzjonijiet mhux reġistrati mhumiex persuni ġuridiċi iżda, skont dan is-Sub-Titolu, huma jgawdu mir-rikonoxximent bħala stat ta' fatt u minn setgħat sabiex jiksbu l-għanijiet stabbiliti li għalih ġew stabbiliti.";

(b) fis-subartikolu (2) tiegħu, il-kliem "li tista' teħtieġ, strettament biex jinkisbu l-għanijiet espressi tal-organizzazzjoni", għandhom jiġu sostitwiti bil-kliem "li tista' teħtieġ biex jinkisbu l-għanijiet espressi tal-organizzazzjoni u l-għanijiet kollha anċillari";

(ċ) is-subartikolu (5) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(5) Organizzazzjoni li mhix reġistrata tista' tistabbilixxi organizzazzjonijiet oħra, kemm-il darba l-

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organizzazzjonijiet l-oħra huma registrati."; u

(d) is-subartikolu (6) tiegħu għandu jiġi mħassar.

Emenda tal-
artikolu 15 tat-
Tieni Skeda.

54. Is-subartikoli (3) u (4) tal-artikolu 15 tat-Tieni Skeda għandhom jiġu sostitwiti b'dan li ġej:

"(3) Kull proprjetà akkwistata bi kwalunkwe mod minn organizzazzjoni mhux registrata għandha titqies li hija miżmuma minn, jew għall-interessi li ġejjin, skont il-każ, meta tkun ġiet stabbilita:

(a) bħala organizzazzjoni għall-benefiċċju privat, kemm-il darba ma jkunx provdut xort'oħra fl-istatut tagħha jew fi kwalunkwe dokument bil-miktub iffirmit mill-promoturi u awtentikat minn Nutar Pubbliku, dik il-proprjetà għandha titqies li hija miżmuma għall-promotur taht titolu ta' proprjetà jew għall-promoturi f'komunjoni ta' proprjetà, skont il-proporzjoni tal-kontribuzzjoni tagħhom lil organizzazzjoni mhux registrata;

(b) parzjalment għal benefiċċju privat u parzjalment għal skop soċjali jew skop pubbliku ieħor, kemm-il darba ma jiġix provdut xort'oħra fl-istatut jew fi kwalunkwe dokument bil-miktub iffirmit mill-promoturi u awtentikat minn Nutar Pubbliku, dik il-proprjetà għandha titqies li hija miżmuma taht titolu ta' proprjetà għall-benefiċċju privat, kif soġġett għat-twettiq, mill-promoturi jew l-amministraturi, bħala fiduċjarji, tal-iskop soċjali jew skop pubbliku ieħor, sakemm dak l-iskop jintlaħaq, jiġi eżawrit jew isir impossibbli jew jiġi indirizzat permezz tal-appropriazzjoni jew dotazzjoni ta' parti suffiċjenti tal-proprjetà lill-organizzazzjoni għall-benefiċċju pubbliku registrata bi skop simili;

(ċ) unikament għal skop soċjali jew skop pubbliku ieħor, jew fil-każ ta' organizzazzjonijiet reliġjużi u legati taż-żwieġ u organizzazzjonijiet pubbliċi f'forma ta' fondazzjonijiet, skopijiet reliġjużi jew pubbliċi rispettivament, dik il-proprjetà għandha tinzamm mill-promoturi jew amministraturi bħala fiduċjarji għall-iskop biss stabbilit fl-istatut jew fi' xi liġi speċjali li tista' tkun applikabbli għaliha.

(4) Meta tiġi xolta organizzazzjoni mhux registrata li hija:

(a) stabbilita bħala organizzazzjoni għall-benefiċċju pubbliku, il-proprjetà tal-organizzazzjoni għandha tiġi

applikata skont l-artikolu 32;

(b) stabbilita bhala organizzazzjoni għall-benefiċċju privat, il-proprjetà għandha tiġi mqassma skont it-termini tal-istatut, u fin-nuqqas, lill-promoturi u lill-eredi tagħhom:

Iżda kwalunkwe persuna li għandha dritt ta' komunjoni fi proprjetà ta' organizzazzjoni mhux reġistrata, tista' biss titlob id-diviżjoni ta' dak il-patrimonju u kwalunkwe promotur jew amministratur jista' biss ixolji l-organizzazzjoni u, jew jirtira l-kontribuzzjoni tiegħu minn organizzazzjoni mhux reġistrata, meta l-obbligazzjonijiet kollha fil-konfront ta' terzi persuni jkunu twettqu u, jew l-għanijiet intlaħqu, ġew eżawriti jew saru impossibbli."

55. L-artikolu 16 tat-Tieni Skeda għandu jiġi emendat kif ġej:

Emenda tal-artikolu 16 tat-Tieni Skeda.

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

"(1) Il-promoturi jew membri ta' organizzazzjoni reġistrata, jew fil-każ ta' fondazzjoni reġistrata, il-fundaturi, id-donaturi jew il-benefiċjarji m'għandhomx ikunu responsabbli għall-obbligazzjonijiet ta' tali organizzazzjoni, hlief sa fejn ikunu espressament qablu li jkunu hekk responsabbli. Ir-responsabbiltà ta' dawn il-persuni fil-konfront ta' terzi, għall-obbligazzjonijiet tal-organizzazzjoni għandhom ikunu stabbiliti skont kwalunkwe regoli li jistgħu jkunu applikabbli għall-forma ġuridika tal-organizzazzjoni skont it-termini ta' kwalunkwe liġi speċjali jew, fin-nuqqas ta' xi liġi speċjali, id-dispożizzjonijiet ta' din l-Iskeda.";

(b) fis-subartikolu (2) tiegħu, minnufih wara l-kliem "Il-promoturi u l-membri ta' organizzazzjoni reġistrata", għandhom jiżdiedu l-kliem "jew fil-każ ta' fondazzjoni reġistrata, il-fundaturi, id-donaturi jew il-benefiċjarji";

(ċ) fis-subartikolu (3) tiegħu, il-kliem "tiddikjara l-fundaturi, il-promoturi, l-amministraturi jew il-membri", għandhom jiġu sostitwiti bil-kliem "tiddikjara l-fundaturi, il-promoturi, l-amministraturi, il-benefiċjarji jew il-membri";

(d) fil-paragrafu (d) tas-subartikolu (4) tiegħu, il-kelma "interessi:" għandha tiġi sostitwita bil-kelma "interessi;"; u

(e) minnufih wara l-paragrafu (d) tas-subartikolu (4) tiegħu, għandu jiżdied il-paragrafu ġdid li ġej:

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"(e) lir-Registratur għall-pagament ta' kwalunkwe miżati li jistgħu jkunu dovuti mill-organizzazzjoni, hekk kif l-organizzazzjoni tonqos milli thallas l-istess fi żmien tliet xhur mid-data li fiha jkunu saru dovuti:".

Emenda tal-artikolu 17 tat-Tieni Skeda.

56. L-artikolu 17 tat-Tieni Skeda għandu jiġi emendat kif ġej:

(a) is-subartikolu (3) tiegħu għandu jiġi mħassar;

(b) is-subartikoli (1) u (2) tiegħu għandhom jiġu enumerati mill-ġdid bħala s-subartikoli (2) u (3) rispettivament;

(ċ) minnufih wara s-subartikolu (2) tiegħu, kif enumerat mill-ġdid, għandu jiżdied is-subartikolu ġdid li ġej:

"(1) Kull membru, donatur, jew benefiċjarju involut fi kwalunkwe organizzazzjoni għall-benefiċċju pubbliku mhux reġistrata, m'għandux ikun responsabbli għall-obbligazzjonijiet ta' tali organizzazzjoni ħlief kif ġej:

(a) għandu jkun responsabbli sa fejn ikun espressament qabel li jkun hekk responsabbli fl-istatut jew kwalunkwe dokument iffirmat minnu;

(b) għandu jkun responsabbli għall-obbligazzjonijiet tal-organizzazzjoni jekk dawn ikunu ġew mwettqa minnu f'isem l-organizzazzjoni favur terzi persuni fi żmien meta kien jaf jew kellu jkun jaf li ma kien hemm ebda prospett raġonevoli li l-organizzazzjoni tevita li tiġi xolta minħabba l-insolvenza tagħha; u

(ċ) għandu jkun responsabbli jekk ikun ħati ta' frodi jew mala fidi meta wettaq kwalunkwe obbligazzjonijiet għan-nom tal-organizzazzjoni.";

(d) is-subartikolu (4) tiegħu għandu jiġi enumerat mill-ġdid bħala s-subartikolu (6); u

(e) minnufih wara s-subartikolu (3) tiegħu, kif enumerat mill-ġdid, għandhom jiżdiedu s-subartikoli ġodda li ġejjin:

"(4) Ir-responsabbiltà tal-membri u tal-amministraturi ta' organizzazzjoni mhux reġistrata li għandha forma ġuridika partikolari, fir-rigward ta' terzi persuni, għall-obbligazzjonijiet tal-organizzazzjoni mhux reġistrata, għandha tiġi stabbilita skont ir-regoli li jistgħu jkunu applikabbli għall-forma ġuridika tal-organizzazzjoni

taħt xi liġi speċjali, jew fin-nuqqas ta' xi liġi speċjali, skont id-dispożizzjonijiet ta' dan l-artikolu.

(5) Kwalunkwe dispożizzjoni fl-istatut ta' organizzazzjoni mhux registrata jew kwalunkwe ftehim mal-organizzazzjoni mhux registrata li jeżonera lill-amministratur mir-responsabbiltà għal kondotta hażina volontarja, negligenza grossa jew ksur tad-dover huwa null u bla effett."

57. L-artikolu 19 tat-Tieni Skeda għandu jiġi emendat kif ġej:

Emenda tal-artikolu 19 tat-Tieni Skeda.

(a) fil-verżjoni Ingliża, fis-subartikolu (4) tiegħu, il-kliem "shall *mutatis mutandis* apply to unregistered organisation" għandhom jiġu sostitwiti bil-kliem "shall *mutatis mutandis* apply to an unregistered organisation"; u

(b) is-subartikolu (8) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(8) Minkejja d-dispożizzjonijiet tal-artikolu 2, ir-responsabbiltà tal-organizzazzjonijiet kollha għall-benefiċċju pubbliku barranin u internazzjonali li –

(a) joperaw f'Malta, inkluż jekk jiġbru fondi f'Malta; jew

(b) jipprovdu servizzi disponibbli lill-pubbliku f'Malta,

kif ukoll dik tal-amministraturi tagħhom għandha tkun soġġetta għad-dispożizzjonijiet ta' din l-Iskeda, għal dak li għandu x'jaqsam mar-responsabbiltà tagħhom f'Malta, bla ħsara madankollu għal kwalunkwe dispożizzjonijiet ta' xi liġi speċjali applikabbli għalihom."

58. L-artikolu 20 tat-Tieni Skeda għandu jiġi emendat kif ġej:

Emenda tal-artikolu 20 tat-Tieni Skeda.

(a) il-paragrafu (b) tas-subartikolu (2) għandu jiġi sostitwit b'dan li ġej:

"(b) sussegwentement permezz ta' riżoluzzjoni tal-amministraturi abbażi ta' setgħa li tingħata lilhom bl-istatut u f'kull każ għandha tiġi stabbilita:

(i) b'referenza għall-ishma, interessi jew drittijiet oħra tal-membri jew benefiċjarji jew

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b'referenza għall-għanijiet, jew b'referenza kemm għal dawn id-drittijiet jew għanijiet; jew

(ii) għal għanijiet purament amministrattivi li jsostnu l-għanijiet prinċipali jew l-operat tal-organizzazzjoni; u

(iii) permezz ta' għanijiet oħra li għandhom ikunu konsistenti mal-għanijiet prinċipali tal-organizzazzjoni.";

(b) is-subartikolu (9) għandu jiġi mħassar;

(ċ) is-subartikoli (10) u (11) tiegħu għandhom jiġu enumerati mill-ġdid bħala s-subartikoli (17) u (18) rispettivament;

(d) is-subartikoli (3), (4), (5), (6), (7) u (8) tiegħu għandhom jiġu enumerati mill-ġdid bħala s-subartikoli (7), (8), (9), (10), (11) u (12) rispettivament.

(e) minnufih wara s-subartikolu (2) tiegħu għandhom jiżdiedu s-subartikoli ġodda li ġejjin:

"(3) Jistgħu jiġu stabbiliti ċelluli segregati, hliet għal dawk stabbiliti għal raġunijiet purament amministrattivi:

(a) fil-każ ta' organizzazzjoni għall-benefiċċju pubbliku, sa fejn dawn ikunu stabbiliti biss għal għanijiet ta' benefiċċju pubbliku u, jew benefiċjarji ta' interess pubbliku; u

(b) fil-każ ta' organizzazzjoni għall-benefiċċju privat, sa fejn dawn ikunu stabbiliti biss għal għanijiet legittimi skont l-Att dwar l-Organizzazzjonijiet Volontarji (Kap. 492), inklużi:

(i) kwalunkwe għanijiet ta' benefiċċju pubbliku jew benefiċjarji ta' interess pubbliku; jew

(ii) kwalunkwe għanijiet pubbliċi stabbiliti għat-tweqqif ta' kwalunkwe mill-attivitajiet imsemmija fl-artikolu 32A, kemm-il darba dawn l-attivitajiet huma mwettqa biss sabiex jintlaħqu l-għanijiet prinċipali u l-oġettivi tal-organizzazzjoni.

(4) Meta ċ-ċellula segregata tiġi stabbilita permezz

tal-istatut tal-organizzazzjoni, għandu jiġi preżunt li l-amministraturi għandhom is-setgħa li jissupplimentaw dak l-istatut permezz ta' linjigwida addizzjonali dwar l-għanijiet u l-attivitajiet taċ-ċellula b'mod li jsostni l-oġettivi tal-organizzazzjoni.

(5) Iċ-ċelluli segregati għandhom, wara li jitwaqqfu, jiġu regolati jew fl-istatut tal-organizzazzjoni u, jew permezz ta' statut taċ-ċellula. L-istatut taċ-ċellula għandu jkun konsistenti mal-istatut tal-organizzazzjoni. L-istatut tal-organizzazzjoni għandu japplika fir-rigward ta' kwalunkwe kwistjoni li mhix regolata fl-istatut taċ-ċellula u għandu jissupera fuq l-istatut taċ-ċellula f'każ ta' inkonsistenza.

(6) L-istatut taċ-ċellula għandu:

(a) jistabbilixxi il-kwistjonijiet li ġejjin:

(i) l-isem taċ-ċellula;

(ii) l-għanijiet u l-oġettivi taċ-ċellula;

(iii) il-mod ta' ġestjoni tal-ħwejjeġ tagħha mill-amministraturi, b'mod dirett jew permezz ta' kumitat amministrattiv, li fi kwalunkwe każ m'għandux ikollu r-rappreżentanza legali taċ-ċellula;

(b) jkun fil-forma ta' riżoluzzjoni jew linjagwida tal-amministraturi;

(ċ) fil-każ ta' ċellula għall-benefiċjarji, jew isemmi l-ismijiet tal-benefiċjarji jew il-klassifikazzjoni tal-benefiċjarji jew, fin-nuqqas ta' tali indikazzjoni, dikjarazzjoni li ċ-ċellula ġiet imwaqqfa għall-benefiċċju tal-benefiċjarji. F'dan l-aħħar każ, il-benefiċjarji għandhom ikunu indikati fi strument bil-miktub, li mhux bilfors ikun jiffirma parti mill-istatut taċ-ċellula, li jissejjaħ "dikjarazzjoni taċ-ċellula benefiċjarja" u li għandu jiġi ffirmat mill-amministraturi kollha fil-preżenza ta' nutar pubbliku, u d-dispożizzjonijiet kollha fl-Iskeda relatati mad-dikjarazzjonijiet dwar il-benefiċjarji għandhom japplikaw *mutatis mutandis* għad-dikjarazzjonijiet taċ-ċellula benefiċjarja; u

(d) ikun konformi mar-rekwiżiti ta' dan l-

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artikolu.";

(f) is-subartikolu (7) tiegħu, kif enumerat mill-ġdid, għandu jiġi sostitwit b'dan li ġej:

"(7) Ċellula segregata għandu jkollha l-isem jew l-identifikazzjoni distinti tagħha u għandha tirreferi għall-organizzazzjoni li minnha tiffirma parti fin-negozji kollha tagħha, iżda mhix persuna ġuridika u m'għandhiex tkun eliġibbli għar-registrazzjoni bħala persuna ġuridika. Taht l-ebda ċirkustanzi ċ-ċellula ma għandha tbiddel isimha jew l-identifikazzjoni tagħha.";

(g) fil-paragrafu (a) tal-artikolu (8) tiegħu, kif enumerat mill-ġdid, il-kliem "biex jinkiseb xi għan definit wieħed jew aktar li jkunu konsistenti mal-għanijiet prinċipali tal-organizzazzjoni", għandhom jiġu mħassra;

(h) fis-subartikolu (11) tiegħu, kif enumerat mill-ġdid, il-kliem "L-effetti legali msemija fis-subartikolu (6) ma jkunux jeżistu ħlief meta -", għandhom jiġu sostitwiti bil-kliem "L-effetti legali msemijin fis-subartikolu (10) għandhom jeżistu biss meta -";

(i) minnufih wara s-subartikolu (12) tiegħu, kif enumerat mill-ġdid, għandhom jiżdiedu s-subartikoli ġodda li ġejjin:

"(13) Ir-regoli, inklużi iżda mhux limitati għar-regoli applikabbli għax-xoljiment u l-istralċ, applikabbli għall-forma ġuridika tal-organizzazzjoni li fi hdanha hija stabbilita ċ-ċellula, għandhom japplikaw *mutatis mutandis* għaċ-ċellula daqs li kieku ċ-ċellula kienet hija stess organizzazzjoni registrata tal-istess forma ġuridika b'dawk il-bidliet meħtieġa sabiex jiġi akkomodat il-fatt li ċ-ċellula mhix persuna ġuridika.

(14) Ix-xoljiment ta' ċellula, sew jekk volontarju kif ukoll minħabba in-nuqqas ta' kapaċità li twettaq l-obbligazzjonijiet tagħha, bl-ebda mod ma għandu jaffettwa l-operat kontinwu tal-organizzazzjoni li tkun waqfitha jew ta' ċelluli oħra u l-ħatra ta' likwidatur għal xi ċellula m'għandhiex taffettwa s-setgħat tal-amministraturi fir-rigward tal-organizzazzjoni jew ta' xi ċelluli oħra. Meta ċellula tkun qed tiġi stralċjata u jiġi mahtur likwidatur, is-setgħat tal-amministraturi tal-organizzazzjoni għandhom jieqfu u jiġu vestiti fil-likwidatur, fir-rigward biss ta' dik iċ-ċellula.

(15) Kwalunkwe proċedimenti ta' stralċ fir-rigward ta' organizzazzjoni li fi hdanha jkunu stabbiliti ċ-ċelluli, għandhom josservaw l-istatus legali ta' kull ċellula bħala patrimonju li huwa separat mill-assi u mir-responsabbiltajiet tal-organizzazzjoni u ċelluli oħra tal-organizzazzjoni u mill-assi u r-responsabbiltajiet tal-organizzazzjoni li ma jkunux attribwibbli għall-ebda ċellula.

(16) Ċellula għandha tiġi amministrata mill-amministraturi tal-organizzazzjoni li jistgħu, jekk awtorizzati mill-istatut, jistabbilixxu kumitat amministrattiv b'referenza għal ċellula waħda jew aktar, u l-amministraturi jistgħu jiddelegaw kwalunkwe mis-setgħat tagħhom lil dak il-kumitat amministrattiv jew kumitati, skont il-każ. Dik id-delega:

(a) bl-ebda mod ma għandha tirrestringi s-setgħat tal-amministraturi tal-organizzazzjoni fir-rigward taċ-ċellula; u

(b) m'għandhiex tinkludi ir-rappreżentanza legali jew ġudizzjarja fir-rigward tal-assi u tar-responsabbiltajiet taċ-ċellula.";

(j) fis-subartikolu (18) tiegħu, kif enumerat mill-ġdid, il-kliem "jew hija inċidentali għal dawk il-ħwejjeg, inkluż ix-xoljiment ta' ċelluli u dwar it-trasferiment ta' attiv ta' ċellula lil organizzazzjoni oħra, kemm jekk ikollha jew ma jkollhiex ċelluli segregati, u l-effett legali ta' trasferiment bħal dan.", għandhom jiġu sostitwiti b'dan li ġej:

", inkluż:

(a) kwalunkwe formalitajiet li huma meħtieġa sabiex tinholq iċ-ċellula permezz tal-appropriazzjoni tal-assi li jkunu diġà jappartjenu lill-organizzazzjoni, liċ-ċellula;

(b) ix-xoljiment taċ-ċelluli;

(c) it-trasferiment tal-assi ta' ċellula lil organizzazzjoni oħra, biċ-ċelluli jew mingħajr ċelluli segregati;

(d) l-effetti legali ta' dawn it-trasferimenti; u

(e) il-kwistjonijiet kollha relatati jew inċidentali għall-istess."; u

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(k) minnufih wara s-subartikolu (18) tiegħu, kif enumerat mill-ġdid, għandu jiżdied is-subartikolu ġdid li ġej:

"(19) Il-Ministru jista' wkoll jagħmel regolamenti sabiex jirregola it-twaqqif ta' ċelluli segregati b'personalità ġuridika."

Żjieda ta' artikoli ġodda fit-Tieni Skeda.

59. Minnufih wara l-artikolu 20 tat-Tieni Skeda, għandhom jiżdiedu l-artikoli ġodda li ġejjin:

"Trasferiment ta' ċelluli.

20A. (1) Huwa legali li ċellula ta' organizzazzjoni partikolari, hawn aktar 'il quddiem imsejha l-"organizzazzjoni li titrasferixxi", tiġi ttrasferita lil organizzazzjoni oħra, hawn aktar 'il quddiem imsejha l-"organizzazzjoni li tirċievi", meta:

(a) jiġi hekk riżolt bil-miktub mill-amministraturi tal-organizzazzjoni li titrasferixxi, skont setgħa li tingħata lilhom bl-istatut;

(b) il-kredituri taċ-ċellula tal-organizzazzjoni li titrasferixxi ma joġġezzjonawx għal dan it-trasferiment, wara avviż pubbliku ta' mill-inqas tletin (30) ġurnata dwar l-intenzjoni tat-trasferiment;

(ċ) l-organizzazzjoni li tirċievi għandha l-istess forma ġuridika u hija tal-istess għan jew kategorija bħal dik tal-organizzazzjoni li titrasferixxi;

(d) l-amministraturi tal-organizzazzjoni li tirċievi jirriżolvu bil-miktub li jaċċettaw dik iċ-ċellula skont setgħa li tingħata lilhom bl-istatut;

(e) jingħata avviż relatat mat-trasferiment taċ-ċellula lir-Registatur mill-amministraturi tal-organizzazzjoni li tirċievi u r-Registatur għandu:

(i) jinnota l-avviż ta' trasferiment taċ-ċellula fir-rekords tal-organizzazzjoni li titrasferixxi; u

(ii) joħroġ ċertifikat ġdid relatat mat-trasferiment ta' dik iċ-ċellula u jinnota dak it-trasferiment fir-rekords tal-organizzazzjoni li tirċievi; u

(f) ikun meħtieġ, taħt xi liġi speċjali, li jinkisbu l-approvazzjoni jew il-kunsens ta' kwalunkwe awtorità regolatorja jew governattiva għal tali azzjoni, u dak il-kunsens jew approvazzjoni jinkisbu.

(2) L-assi u r-responsabbiltajiet taċ-ċellula għandhom jikkostitwixxu partimonju distint li għandu jkun distint mill-assi u r-responsabbiltajiet tal-organizzazzjoni li tirċievi jew ta' ċelluli oħra ta' dik l-organizzazzjoni, jekk ikun hemm.

(3) It-trasferiment taċ-ċellula ma jintitolax lill-kredituri tal-organizzazzjoni li tirċievi li jkollhom dritt għall-assi taċ-ċellula ttrasferita jew tal-organizzazzjoni li titrasferixxi.

(4) Id-drittijiet u l-obbligazzjonijiet kollha tal-organizzazzjoni u ta' kwalunkwe partijiet terzi m'għandhomx jibqgħu dawk tal-organizzazzjoni li titrasferixxi fir-rigward taċ-ċellula u għandhom jibqgħu bħala drittijiet u obbligazzjonijiet mhux affetwati tal-organizzazzjoni li tirċievi fir-rigward taċ-ċellula bl-applikazzjoni tal-liġi, b'effett mid-data tan-notifika lir-Registatur skont is-subartikolu (1)(e), minkejja n-nuqqas ta' arranġamenti jew kunsensi li kienu jkunu meħtieġa xort'oħra sabiex it-trasferiment ikun legalment effettiv għal dawk l-għanijiet.

(5) Mat-tletsija tat-trasferiment, l-amministraturi tal-organizzazzjoni li tirċievi għandhom jinnotifikaw bil-miktub lill-partijiet kolha interessati li jkunu jafu bihom fir-rigward tat-trasferiment ta' dik iċ-ċellula mill-organizzazzjoni li titrasferixxi lill-organizzazzjoni li tirċievi u jipprovdu d-dettalji ta' isimha u l-għan tagħha u informazzjoni oħra materjali.

(6) Meta ċellula tiġi ttrasferita għandha żżomm isimha jew l-identifikazzjoni tagħha minkejja t-trasferiment taċ-ċellula skont dan l-artikolu, iżda l-amministraturi tal-organizzazzjoni li tirċievi tista' tidhol f'dikjarazzjoni unilaterali permezz ta' att pubbliku u tirreġistra dan l-avveniment fir-reġistru pubbliku li jkun japplika.

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(7) It-trasferiment ta' ċellula kif stabbilit f'dan l-artikolu jikkostitwixxi bdil fiduċjarju u għandu jiġi regolat permezz tad-dispożizzjonijiet tal-artikolu 1124Ċ(4) tal-Kodiċi li jirregola s-suċċessjoni tal-obbligazzjonijiet fiduċjarji.

Twaqqif ta' ċellula f'organizzazzjoni ġdida.

20B. (1) Huwa legali li ċellula ta' organizzazzjoni tiġi mwaqqfa bħala organizzazzjoni ġdida, bl-assi u r-responsabbiltajiet taċ-ċellula li jsiru l-patrimonju tal-organizzazzjoni l-ġdida jew parti minnha.

(2) L-isem tal-organizzazzjoni l-ġdida għandu jirrifletti kemm jista' jkun l-isem jew l-identifikazzjoni taċ-ċellula, għall-osservanza għal-liġi applikabbli fir-rigward.

(3) Din l-azzjoni tista' tittiehed taht dawk il-kundizzjonijiet li jistgħu jkunu japplikaw mill-amministraturi tal-organizzazzjoni eżistenti permezz ta' riżoluzzjoni tal-bord tal-amministraturi, unikament jekk l-istatut tal-organizzazzjoni jipprovdi għal din is-setgħa.

(4) Iċ-ċellula għandha tiġi stabbilita bħala organizzazzjoni ġdida, bl-osservanza mill-amministraturi tar-rekwiżiti applikabbli għat-twaqqif ta' organizzazzjoni ġdida tal-istess forma ġuridika li fi hndha iċ-ċellula tkun attwalment giet stabbilita, inkluż ir-registrazzjoni tagħha mar-Registatur, u jekk iċ-ċellula tkun giet imwaqqfa b'referenza għall-membri, il-membri għandhom jiffirmaw l-istatut tal-organizzazzjoni l-ġdida, u:

(a) l-amministraturi li jkunu fil-kariga għandhom ikunu l-amministraturi tal-organizzazzjoni l-ġdida, sakemm ma jinhatrux amministraturi godda fid-dokumenti kostituttivi meta iċ-ċellula tkun qed tiġi stabbilita bħala organizzazzjoni ġdida;

(b) l-għanijiet u l-benefiċjarji, jekk ikun hemm, tal-organizzazzjoni l-ġdida għandhom ikunu dawk taċ-ċellula;

(ċ) id-drittijiet u l-obbligazzjonijiet tal-organizzazzjoni u kwalunkwe partijiet terzi m'għandhomx jibqgħu dawk tal-organizzazzjoni fir-rigward taċ-ċellula u għandhom jibqgħu bhala drittijiet u obbligazzjonijiet mhux affetwati tal-organizzazzjoni l-ġdida b'applikazzjoni tal-liġi, b'effett mid-data tan-notifika lir-Registatur skont is-subartikolu (6), u r-registrazzjoni tal-organizzazzjoni skont is-subartikolu (7), minkejja n-nuqqas ta' kwalunkwe arrangamenti jew kunsensi li kienu jkunu meħtieġa xort'oħra sabiex it-trasferiment ikun legalment effettiv għal dawk l-għanijiet; u

(d) it-twaqqif ta' ċellula bhala organizzazzjoni ġdida kif stabbilit f'dan l-artikolu jistabbilixxi bdil fiduċjarju u għandu jiġi regolat permezz tad-dispożizzjonijiet tal-artikolu 1124D tal-Kodiċi li jirregola s-suċċessjoni tal-obbligazzjonijiet fiduċjarji.

(5) Il-kredituri ta' ċellula mwaqqfa bhala organizzazzjoni ġdida għandhom jingħataw l-opportunità li joġġezzjonaw għal dak it-twaqqif wara avviż bil-miktub minn tal-inqas wara tletin (30) ġurnata minn l-intenzjoni ta' dak it-twaqqif u dan biss jekk il-forma ġuridika l-ġdida li ċ-ċellula ser ikun ser ikollha johloq limitazzjonijiet fuq ir-responsabbiltajiet tal-organizzazzjoni jew l-amministraturi tagħha jew membri li jnaqqsu d-drittijiet tal-kredituri meta mqabbel ma' dawk li jkunu jissuperaw b'referenza għaċ-ċellula.

(6) L-amministraturi għandhom ikunu marbuta li jinnotifikaw lir-Registatur permezz tal-formola stabbilita meta ċellula ma tibqax tiffirma parti mill-organizzazzjoni skont dan l-artikolu u għandha ċċedi kwalunkwe ċertifikat maħruġ mir-registatur relatat maċ-ċellula.

(7) Ir-Registatur għandu jirreġistra fir-Registru n-notifika tat-tneħħija ta' ċellula minn organizzazzjoni mill-amministraturi u sussegwentement, bla ħsara għas-subartikolu (8), għandu jipproċedi minnufih għar-registrazzjoni tal-organizzazzjoni l-ġdida fir-Registru. Dan għandu japplika wkoll meta ċ-ċellula tkun qiegħda tiġi registrata skont liġi speċjali.

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(8) Meta l-organizzazzjoni l-ġdida tiegħu forma ġuridika li tkun irregolata minn liġi speċjali li tipprovdi għal reġistrazzjoni li hija differenti minn dan l-artikolu, ir-Registratur għandu b'mod ulterjuri joħroġ il-konferma tiegħu li huwa ġie nnotifikat dwar it-twaqqif taċ-ċellula bħala organizzazzjoni ġdida u huwa biss skont din il-konferma li l-organizzazzjoni l-ġdida għandha tiġi registrata fir-registru rilevanti.

(9) Mar-reġistrazzjoni stabbilit, l-amministraturi tal-organizzazzjoni l-ġdida għandhom jinnotifikaw bil-miktub lill-partijiet kollha interessati li jkunu jafu bihom, fir-rigward tat-twaqqif taċ-ċellula bħala organizzazzjoni ġdida.

Ogġezzjonijiet mill-kredituri.

20Ċ. Skont l-artikoli preċedenti, kwalunkwe kreditur ta' ċellula, jista' fi żmien hmistax (15)-il ġurnata ta' xogħol minn meta jkun irċieva l-pubblikazzjoni ta' kwalunkwe avviż maħruġ skont l-artikoli preċedenti, permezz ta' rikors ġuramentat fil-Qorti, joġġezzjona –

(a) għat-trasferiment taċ-ċellula mill-organizzazzjoni li tittrasferixxi, lill-organizzazzjoni li tirċievi; jew

(b) għat-twaqqif ta' ċellula f'organizzazzjoni ġdida,

u, jekk tintwera raġuni motivata sabiex it-trasferiment ma jkunx effettiv, il-Qorti għandha jew tilqa' t-talba tal-kreditur, tawtorizza t-trasferiment jew it-twaqqif imsemmijin hawn qabel fuq l-għoti ta' sigurtà suffiċjenti jew tagħti ordnijiet oħra kif jidhrilha xierqa.

Setgħa li jagħmel regolamenti.

20D. Il-Ministru jista' jagħmel regolamenti sabiex jirregola t-trasferiment ta' ċelluli minn organizzazzjoni għall-oħra jew it-twaqqif ta' ċellula bħala organizzazzjoni ġdida, sabiex jistabbilixxi formoli u notifiki, jistabbilixxi regoli għall-protezzjoni ta' terzi persuni u b'mod ġenerali għall-implimentazzjoni aħjar tad-dispożizzjonijiet preċedenti.

Pubblikazzjoni ta' notifiki.

20E. Għall-finijiet tan-notifiki stabbiliti fl-artikoli 20A u 20B, huwa suffiċjenti jekk l-amministraturi jippubblikaw l-avviżi relattivi kif ġej:

(a) jekk l-organizzazzjoni għandha kredituri Malta, f'zewġ gazzetti ta' kuljum pubblikati Malta, waħda bil-Malti u waħda bl-Ingliż; jew

(b) fil-każ ta' organizzazzjoni li m'għandhiex il-kredituri prinċipali tagħha Malta, f'zewġ gazzetti ta' distribuzzjoni ġenerali, waħda ppubblikata Malta bl-Ingliż u l-oħra ppubblikata fil-pajjiż fejn il-kredituri prinċipali tal-organizzazzjoni iwettqu n-negozju tagħhom bil-lingwa tal-post tan-negozju."

60. Minnufih wara s-subartikolu (5) tal-artikolu 21 tat-Tieni Skeda, għandu jiżdied is-subartikolu ġdid li ġej:

Emenda tal-artikolu 21 tat-Tieni Skeda.

"(6) Huwa legittimu li organizzazzjoni ġuridika li hija registrata fir-Registru għall-Persuni Ġuridiċi tiġi mibdula f'ċellula ta' organizzazzjoni oħra multiċellulari u dawn wara proċeduri li jistgħu jiġu stabbiliti f'regolamenti magħmula mill-Ministru responsabbli għall-gustizzja skont dan l-artikolu."

61. L-artikolu 22 tat-Tieni Skeda għandu jiġi emendat kif ġej:

Emenda tal-artikolu 22 tat-Tieni Skeda.

(a) fis-subartikolu (1) tiegħu, il-kliem "id-dispożizzjonijiet tal-Att dwar il-Kumpanniji", għandhom jiġu sostitwiti bil-kliem "id-dispożizzjonijiet tat-Titolu II tat-Taqsima VIII tal-Att dwar il-Kumpanniji";

(b) is-subartikolu (2) tiegħu għandu jiġi enumerat mill-ġdid bħala s-subartikolu (4); u

(ċ) minnufih wara s-subartikolu (1) tiegħu, għandhom jiżdiedu s-subartikoli ġodda li ġejjin:

"(2) Għall-finijiet tal-applikazzjoni *mutatis mutandis* tad-dispożizzjonijiet tal-artikolu 345 tal-Att dwar il-Kumpanniji, għall-amalgamazzjoni ta' zewġ assoċjazzjonijiet jew aktar li waħda minnhom tkun minn tal-inqas registrata, kwalunkwe riżoluzzjoni straordinarja li tista' tkun meħtieġa skont l-Att dwar il-Kumpanniji, għandha tkun riżoluzzjoni straordinarja meħuda u mgħoddija mil-laqgħa ġenerali tal-assocjazzjoni skont id-dispożizzjonijiet li jirregolaw il-mod ta' kif jittieħdu u jiġu mgħoddija r-riżoluzzjonijiet straordinarji, kif ikun hemm fl-istatut jew fl-istrument kostitutiv tal-imsemmija assoċjazzjoni u d-dispożizzjonijiet tal-artikolu 135(1) u (3) tal-Att dwar il-Kumpanniji m'għandhomx japplikaw:

Kap. 386.

C 1404

Kap. 386. Iżda jekk l-istatut jew l-istrument kostitutiv tal-assocjazzjoni ma jkun fihom ebda dispozizzjonijiet li jirregolaw il-mod ta' kif jittiehdu u jiġu mgħoddija r-riżoluzzjonijiet straordinarji, id-dispożizzjonijiet tal-artikolu 135(3) tal-Att dwar il-Kumpanniji għandhom jirregolaw *mutatis mutandis* il-mod ta' kif tittiehed u, jew tiġi mgħoddija tali riżoluzzjoni straordinarja.

Kap. 386. (3) L-artikolu 348 tal-Att dwar il-Kumpanniji m'għandux japplika għall-amalgamazzjoni ta' żewġ assocjazzjonijiet jew aktar."; u

(d) minnufih wara s-subartikolu (4) tiegħu, kif enumerat mill-ġdid, għandu jiżdied is-subartikolu ġdid li ġej:

Kap. 386. "(5) L-artikolu 339 u 370 tal-Att dwar il-Kumpanniji dwar il-ħruġ u l-kanċellament ta' ċertifikati fil-kuntest ta' amalgamazzjonijiet u diviżjonijiet għandhom japplikaw *mutatis mutandis*."

Žjieda ta' artikolu ġdid fit-Tieni Skeda. **62.** Minnufih wara l-artikolu 22 tat-Tieni Skeda, għandu jiżdied l-artikolu ġdid li ġej:

"Kontinwazzjoni f'Malta ta' organizzazzjoni barranija. 22A. (1) Organizzazzjoni ffurmata u registrata taħt il-liġijiet ta' stat fi ħdan l-Unjoni Ewropea jew iż-Żona Ekonomika Ewropea ħlief Malta, li tkun simili fix-xorta għal organizzazzjoni li tkun –

(a) regolata taħt din l-Iskeda; jew

(b) regolata b'liġi speċjali, li fiha nnifisha jew permezz ta' regolamenti ma tipprovdux għall-kontinwazzjoni,

tista', jekk tkun awtorizzata tagħmel dan permezz tal-istrument kostitutiv jew tal-istatut tagħha, jew permezz tal-liġi applikabbli fl-istat tagħha ta' registrazzjoni, titlob lir-Registatur sabiex tiġi registrata bħala waħda li qed titkompla f'Malta.

Dan l-artikolu għandu wkoll japplika fil-każ ta' tali organizzazzjoni inkorporata jew registrata taħt il-liġi ta' kwalunkwe pajjiż ieħor jew ġurisdizzjoni oħra li tkun approvata permezz ta' avviz li jista' jinħareġ u jiġġedded, minn żmien għal żmien, mill-Ministru responsabbli għall-gustizzja.

(2) Meta tiġi registrata Malta, l-organizzazzjoni barranija għandha tiġi registrata fl-istess forma ġuridika li jkollha taħt il-liġi tal-pajjiż barrani jew ġurisdizzjoni barranija. Fil-każ li ma tkunx teżisti forma simili taħt il-liġijiet ta' Malta, l-applikant għandu jagħżel forma li kemm jista' tkun simili għal dik li ser titkompla Malta u għandu jidentifika l-forma magħżula.

(3) Meta l-kontinwazzjoni f'Malta ta' organizzazzjonijiet barranin b'forma partikolari tkun irregolata b'liġi speċjali, id-dispożizzjonijiet ta' dan l-artikolu m'għandhomx japplikaw.

(4) Il-kontinwazzjoni f'Malta ta' organizzazzjoni barranija titlob:

(a) l-adozzjoni tal-liġi Maltija sabiex tirregola l-istatut minn meta ssir ir-registrazzjoni taħt din l-Iskeda; u

(b) l-osservanza:

(i) għal kwistjonijiet kollha meħtieġa għall-forma ġuridika rilevanti tal-organizzazzjoni li ser tiġi stabbilita u registrata taħt din l-Iskeda;

(ii) għal kwistjonijiet kollha meħtieġa taħt kwalunkwe liġi oħra applikabbli relatata mal-attivitajiet jew l-amministraturi tagħha;

(iii) għal kwalunkwe proċeduri jew formalitajiet oħra li jistgħu jkunu msemmija fl-istatut tal-organizzazzjoni:

Iżda jekk l-istatut ma jindirizzax is-sugġett jew ma jinvesti ebda setgħa li tkun relatata mal-kontinwazzjoni ta' xi persuna jew korp, għandu jiġi preżunt li jkun hemm osservanza għal riżoluzzjoni tal-bord tal-amministraturi jew l-ekwivalenti jew jekk l-organizzazzjoni hija assoċjazzjoni tal-persuni, riżoluzzjoni tal-membri li jkollha s-sostenn meħtieġ taħt l-istatut jew, fin-nuqqas, għal liġi applikabbli għal deċiżjonijiet li huma meqjusa straordinarji jew speċjali; u

C 1406

(iv) għal kwalunkwe rekwiziti li jistgħu jiġu stabbiliti minn żmien għal żmien.

(5) Ir-Registratur jista' jitlob dawk l-obbligazzjonijiet, attivitajiet, dokumentazzjoni u informazzjoni oħra mingħand l-applikant sabiex ikun sodisfatt dwar l-osservanza għad-dispożizzjonijiet ta' dan l-artikolu u l-liġijiet tal-pajjiż barrani rilevanti u jista' jimponi dawk il-kundizzjonijiet li jidhrulu adegwati għall-pubblicità ta' din il-proċedura f'Malta u fi kwalunkwe stat ieħor rilevanti, sabiex jiġu evitati l-frodi u l-abbuż u għall-protezzjoni tal-benefiċjarji, membri jew kredituri tal-organizzazzjoni.

(6) Organizzazzjoni li hija registrata taħt din l-Iskeda tista' tkompli fi kwalunkwe stat fl-Unjoni Ewropea jew fiż-Żona Ekonomika Ewropea, meta tkun awtorizzata li tagħmel dan fl-istrument kostituttiv tagħha jew fl-istatut. F'dan il-każ u wara li jkunu ġew segwiti l-proċeduri rilevanti, ir-Registratur għandu jipproċedi sabiex jitermina r-registrazzjoni ta' dik l-organizzazzjoni taħt din l-Iskeda fuq din il-bażi.

L.S. 16.07.

(7) Ir-registrazzjoni tad-drittijiet misjuba fir-Regolamenti dwar Drittijiet li jithallsu taħt it-Tieni Skeda tal-Kodiċi Ċivili, relatati mar-registrazzjoni ta' organizzazzjoni għandhom japplikaw *mutatis mutandis* għal organizzazzjonijiet barranin li jkunu qed jitolbu li jiġu registrati bħala organizzazzjonijiet li qed jitlew f'Malta."

Sostituzzjoni tal-artikolu 23 tat-Tieni Skeda.

63. L-artikolu 23 tat-Tieni Skeda għandu jiġi sostitwit b'dan li ġej:

"Registrazzjoni ta' organizzazzjonijiet pubbliċi.

23. (1) Hlief meta organizzazzjoni tkun stabbilita bħala fondazzjoni jew assoċjazzjoni, organizzazzjonijiet pubbliċi m'għandhomx jiġu registrati taħt id-dispożizzjonijiet ta' din l-Iskeda. Il-Ministru reponsabbli għall-ġustizzja jista', permezz ta' regolamenti, jippermetti jew jitlob tali registrazzjoni. Ir-registrazzjoni ta' organizzazzjonijiet pubbliċi jew klassijiet ta' organizzazzjonijiet pubbliċi għandha minn hemm 'il quddiem ssir skont din l-Iskeda u skont dawk il-kundizzjonijiet li l-Ministru jista' jistabbilixxi.

(2) Il-Ministru responsabbli għall-Ġustizzja jista', permezz ta' regolamenti, jistabbilixxi b'mod espress liema mid-dispożizzjonijiet ta' din l-Iskeda għandhom japplikaw għall-organizzazzjonijiet pubbliċi, b'mod generali u meta jkunu ta' forma ġuridika partikolari, b'mod speċifiku għal dik il-forma, u għall-amministraturi tagħhom, u jista' wkoll jiddetermina jew ivarja l-mod ta' applikazzjoni ta' kwalunkwe mid-dispożizzjonijiet tal-imsemmija dispożizzjonijiet permezz ta' dak ir-regolament."

64. L-artikolu 24 tat-Tieni Skeda għandu jiġi emendat kif ġej:

Emenda tal-artikolu 24 tat-Tieni Skeda.

(a) l-artikolu preżenti għandu jiġi enumerat mill-ġdid bħala s-subartikolu (1) tal-imsemmi artikolu;

(b) s-subartikolu (1) tiegħu, kif enumerat mill-ġdid, għandu jiġi emendat kif ġej:

(i) il-paragrafu (ċ) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(ċ) jistabbilixxi l-formoli u d-drittijiet għar-reġistrazzjoni ta' kwalunkwe organizzazzjoni, iċ-ċertifikati ta' reġistrazzjoni u jistabbilixxi s-setgħat tar-Registatur fir-rigward tar-reġistrazzjoni u l-kwistjonijiet kollha relatati;"

(ii) il-paragrafu (e) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(e) jirregola organizzazzjonijiet barranin u internazzjonali li jwettqu attivitajiet f'Malta u l-formoli u l-kontenut għar-reġistrazzjoni u t-termini u l-kundizzjonijiet, inklużi l-prinċipji applikabbli għal mod li tistabbilixxi l-liġi applikabbli għall-istrument kostitutiv u, jew l-istatut ta' dik l-organizzazzjoni u l-implimentazzjoni tad-dispożizzjonijiet ta' kwalunkwe trattat tal-liġi internazzjonali privata jew kwalunkwe liġi dwar l-Unjoni Ewropea dwar dawn il-kwistjonijiet;"

(iii) il-paragrafu (m) tiegħu għandu jiġi mħassar;

(iv) il-paragrafi (n), (o), u (p) tiegħu għandhom jiġu enumerati mill-ġdid bħala l-paragrafi (m), (n) u (o) rispettivament, u għandhom jiġu sostitwiti b'dan li ġej:

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"(m) jirregola t-trasformazzjoni ta' organizzazzjoni b'forma ġuridika partikolari għal oħra b'forma ġuridika differenti;

(n) jistabbilixxi regoli dwar is-setgħat tal-Qorti għal dak li għandu x'jaqsam mal-interpretazzjoni u l-varjazzjoni tal-istatut u l-amministrazzjoni ta' organizzazzjoni;

(o) jistabbilixxi regoli għat-twettiq aħjar ta' kwalunkwe mid-dispożizzjonijiet ta' din l-Iskeda;" u

(v) minnufih wara l-paragrafu (o) tiegħu, kif enumerat mill-ġdid, għandhom jiziedu l-paragrafi godda li ġejjin:

"(p) jirregola l-proċedura għar-registrazzjoni tal-organizzazzjonijiet pubbliċi, inklużi l-formoli u l-kontenut għar-registrazzjoni, it-termini u l-kundizzjonijiet għar-registrazzjoni, u jistabbilixxi s-setgħat tar-Registatur għal dak li għandu x'jaqsam mar-registrazzjoni ta' tali organizzazzjonijiet u l-kwistjonijiet kollha relatati;

(q) jirregola kwalunkwe rekwiżiti għan-notifiki li għandhom isiru mir-Registatur minn kwalunkwe organizzazzjoni ġuridika għall-finijiet ta' din l-Iskeda;

(r) jirregola b'mod ulterjuri ċ-ċelluli segregati, kemm jekk dawn iċ-ċelluli huma inkorporati bħala persuni ġuridiċi jew xort'oħra;

(s) jirregola l-aċċessibilità jew xort'oħra tar-registru tal-membri tal-assocjazzjonijiet;

(t) jirregola l-proċedura għall-kontinwazzjoni tal-organizzazzjonijiet, sew taħt il-liġijiet ta' Malta jew il-liġijiet ta' pajjiż ieħor, inklużi l-formoli meħtieġa għal dik il-kontinwazzjoni, u jistabbilixxi s-setgħat tar-Registatur għal dak li għandu x'jaqsam mal-kontinwazzjoni tal-organizzazzjonijiet;

(u) jipprovdi għal kwalunkwe kwistjoni li hija inċidentali għal jew konnessa ma' kwalunkwe mis-surreferiti; u

(v) jistabbilixxi regoli għat-twettiq aħjar ta'

kwalunkwe dispożizzjoni ta' din l-Iskeda.", u

(ċ) minnufih wara s-subartikolu (1) tiegħu, kif enumerat mill-ġdid, għandhom jiżdiedu s-subartikoli ġodda li ġejjin:

"(2) Il-Ministru responsabbli għall-ġustizzja jista', bi ftehim mal-ministru rilevanti li għandu s-setgħa li jagħmel ir-regolamenti taħt xi liġi speċjali oħra, jagħmel regolamenti skont id-dispożizzjonijiet ta' din l-Iskeda sabiex jirregola:

(a) l-applikabbiltà għall-forom ta' organizzazzjonijiet ġuridici jew tipi partikolari tagħhom, jew għal dak li għandu x'jaqsam ma' setturi partikolari ta' attività mwettqa minn tali organizzazzjonijiet ġuridici, stabbiliti taħt dik il-liġi speċjali;

(b) il-mod tal-applikabbiltà tagħhom għal tali forum ta' organizzazzjonijiet ġuridici; u

(ċ) il-kwistjonijiet kollha relatati u anċillari, inklużi s-setgħat tar-reġistru rilevanti, kwalunkwe rekwiżiti għan-notifika lil tali reġistratur jew għar-reġistrazzjoni fir-reġistru rilevanti, drittijiet applikabbli, formoli jew xort'oħra.

(3) Il-Ministru jista', permezz ta' regolamenti, jemenda kwalunkwe anness ta' din it-Tieni Skeda għall-Kodiċi Ċivili."

65. Fil-paragrafu (a) tal-artikolu 25 tat-Tieni Skeda, il-kliem "dispożizzjonijiet ta' din l-Iskeda", għandhom jiġu sostitwiti bil-kliem "dispożizzjonijiet ta' din l-Iskeda u kwalunkwe regolamenti magħmulin taħtu".

Emenda tal-artikolu 25 tat-Tieni Skeda.

66. L-artikolu 26 tat-Tieni Skeda għandu jiġi emendat kif ġej:

Emenda tal-artikolu 26 tat-Tieni Skeda.

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

"(1) Fondazzjoni hija organizzazzjoni magħmula minn firxa wiesgħa ta' affarijiet, imwaqqfa bil-miktub inkluż permezz ta' testament, minn fundatur jew fundaturi, fejn l-assi jkunu intiżi jew –

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(a) għall-kisba ta' għan speċifiku; u, jew

(b) għall-benefiċċju ta' persuna msemmija jew klassifikazzjoni ta' persuni,

u li huma fdati sabiex jiġu amministrati minn persuna jew persuni identifikati.

Il-patrimonju, jiġifieri l-assi u-responsabbilitajiet tal-fondazzjoni, huwa distint minn dak tal-fundatur tagħha, amministraturi jew kwalunkwe benefiċjarji. L-obbligazzjonijiet fiduċjarji fl-artikolu 1124A ta' dan il-Kodiċi għandhom ikunu jorbtu lill-fondazzjonijiet u l-persuni kollha li jkunu qed jamministrawha għal kwalunkwe benefiċjarji, għall-kisba tal-għanijiet imsemmija tal-fondazzjoni:

Izda l-obbligazzjonijiet fiduċjarji għandhom ikunu soġġetti għal dawk ir-restrizzjonijiet jew emendi kif jista' jkun stabbilit fl-istatut jew fil-kundizzjonijiet ta' ingaġġ tal-amministraturi, skont il-każ.";

(b) is-subartikolu (5) tiegħu għandu jiġi mħassar u s-subartikoli (6) u (7) għandhom jiġu enumerati mill-ġdid bħala s-subartikoli (5) u (6) rispettivament;

(ċ) is-subartikolu (6) kif enumerat mill-ġdid għandu jiġi sostitwit b'dan li ġejj:

"(6) Il-fondazzjonijiet jistgħu jiġi stabbiliti f'forma waħda jew f'żewġ forum ġuridiċi, jiġifieri jew għall-benefiċċju tal-benefiċjarji (imsejha "fondazzjonijiet benefiċjarji") jew għall-kisba ta' għan speċifiku mingħajr benefiċjarji (imsejha "fondazzjonijiet b'għan"). Tkun xi tkun il-forma ġuridika tagħhom, il-fondazzjonijiet jista' jkollhom kwalunkwe għan imsemmi fl-artikolu 1.";

(d) is-subartikolu (7) tiegħu għandu jiġi enumerat mill-ġdid bħala s-subartikolu (12); u

(e) minnufih wara s-subartikolu (6) tiegħu, kif enumerat mill-ġdid, għandhom jiżdiedu s-subartikoli ġodda li ġejjin:

"(7) F'din l-Iskeda:

(a) kwalunkwe referenza għal "fondazzjoni pija" tinkludi:

(i) fondazzjoni pija awtonoma, jiġifieri kollezzjoni ta' oġġetti maħsuba għal għanijiet piji jew reliġjużi u stabbiliti bħala persuni ġuridiċi mill-awtoritajiet ekkleżjastiċi kompetenti jew awtoritajiet oħra reliġjużi;

(ii) fondazzjonijiet piji mhux awtonomi, jiġifieri oġġetti storiċi mogħtija bi kwalunkwe mod lil persuna ġuridika pubblika mill-awtoritajiet ekkleżjastiċi kompetenti jew awtoritajiet oħra reliġjużi u li jgħorru magħhom obligazzjoni fuq tul ta' żmien, liema perjodu għandu jiġi stabbilit abbażi tal-liġi reliġjuża applikabbli jew tal-liġi nazzjonali, u fejn l-obbligazzjoni fuq tul ta' żmien tikkonsisti fl-irbit tal-persuna ġuridika, mid-dhul annwali, sabiex tiċċelebra quddies jew ċerimonji oħra reliġjużi, it-twettiq ta' funzjonijiet oħra ekkleżjastiċi stabbiliti jew il-kisba xort'oħra tal-għanijiet piji jew reliġjużi kif imfisser fil-liġijiet reliġjużi applikabbli jew regoli; u

(iii) "għanijiet piji jew reliġjużi" huma mifhuma bħala dawk li jikkonċernaw atti ta' devozzjoni, tal-appostolat, jew ta' karità, kemm jekk spiritwali jew storiċi u jinkludu organizzazzjonijiet simili ta' kwalunkwe denominazzjoni reliġjuża;

(b) kwalunkwe referenza għal "entità ekkleżjastika" għandha tkun referenza għal assoċjazzjoni ta' persuni jew firxa wiesgħa ta' oġġetti li huma stabbiliti mill-awtorità ekkleżjastika kompetenti jew awtorità oħra reliġjuża, sabiex ikunu jistgħu, f'isem dik l-awtorità u skont id-dispożizzjonijiet tal-liġi rilevanti, iwettqu d-dmir speċifiku fdat lilhom in vista tal-ġid pubbliku, inkluża t-trasmissjoni ta' tagħlim reliġjuż, il-promozzjoni tal-qima pubblika u t-twettiq ta' proġetti li huma adegwati għax-xorta tagħhom u regolati mill-istatuti tagħhom taht l-oġhla direzzjoni tal-imsemmija awtorità. Dawn l-entitajiet jinkludu djoċesi, parroċċi u l-istituzzjonijiet tal-ħajja kkonsagrata u soċjetajiet tal-ħajja appostolika, u jinkludu organizzazzjonijiet simili ta' kwalunkwe denominazzjoni reliġjuża.

(8) B'effett mid-data rilevanti, mhux legittimu t-

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twaqqif ta' fondazzjoni għajr permezz ta' att pubbliku jew ta' testament, għal-legati taż-żwieġ jew entitajiet ekkleżjastiċi.

(9) L-appropriazzjoni ta' assi għal għan jew għall-benefiċċju tal-benefiċjarji, miktuba f'forma li tindika l-intenzjoni li tiġi stabbilita fondazzjoni, iżda li ma ssirx permezz ta' att pubbliku ta' fondazzjoni jew ta' testament, għandha tkun regolata permezz tad-dispożizzjonijiet relatati ma' organizzazzjonijiet mhux reġistrati. F'dawn il-kazijiet, il-persuni li jistgħu jkunu qed jaġixxu bħala amministraturi jew fiduċjarji għandhom jitqiesu li għandhom il-poter li jistabbilixxu tali appropriazzjoni tal-assi f'fondazzjoni skont din l-Iskeda u li jirreġistraw l-istess.

(10) Sakemm tiġi reġistrata, mhux legittimu li tali organizzazzjoni tuża l-kelma "fondazzjoni" f'isimha u r-Registratur jista', meta jiġi nnotifikat bl-istess jew jiġi infurmat xort'oħra b'dawn iċ-ċirkostanzi, permezz ta' avvizi bil-miktub jitlob it-tneħħija ta' dik il-kelma mill-isem.

(11) Għandu jiġi prezunt li mandat regolat bit-Titolu XVIII ta' dan il-Kodiċi jew depożitu regolat bit-Titolu XIX ta' dan il-Kodiċi, jkun ġie stabbilit, meta jiġi eżegwit strument bil-miktub li permezz tiegħu persuna jkollha l-proprjetà jew il-pussess ta' proprjetà għall-kisba ta' għan speċifiku jew għall-benefiċċju tal-benefiċjarji, sakemm ma jkunx hemm evidenza ċara dwar l-intenzjoni li tiġi mwaqqfa fondazzjoni kif stabbilit fis-subartikolu (9) u sabiex ir-riċevitur jiġi appuntat bħala amministratur, jew *trust* u sabiex ir-riċevitur ikun it-*trustee*."

Emenda tal-artikolu 27 tat-Tieni Skeda.

67. Fis-subartikolu (1) tal-artikolu 27 tat-Tieni Skeda, il-kliem "jew ta' xi benefiċjarji.", għandhom jiġu sostitwiti bil-kliem "jew ta' xi benefiċjarji:" u minnufih wara għandu jidher il-proviso ġdid li ġej:

"Izda assoċjazzjoni lil mhux stabbilita bħala organizzazzjoni għall-benefiċċju pubbliku tista' tiġi stabbilita bejn żewġ persuni."

Sostituzzjoni tal-artikolu 28 tat-Tieni Skeda.

68. L-artikolu 28 tat-Tieni Skeda għandu jiġi sostitwit b'dan li ġej:

"28. Organizzazzjonijiet reliġjużi mwaqqfa bħala fondazzjonijiet jew assoċjazzjonijiet għal għanijiet mfissra f'liġijiet reliġjużi applikabbli, m'għandhomx ikunu soġġetti għal, jew b'xi mod regolati minn din l-Iskeda u għandhom ikunu regolati bir-regoli reliġjużi relattivi. F'każ li jiġu reġistrati bħala fondazzjonijiet jew assoċjazzjonijiet taħt din l-Iskeda, għandhom ikunu regolati wkoll mid-dispożizzjonijiet ta' din l-Iskeda minn

dik id-data u f'każ ta' inkonsistenza għandhom jissuperaw d-dispożizzjonijiet ta' din l-Iskeda."

69. L-artikolu 29 tat-Tieni Skeda għandu jiġi emendat kif ġej:

Emenda tal-artikolu 29 tat-Tieni Skeda.

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

"(2) L-att ta' fondazzjoni għandu jkun fih, taht piena ta' nullità, dotazzjoni ta' flus jew proprjetà li tkun tiswa minn tal-inqas elf, mija u erbgħa u sittin euro u disgħa u sittin centeżmu (€1,164.69) ħlief fil-każ ta' fondazzjoni għall-benefiċċju pubbliku, f'liema każ id-dotazzjoni għandha tkun tiswa minn tal-inqas mitejn u tnejn u tletin euro u erbgħa u disgħin centeżmu (€232.94).";

(b) fis-subartikolu (3) tiegħu, minnufih wara l-kliem "Meta l-proprjetà mogħtija b'dotazzjoni ma tkunx flus jew" għandha tiżdied il-kelma "xi";

(ċ) is-subartikolu (4) tiegħu għandu jiġi emendat kif ġej:

(i) il-kliem "għandu, taht piena ta' nullità, jiddikjara dan li ġej:" għandhom jiġu sostitwiti bil-kliem "għandu jiddikjara dan li ġej:";

(ii) fil-paragrafu (ċ) tiegħu, minnufih wara l-kliem "l-għanijiet jew l-oġġettivi", għandu jiżdied dan li ġej:

"u fil-każijiet fejn il-fondazzjoni taqa' f'waħda minn dawn il-kategoriji speċifiċi li ġejjin:

(i) il-fondazzjoni hija fondazzjoni għall-benefiċċju pubbliku kif imfissra fl-artikolu 1(4); jew

(ii) il-fondazzjoni hija fondazzjoni privata kif imfissra fl-artikolu 31B,

indikazzjoni tal-kategorija tal-fondazzjoni fl-istatut;"

(iii) il-paragrafu (e) għandu jiġi sostitwit b'dan li ġej:

"(e) (i) il-kompożizzjoni tal-bord tal-amministraturi u l-isem, il-kunjom, l-identifikazzjoni, il-passaport

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jew numru ta' reġistrazzjoni, kif applikabbli, nazzjonalità u indirizz residenzjali tal-amministraturi, jekk ikun hemm, jew meta ma jkun hemm ebda amministraturi meta tiġi mwaqqfa jew reġistrata, il-persuna li għandha s-setgħa taħtar l-amministraturi;

(ii) il-mod ta' kif jiġu maħtura u mneħħija l-amministraturi mill-kariga u t-terminu tal-ħatra tagħhom, jekk ikun hemm:

Iżda jekk it-terminu tal-ħatra tal-amministraturi ma jkunx stipulat fl-att ta' fondazzjoni, għandu jiġi meqjus li ġew maħtura indefinitament sakemm jirtiraw jew jitneħħew.";

(iv) il-paragrafu (f) tiegħu għandu jiġi mħassar;

(v) il-paragrafi (g), (h) u (i) tiegħu għandhom jiġu enumerati mill-ġdid bhala l-paragrafi (f), (g) u (h) rispettivament;

(vi) il-paragrafu (f) tiegħu kif enumerat mill-ġdid, għandu jiġi sostitwit b'dan li ġej:

"(f) it-terminu li għalih ġiet stabbilita, jekk ikun hemm, u jekk mhux stabbilit għandu jiġi prezunt li ġiet stabbilita għal terminu indefinit ħlief fil-każ ta' fondazzjoni benefiċjarja, f'liema każ għandhom japplikaw id-dispożizzjonijiet tal-artikoli 29(7) u 33.

(vii) fil-paragrafu (g), kif enumerat mill-ġdid il-kliem "l-isem u l-indirizz ta' persuna residenti f'Malta", għandhom jiġu sostitwiti bil-kliem "l-isem u l-indirizz ta' persuna residenti f'Malta b'mod ordinajru";

(viii) il-paragrafu (h) tiegħu, kif enumerat mill-ġdid, għandu jiġi sostitwit b'dan li ġej:

"(h) fil-każ ta' fondazzjoni

benefiċjarja, isem il-benefiċjarji, jew, finnuqqas ta' din l-indikazzjoni, dikjarazzjoni li l-fondazzjoni g'iet imwaqqfa għall-benefiċċju tal-benefiċjarji. Dawn il-benefiċjarji jistgħu jkunu indikati fi strument bil-miktub, li mhux bilfors ikun jiffirma parti mill-att pubbliku, imsejjah "dikjarazzjoni dwar il-benefiċjarji", iffirmata mill-fundatur u indirizzata lill-amministraturi, u din għandha tiġi ffirmata fil-preżenza ta' Nutar Pubbliku. L-użu ta' dikjarazzjoni dwar il-benefiċjarji mhux permess fil-każ ta' fondazzjoni benefiċjarja, jew ċellula ta' tali fondazzjoni, meta hija stabbilita esklussivament għall-benefiċċju ta' benefiċjarji ta' interess pubbliku."; u

(ix) minnufih wara l-paragrafu (h) tiegħu, kif enumerat mill-ġdid, għandhom jiżdiedu l-paragrafi ġodda li ġejjin:

"(i) fejn jeżisti aktar minn bord jew kumitat wiehed skont l-att ta' fondazzjoni, l-att ta' fondazzjoni għandu jispeċifika liema bord jew kumitat għandu jkun il-bord tal-amministraturi;

(j) meta l-kategorija ta' kwalunkwe fondazzjoni hija għall-benefiċċju pubbliku, dan għandu jiġi stabbilit b'mod espress bl-użu tal-kliem "benefiċċju pubbliku", "skop soċjali" jew "skop pubbliku" fl-istrument kostitutiv u fl-istatut tal-fondazzjoni.";

(d) is-subartikolu (5) tiegħu għandu jiġi emendat kif ġej:

(i) minnufih wara l-kliem "kull persuna li tissottoskrivi għall-istatut wara li tkun g'iet stabbilita fondazzjoni", għandhom jiżdiedu l-kliem "permezz ta' att pubbliku jew b'xi mod ieħor kif provdut fl-istatut"; u

(ii) il-kliem "Fil-każ li aktar minn tliet fundaturi jixtiequ jistabbilixxu fondazzjoni, tista' ssir dikjarazzjoni dwar dan il-fatt fl-istatut u l-firma ta' tliet fundaturi f'isem il-membri fundaturi kollha msemmija fi skeda mal-istatut

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tkun biżżejjed biex tindika l-kunsens tal-fundaturi kollha msemmija.", għandhom jiġu sostitwiti b'dan li ġej:

"Meta fondazzjoni tkun qed tiġi stabbilita bħala fondazzjoni għall-benefiċċju pubbliku, bl-involvement ta' aktar minn tliet persuni bħala promoturi, il-firma ta' tliet persuni għandha tkun suffiċjenti għall-indikazzjoni tal-kunsens tal-fundaturi kollha meta tiġi stabbilita. Dokument li jikkonsisti f'lista tal-fundaturi kollha għandu jkun suffiċjenti bħala evidenza tal-kunsens. In-Nutar Pubbliku mhux marbut li jaċċerta li t-tliet persuni ġew awtorizzati mill-fundaturi sabiex jidhru fuq l-att, iżda għandu jiddependi fuq id-dokument preżentat lill-mit-tliet persuni li jkun fih il-lista tal-fundaturi kollha bħala evidenza tal-kunsens tagħhom. Minkejja d-dispożizzjonijiet ta' kwalunkwe liġi oħra, fir-rigward tal-persuni elenkati fid-dokument li fih il-lista tal-fundaturi kollha, isimhom, kunjomhom u l-karta tal-identità, in-numru tal-passaport jew numru ta' reġistrazzjoni, kif applikabbli, għandhom ikunu biżżejjed:

Iżda n-Nutar Pubbliku li jirċievi kwalunkwe att li għalih jirreferi dan is-subartikolu, għandu jinnota fl-att, id-dikjarazzjoni mit-tliet persuni li huma awtorizzati mill-fundaturi li jniżżlu isimhom, kunjomhom u l-karta tal-identità, in-numru tal-passaport jew in-numru ta' reġistrazzjoni, kif applikabbli, fid-dokument imsemmi hawn qabel u l-imsemmi Nutar Pubbliku għandu jwissi lill-imsemmija tliet persuni dwar l-importanza tal-veraċità ta' dik id-dikjarazzjoni. Id-dokument għandu jiġi anness mal-att pubbliku li jistabbilixxi l-fondazzjoni:

Iżda wkoll kwalunkwe persuna msemmija bħala fundatriċi f'dokument kif imsemmi hawn qabel, li tallega la ma awtorizzatx lit-tliet persuni sabiex jinkludu isimha u kunjomha u l-karta tal-identità, in-numru tal-passaport u n-numru ta' reġistrazzjoni, kif applikabbli, fid-dokument, għandha fi żmien sittin (60) ġurnata minn meta ssir taf dwar l-inkluzjoni tagħha fid-dokument, tkun intitolata tirreġistra dikjarazzjoni f'dan is-sens fir-Registru tal-fondazzjoni u fin-nuqqas ta' kwalunkwe evidenza bil-miktub li turi l-kuntrarju u li tista' tiġi preżentata f'każ ta' tilwima dwar il-kwistjoni, għandha titqies li qatt ma kienet fundatriċi.";

(e) is-subartikolu (6) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(6) Meta l-amministraturi jiġu maħtura fl-istatut, sakemm ma jagħtux il-kunsens tagħhom fl-imsemmi statut innisfu, il-kunsens bil-miktub tal-amministraturi għandu jiġi mogħti lir-Registratur qabel ir-registrazzjoni ta' kwalunkwe fondazzjoni. Meta l-amministraturi ma jkunux ġew maħtura fl-istatut, il-kunsens tagħhom bil-miktub għandu jiġi mogħti lir-Registratur man-notifika tal-ħatra tagħhom.";

(f) is-subartikolu (7) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(7) (a) Mhux legittimu li jiġi stabbilit terminu għall-fondazzjoni li jeċċedi l-mija u ħamsa u għoxrin (125) sena, ħlief fil-każijiet li ġejjin, li fihom il-fondazzjoni jista' jkollha terminu illimitat:

(i) fondazzjonijiet għall-benefiċċju pubbliku;
jew

(ii) fondazzjonijiet regolati mill-artikolu 31B(4), (5) u (6).

(b) Meta ma jiġi stabbilit ebda terminu fl-att ta' fondazzjoni, il-fondazzjoni għandha titqies li hija valida għal mija u ħamsa u għoxrin (125) sena mit-twaqqif tagħha, ħlief fil-każijiet imsemmijin fil-paragrafu (a).

(c) Kemm-il darba ma jiġix provdut xort'oħra, f'każ li jiġi stabbilit terminu itwal fl-att ta' fondazzjoni benefiċjarja, dan għandu jispicċa fil-mija u ħamsa u għoxrin anniversarju mill-eżistenza tagħha. Il-limitazzjoni tat-terminu tapplika wkoll fil-każ fejn il-fondazzjoni tirriżulta mill-konverżjoni ta' organizzazzjoni oħra reġistrata jew ta' *trust* skont din l-Iskeda u kwalunkwe regolamenti, jew mit-trasferiment ta' patrimonju minn fondazzjoni lil fondazzjoni oħra jew *trust*. F'dan il-każ, il-perjodi ta' eżistenza għandhom jitqiesu li huma kumulattivi.";

(g) il-paragrafu (b) tas-subartikolu (11) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(b) L-amministraturi ta' fondazzjoni m'għandhomx jirrinunzjaw għal benefiċċju lill-fondazzjoni li jkun thalla f'testament, skont dispożizzjoni favuriha, ħlief bil-kunsens

tal-benefiċjarji jew fil-każ ta' fondazzjoni b'għan, tal-Qorti:

Iżda ebda provvediment ta' dan is-subartikolu m'għandu jkollu lil xi amministratur jaċċetta benefiċċju imħolli f'testament jew dotazzjoni, jekk dak l-amministratur għandu raġuni sabiex jissuspetta li dawn huma magħmula minn assi li ġejjin minn xi reat kriminali jew jinvolvu hasil ta' flus jew finanzjament ta' terroriżmu:

Iżda wkoll jekk l-amministratur m'għandux ix-xewqa li jaċċetta li jaġixxi bħala amministratur jew li jkompli f'din il-kariga, għandhom japplikaw id-dispożizzjonijiet tal-artikolu 35."; u

(h) minnufih wara s-subartikolu (12) tiegħu, għandhom jiżdiedu s-subartikoli ġodda li ġejjin:

"(13) Ir-Registatur għandu jirregistra fondazzjoni eżistenti mingħajr bidla f'isimha anke jekk dan ma jkunx konformi mar-rekwiżiti tas-subartikolu (4)(a) jew ta' kwalunkwe artikolu ieħor li jimponi regoli fuq l-ismijiet tal-organizzazzjonijiet.

(14) Il-Ministru responsabbli għall-ġustizzja jista' jagħmel regolamenti li jippermettu li l-fondazzjonijiet jagħmlu użu minn kliem alternattiv minflok il-kelma "fondazzjoni" f'isimhom.

(15) Id-dispożizzjonijiet ta' dan l-artikolu għandhom japplikaw *mutatis mutandis* fil-każ ta' fondazzjonijiet regolati minn kwalunkwe direttiva jew regolament tal-Parlament Ewropew u tal-Kunsill li jirregolaw it-twaqqif u l-operat ta' fondazzjonijiet kif jistgħu jkunu fis-seħh f'kull waqt."

Żjieda ta' artikoli ġodda fit-Tieni Skeda.

70. Minnufih wara l-artikolu 29 tat-Tieni Skeda, għandhom jiżdiedu l-artikoli ġodda li ġejjin:

"Regoli mandatorji li jissuperaw.

29A. (1) Bla ħsara għad-dispożizzjonijiet tas-subartikolu (2), fil-każ ta' fondazzjoni regolata mil-ligi Maltija, meta l-ligijiet ta' Malta jipprovdu fir-rigward tal-kwistjonijiet li ġejjin –

(a) il-protezzjoni tal-minuri u partijiet inkapaċi;

(b) l-effetti personali u fuq il-proprjetà taż-żwieġ;

(ċ) drittijiet ta' suċċessjoni, kemm testata kif ukoll intestata, speċjalment il-porzjonijiet protetti tal-konjuġi, axxendenti jew dixxendenti, hawn aktar 'il quddiem imsejha "regoli ta' applikazzjoni mandatorja", jew "regoli mandatorji" li wieħed ma jistax jidderoga minnhom b'att volontarju, dawn il-ligijiet għandhom jissuperaw fuq il-kundizzjonijiet tal-fondazzjoni u dotazzjonijiet relatati, kemm-il darba din l-Iskeda jew il-ligi applikabbli ma jipprovdux xort'oħra.

(2) Sa fejn ikunu jeżistu regoli ta' applikazzjoni mandatorja, il-qrati għandhom japplikaw dawk ir-regoli bla ħsara għad-dispożizzjonijiet tal-artikolu 29B.

(3) Meta fondazzjoni hija regolata bil-ligi Maltija u m'għandhiex konnessjoni ma' Malta abbażi tad-domicilju tal-fundatur fil-mument tad-dotazzjoni tal-proprjetà lill-fondazzjoni jew il-post tal-proprjetà, f'każ ta' immobbli, ir-regoli ta' applikazzjoni mandatorja bl-ebda mod ma għandhom japplikaw. F'dan il-każ m'għandha tingħata l-ebda importanza għas-segwenti:

(a) id-domicilju, ir-residenza abitwali, ir-registrazzjoni, awtorizzazzjoni jew post tan-negozju f'Malta ta' kwalunkwe protettur jew kull persuna li tipprovdi servizzi ta' amministrazzjoni, kontabilità jew servizzi oħra lill-fondazzjoni; jew

(b) il-fatt li l-ligi proprja tal-fondazzjoni hija l-ligi Maltija u l-post ta' registrazzjoni huwa Malta; jew

(ċ) il-post tal-proprjetà f'Malta, f'każ ta' immobbli; jew

(d) il-fatt li l-post tal-eżekuzzjoni tal-att tal-fondazzjoni, kwalunkwe dokumenti relatati mal-fondazzjoni jew relatati ma' proprjetà tal-fondazzjoni jew dokumenti oħra tat-transazzjoni, huwa Malta.

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(4) Fil-każ ta' fondazzjoni barranija, ir-regoli ta' applikazzjoni mandatorja għandhom japplikaw biss għal kwalunkwe dotazzjoni rilevanti għall-fondazzjoni, meta l-fundatur ikun domiciljat Malta meta tiġi mwaqqfa l-fondazzjoni jew meta saret id-dotazzjoni, bla ħsara dejjem għar-regoli stabbiliti fl-artikolu 29B.

(5) Fil-każ ta' fondazzjoni barranija, meta l-fundatur ta' tali organizzazzjoni ma jkunx domiciljat Malta meta tiġi mwaqqfa l-fondazzjoni jew meta tkun saret id-dotazzjoni, id-dispożizzjonijiet ta' din l-Iskeda għandhom japplikaw biss sa fejn ikunu jirregolaw il-kontinwazzjoni jew xort'oħra f'Malta tal-fondazzjoni jew dotazzjoni.

(6) Sakemm jeżistu regoli ta' applikazzjoni mandatorja fil-liġi applikabbli fiċ-ċirkostanzi, skont il-kundizzjonijiet tal-liġi internazzjonali privata Maltija, il-qorti ta' Malta jistgħu japplikaw dawk ir-regoli mandatorji, bla ħsara għad-dispożizzjonijiet tal-artikolu 29B.

(7) Meta qorti tintalab tirrikonoxxi deċiżjoni barranija li tinforza kwalunkwe regoli ta' applikazzjoni mandatorja, kif imsemmi fis-subartikolu (6), il-qorti tista' tilqa' din it-talba bla ħsara għad-dispożizzjonijiet tal-artikolu 29B.

Gestjoni ta' dispożizzjonijiet ta' inkonsistenza.

29B. Sabiex jiġi żgurat li d-dispożizzjonijiet tal-liġi applikabbli li wieħed ma jistax jidderoga minnhom b'att volontarju jiġu applikati b'mod li jirriserva kemm jista' jkun id-dotazzjoni għall-fondazzjoni u l-kundizzjonijiet tagħha, għandhom japplikaw r-regoli li ġejjin:

(a) l-applikazzjoni tar-regoli mandatorji m'għandhomx jipproduċu n-nuqqas jew l-invalidità tad-dotazzjoni jew tal-fondazzjoni, u fejn ikun possibbli, id-dotazzjoni jew il-fondazzjoni għandhom jibqgħu skont l-istess kundizzjonijiet fir-rigward tal-proprjetà li ma tkunx affetwata minn dawn il-liġijiet mandatorji. Bla ħsara għal kwalunkwe ordni tal-qorti, il-proprjetà li ma tkunx affetwata għandha tinzamm mill-fondazzjoni għall-fundatur b'mod assolut, jew jekk huwa mejjet, għall-eredi tiegħu;

(b) l-amministraturi għandu jkollhom is-setgħa li:

(i) jvarjaw il-kundizzjonijiet tal-fondazzjoni sa fejn dawn ikunu jirrelataw max-xorta jew mal-limitu tal-benefiċċju jew tad-dotazzjoni; jew

(ii) jagħmlu dawk l-atti li jkunu leġittimi u legalment awtorizzati:

Iżda l-benefiċjarji jew l-għan tal-fondazzjoni għandhom jibbenefikaw skont l-intenzjonijiet espressi mill-fundatur fl-att ta' fondazzjoni b'mod li huwa kompatibbli mar-regoli mandatorji u kwalunkwe proprjetà li ma tibqax soġġetta għall-fondazzjoni għal kwalunkwe raġuni, għandha tinżamm mill-fondazzjoni għall-fundatur b'mod assolut, jew jekk huwa mejjet, għall-eredi tiegħu;

(ċ) sabiex jiġu riżolti inkonsistenzi bejn id-dotazzjoni u l-fondazzjoni u kwalunkwe regoli mandatorji u għall-finijiet tal-kontinwazzjoni tal-fondazzjoni kif imsemmi fil-paragrafi (a) u (b), il-kundizzjonijiet tal-fondazzjoni jew tad-dotazzjoni, meta dawn ma jkunux stabbiliti, għandhom jitqiesu li jinkludu:

(i) is-setgħa, mingħajr l-ebda obligazzjoni tat-twettiq, tal-amministratur li jnaqqas l-assi tal-fondazzjoni u li jirritornahom jew parti minnhom lill-fundatur jew lill-patrimonju tal-fundatur, għall-osservanza għal tali dispożizzjonijiet tal-ligi;

(ii) is-setgħa tal-amministratur li jidhol f'arranġament ta' arbitraġġ u medjazzjoni u li jilħaq kompromess f'tilwim u talbiet minn terzi persuni; u

(iii) is-setgħa li jintalbu direzzjonijiet mill-Qorti dwar dawn il-kwistjonijiet:

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Iżda dawn is-setgħat għandhom jiġu eżerċitati minkejja kwalunkwe dispożizzjonijiet kuntrarji fl-att ta' fondazzjoni jew id-dotazzjoni u, kemm-il darba l-amministratur jaġixxi b'onestà, bil-*bona fide* u b'mod raġonevoli, dawn l-atti m'għandhomx jikkostitwixxu ksur ta' kwalunkwe dover fiduċjarju u kwalunkwe liġi applikabbli;

(d) il-proprjetà tal-fundatur li ma tkunx dotata lill-fondazzjoni għandha tintuża l-ewwel sabiex, sa fejn dan ikun possibbli, sabiex tissodisfa t-talbiet ta' kwalunkwe persuna li tkun qiegħda tfittex li tinvalida jew tnaqqas id-dotazzjoni;

(e) minkejja kwalunkwe liġi oħra applikabbli, il-fondazzjoni tista' tissodisfa talba valida li tkun qed issir kontra il-proprjetà tal-fondazzjoni, kemm jekk volontarja kif ukoll jekk tirriżulta minn direzzjoni tal-qorti, ordni jew sentenza, permezz ta' h̄las ta' valur fi flus u m'għandhiex tkun obbligata li tirritorna l-proprjetà dotata lill-fondazzjoni fiżikament;

(f) kwalunkwe persuna li jirnexxielha tnaqqas il-proprjetà tal-fondazzjoni jew tikseb ordni tal-qorti sabiex tinvalida dotazzjoni sħiħa jew parti minnha jew li tgawdi l-benefiċċji ta' arrangament mal-fondazzjoni kif stabbilit fil-paragrafu (ċ)(i), għandha ċċedi l-benefiċċji tal-fondazzjoni, kemm-il darba l-kundizzjonijiet tal-fondazzjoni ma jistabbilixxux xort'oħra b'mod espress jew l-amministraturi jqisu li dan mhux raġonevoli fiċ-ċirkustanzi u jiksbu l-kunsens mill-Qorti sabiex jinżammu fis-seħħ id-drittijiet favur dik il-persuna, kif soġġett għal dawk id-dispożizzjonijiet li l-qorti jista' jidhrilha li huma xierqa;

(g) fi kwalunkwe każ u minkejja kwalunkwe dispożizzjoni fil-liġi, fondazzjoni m'għandhiex tkun soġġetta għall-obbligazzjoni li tħallas jew tirritorna aktar proprjetà minn dik miżmuma minnha, wara tnaqqis tad-drittijiet u spejjeż u m'għandhiex tkun soġġetta għal xi obbligazzjoni fir-rigward ta' distribuzzjonijiet magħmulin minnha, bil-*bona fide* qabel ma jkollha avviż bil-miktub għal kwalunkwe talba.

Proprjetà f'Malta, fondazzjonijiet Maltin jew barranin, persuna ta' domicilju barrani.

29Ċ. L-artikolu 958R ta' dan il-Kodiċi għandu japplika għall-fondazzjonijiet u dotazzjonijiet lill-istess, *mutatis mutandis*."

71. L-artikolu 30 tat-Tieni Skeda għandu jiġi sostitwit b'dan li ġej:

"Obbligazzjoni ta' registrazzjoni.

30. (1) Huwa l-obbligu tal-amministraturi ta' kull fondazzjoni stabbilita wara d-data rilevanti, hliet għal istituzzjonijiet piji, legati taż-żwieġ u entitajiet ekkleżjastiċi stabbiliti bħala fondazzjonijiet, li jirreġistraw dik il-fondazzjoni skont din l-Iskeda fi żmien stabbilit f'dan it-Titolu:

Iżda meta ma jinhatru ebda amministraturi, il-fondazzjoni għandha tiġi registrata minn kwalunkwe persuna msemmija fl-artikolu 31(2), (3) u (4) jew mill-persuna mahtura fl-istatut bħala waħda li għandha l-poter li tahtar l-amministraturi.

(2) Wara li fondazzjoni tkun ġiet stabbilita b'att pubbliku skont dan is-Sub-Titolu ta' din l-Iskeda jew fi f'kull waqt wara li tkun infetħet is-successjoni, fil-każ ta' fondazzjoni stabbilita b'testament, id-dispożizzjonijiet tal-artikolu 14 għandhom japplikaw għal kwalunkwe atti mwettqa mill-amministraturi għan-nom ta' fondazzjoni qabel ir-registrazzjoni tagħha u f'każijiet bħal dawn, l-amministraturi m'għandhomx ikunu responsabbli personalment skont l-artikolu 17(2) jekk:

(a) l-azzjonijiet imwettqa jimplimentaw dak li huwa espressament mitlub fl-att pubbliku jew fit-testament; u

(b) il-fondazzjoni tkun registrata fil-perjodu stabbilit fl-artikolu 31."

Sostituzzjoni tal-artikolu 30 tat-Tieni Skeda.

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Emenda tal-
artikolu 31 tat-
Tieni Skeda.

72. L-artikolu 31 tat-Tieni Skeda għandu jiġi emendat kif ġej:

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

"(1) Għall-finijiet tar-registrazzjoni ta' fondazzjoni għandha tiġi sottomessa l-applikazzjoni stabbilita lir-Registratur flimkien ma':

(a) fil-każ ta' fondazzjoni privata kif imfisser fl-artikolu 31B:

(i) kopja awtentika tal-istrument kostitutiv u tal-istatut mingħajr id-dikjarazzjoni dwar il-benefiċjarji, jekk ikun hemm;

(ii) kemm-il darba ma jiġix provdut xort'oħra f'din l-Iskeda, in-Nota Inizjali ta' Registrazzjoni; u

(iii) il-kunsens bil-miktub tal-amministraturi, jekk ikun hemm; u

(b) fil-każijiet l-oħra kollha, kopja awtentika tal-istrument kostitutiv u l-istatut u l-kunsens bil-miktub tal-amministraturi, jekk ikun hemm;"

(b) fil-paragrafu (ii) tas-subartikolu (2) tiegħu, il-kliem "maħtura f'dak l-att" għandhom jiġu mħassra;

(c) fis-subartikolu (4) tiegħu tal-verżjoni Ingliża, il-kliem "the said extract is to delivered" għandhom jiġu sostitwiti bil-kliem "the said extract is to be delivered";

(d) fis-subartikolu (7) tiegħu, minnufih wara l-kliem "fis-subartikoli (2), (3) u (4)", għandhom jiżdiedu l-kliem "jew mill-persuna maħtura fl-istatut bħala waħda li għandha s-setgħa taħtar lill-amministraturi";

(e) fil-paragrafu (b) tas-subartikolu (8) tiegħu, il-kliem "għal dak ir-rifjut." għandhom jiġu sostitwiti bil-kliem "għal dak ir-rifjut:", u minnufih wara għandu jiżdied il-proviso ġdid li ġej:

"Iżda l-fatt li r-Registratur jirreġistra fondazzjoni fin-nuqqas ta' ħarsien għal xi rekwiżit taħt kwalunkwe ligi speċjali, m'għandux jeżenta lil dik il-fondazzjoni jew l-amministraturi tagħha mill-obbligazzjoni tagħhom li josservaw dik il-ligi jew li jkunu soġġetti għal kwalunkwe

penali jew proċedimenti li jistgħu jirriżultaw mill-ksur ta' dik il-liġi speċjali.";

(f) fis-subartikolu (9) tiegħu, il-kliem "fondazzjoni privata" għandhom jiġu sostitwiti bil-kliem "fondazzjoni privata kif imfissra fl-artikolu 31B";

(g) is-subartikolu (10) tiegħu għandu jiġi emendat kif ġej:

(a) minnufih wara l-kliem "il-persuni msemija fis-subartikoli (2), (3) u (4)" għandu jiżdiedu l-kliem "u l-persuna identifikata fl-istatut bħala waħda li għandha s-setgħa taħtar l-amministraturi";

(b) fil-proviso tiegħu, il-kliem "jew xi fatt rilevanti ieħor." għandu jiġi sostitwit bil-kliem "jew xi fatt rilevanti ieħor:" u minnufih wara għandu jiżdied il-proviso ġdid li ġej:

"Izda wkoll fil-każ ta' fondazzjoni għall-benefiċċju pubbliku, iskritta skont l-Att dwar l-Organizzazzjonijiet Volontarji (Kap. 492), il-penali msemija hawn qabel għandha titnaqqas għal tlieta u għoxrin euro (€23)."; u

(h) is-subartikoli (12) u (13) għandhom jiġu mħassra.

73. Minnufih wara l-artikolu 31 tat-Tieni Skeda għandhom jiżdiedu l-artikoli ġodda li ġejjin:

Żjieda ta' artikoli ġodda fit-Tieni Skeda.

"Emendi tal-istatuti u tal-avviżi għal bidliet.

31A. Kwalunkwe emendi fl-istatut tal-fondazzjoni jew bidliet fil-fondazzjoni wara li l-fondazzjoni tkun ġiet reġistrata, għandhom jiġu reġistrati fir-reġistru kif ġej:

(a) minkejja dak stabbilit fl-istatut, jekk hemm formola li hija stabbilita, billi tintbagħat dik il-formola u dawk l-emendi u l-bidliet ma jkunux jeħtieġu att pubbliku jew iskrizzjoni fl-atti ta' Nutar Pubbliku;

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(b) minkejja d-dispożizzjonijiet ta' xi liġi oħra, kwalunkwe emendi jew bidliet oħra mhux soġġetti għan-notifika permezz tas-sottomissjoni tal-formola stabbilita, għandhom isiru permezz ta' riżoluzzjoni, skrittura privata jew att notarili skont l-istatut u sakemm ma jkun saru b'att notarili, għandhom jiġu iskritti fl-atti ta' Nutar Pubbliku u regiġtrati fir-Regiġstru min-Nutar Pubbliku li jkun qiegħed jippubblika jew jiskrivi l-att, skont il-każ, fi żmien erbatx-il ġurnata mid-data tal-pubblikazzjoni tal-att jew l-iskrizzjoni fl-atti tiegħu, skont il-każ;

(ċ) id-dmir tal-amministraturi fir-rigward tal-emendi tal-istatut għandu minn żmien għal żmien jiġi stabbilit; u

(d) fil-każ ta' fondazzjoni privata kif imfissra fl-artikolu 31B, jekk dik l-emenda taffettwa kwalunkwe kwistjoni msemija fin-Nota ta' Regiġstrazzjoni Inizjali msemija fl-artikolu 31, li ma tkunx diġà indirizzata xort'oħra permezz ta' formola stabbilita mibgħuta skont il-paragrafu (a), għandha tiġi wkoll preżentata lir-Regiġstratur Nota ta' Regiġstrazzjoni Inizjali.

Fondazzjonijiet
privati u attivitajiet
tan-negożju.

31B. (1) Il-fondazzjonijiet privati jistgħu jwettqu attivitajiet tan-negożju msemija:

(a) f'dan is-subartikolu jew fis-subartikoli (2) u (3); u

(b) fis-subartikoli (4), (5) u (6) mingħajr limitazzjoni:

Iżda l-fondazzjonijiet privati jistgħu wkoll jistabbilixxu organizzazzjoni ġuridika oħra sabiex iwettqu atti tal-kummerċ u attivitajiet tan-negożju għall-kisba u għall-promozzjoni tal-għanijiet u l-oġġettivi prinċipali tagħhom. Jistgħu jistabbilixxu organizzazzjoni oħra ġuridika sabiex iwettqu kwalunkwe atti tal-kummerċ li mhumiex relatati mal-għanijiet u l-oġġettivi prinċipali tagħhom, meta din is-setgħa tkun biss mogħtija espressivament fl-istatut tagħhom.

Għall-finijiet ta' dan l-artikolu, fondazzjoni privata tfisser fondazzjoni, li la tikkwalifika bħala fondazzjoni għall-benefiċċju pubbliku u lanqas ma hija stabbilita għal skop pubbliku jew soċjali u li mhix organizzazzjoni volontarja jew organizzazzjoni li ma tagħmilx profitt, iżda li tista' tiġi stabbilita għal skop legittimu kif imfisser skont id-dispożizzjonijiet tal-Att dwar l-Organizzazzjonijiet Volontarji.

(2) Minkejja d-dispożizzjonijiet tas-subartikolu (1), fondazzjoni privata:

(a) jista' jkollha objettivi u setgħat addizzjonali stabbiliti fl-istatut tagħha li jagħtuha s-setgħa li twettaq dawk l-attivitajiet imsemmijin f'dan l-artikolu sabiex tilhaq l-għanijiet tagħha jew tiproteġi l-assi tagħha u, jew tkun xort'ohra konformi mar-rekwiżiti legali; u

(b) għandha titqies, fi kwalunkwe każ, li għandha s-setgħat li tagħmel dak kollu li huwa meħtieġ jew anċillari sabiex jintlaħqu l-għanijiet imsemmija.

(3) Minn barra l-attivitajiet imsemmija fis-subartikoli (1) u (2), fondazzjoni privata:

(a) tista' żżomm assi bħala portafoll ta' investment u tagħmel dawk l-atti kollha li ordinarjament jitwettqu f'dan il-kuntest;

(b) tista' twettaq kwalunkwe azzjonijiet speċifiċi b'ishma li jista' jkollha, kif jista' jkun imsemmi fl-istatut tal-fondazzjoni għall-kisba ta' kwalunkwe għan imsemmi, transazzjoni jew għall-protezzjoni tal-interessi imsemmija;

(ċ) tista' tkun il-proprjetarja ta', tistabbilixxi, tagħti u tilliċenzja *franchise*, *trade mark* jew proprjetà intelletwali li tagħti lok għal dħul;

(d) jista' jkollha dħul li jista' jiġi magħmul pagabbli lill-organizzazzjonijiet volontarji li huma l-proprjetarji ta', jamministraw jew inkella joperaw arrangament teknoloġiku innovattiv; u

C 1428

(e) tista' tkun il-proprjetarja ta' proprjetà kummerċjali jew bastiment jew ajruplan.

(4) Għall-finijiet tas-subartikolu (3):

(a) fondazzjoni tista' taġixxi bħala l-proprjetarja passiva ta' dawn l-assi, li l-amministrazzjoni tagħhom tiġi delegata lil terza persuna, inkluża organizzazzjoni oħra ġuridika bil-bord tad-diretturi tagħha jew terza persuna skont arrangament fiduċjarju jew titolu temporanju; u

(b) it-twettiq ta' atti tal-kummerċ ta' kwalunkwe tip mid-delegat, b'assi li huma l-proprjetà tal-fondazzjoni, m'għandux jimplika li l-fondazzjoni qiegħda hija stess twettaq dawk l-attivitajiet.

Għall-finijiet ta' dan is-subartikolu, "passiv" tfisser li l-fondazzjoni mhux involuta fl-operat ta' kuljum tal-attività rilevanti iżda ma timplikax limitazzjonijiet fuq il-fondazzjoni jew l-amministraturi tagħha li jeżerċitaw jew jiproteġu d-drittijiet tal-fondazzjoni fir-rigward ta' kwalunkwe mill-għanijiet jew assi tagħha.

(5) Bla ħsara għal kwalunkwe awtorizzazzjonijiet, reġistrazzjonijiet jew notifiki li jistgħu jkunu meħtieġa skont il-liġijiet applikabbli, fondazzjoni tista' topera:

(a) bħala mezz għal investiment kollettiv, bil-ħruġ ta' unitajiet lill-investituri fl-istess, għaž-żamma ta' assi komuni, bil-ġestjoni tagħhom tkun delegata lil terza persuna;

(b) bħala arrangament benefiċjarju għal pensjoni jew impjegat;

(ċ) bħala mezz ta' *securitisation* jew għall-finijiet tas-sostenn jew tal-implimentazzjoni ta' transazzjoni għal *securitisation*, inklużi ż-żamma ta' kwalunkwe assi b'rabta mal-istess, is-self ta' flus kontra l-ħruġ ta' *bonds*, it-twaqqif ta' sigurtà jew kollaterali u l-għemil tal-atti kollha relattivi jew kollaterali;

(d) bħala skema għall-irtirar jew fond;

(e) għaż-żamma, amministrazzjoni, żvilupp, jew għall-bejgħ ta' proprjetà indiviża li toriġina minn wirt li ġej minn persuna mejta jew aktar jew persuni li jkunu komuni għall-benefiċjarji bl-għan uniku tad-diviżjoni jew likwidazzjoni tal-proprjetà komuni; jew

(f) għal kwalunkwe għan ieħor li jista' jiġi stabbilit f'avviż maħruġ mill-Ministru taħt din l-Iskeda.

(6) Fondazzjoni tista' tintuża fir-rigward tat-transazzjonijiet li ġejjin jew kwalunkwe transazzjonijiet konnessi ma', jew anċillari għall-istess:

(a) ħruġ ta' titoli, sew lill-pubbliku kif ukoll għal tqegħid privat, ġestjoni ta' portafolli u l-kustodja ta' strumenti ta' investiment;

(b) l-għoti ta' interessi reali jew ta' sigurtà personali, inklużi ipoteki, *mortgages*, privileġġi, rahan u garanziji;

(c) arrangamenti kollettivi ta' self u faċilitajiet oħra bankarji b'aktar minn kreditur wieħed;

(d) poloz ta' assikurazzjoni u l-ħlas tad-dhul mill-istess;

(e) *timeshare* u struttura b'aktar minn proprjetà waħda; u

(f) transazzjonijiet kummerċjali oħra kif jista' jiġi stabbilit f'avviż maħruġ mill-Ministru taħt din l-Iskeda.

(7) Meta fondazzjoni tiġi stabbilita b'ċelluli segregati, il-fondazzjoni tista' hija stess tagħti servizzi bi ħlas favur kwalunkwe ċellula tagħha li jiġu stabbiliti għall-benefiċċju tal-benefiċjarji jew għal għanijiet jew għat-tnejn flimkien.

C 1430

(8) Kull meta l-attivitajiet ta' fondazzjoni, intiżi li jitwettqu taht is-subartikoli (4), (5) u (6) jkunu soġġetti għal-liġijiet li jirregolaw l-istituzzjonijiet ta' kreditu jew finanzjarji, kumpanniji tal-assigurazzjoni, servizzi ta' investiment jew fondi, *trusts* jew *trustees*, istituzzjonijiet korporattivi jew istituzzjonijiet oħra fiduċjarji liċenzjabbli, dik il-fondazzjoni għandha tithalla tirreġistra biss bil-kunsens preċedenti bil-miktub tal-Awtorità għas-Servizzi Finanzjarji ta' Malta fejn applikabbli skont il-liġi u fejn hija l-awtorità kompetenti skont dik il-liġi, jew tista' tithalla tirreġistra minn din l-awtorità iżda mhux twettaq attivitajiet, sakemm tkun awtorizzata permezz ta' avviż maħruġ minn dik l-awtorità.

(9) Meta dawn l-attivitajiet jkunu eżentati mir-reġistrazzjoni skont is-subartikolu (8), ir-Registratur għall-Persuni Ġuridici jista' jitlob l-konferma ta' dak l-istatus ta' eżenzjoni mill-Awtorità għas-Servizzi Finanzjarji qabel ma jirreġistra l-fondazzjoni skont id-dispożizzjonijiet ta' din l-Iskeda.

(10) Id-dispożizzjonijiet ta' dan l-artikolu m'għandhomx jipprojbixxu lill-fondazzjonijiet regolati mil-liġi tal-Unjoni Ewropea milli jwettqu atti tal-kummerċ jew attivitajiet tan-negozju jekk huma permessi li jagħmlu dan taht dik il-liġi.

Accessibilità għal dokumenti reġistrati u kunfidenzjalità ta' fondazzjonijiet privati.

31Ċ. (1) Id-dokumenti ta' reġistrazzjoni li ġejjin huma aċċessibbli għall-pubbliku, hlief kif stabbilit fis-subartikolu (2):

(a) il-formola ta' applikazzjoni;

(b) kwalunkwe formoli nnotifikati lir-Registratur skont ir-Regolamenti dwar Notifiki u Formoli taht it-Tieni Skeda tal-Kodiċi Ċivili, inkluża n-Nota ta' Reġistrazzjoni Inizjali kif jista' jiġi emendat minn żmien għal żmien, hlief il-formoli li ġejjin:

(i) il-formola DD fir-rigward tal-assi miżjuda mal-organizzazzjoni, permezz ta' dotazzjonijiet addizzjonali, peress li dawn jistgħu jiġu emendati u enumerati mill-ġdid minn żmien għal żmien;

(ii) dawk il-formoli l-oħra li jissemmew f'avviż maħruġ mill-Ministru;

L.S. 16.08.

(ċ) il-kunsens bil-miktub ta' kwalunkwe amministratur sabiex jaġixxi bhala amministratur; u

(d) iċ-Ċertifikat ta' Registrazzjoni, kif ukoll kwalunkwe tibdil fir-rigward.

(2) Sakemm il-fundatur ma jkunx irrinunzja b'mod espress għall-kunfidenzjalità taht is-subartikolu (3), fil-każ ta' fondazzjoni privata, id-dokumenti kollha, stqarrijiet jew dikjarazzjonijiet preżentati lir-Registratur, inklużi dawk li jkunu mal-formoli nnotifikati msemmija hawn qabel, m'għandhomx ikunu aċċessibbli favur terzi persuni mingħajr il-kunsens preċedenti bil-miktub tal-amministraturi jew tal-kunsill superviżorju tal-fondazzjoni, jekk ikun hemm, debitament awtentikat min-Nutar Pubbliku, jew bil-permess tal-Qorti u meta l-Qorti tkun sodisfatta li l-persuna li talbet dik l-informazzjoni għandha l-istess interess legittimu:

Iżda:

(a) dan l-artikolu m'għandux jaġmel kunfidenzjali kwalunkwe transazzjonijiet li jkunu soġġetti għar-registrazzjoni fir-Registru Pubbliku skont il-liġi;

(b) sakemm il-fundatur ma jkunx irrinunzja b'mod espress għall-kunfidenzjalità taht is-subartikolu (3), l-applikant għandu jkun obligat jissottometti Nota ta' Registrazzjoni Inizjali ffirmata mill-amministraturi, mill-fundatur jew mill-persuna mahtura bhala wahda li għandha s-setgħa tahtar l-amministraturi bhala kundizzjoni għar-registrazzjoni u dan għandu jkun aċċessibbli għall-pubbliku; u

Kap. 331.

(ċ) l-artikoli 47, 48, 49 u 50 tal-Att dwar *Trusts* u *Trustees* għandhom japplikaw għall-amministraturi ta' fondazzjoni privata.

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(3) Il-fundatur jista', permezz ta' dikjarazzjoni fl-istatut jew permezz ta' avviż bil-miktub awtentikat minn nutar u mibgħut lir-registratur, jiddikjara li d-dokumenti kollha ta' registrazzjoni relatati ma' fondazzjoni privata huma aċċessibbli għal terzi persuni, u r-Registratur għandu jaġixxi f'dan is-sens. Dik id-dikjarazzjoni għandha tiddaħhal fir-Registru mir-Registratur u għandha tkun aċċessibbli għal terzi persuni.

(4) Ir-Registratur għandu jimplimenta l-proċeduri u jieħu l-miżuri kollha sabiex jiżgura l-privatezza tad-dokumenti kollha relatati ma' fondazzjoni privata li mhumiex aċċessibbli għall-pubbliku.

(5) Persuna li jkollha x'taqsam mal-amministraturi ta' fondazzjoni privata fir-rigward ta' proprjetà tal-fondazzjoni m'għandhiex għalfejn:

(a) tistaqsi dwar it-termini tal-fondazzjoni jew ta' kwalunkwe dotazzjoni; jew

(b) tikseb il-kunsens tal-benefiċjarji jew ta' kwalunkwe persuna oħra, u għandha, meta tagixxi bil-*bona fide* tkun intitolata li tiddependi fuq id-dikjarazzjonijiet li ssir mill-amministraturi fir-rigward ta' kwalunkwe kwistjoni hemmhekk stabbilita.

(6) L-amministraturi jistgħu jipprovdu lil kwalunkwe persuna li magħha jkunu qed jittrattaw fl-interess tal-fondazzjoni, ċertifikat li jkun fih l-informazzjoni li ġejja mingħajr ma jkunu qed jiksru l-obbligazzjoni tal-kunfidenzjalità:

(a) li l-fondazzjoni teżisti, hija registrata u li n-Nota ta' Registrazzjoni Inizjali hija kompluta u korretta b'mod fattwali;

(b) l-identità u l-indirizz tal-amministraturi kurrenti fil-kariga;

(ċ) li l-amministraturi jew min minnhom ikunu debitament awtorizzati u għandhom is-setgħa li jwettqu t-transazzjonijiet rilevanti u li jiksru l-kunsensi interni kollha meħtieġa, jekk ikun il-każ;

(d) ir-revokabilità jew l-irrevokabilità tad-dotazzjonijiet tal-fondazzjoni u, jekk revokabbli, li d-dotazzjonijiet ma ġewx revokati, jew jekk xi wħud ġew revokati, liema huma daww li ġew revokati mid-disponibilità tal-aħħar kontijiet; u

(e) il-kontijiet l-aktar riċenti tal-fondazzjoni.

(7) Meta jkun hemm aktar minn amministratur wieħed, iċ-ċertifikati jistgħu jiġu ffirmati u awtentikati minn kwalunkwe amministratur.

(8) Mingħajr ħsara għal kwalunkwe responsabbiltà taħt il-liġi applikabbli jew għal xi multa jew penali oħra li jistgħu jkunu applikabbli taħt xi liġi oħra, kull amministratur li joħroġ xi ċertifikat li jkun fih dikjarazzjoni li jaf, jew li suppost jaf li hija falza, għandu jkun ħati ta' reat u għandu, meta jinstab ħati, ikun sugġett għall-piena ta' prigunerija għal terminu ta' mhux anqas minn tlethax-il xahar u ta' mhux iżjed minn erba' snin jew għal multa ta' mhux anqas minn elf, mija u erbgħa u sittin euro u disgħa u sittin ċenteżmu (€1,164.69), iżda ta' mhux aktar minn elfejn tliet mija u disgħa u għoxrin euro u sebgha u tletin ċenteżmu (€2,329.37) jew it-tnejn flimkien."

74. L-artikolu 32 tat-Tieni Skeda għandu jiġi emendat kif ġej:

Emenda tal-artikolu 32 tat-Tieni Skeda.

(a) fis-subartikolu (1) tiegħu, il-kliem "inkluż skop soċjali" għandhom jiġu sostitwiti bil-kliem "inkluż skop soċjali jew skop ta' benefiċċju pubbliku" u l-kliem "kif previst fl-artikolu 26(7)" għandhom jiġu mħassra.

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

(2) Il-fundatur jista', fi kwalunkwe mument, jemenda jew iżid mal-att ta' fondazzjoni b'għan, inkluż l-għan tagħha, permezz ta' emenda fl-istatut skont id-dispożizzjonijiet tal-istatut, jekk ikun hemm, u, jew kwalunkwe liġi applikabbli. L-istatut jista' espressament jippermetti lil kwalunkwe entità jew persuna oħra sabiex temenda l-istatut bil-mod ta' kif u bla ħsara għall-kundizzjonijiet li jistgħu jkunu stabbiliti. Wara l-mewt tal-fundatur, sakemm l-istatut ma jipprovdix għall-mod ta' kif għandhom jitwettqu l-emendi, il-Qorti tista' tawtorizza dik l-

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emenda jew żjieda mal-att tal-fondazzjoni b'għan, inkluż l-għan tagħha, permezz ta' rikors ta':

(a) kwalunkwe amministratur;

(b) il-kunsill superviżorju;

(ċ) kwalunkwe parti interessata, jew

(d) fil-każ ta' fondazzjoni għall-benefiċċju pubbliku, l-Avukat Ġenerali:

Iżda fondazzjoni għall-benefiċċju pubbliku m'għandux ikollha l-għan tagħha mibdul jew estiż għal skopijiet oħra li mhumiex ukoll skopijiet soċjali jew pubbliċi.";

(ċ) fis-subartikolu (3) tiegħu, minnufih wara l-kliem "l-amministraturi jistgħu jeżerċitaw id-diskrezzjoni tagħhom.", għandu jiżdied il-paragrafu ġdid li ġej:

"Fondazzjoni b'għan tista' tuża flus jew proprjetà tal-fondazzjoni sabiex takkwista ishma jew interessi f'organizzazzjonijiet oħra meta l-għanijiet u l-oġettivi prinċipali ta' organizzazzjonijiet oħra huma relatati jew anċillari mal-għan tal-fondazzjoni jew stabbiliti sabiex jimplimentaw l-għanijiet tal-imsemmija fondazzjoni:

Iżda jekk id-dotazzjoni ta' ishma jew interessi f'organizzazzjoni ssir lill-fondazzjoni b'għan sabiex tgħin lill-fondazzjoni u l-għanijiet u l-oġettivi prinċipali tagħha, dawk l-għanijiet u l-oġettivi tal-organizzazzjoni m'għandhomx għalfejn ikunu relatati ma', jew anċillari għall-għanijiet tal-fondazzjoni.";

(d) is-subartikolu (4) tiegħu għandu jiġi emendat kif ġej:

(i) il-kliem "sakemm il-fundatur ma jemendax l-għan skont is-subartikolu (3)", għandhom jiġu sostitwiti bil-kliem "sakemm l-għan ma jiġix emendat skont il-kundizzjonijiet tas-subartikolu (2), jew, jekk il-fundatur ma jkunx għadu ħaj, l-amministraturi jiddeċiedu b'mod unanimu li l-fondazzjoni għandha tispicċa u li r-rikavat għandu jiġi distribwit skont dan l-artikolu"; u

(ii) il-kliem "Kull disponiment tal-assi ma jistax isir ħlief lil fondazzjoni b'għan oħra li jkollha għanijiet simili." għandhom jiġu mħassra;

(e) is-subartikolu (5) tiegħu għandu jiġi enumerat mill-ġdid b'hal s-subartikolu (8);

(f) minnufih wara s-subartikolu (4) tiegħu, għandhom jiżdiedu s-subartikoli godda li ġejjin:

"(5) Fil-każ ta' fondazzjoni b'għan, stabbilita għall-benefiċċju pubbliku, l-indikazzjoni ta' għanijiet alternattivi għandha tirreferi għal organizzazzjonijiet oħra għall-benefiċċju pubbliku.

(6) Kwalunkwe disponiment tal-assi skont l-istatut tal-fondazzjoni għandu jsir abbażi tas-segwenti:

(a) fil-każ ta' fondazzjoni b'għan, stabbilita għall-benefiċċju pubbliku, lil xi organizzazzjoni oħra għall-benefiċċju pubbliku li għandha l-istess għan jew għan simili:

Iżda meta organizzazzjoni hija kkontrollata mill-Gvern, minn organizzazzjoni reliġjuża jew partit politiku, id-disponiment tal-assi jista' jsir favur il-Gvern, organizzazzjoni oħra reliġjuża tal-istess denominazzjoni jew tal-partit politiku rilevanti, skont il-każ; u

(b) fil-każ ta' fondazzjoni b'għan, stabbilita għal kwalunkwe għan ieħor, skont l-att ta' fondazzjoni.

(7) Kwalunkwe disponiment tal-assi mill-Qorti taħt is-subartikolu (4), għandu jsir abbażi tas-segwenti:

(a) jekk il-fondazzjoni b'għan ma tkunx stabbilita għal għan għall-benefiċċju pubbliku, fin-nuqqas ta' direzzjoni espressa fl-istatut, l-assi għandhom jiġihallu lill-fundatur jew l-eredi tiegħu;

(b) jekk il-fondazzjoni hija fondazzjoni għall-benefiċċju pubbliku, fin-nuqqas ta' direzzjoni espressa fl-istatut skont is-subartikolu (6)(a), id-disponiment tal-assi għandu jsir favur:

(i) il-fundatur, jekk hija wkoll organizzazzjoni għall-benefiċċju pubbliku, irrISPETTIVAMENT mill-għan tagħha; jew

(ii) jekk is-subparagrafu (i) ma

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japplikax, organizzazzjoni oħra għall-benefiċċju pubbliku bl-istess għanijiet jew għanijiet simili, iżda ir-riċevitur għandu jagħmel sforzi raġonevoli sabiex jilħaq l-għanijiet oriġinali tad-dotazzjonijiet li tkun saret lill-organizzazzjoni oriġinali:

Iżda meta l-għanijiet huma l-avvanzi tar-religjon jew it-twertiq ta' vokazzjoni reliġjuża jew hemm indikazzjonijiet fid-dotazzjoni oriġinali li din kienet intiża għal organizzazzjoni reliġjuża, għal kwalunkwe fondazzjoni pija jew entità ekkleżjastika, u f'dan il-każ tad-denominazzjoni adegwata; jew

(iii) jekk il-fundatur huwa l-Gvern ta Malta, lill-Gvern ta' Malta jekk l-għanijiet huma għall-benefiċċju pubbliku generali jew utilità pubblika generali;

(ċ) jekk il-fondazzjoni tamalgama bosta għanijiet, li parzjalment huma għanijiet għall-benefiċċju privat u parzjalment skopijiet soċjali jew pubbliċi, l-assi għandhom jithallsu kif ġej:

(i) sakemm l-iskopijiet soċjali jew pubbliċi ma jkunux diġà intlaħqu jew ikunu deċiżi speċifikament, tant li l-limitu tagħhom jista' jiġi kkalkolat, l-assi għandhom jithallsu skont il-paragrafu (b), b'mod li jirrifletti b'mod raġonevoli u proporzjonali l-benefiċċju intiż għall-iskopijiet soċjali jew pubbliċi, kif jista' jiġi approvat permezz ta' rikors lill-Qorti; u

(ii) il-bilanċ għandu jithallas kif stabbilit fil-paragrafu (a); u

(iii) meta l-assi ma jkunux minnufih mħallsa minhabba l-fatt li l-pagament ikun soġġett għal xi kundizzjoni, kontinġenza jew diskrezzjoni, għandhom jinżammu sakemm isseħħ il-kundizzjoni jew il-kontinġenza jew id-diskrezzjoni tista' tiġi eżerċitata;

(d) meta l-fondazzjoni hija fondazzjoni pija, legat taż-żwieġ jew entità ekkleżjastika li tkun imwaqqfa bħala fondazzjoni u li tkun tikkwalifika

bħala obbligazzjoni għal tul taż-żmien, f'każ li jibqa' xi assi mis-somma maħsuba għat-twettiq tal-obbligazzjoni għal tul taż-żmien wara t-twettiq tagħha, din għandha tithallas kif jista' jiġi stabbilit skont il-liġi Kanonika u leġislazzjoni oħra li tirregola l-organizzazzjonijiet reliġjużi.";

(g) is-subartikolu (8) tiegħu, kif enumerat mill-ġdid, għandu jiġi sostitwit b'dan li ġej:

"(8) Meta l-għan prinċipali ta' fondazzjoni huwa s-sostenn għal klassifikazzjoni ta' persuni li jikkostitwixxu settur fi hdan komunità ingenerali, għaliex isofru minn diżabilità soċjali partikolari, fiżika jew mentali, ikun awtorizzat li jiġi indikat individwu wiehed jew aktar li jsofru minn tali kundizzjoni bħala benefiċjarji imsemmija. Minkejja dik l-indikazzjoni, il-fondazzjoni għandha titqies li hija fondazzjoni b'għan għall-benefiċċju pubbliku, bil-kundizzjoni li wara l-mewt ta' dawk il-benefiċjarji, il-proprjetà residwa tal-fondazzjoni għandha, skont il-kundizzjonijiet espressi tal-istatut, tinżamm jew bħall-benefiċċju esklussiv tal-klassifikazzjoni imsemmija ta' benefiċjarji jew għal fondazzjoni oħra bi skop simili soċjali li jikkwalifika bħala benefiċċju pubbliku."; u

(h) minnufih wara s-subartikolu (8), kif enumerat mill-ġdid, għandhom jiżdedu s-subartikoli ġodda li ġejjin:

"(9) Minkejja d-dispożizzjonijiet ta' dan l-artikolu u dispożizzjonijiet oħra ta' din l-Iskeda, "fondazzjoni b'għan" li ma tkunx stabbilita bħala fondazzjoni għall-benefiċċju pubbliku għandha tkun soġġetta għad-dispożizzjonijiet tal-Kolonna A bl-emendi fil-Kolonna B li jissuperaw fuq il-forma ġuridika tagħha minhabba l-iskopijiet mhux pubbliċi tagħha:

Kolonna A	Kolonna B
29(2)	Il-fondazzjoni għandu jkollha dotazzjoni inizjali ta' flus jew proprjetà minn tal-inqas ta' elf mija u erbgħa u sittin euro u disgħa u sittin ċenteżmu (€1,164.69);
29(7)	Il-fondazzjoni ma tistax tiġi stabbilita għal aktar minn mija u hamsa u għoxrin (125) sena hliet fejn espressament awtorizzat f'din l-Iskeda;

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- 32(4) Dan is-subartikolu m'għandux japplika għall-fondazzjoni u jekk il-fondazzjoni tispicċa għaliex l-għanijiet ma jkunux ġew emendati skont l-istatut, l-assi tal-fondazzjoni għandhom, bla ħsara għall-kundizzjonijiet tal-fondazzjoni, jgħaddu għall-fundatur jew l-eredi tiegħu skont il-liġi;
- 34(6), (7) Kwalunkwe dotazzjonijiet lill-fondazzjoni jistgħu jiġu espressi bħala revokabbli;
- 35(2) Il-fondazzjoni jista' jkollha biss amministratur wieħed (1) u l-amministratur jew amministraturi għandhom ikunu sugġetti għal, jew inkella jkunu jinhtiegu awtorizzazzjoni mill-Awtorità Maltija għas-Servizzi Finanzjarji taħt l-artikolu 43 tal-Att dwar *Trusts* u *Trustees* skont il-kundizzjonijiet tiegħu;
- 40(9) Il-fondazzjoni tista' tkun imwaqqfa b'mod revokabbli;
- 60(1) Dan l-artikolu m'għandux japplika u minflok għandu japplika l-artikolu 60(2).

(10) Mingħajr ħsara għad-dispożizzjonijiet ta' dan l-artikolu, kull dispożizzjoni fl-istatut li tagħti s-setgħa lill-amministraturi li japplikaw ir-rikavat għal għan ieħor ta' benefiċċju pubbliku meta l-għan stabbilit ikun intlaħaq, ġie eżawrit jew m'għadux possibbli, għandha tkun valida."

Sostituzzjoni tal-artikolu 32A tat-Tieni Skeda.

75. L-artikolu 32A tat-Tieni Skeda għandu jiġi sostitwit b'dan li ġej:

"Fondazzjonijiet għall-benefiċċju pubbliku u attivitajiet tan-negozju.

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32A. Mingħajr ħsara għall-kapaċità ta' kwalunkwe fondazzjoni għall-benefiċċju pubbliku li twettaq atti tal-kummerċ fit-twertiq ordinarju tal-għanijiet u objettivi prinċipali tagħha, skont l-artikolu 38(2) tal-Att dwar l-Organizzazzjonijiet Volontarji, fejn applikabbli, fondazzjoni m'għandhiex tiġi stabbilita għat-twertiq ta' atti tal-kummerċ jew attivitajiet tan-negozju fuq bażi regolari jew kontinwa, kif lanqas ma għandha tagħmel dan fil-prattika, ħlief kif awtorizzat skont dan l-artikolu u meta r-rikavat ta' tali attivitajiet tan-negozju jkunu attribwiti għal skopijiet soċjali jew pubbliċi.

(2) Minkejja d-dispożizzjonijiet tas-subartikolu (1), fondazzjoni tista' tkun il-proprietarja, takkwista jew tiġi dotata ishma jew interessi oħra f'organizzazzjoni oħra ġuridika u tista' generalment:

(a) twettaq azzjonijiet speċifiċi b'ishma li tista' tkun qed iżzomm, kif jista' jkun imsemmi fl-istatut tal-fondazzjoni, għall-kisba tal-għanijiet u l-oġġettivi prinċipali tagħha;

(b) bla ħsara għal kwalunkwe awtorizzazzjonijiet li jistgħu jkunu meħtieġa taħt il-liġijiet applikabbli, toħroġ *tokens* u twettaq kwalunkwe attività tan-negozju li tirriżulta minn dawn il-fondazzjonijiet li huma l-proprjetarji, li jamministraw jew inkella joperaw arrangament teknoloġiku innovattiv; u

(ċ) jfittxu l-kisba ta' skopijiet soċjali msemmija li jistgħu jinkludu saħħa u edukazzjoni:

Iżda dan m'għandux japplika għal arrangamenti ta' ġestjoni, liċenzi jew inkella għal terzi persuni għall-finijiet ta' profitt:

Iżda wkoll:

(i) meta fondazzjoni iżzomm parteċipazzjoni azzjonarja f'organizzazzjoni stabbilita għan-negozju, l-organizzazzjoni tan-negozju m'għandha bl-ebda mod tkun ristretta fl-attivitajiet tagħha bl-għanijiet tal-fondazzjoni, kemm-il darba ma jkunx stabbilit xort'oħra fl-istatut tal-organizzazzjoni tan-negozju;

(ii) meta l-fondazzjoni tikkwalifika bħala organizzazzjoni volontarja u tkun il-proprjetarja ta' ishma jew interessi oħra f'organizzazzjoni oħra ġuridika stabbilita skont id-dispożizzjonijiet tal-artikolu 38 tal-Att dwar l-Organizzazzjonijiet Volontarji, għandhom japplikaw id-dispożizzjonijiet tas-subartikolu (4) tal-imsemmi artikolu 38, iżda l-limitazzjonijiet rilevanti m'għandhomx japplikaw għal persuni li mhumiex involuti fil-fondazzjoni u mhumiex partijiet relatati mal-istess; u

(iii) l-għanijiet taż-żamma, l-akkwist jew dotazzjoni ta' ishma jew interessi oħra m'għandhomx ikunu li jippermettu lill-fondazzjoni tispekula b'dawn l-assi.

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Għall-finijiet tas-subparagrafu (ii), "partijiet relatati" għandha tfisser persuni relatati mid-demmi jew bi żwieġ fil-linja diretta fi kwalunkwe grad jew fil-linja kollaterali inkluż it-tielet grad, u għandha wkoll tinkludi kull persuna involuta fl-istess negozju taħt kwalunkwe struttura ġuridika jew xort'oħra.

(3) B'referenza għal fondazzjoni għall-benefiċċju pubbliku:

(a) l-istatut tagħha jista' jkun fih objettivi addizzjonali u setgħat li jippermettulha twettaq dawk l-attivitajiet sabiex tilhaq l-għanijiet tagħha, tipprotegi l-assi tagħha jew sabiex tħares xort'oħra r-rekwiżiti legali; u

(b) hija għandha, fi kwalunkwe każ, titqies li għandha s-setgħat li tagħmel dak kollu li huwa meħtieġ jew anċillari sabiex jintlaħqu l-imsemmija għanijiet.

(4) Huwa legittimu li –

(a) l-amministratur jew persuna identifikata fl-istatut;

(b) kwalunkwe benefiċjarju ta' benefiċċju pubbliku, fil-każ ta' fondazzjonijiet għall-benefiċċju pubbliku; jew

(c) l-Avukat Ġenerali, fil-każ ta' fondazzjoni għall-benefiċċju pubbliku u, jew il-Kummissarju għal Organizzazzjonijiet Volontarji fil-każ ta' fondazzjonijiet li huma organizzazzjonijiet volontarji iskritti skont l-Att dwar l-Organizzazzjonijiet Volontarji,

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ifittxu direzzjonijiet mill-Qorti dwar jekk l-attività attwali jew proposta tal-fondazzjoni, tkunx tistabbilixxi attività tan-negozju regolari jew kontinwa, li tmur lil hinn minn dak permess taħt is-subartikolu (1) u l-Qorti tista', f'dawn il-każijiet, toħroġ direttivi lill-fondazzjoni dwar kif għandha twettaq l-attivitajiet b'mod li huwa konsistenti ma' dan l-artikolu, inkluża direzzjoni sabiex temenda l-għanijiet u l-objettivi tagħha, iżda ordni bħal din m'għandhiex taffettwa jew tannulla atti li jkunu diġà twettqu legalment jew twaqqaf atti legali pendenti.

(5) Il-Qorti għandha wkoll tikkunsidra l-prinċipji u ċ-ċirkostanzi li ġejjin:

(a) fil-każ ta' fondazzjoni għall-benefiċċju pubbliku, li tiġi evitata l-ispekulazzjoni li tista' taffettwa l-assi tal-fondazzjoni u l-kisba tal-għanijiet tagħha;

(b) it-twaqqif ta' responsabbiltajiet li jistgħu jaffettwaw b'mod negattiv il-kisba tal-għanijiet tal-fondazzjoni;

(ċ) il-protezzjoni ta' terzi persuni li jittrattaw mal-fondazzjoni; u

(d) il-kompetenza tal-amministraturi li jwettqu dawk l-attivitajiet u sa fejn jistgħu jiddelegaw dawk il-funzjonijiet lil terzi persuni.

(6) Meta tiġi stabbilita fondazzjoni għall-benefiċċju pubbliku b'ċelluli segregati, il-fondazzjoni tista' hija stess tagħti servizzi bi hlas favur kwalunkwe ċellula tagħha li jkunu stabbiliti għall-benefiċċjarji tagħha jew għall-għanijiet tagħha jew it-tnejn flimkien.

(7) Id-dispożizzjonijiet ta' dan l-artikolu m'għandhomx jipprojbixxu fondazzjonijiet għall-benefiċċju pubbliku regolati mil-liġi tal-Unjoni Ewropea milli jwettqu atti tal-kummerċ jew attivitajiet tan-negozju jekk dan ikun permess taħt din il-liġi:

Iżda dawk l-atti jew attivitajiet għandhom jitwettqu biss għall-kisba u l-promozzjoni tal-għanijiet u l-oġettivi prinċipali tal-fondazzjoni."

76. L-artikolu 33 tat-Tieni Skeda għandu jiġi emendat kif ġej:

Emenda tal-artikolu 33 tat-Tieni Skeda.

(a) fin-nota marginali tiegħu, il-kliem "Fondazzjonijiet privati." għandhom jiġu sostitwiti bil-kliem "Fondazzjonijiet benefiċċjarji.";

(b) fis-subartikolu (1) tiegħu, il-kliem "Fondazzjonijiet jimplikaw obligazzjonijiet fiduċjarji taħt dan il-Kodiċi fuq kull persuna li tkun qed tamministra dik il-fondazzjoni." għandhom jiġu mħassra;

(ċ) fis-subartikolu (3) tiegħu, il-kliem "Jekk il-fondazzjoni tintemm għal xi raġuni oħra skont il-liġi l-attiv tal-fondazzjoni għandu, bla h'sara għall-pattijiet tal-fondazzjoni, jiġi trasferit lill-fundatur jew l-eredi tiegħu skont il-liġi." għandhom

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jìgu mhassra;

(d) is-subartikolu (4) tiegħu għandu jìgi emendat kif ġej:

(i) il-kliem "Fondazzjonijiet privati" għandhom jìgu sostitwiti bil-kliem "Fondazzjonijiet benefiċjarji";

(ii) fil-verżjoni Ingliża, fil-paragrafu li jìgu minnufih wara l-paragrafu (b) tiegħu, il-kliem "as aforesaid the foundation," għandu jìgu sostitwit bil-kliem "as aforesaid,";

(iii) fil-paragrafu li jìgi minnufih wara l-paragrafu msemmi fis-subparagrafu (ii), il-kliem "Dik l-identifikazzjoni mhix meħtieġa li ssir fl-att li jikkostitwixxi l-fondazzjoni", għandhom jìgu sostitwiti bil-kliem "Dik l-identifikazzjoni mhix meħtieġa li ssir fl-istrument kostitutiv jew fl-istatut";

(e) is-subartikolu (7) tiegħu għandu jìgi emendat kif ġej:

(i) il-kliem "Bla ħsara għall-pattijiet tal-att tal-fondazzjoni, jekk il-fundaturi jkunu għadhom ħajjin u kapaċi li jaġixxu, huma jistgħu liberament jemendaw l-att u jissostitwixxu, iżidu jew ineħħu benefiċjarji:", għandhom jìgu sostitwiti bil-kliem "Bla ħsara għall-kundizzjonijiet tal-att tal-fondazzjoni li jistgħu jeskludu jew jirrestringu din is-setgħa, jekk il-fundatur ikun għadu ħaj u kapaċi jaġixxi, jista' liberament jemenda l-att tal-fondazzjoni, inklużi s-sostituzzjoni, iż-żjieda jew it-tneħħija tal-benefiċjarji:"; u

(ii) fil-proviso tiegħu, il-kliem "qabel ma jirċievi avviz" għandhom jìgu sostitwiti bil-kliem "qabel ma jirċievu avviz"; u

(f) minnufih wara s-subartikolu (19) tiegħu, għandhom jiżdiedu s-subartikoli ġodda li ġejjin:

"(20) Meta jkun awtorizzat fl-istatut tal-fondazzjoni benefiċjarja, jistgħu jìgu stabbiliti interessi benefiċjarji fl-istatut jew fid-dikjarazzjoni dwar il-benefiċjarji, f'forma unitarja ta' kwalunkwe nomenklatura, fejn kull unità tirrifletti sehem fl-assi tal-fondazzjoni bi drittijiet għad-dħul, kapital jew intitolamenti jew setgħat kif jista' jìgi stabbilit fl-istatut jew fid-dikjarazzjoni dwar il-benefiċjarji u jekk ma jkun hemm xejn stabbilit, proporzjonalment għan-numru ta' unitajiet:

Iżda l-unitajiet jistgħu jkunu soġġetti għal regoli

ta' annotazzjoni fir-reġistru tal-unitajiet, trasferimenti, irhna u kwistjonijiet oħra li l-amministraturi jistgħu jistabbilixxu minn żmien għal żmien kif provdut fl-istatut. F'dawn il-każijiet, l-interess benefiċjarju huwa preżunt, kemm-il darba ma jkunx stabbilit xort'oħra fl-istatut jew fid-dikjarazzjoni dwar il-benefiċjarji, li huwa soġġett għall-wirt favur l-eredi tal-benefiċjarji skont it-testment tiegħu jew skont il-liġi f'każ li jmut intestat u m'għandux jintemm kif stabbilit fis-subartikolu (3).

(21) F'każ li fondazzjoni privata kif imfissra fl-artikolu 31B tiġi xolta għal kwalunkwe raġuni skont il-liġi, l-assi tal-fondazzjoni għandhom, bla ħsara għat-twettiq tal-obbligazzjonijiet kollha fir-rigward tal-benefiċjarji u għal kwalunkwe termini oħra tal-fondazzjoni, jiġu preżunti li qed jinżammu għall-fundatur jew is-suċċessuri tiegħu fit-titolu.

(22) Minkejja d-dispożizzjonijiet ta' dan l-artikolu u dispożizzjonijiet oħra f'din l-Iskeda, meta "fondazzjoni benefiċjarja" hija stabbilita esklussivament għall-interess pubbliku, il-benefiċjarji għandhom jiġu regolati permezz tad-dispożizzjonijiet tal-Kolonna A:

Iżda dawk id-dispożizzjonijiet elenkati fil-Kolonna A għandhom ikunu soġġetti għall-emendi fil-Kolonna B:

Kolonna A	Kolonna B
29(2)	Il-fondazzjoni jista' jkollha dotazzjoni inizjali ta' flus jew proprjetà ta' mitejn u tnejn u tletin euro u erbgħa u disgħin ċenteżmu (€232.94);
29(4)(h)	Il-benefiċjarji jew klassifikazzjoni ta' benefiċjarji għandhom jiġu indikati fl-istatut u l-użu ta' dikjarazzjoni dwar il-benefiċjarji m'għandux ikun awtorizzat;
29(7)	Il-fondazzjoni tista' tiġi stabbilita għal perjodu illimitat u l-limitu ta' mija u ħamsa u għoxrin (125) sena m'għandux japplika;
32(2)	Kwalunkwe emendi jew żjieda fl-għan tal-fondazzjoni ma jistgħux jintroduċu xi għan jew benefiċċju li jammontaw għal benefiċċju privat;
32(4), (5), (6), (7)	Dawn is-subartikoli dwar l-użu, id-disponiment jew id-distribuzzjoni tal-assi malli tispicċa l-fondazzjoni għall-benefiċċju pubbliku għandhom japplikaw <i>mutatis mutandis</i> ;

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- 33(7), (9) Il-fundatur tal-amministraturi jista' jżid il-benefiċjarji jekk ikun mogħti dik is-setgħa, iżda il-benefiċjarji l-godda għandhom f'kull waqt ikunu organizzazzjonijiet għall-benefiċċju pubbliku;
Il-fundatur jew l-amministraturi jistgħu jingħataw is-setgħa li jemendaw l-att ta' fondazzjoni b'mod li huwa konsistenti mar-regoli applikabbli għall-fondazzjonijiet għall-benefiċċju pubbliku;
- 33(21) Kwalunkwe trasferiment tal-interess benefiċjarju jista' jsir biss favur organizzazzjonijiet oħra ta' interess pubbliku;
- 34(6), (7) Dotazzjonijiet lill-fondazzjoni huma revokabbli u l-istrument kostituttiv jew l-istatut tal-fondazzjoni jew l-istrument tad-dotazzjoni addizzjonali jew ġdida ma jistgħux jistabbilixxu li d-dotazzjonijiet il-godda huma revokabbli;
- 35(2) Il-fondazzjoni għandu jkollha minn tal-inqas tliet (3) amministraturi jew minn tal-inqas persuna waħda ġuridika li taġixxi bħala amministratur skont l-artikolu 35(1);
- 38(1)(g) L-Avukat Ġenerali jew il-Kummissarju skont id-dispożizzjonijiet tal-Att dwar l-Organizzazzjonijiet Volontarji jista' jitlob l-informazzjoni mingħand l-amministraturi;
- 38(4) L-amministraturi mhumiex marbuta jinfurmaw lil ċerti benefiċjarji sakemm ikollhom l-intenzjoni li jagħmlulhom distribuzzjoni;
- 40(2) Il-benefiċjarji ma jistgħux jitterminaw il-fondazzjoni;
- 40(9) Dan is-subartikolu għandu japplika għall-fondazzjoni;
- 45 Id-dispożizzjonijiet ta' dan l-artikolu m'għandhomx japplikaw; madankollu il-fundatur jista' jimponi l-kunfidenzjalità sabiex jiproteġi l-identità tal-persuni msemmija fl-artikolu 32(8);
- 60(2) Dan is-subartikolu m'għandux japplika u max-xoljiment u l-istralċ tal-fondazzjoni, id-distribuzzjoni tal-assi għandha tiġi regolata mill-artikolu 60(1)."

Emenda tal-artikolu 34 tat-Tieni Skeda.

77. L-artikolu 34 tat-Tieni Skeda għandu jiġi emendat kif ġej:

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

"(1) Bla ħsara għad-dispożizzjonijiet tal-istatut, kwalunkwe persuna tista', f'kull waqt, iżżid mal-assi tal-fondazzjoni permezz ta' dotazzjonijiet. Id-dotazzjonijiet għandhom jitqiesu li saru taħt l-istess termini u kundizzjonijiet, għall-istess benefiċjarji u għall-istess għanijiet, skont il-każ, skont il-kundizzjonijiet tal-istatut tal-fondazzjoni.

Kemm-il darba ma japplikawx id-dispożizzjonijiet tas-subartikolu (2), il-konċedent ta' dawn id-dotazzjonijiet, jekk mhux il-fundatur, m'għandu jkollu ebda status jew setgħat fir-rigward tal-fondazzjoni u wieħed għandu jirreferi għaliha bħala dotazzjoni addizzjonali.";

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

"(2) Fejn id-dispożizzjonijiet tal-istatut jippermettu jew bil-konkorrenza espressa tal-fundatur, tal-kunsill superviżorju jew tal-protettur, tal-amministraturi jew fin-nuqqas ta' dawn il-persuni, tal-Qorti, persuna, hawn aktar 'il quddiem imsejha il-"konċedent", tista' tagħmel dotazzjoni b'tali mod li għandha titqies li għandha l-istatus u s-setgħat ta' fundatur fil-fondazzjoni, fir-rigward ta' dik id-dotazzjoni jew fir-rigward tal-fondazzjoni ingenerali, jew meta dik id-dotazzjoni tingħata lil ċellula, jekk ikun hekk stabbilit u jkun ingħata l-kunsens kif intqal hawn qabel, dik id-dotazzjoni għandha titqies li hija dotazzjoni ġdida.";

(ċ) is-subartikoli (3), (4), (5), (6), (7), (8), (9), (10), (11) u (12) tiegħu għandhom jiġu enumerati mill-ġdid bħala s-subartikoli (5), (6), (7), (8), (9), (10), (11), (12), (13) u (14) rispettivament;

(d) minnufih wara s-subartikolu (2) tiegħu kif enumerat mill-ġdid, għandhom jiżdiedu s-subartikoli ġodda li ġejjin:

"(3) Meta dan it-*tkabbir* minn terzi persuni jsir permezz ta' *testment*, id-dispożizzjoni testamentarja għandha titqies li tkun teħtieġ it-twaqqif ta' fondazzjoni ġdida u l-amministraturi tal-fondazzjoni nominati għandhom jipproċedu f'dan is-sens, anke mingħajr il-konkorrenza tal-persuni msemmija fis-subartikolu (2).

(4) Meta l-istatut tal-fondazzjoni jipprovdi għat-twaqqif ta' ċelluli segregati, dotazzjoni ġdida, sew jekk trasferita *inter vivos* kif ukoll *causa mortis*, tista' tiġi stabbilita bħala ċellula ġdida segregata mill-amministraturi,

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f'liema każ l-istatus u s-setgħat tal-konċedent jistgħu jigu limitati għal dik iċ-ċellula segregata. Meta l-konċedent isir fundatur ġdid, kif imsemmi hawn qabel, għandhom japplikaw ir-regoli tal-artikolu 39 meta jkun hemm aktar minn fundatur wieħed.";

(e) is-subartikolu (6) tiegħu kif enumerat mill-ġdid, għandu jiġi sostitwit b'dan li ġej:

"(6) F'każ li tali fondazzjoni tirċievi dotazzjonijiet b'mod regolari skont skema li hija reġistrata mar-Registratur, ma jkunx meħtieġ li l-amministraturi jipprezentaw nota deskrittiva kull darba li ssir dotazzjoni ġdida jew addizzjonali, iżda għandhom jipprezentaw skeda ta' dotazzjonijiet fuq bażi annwali. Lanqas ma huwa meħtieġ li l-amministraturi jidhlu f'att pubbliku kull darba li ssir dotazzjoni, sakemm id-dotazzjoni ma tkunx tinvolvi proprjetà immobbli. F'dan il-każ, l-amministraturi għandhom jipprezentaw il-formola stabbilita u l-annessi meħtieġa biex jinnotifikaw dawk id-dotazzjonijiet lir-Registratur.";

(f) is-subartikolu (7) tiegħu, kif enumerat mill-ġdid, għandu jiġi sostitwit b'dan li ġej:

"(7) Id-dotazzjonijiet jistgħu jingħataw taht kundizzjoni, għal perjodu stabbilit jew skont regoli espressi stabbiliti fl-istatut. Tista' ssir dotazzjoni ġdida għal għanijiet li huma differenti minn dawk tal-fondazzjoni. Fin-nuqqas ta' kwalunkwe indikazzjoni, id-dotazzjonijiet għandhom jitqiesu li huma mingħajr kundizzjoni u għall-istess għanijiet tal-fondazzjoni.";

(g) is-subartikolu (8) tiegħu, kif enumerat mill-ġdid, għandu jiġi sostitwit b'dan li ġej:

"(8) Id-dotazzjonijiet godda jew addizzjonali lill-fondazzjonijiet għall-benefiċċju pubbliku għandhom ikunu rrevokabbli minkejja kwalunkwe kundizzjoni kuntrarja fl-istrument kostitutiv jew fl-istatut tal-fondazzjoni jew l-istrument li jipprovdi għad-dotazzjoni addizzjonali jew ġdida.";

(h) is-subartikolu (9) tiegħu, kif enumerat mill-ġdid, għandu jiġi emendat kif ġej:

(i) il-kliem "Sakemm ma jkunx gie espressament

dikjarat mod ieħor, dotazzjonijiet lil fondazzjonijiet jitqiesu li", għandu jiġu sostitwit bil-kliem "Kemm-il darba ma jkunx ġie espressament dikjarat mod ieħor, għandu jiġi preżunt li d-dotazzjonijiet addizzjonali jew ġodda lill-fondazzjonijiet għall-benefiċċju pubbliku"; u

(ii) il-kliem "fl-att ta' kostituzzjoni" għandhom jiġu sostitwiti bil-kliem "fl-istrument kostituttiv jew fl-istatut tal-fondazzjoni jew l-istrument tad-dotazzjoni ġdida jew addizzjonali";

(i) fis-subartikolu (10) tiegħu, kif enumerat mill-ġdid, il-kliem "meta ssir dotazzjoni" għandhom jiġu sostitwiti bil-kliem "Meta, fil-każ ta' fondazzjoni benefiċjarja, issir dotazzjoni ġdida jew addizzjonali";

(j) is-subartikolu (11) tiegħu, kif enumerat mill-ġdid, għandu jiġi sostitwit b'dan li ġej:

"(11) Fil-każ ta' fondazzjoni benefiċjarja, ir-revoka ta' dotazzjoni m'għandhiex taffettwa jew tannulla atti li jkunu diġà twettqu jew twaqqaf atti li jkunu fl-andament li jitwettqu, kif lanqas ma għandhom jiġu affetwati impenji li jkunu saru u li jkunu għadhom ma twettqux. Ir-revoka ta' dotazzjoni għandha tiġi sospiża sa dak iż-żmien meta l-amministraturi jiċċertifikaw lir-Registatur li l-impenji kollha ġew sodisfatti u għandha titqies li tirreferi biss għal dak l-ammont li ma jkunx ġie użat għas-sodisfazzjon ta dawk l-impenji.";

(k) is-subartikoli (12), (13) u (14) tiegħu għandhom jiġu sostitwiti b'dan li ġej:

"(12) Ir-revoka ta' dotazzjoni addizzjonali jew ġdida m'għandhiex timplika t-terminazzjoni tal-fondazzjoni iżda għandha, kemm-il darba ma jiġix stabbilit xort'ohra fl-istatut, timplika it-twaqqif tal-istatus ta' fundatur u d-drittijiet kollha relatati fir-rigward tal-konċedent.

(13) Jekk fondazzjoni hija l-benefiċjarja ta' dotazzjoni ġdida jew addizzjonali mogħtija għal raġunijiet speċifiċi, kemm-il darba dan ma jkunx awtorizzat skont is-subartikolu (5), l-amministraturi għandhom ifittxu struzzjonijiet ġodda mingħand il-konċedent u jekk dan ma jkunx possibbli, dik id-dotazzjoni m'għandhiex tiġi aċċettata u għandha titqies li teħtieġ it-twaqqif ta' fondazzjoni ġdida u l-amministraturi tal-fondazzjoni li tkun qed tirċievi

għandhom jipproċedu f'dan is-sens.

(14) Meta fondazzjoni tirċievi dotazzjoni mingħajr kundizzjonijiet li huma speċifiċi b'mod suffiċjenti u miċ-ċirkostanzi jkun evidenti li l-fondazzjoni għandha dmirijiet fiduċjarji relatati ma' dik il-proprjetà fir-rigward ta' benefiċjarju jew klassifikazzjoni ta' benefiċjarji jew għan, l-amministraturi għandhom jeżegwixxu dikjarazzjoni unilaterali permezz ta' strument bil-miktub li jkun fih il-kundizzjonijiet kollha fiduċjarji li skonthom il-fondazzjoni tkun qiegħda żżomm l-istess, inkluża informazzjoni li tippermetti l-identifikazzjoni tal-benefiċjarji jew l-għanijiet kollha. Il-benefiċjarji jistgħu jistaqsu lill-Qorti tikkonferma l-kontenut tad-dikjarazzjonijiet tagħhom."; u

(l) minnufih wara s-subartikolu (14) tiegħu, kif enumerat mill-ġdid u sostitwit, għandhom jiżdedu s-subartikoli ġodda li ġejjin:

"(15) F'każ li ma jkunx hemm amministraturi meta tiġi mwaqqfa jew reġistrata fondazzjoni, l-fundatur jew il-persuna li jkollha s-setgħa tappunta l-amministraturi, għandha titqies li jkollha s-setgħa li taċċetta kwalunkwe dotazzjoni, iżda ma jkollhiex is-setgħa li torbot lill-fondazzjoni dwar kwalunkwe kwistjoni oħra, kif lanqas il-fondazzjoni m'għandha tkun intitolata li tibda l-operat qabel il-ħatra tan-numru meħtieġ ta' amministraturi.

(16) It-terminu "dotazzjoni" għall-finijiet ta' dan it-Titolu għandu jfisser kwalunkwe għotja ta' flus jew proprjetà oħra taħt titolu gratuwitu, inklużi drittijiet għal flus jew proprjetà oħra, eżistenti jew li jistgħu jeżistu fil-ġejjieni."

Emenda tal-artikolu 35 tat-Tieni Skeda.

78. L-artikolu 35 tat-Tieni Skeda għandu jiġi emendat kif ġej:

(a) fis-subartikolu (2) tiegħu, il-kliem "Fondazzjonijiet b'għan ikollhom", għandhom jiġu sostitwiti bil-kliem "Meta fondazzjoni hija fondazzjoni għall-benefiċċju pubbliku, għandu jkollha";

(b) fis-subartikolu (3) tiegħu, il-kliem "fl-att ta' kostituzzjoni" għandhom jiġu sostitwiti bil-kliem "fl-att ta' kostituzzjoni jew statut";

(ċ) is-subartikolu (9) tiegħu għandu jiġi emendat kif ġej:

(i) il-paragrafi (a), (b) u (ċ) għandhom jiġu

sostitwiti b'dan li ġej:

"(a) jiskadi t-terminu li għalih ġie appuntat l-amministratur;

(b) l-amministratur jitneħħa minn kwalunkwe persuna jew entità li għandha s-setgħa li tagħmel dan skont l-att pubbliku tal-fondazzjoni jew mill-Qorti abbażi ta' raġunijiet stabbiliti fl-att ta' fondazzjoni jew f'din l-Iskeda;

(ċ) jittieħdu l-passi għall-istralċ tal-amministratur meta dan ikun persuna ġuridika;" u

(ii) minnufih wara l-paragrafu (ċ) tiegħu, għandhom jiżdiedu l-paragrafi l-ġodda li ġejjin:

"(d) f'każ meta l-amministratur ikun persuna ġuridika, jkun hemm ir-riżenja jew it-tneħħija tal-amministraturi kollha, inklużi d-diretturi f'kumpannija li tkun qiegħda taġixxi bħala amministratur, mill-kariga tagħhom fl-imsemmija persuna ġuridika jew jittieħdu passi għall-istralċ tagħha; jew

(e) jiġi appuntat amministratur mingħajr ma ssir referenza għall-perjodu tal-kariga tiegħu u:

(i) jkun l-uniku amministratur, għandu jitlob li l-istatut jipprovdi għal amministratur sostitwit jew il-mod ta' kif għandu jiġi mahtur amministratur ġdid mal-irtitar, riżenja jew tneħħija tiegħu. Meta l-amministratur jonqos milli jwettaq l-obbligazzjoni f'dan il-paragrafu, għandu jiġi mahtur amministratur ġdid sabiex jissostitwixxi lil dak l-amministratur f'kull waqt bil-kunsens tal-fundatur, ta' kwalunkwe persuna mahtura fl-istatut jew, fin-nuqqas ta' dawn il-persuni, tal-Qorti; u

(ii) jkun hemm aktar minn amministratur wieħed, għandu jitqies li l-amministraturi l-oħra għandu jkollhom is-setgħa li jneħħu lill-amministratur f'kull waqt meta jqisu li mhux kapaċi li jwettaq il-funzjonijiet tiegħu minhabba raġunijiet ta' saħħa jew skont id-dispożizzjonijiet tal-artikolu 9:

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Iżda f'każ ta' nuqqas ta' qbil dwar kwalunkwe kwistjoni imsemmija f'dan il-paragrafu, l-amministratur li jkun ġie maħtur mingħajr ma ssir referenza għall-perjodu tal-kariga tiegħu, jista' japplika lill-Qorti u jitlob li l-Qorti toħroġ dawk l-ordnijiet dwar is-sostituzzjoni, l-irtirar, ir-riżenja jew it-tneħħija tiegħu, kif jidhrilha li huwa xieraq wara li tkun semgħet lill-persuni rilevanti."

Emenda tal-artikolu 36 tat-Tieni Skeda.

79. L-artikolu 36 tat-Tieni Skeda għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, minnufih wara l-kliem "jkunu qed jiġu ttrattati mill-Qorti.", għandu jiżdied dan li ġej:

"Il-fundatur jista' wkoll ikollu setgħat sabiex jahtar, iżid jew inehhi kwalunkwe amministraturi, protetturi jew benefiċjarji u setgħat sabiex jahtar konsulent jew *manager* dwar l-investment u fejn ikun hemm xi setgħa msemmija f'dan is-subartikolu li tkun ġiet riservata jew eżerċitata mill-fundatur, amministratur li jaġixxi skont kwalunkwe direzzjonijiet maħruġa abbażi tas-setgħa tal-fundatur kif intqal hawn qabel, m'għandux jitqies li jkun qiegħed jaġixxi bi ksur tad-dmirijiet fiduċjarji tiegħu.";

(b) fis-subartikolu (2) tiegħu, minnufih wara l-kliem "Fundatur jista' jkun amministratur", għandhom jiżdiedu l-kliem "jew protettur"

(ċ) fis-subartikolu (3) tiegħu, il-kliem "fondazzjoni privata" għandhom jiġu sostitwiti bil-kliem "fondazzjoni benefiċjarja"; u

(d) minnufih wara s-subartikolu (3), għandu jiżdied is-subartikolu ġdid li ġej:

"(4) Huwa legittimu li fundatur jagħti gwida bil-miktub li ma tkunx torbot lill-amministraturi dwar kif għandhom jeżerċitaw is-setgħat u d-diskrezzjonijiet li jkollhom u li dik il-gwida tiġi sostitwita, emendata jew irtirata minn żmien għal żmien kif il-fundatur jidhirlu li huwa xieraq. Il-benefiċjarju jista' wkoll ikun awtorizzat jagħti dik il-gwida permezz ta' klawsoli speċifiċi fl-att ta' fondazzjoni jew fid-dikjarazzjoni dwar il-benefiċjarji, u dan b'effett mill-mewt tal-fundatur."

Emenda tal-artikolu 37 tat-Tieni Skeda.

80. L-artikolu 37 tat-Tieni Skeda għandu jiġi emendat kif ġej:

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

(b) minnufih wara s-subartikolu (1) tiegħu, għandu jiżdied is-subartikolu ġdid li ġej:

"(2) Il-fundatur jista' jkun l-uniku membru jew wiehed mill-membri tal-kunsill superviżorju jew jista' jkun ukoll protettur. Madankollu, il-fundatur ma jistax iwettaq il-funzjonijiet ta' protettur kemm-il darba jkun qed iżomm il-kariga ta' amministratur.";

(c) is-subartikolu (3) tiegħu, kif enumerat mill-ġdid, għandu jiġi sostitwit b'dan li ġej:

"(3) Il-membri tal-kunsill superviżorju jew il-protetturi:

(a) jistgħu jkunu msemmija fl-istatut tal-fondazzjoni; jew

(b) meta ma tkun saret ebda identifikazzjoni, jistgħu jiġu maħtura sussegwentement mill-amministraturi u bil-mod stabbilit fl-istatut; u

(c) jistgħu jitnehhew jew jiġu sostitwiti mill-amministraturi u bil-mod stabbilit fl-istatut.";

(d) fis-subartikolu (5) tiegħu, kif enumerat mill-ġdid, minnufih wara l-kliem "jew iżidu l-amministraturi", għandhom jiżdiedu l-kliem "u dawk is-setgħat l-oħra li jistgħu jiġu stabbiliti fl-istatut inkluża s-setgħa li jagħtu s-setgħa lill-amministraturi biex jeżerċitaw is-setgħat, id-diskrezzjonijiet jew id-dmirijiet tagħhom.";

(e) fis-subartikolu (6) tiegħu, kif enumerat mill-ġdid, il-kliem "L-eżerċizzju ta' xi azzjoni jew diskrezzjoni", għandhom jiġu sostitwiti bil-kliem "L-eżerċizzju ta' xi setgħa, azzjoni jew diskrezzjoni"; u

(f) minnufih wara s-subartikolu (6) tiegħu, kif enumerat mill-ġdid, għandhom jiżdiedu s-subartikoli ġodda li ġejjin:

"(7) Kemm-il darba l-istatut tal-fondazzjoni ma jistabbilixxix espressament xort'oħra u sakemm jiġu maħtura l-kunsill superviżorju u l-protetturi, f'każ li l-att tal-fondazzjoni jistabbilixxi li jkun hemm kunsill superviżorju

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jew protetturi, li l-kunsens jew id-direzzjoni tagħhom ikunu meħtieġa sabiex l-amministraturi jwettqu kwalunkwe att, għandu jiġi preżunt li l-amministraturi għandhom is-setgħa li jwettqu kwalunkwe att mingħajr dak il-kunsens jew dik id-direzzjoni:

Iżda d-deċiżjoni sabiex jaġixxu mingħajr kunsens għandha tittieħed b'mod unanimu mill-amministraturi.

(8) Il-preżunzjoni tas-subartikolu (7) m'għandhiex tapplika jekk l-istatut ikun jitlob li l-amministraturi jew min minnhom jaħtru l-membri tal-kunsill superviżorju jew il-protetturi."

Emenda tal-artikolu 38 tat-Tieni Skeda.

81. Fil-paragrafu (f) tas-subartikolu (1) tal-artikolu 38 tat-Tieni Skeda, il-kliem "organizzazzjoni b'għan" għandhom jiġu sostitwiti bil-kliem "organizzazzjoni għall-benefiċċju pubbliku".

Sostituzzjoni tal-artikolu 40 tat-Tieni Skeda.

82. L-artikolu 40 tat-Tieni Skeda għandu jiġi sostitwit b'dan li ġej:

"Terminazzjoni tal-fondazzjoni.

40. (1) Bla ħsara għad-dispożizzjonijiet tas-subartikolu (2), kemm-il darba ma jiġix stabbilit xort'oħra fl-istatut jew f'dan it-Titolu, fondazzjoni m'għandhiex tkun soġġetta għat-terminazzjoni qabel il-perjodu li għalih tkun ġiet stabbilita.

(2) Kemm-il darba l-fundatur ma jkunx espressament elimina dan id-dritt, fondazzjoni benefiċjarja tista' tiġi tterminata fuq talba tal-benefiċjarji kollha tal-fondazzjoni, kemm-il darba jkun kollha eżistenti, ġew aċċertati u hadd minnhom ma jkun inabilitat jew ikun minuri. Jekk il-fundatur ikun għadu ħaj, il-kunsens tiegħu għandu jkun meħtieġ għal terminazzjoni mill-benefiċjarji. Il-fundatur jista' jagħmel it-terminazzjoni soġġetta għall-kunsens ta' persuna jew tal-kunsill superviżorju jew tal-protetturi, ħlief l-amministraturi, imsemmija fl-istatut.

(3) Minkejja kwalunkwe dispożizzjoni fl-istatut jew fis-subartikolu (2), wara l-mewt tal-fundatur, il-Qorti għandu jkollha s-setgħa li tordna x-xoljiment u l-istralc tal-fondazzjoni benefiċjarja meta tiġi mitluba tagħmel dan mill-benefiċjarji kollha tal-fondazzjoni, jekk tkun sodisfatta li l-kontinwazzjoni tal-fondazzjoni ma tkunx għada meħtieġa sabiex jintlaħqu l-intenzjonijiet tal-fundatur jew inkella ma tkunx raġonevoli.

(4) L-istatut tal-fondazzjoni jista' jipprovdi li din tista' tiġi tterminata f'kull waqt, iżda t-terminazzjoni m'għandhiex taffettwa jew tannulla atti li jkunu diġà twettqu b'mod legittimu jew twaqqaf atti li jkunu fl-andament li jitwettqu b'mod legittimu. It-terminazzjoni lanqas ma għandha taffettwa impenji legali li jkunu saru u li ma jkunux twettqu. It-terminazzjoni għandha tiġi sospiża sa meta l-amministraturi jiċcertifikaw lir-Registatur li l-impenji legittimi kollha ġew imwettqa."

(5) Ir-riżerva espressa mill-fundatur tad-dritt għat-terminazzjoni tal-fondazzjoni m'għandux ikun eżerċitat mill-eredi jew konjuġi ta' dak il-fundatur, kemm-il darba ma jkunx provdut xort'oħra fl-att ta' fondazzjoni. Mingħajr ħsara għal kwalunkwe rimedji oħra disponibbli fil-liġi, il-kredituri tal-fondazzjoni ma jistgħux jeżerċitaw id-dritt li jitterminaw il-fondazzjoni.

(6) Meta fondazzjoni tiġi tterminata, għandhom japplikaw il-proċeduri tal-artikolu 59.

(7) Hlief għall-każijiet imsemmija fl-artikolu 47(2), meta fondazzjoni tiġi mibdula fi *trust*, it-terminazzjoni tar-registrazzjoni għandha timplika it-terminazzjoni tal-fondazzjoni iżda mhux tal-obbligazzjonijiet fiduċjarji li jkollha u malli jingħata l-avviż għal bidla, ir-Registatur għandu jipproċedi għat-thassir tal-fondazzjoni.

(8) L-amministraturi għandhom id-dmir li jibqgħu josservaw l-obbligazzjoni tar-registrazzjoni tal-fondazzjoni kif stabbilit f'dan l-artikolu.

(9) Il-fondazzjonijiet għall-benefiċċju pubbliku jistgħu biss jiġu stabbiliti b'mod irrevokabbli u bla ħsara għas-setgħa li dik il-fondazzjoni tiġi tterminata skont l-artikolu 32 għar-raġunijiet u bla ħsara għar-raġunijiet hemmhekk stabbiliti, kwalunkwe klawżola fl-istatut li tirriżerva id-dritt lill-fundatur jew lil xi persuna oħra jew entità li tirrevoka dik il-fondazzjoni m'għandhiex tapplika."

83. L-artikolu 41 tat-Tieni Skeda għandu jiġi sostitwit b'dan li ġej:

"Ġurisdizzjoni tal-Qorti.

41. Il-Qorti għandu jkollha ġurisdizzjoni fir-rigward tal-kwistjonijiet kollha mhux kontenzjużi li huma interni għall-fondazzjoni, l-amministraturi tagħha u l-benefiċjarji:

Sostituzzjoni tal-artikolu 41 tat-Tieni Skeda.

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Iżda jekk kwistjoni li ma tkunx kontenzjuża u li tkun qed tiġi eżaminata mill-Qorti, issir kontenzjuża, il-Qorti għandha tiddikjara l-proċedimenti ta' quddiemha bħala kotenzjużi u għandha tkompli titratta l-kwistjoni bħala waħda kontenzjuża u ttiprovdi lill-partijiet l-oportunità li jippromwovu t-talba u jwieġbu għaliha skont il-liġi."

Emenda tal-artikolu 42 tat-Tieni Skeda.

84. L-artikolu 42 tat-Tieni Skeda għandu jiġi emendat kif ġej:

(a) is-subartikolu (4) tiegħu għandu jiġi enumerat mill-ġdid bħala s-subartikolu (5);

(b) minnufih wara s-subartikolu (3) tiegħu, għandu jiżdied is-subartikolu ġdid li ġej:

"(4) Fis-subartikoli (1) u (2) ta' dan l-artikolu, ir-referenzi kollha għal "fondazzjoni" għandhom ikunu referenzi għal fondazzjoni benefiċjarja.";

(ċ) is-subartikolu (5) tiegħu, kif enumerat mill-ġdid, għandu jiġi sostitwit b'dan li ġej:

"(5) Rikors lill-Qorti magħmul taħt is-subartikoli preċedenti jista' jsir mill-amministratur, minn kwalunkwe benefiċjarju jew minn kwalunkwe parti interessata, skont il-każ."; u

(d) minnufih wara s-subartikolu (5) tiegħu, kif enumerat mill-ġdid, għandhom jiżdiedu s-subartikoli ġodda li ġejjin:

"(6) F'każ li l-istatut ta' fondazzjoni b'għan, ma jkunx fih dispożizzjonijiet relatati mal-emendi ta' dak l-istatut, jekk il-Qorti tkun sodisfatta li jeżistu ċirkostanzi li jiġġustifikaw talba magħmula għal tali emendi fl-istatut, il-Qorti tista' tordna –

(a) varjazzjoni jew żjieda fl-istatut;

(b) kwalunkwe varjazzjoni għall-għanijiet li għalihom tista' tiġi applikata l-proprjetà;

(ċ) kwalunkwe varjazzjoni għal kwalunkwe dispożizzjoni tal-istatut, kif jista' jkun meħtieġ għall-kisba effettiva tal-għanijiet tal-fondazzjoni jew l-amministrazzjoni tagħha; u

(d) kwalunkwe varjazzjoni għall-kisba tal-

organizzazzjoni mill-ġdid tal-istruttura tal-fondazzjoni, inkluża d-diviżjoni tagħha f'żewġ fondazzjonijiet jew aktar jew organizzazzjonijiet ġuridici ta' natura simili, jew il-konverżjoni tagħha fi *trust* jew *trusts*,

u sa fejn japplikaw id-dispożizzjonijiet tal-artikolu 32(8), il-Qorti għandha jkollha s-setgħat imsemmija f'dan l-artikolu fir-rigward ta' kwalunkwe benefiċjarji imsemmija li għalihom japplikaw id-dispożizzjonijiet tas-subartikolu (1).

(7) Il-Qorti m'għandhiex tapprova talba taht is-subartikolu preċedenti, kemm-il darba hija ma tkunx tal-fehma li dik l-emenda hija, sa fejn ikun raġonevolment prattikabbli, konsistenti mal-għan u l-oġġettivi prinċipali tal-fondazzjoni.

(8) Kwalunkwe varjazzjoni approvata mill-Qorti għandha tiġi implimentata permezz ta' emenda għall-istatut u l-amministraturi għandhom iżommu mal-formalitajiet, kif jista' jiġi stabbilit fl-istatut u fil-liġi applikabbli.

(9) Kwalunkwe rikors lill-Qorti magħmul taht is-subartikolu (6), jista' jsir mill-amministratur, minn kwalunkwe persuna li tingħata dik is-setgħa fl-istatut jew mill-Avukat Ġenerali, skont il-każ."

85. L-artikolu 43 tat-Tieni Skeda għandu jiġi emendat kif ġej:

Emenda tal-artikolu 43 tat-Tieni Skeda.

(a) fil-proviso tas-subartikolu (3) tiegħu, il-kliem "skont l-artikolu 36 ta' din l-Iskeda", għandhom jiġu sostitwiti bil-kliem "skont l-artikolu 38"; u

(b) fis-subartikolu (7) tiegħu, il-kliem "taht fondazzjoni", għandhom jiġu sostitwiti bil-kliem "taht fondazzjoni benefiċjarja".

86. L-artikolu 44 tat-Tieni Skeda għandu jiġi emendat kif ġej:

Emenda tal-artikolu 44 tat-Tieni Skeda.

(a) fis-subartikolu (1) tiegħu, minnufih wara l-kliem "ta' din l-Iskeda", għandhom jiżdiedu l-kliem "ħlief meta l-kwistjoni tkun ġiet iddikjarata bħala waħda kontenzjuża u l-Qorti tkun tat, wara li jkunu ġew konkluzi l-proċedimenti rilevanti, sentenza dwar dik il-kwistjoni"; u

(b) fis-subartikolu (2) tiegħu, il-kliem "dikjarazzjonijiet jew direttivi" għandhom jiġu sostitwiti bil-kliem "dikjarazzjonijiet, direttivi jew sentenzi".

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Emenda tal-artikolu 45 tat-Tieni Skeda.

87. L-artikolu 45 tat-Tieni Skeda għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, il-kliem "fondazzjoni privata" għandhom jiġu sostitwiti bil-kliem "fondazzjoni benefiċjarja"; u

(b) minnufih wara s-subartikolu (4) tiegħu, għandu jiżdied is-subartikolu ġdid li ġej:

"(5) Id-dispożizzjonijiet ta' dan l-artikolu għandhom japplikaw biss għall-fondazzjonijiet benefiċjarji."

Emenda tal-artikolu 47 tat-Tieni Skeda.

88. Minnufih wara s-subartikolu (3) tal-artikolu 47 tat-Tieni Skeda, għandu jiżdied is-subartikolu ġdid li ġej:

"(4) Id-dispożizzjonijiet ta' dan l-artikolu għandhom japplikaw *mutatis mutandis*:

(a) għall-konverżjoni ta' ċellula ta' fondazzjoni fi *trust*, sew jekk fir-rigward biss tal-assi ta' dik iċ-ċellula, jew permezz tal-inkorporazzjoni tal-assi taċ-ċellula bħala patrimonju segregat taht *trust* eżistenti; u

(b) għall-konverżjoni ta' *trust* jew parti segregata minnha, f'ċellula jew f'fondazzjoni multiċellulari."

Emenda tal-artikolu 48 tat-Tieni Skeda.

89. L-artikolu 48 tat-Tieni Skeda għandu jiġi emendat kif ġej:

(a) in-nota marginali tiegħu għandha tiġi sostitwita b'dan li ġej:

"Assoċjazzjonijiet stabbiliti bħala organizzazzjonijiet għall-benefiċċju privat.";

(b) is-subartikolu (1) tiegħu għandu jiġi mħassar u s-subartikoli (2), (3), (4) u (5) tiegħu għandhom jiġu enumerati mill-ġdid bħala s-subartikoli (1), (2), (3) u (4) rispettivament;

(ċ) is-subartikolu (1) tiegħu, kif enumerat mill-ġdid, għandu jiġi emendat kif ġej:

(i) il-kliem "Meta tkun stabbilita għall-promozzjoni ta' interess privat, assoċjazzjoni ta' persuni tkun regolata -", għandhom jiġu sostitwiti bil-kliem "Meta tkun stabbilita għall-promozzjoni ta' benefiċċju privat, assoċjazzjoni ta' persuni għandha tkun regolata permezz tal-liġijiet speċjali msemmija f'dan is-subartikolu kif jista' jkun il-każ, abbażi tal-għanijiet u l-forma legali magħżula mill-promoturi tagħha, sew jekk registrata mar-Registatur u anke jekk le:";

(ii) il-paragrafi (d) u (e) tiegħu għandhom jiġu sostitwiti b'dan li ġej:

"(d) il-liġijiet speċjali relatati mal-*unions* u assoċjazzjonijiet ta min ihaddem;

(e) il-liġijiet speċjali relatati mal-kooperattivi;"

(iii) minnufih wara l-paragrafu (e) tiegħu, għandhom jiżdiedu l-paragrafi ġodda li ġejjin:

"(f) bid-dispożizzjonijiet ta' liġi speċjali, meta tkun qed tippromwovi benefiċċju privat inċidentali jew anċillari, għajr dawk msemmija hawn qabel;

(g) meta ma jkunx hemm liġi oħra speċjali li hija applikabbli, id-dispożizzjonijiet tas-Sub-Titolu III "Fuq Assoċjazzjonijiet", hliet dawk li jirregolaw l-organizzazzjonijiet għall-benefiċċju pubbliku; jew

(h) meta għal xi raġuni, jieqfu japplikaw id-dispożizzjonijiet ta' xi liġi speċjali għal assoċjazzjoni li tibqa' teżisti, għandhom japplikaw id-dispożizzjonijiet ta' din l-Iskeda.";

(d) is-subartikolu (2) tiegħu, kif enumerat mill-ġdid, għandu jiġi sostitwit b'dan li ġej:

"(2) il-liġijiet speċjali imsemmija fis-subartikolu (1) għandhom jiġu supplementati mad-dispożizzjonijiet ta' din l-Iskeda, bl-eċċezzjoni tad-dispożizzjonijiet li japplikaw biss għal organizzazzjonijiet għall-benefiċċju pubbliku f'forma ta' assoċjazzjonijiet:

Iżda fejn id-dispożizzjonijiet ta' din l-Iskeda ma jkunux konsistenti mal-liġijiet speċjali, għandhom jissuperaw il-liġijiet speċjali.";

(e) is-subartikoli (3) u (4) tiegħu, kif enumerati mill-ġdid, għandhom jiġu sostitwiti b'dan li ġej:

"(3) Meta assoċjazzjoni tkun regolata skont id-dispożizzjonijiet tas-subartikolu (1)(g) u irrISPETTIVAMENT minn jekk l-assoċjazzjoni tkunx irregistrata jew le:

(a) id-dispożizzjonijiet tal-istatut għandhom, f'każ ta' inkonsistenza jissuperaw fuq id-

dispożizzjonijiet ta' dan is-Sub-Titolu III "Fuq Assoċjazzjonijiet" u d-dispożizzjonijiet applikabbli ta' din l-Iskeda, hliet meta tali dispożizzjonijiet ikunu mandatorji;

(b) bla hsara għall-benefiċċju tad-diskussjoni tal-assi tal-assoċjazzjoni, li għandu l-ewwel jiġi diskuss, kwalunkwe membru għandu jkun responsabbli fir-rigward ta' terzi persuni li magħhom l-assoċjazzjoni tkun daħlet fi ftehim, fi proporzjon li jikkorrispondi għas-sehem tiegħu fil-profitti u fit-telf jew fi proporzjon li jikkorrispondi għall-benefiċċju tiegħu jew interessi oħra f'dik l-assoċjazzjoni, skont liema jkun l-oġġet, sakemm:

(i) ir-responsabbiltà tiegħu ma tkunx giet varjata f'xi kuntratt magħmul ma' terza persuna, liema kuntratt m'għandux jorbot membri oħra tal-assoċjazzjoni mingħajr il-kunsens tagħhom; jew

(ii) dik ir-responsabbiltà giet eskluża jew limitata permezz ta' xi dispożizzjoni fil-liġi;

(ċ) meta s-sehem tal-profitti jew tat-telf, jew il-benefiċċju jew interessi oħra, ma jkunux determinati abbażi ta' proporzjon identifikat, ir-responsabbiltà tal-membri għandha tkun ibbażata fuq il-proporzjon li jkun jorbot mal-kontribuzzjoni monetarja tiegħu meta mqabbla mal-kontribuzzjonijiet tal-membri l-oħra.

Il-kwistjonijiet imsemmija fil-paragrafi (b) u (ċ) għandhom jiġu determinati abbażi ta' dispożizzjonijiet speċifiċi fl-istatut u fin-nuqqas ta' tali dispożizzjonijiet, ir-responsabbiltà fir-rigward ta' terzi persuni għandha tinqasam b'mod ugwali bejn il-membri u kwalunkwe ftehim privat bejn il-membri m'għandux jaffettwa d-drittijiet ta' terzi persuni.

(4) Jekk kwalunkwe membru, għal xi raġuni, direttament jew indirettament, iħallas jew huwa soġġett għal responsabbiltà li hija akbar mis-sehem tiegħu proporzjonali kif stabbilit fis-subartikolu (3)(b) jew (ċ), dak il-membri għandu jkollu l-jedd li jdur kontra l-membri l-oħra poporzjonalment għas-sehem tagħhom, bla hsara għal kwalunkwe ftehim fost il-membri jew għad-dispożizzjonijiet tal-istatut dwar dawn il-kwistjonijiet."; u

(f) minnufih wara s-subartikolu (4) tiegħu, kif enumerat mill-ġdid, għandu jiżdied is-subartikolu ġdid li ġej:

"(5) Il-Ministru jista' jagħmel regolamenti dwar l-assoċjazzjonijiet li huma regolati permezz tad-dispożizzjonijiet ta' din l-Iskeda, għall-governanza aħjar fir-rigward u għandu jkollu s-setgħa:

(a) li jestendi l-applikazzjoni ta' dispożizzjonijiet speċifiċi ta' liġijiet speċjali li jirregolaw tipi oħra ta' assoċjazzjonijiet, għal dawn l-assoċjazzjonijiet; u

(b) li jintroduċi regoli li japplikaw meta dawn l-assoċjazzjonijiet jiġu reġistrati mar-Reġistratur, liema regoli jistgħu jistabbilixxu prinċipji differenti minn dawk stabbiliti fis-subartikolu (3) għal tali assoċjazzjonijiet reġistrati; u

(ċ) li jintroduċi kwalunkwe regoli speċjali, inkluża r-responsabbiltà limitata għall-membri f'każijiet partikolari u jistabbilixxi l-kundizzjonijiet li taħthom din r-responsabbiltà limitata tista' titgawda."

90. Minnufih wara l-artikolu 48 tat-Tieni Skeda, għandu jiżdied is-subartikolu ġdid li ġej:

Żjieda ta' artikolu ġdid fit-Tieni Skeda.

"Assoċjazzjonijiet stabbiliti bħala organizzazzjonijiet għall-benefiċċju pubbliku.

48A. (1) Meta assoċjazzjoni tiġi stabbilita bħala organizzazzjoni għall-benefiċċju pubbliku, għandha tkun regolata bid-dispożizzjonijiet tas-Sub-Titolu III "Fuq Assoċjazzjonijiet" u d-dispożizzjonijiet applikabbli ta' din l-Iskeda, bl-eċċezzjoni tal-artikolu 48.

(2) Id-dispożizzjonijiet tal-istatut ta' tali assoċjazzjoni għandhom, f'każ ta' inkonsistenza, jissuperaw fuq id-dispożizzjonijiet ta' dan is-Sub-Titolu III "Fuq Assoċjazzjonijiet" u d-dispożizzjonijiet applikabbli għal din l-Iskeda, kemm-il darba ma jkunux mandatorji.

(3) Ir-regoli dwar ir-responsabbiltà tal-membri ta' tali assoċjazzjoni fir-rigward ta' partijiet terzi għandhom jiġu regolati:

(a) bl-artikolu 16 jekk l-assoċjazzjoni tkun irreġistrata mar-Reġistratur; u

C 1460

Kap. 492.

(b) bl-artikolu 17 jekk l-assoċjazzjoni ma tkunx hekk irregistrata.

(4) Meta jkun japplika, l-assoċjazzjonijiet imsemmija fis-subartikolu (1) għandhom ukoll ikunu regolati permezz tad-dispożizzjonijiet tal-Att dwar l-Organizzazzjonijiet Volontarji.

(5) F'każ li l-istatut tal-assoċjazzjoni, stabbilita bħala organizzazzjoni għall-benefiċċju pubbliku, ma jkunx fih dispożizzjonijiet relatati mal-emendi għal dak l-istatut, jekk il-Qorti tkun sodisfatta li jeżistu ċirkostanzi li jiġġustifikaw talba magħmula għal tali emendi fl-istatut, il-Qorti tista' tordna:

(a) varjazzjoni jew żjieda fl-istatut;

(b) kwalunkwe varjazzjoni fl-għanijiet li għalihom il-proprjetà tista' tintuża;

(ċ) kull varjazzjoni ta' kwalunkwe dispożizzjoni fl-istatut, kif jista' jkun meħtieġ għall-kisba effettiva tal-għanijiet tal-fondazzjoni jew l-amministrazzjoni tagħha; u

(d) kwalunkwe varjazzjoni għat-twettiq tal-organizzazzjoni mill-ġdid tal-istruttura tal-fondazzjoni, inkluża d-diviżjoni tagħha f'żewġ assoċjazzjonijiet jew aktar jew f'organizzazzjonijiet ġuridiċi ta' natura simili."

(6) Il-Qorti m'għandhiex tapprova talba taħt is-subartikolu (5) kemm-il darba ma tkunx tal-opinjoni li dik l-emenda hija, sa fejn ikun raġonevolment prattikabbli, konsistenti mal-ispirtu tal-intenzjoni tal-promotur.

(7) Kwalunkwe varjazzjoni approvata mill-Qorti, għandha tiġi implimentata permezz ta' emenda fl-istatut u l-amministraturi għandhom josservaw l-formalitajiet kif jista' jkun stabbilit fl-istatut, jekk ikun hemm, u fil-liġi applikabbli.

(8) Kwalunkwe rikors magħmul lill-Qorti taħt is-subartikolu (5) hawn qabel, jista' jsir mill-amministratur, minn kwalunkwe persuna li tingħata din is-setgħa fl-istatut jew mill-Avukat Ġenerali, skont il-każ.

(9) Id-dispożizzjonijiet tal-artikolu 32(8) għandhom japplikaw għall-assoċjazzjonijiet *mutatis mutandis*."

91. L-artikolu 49 tat-Tieni Skeda għandu jiġi emendat kif ġej:

Emenda tal-artikolu 49 tat-Tieni Skeda.

(a) is-subartikolu (2) tiegħu għandu jiġi emendat kif ġej:

(i) il-paragrafu (ċ) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(ċ) (i) l-għanijiet jew l-objettivi tal-assoċjazzjoni; u

(ii) il-kategorija tal-assoċjazzjoni meta l-assoċjazzjoni hija assoċjazzjoni għall-benefiċċju pubbliku kif imfisser fl-artikolu 1(4);";

(ii) il-paragrafi (f), (g) u (h) tiegħu għandhom jiġu sostitwiti b'dan li ġej:

"(f) il-kompożizzjoni tal-bord tal-amministraturi u l-isem, il-kunjom, l-identifikazzjoni, il-passaport u n-numru ta' reġistrazzjoni kif applikabbli, in-nazzjonalità u r-residenza ordinarja tal-amministraturi;

(g) il-mod ta' kif l-amministraturi jiġu appuntati, eletti jew imneħħija mill-kariga;

(h) meta jkun hemm aktar minn bord jew kumitat wieħed skont l-istatut, l-istatut għandu jispeċifika liema bord jew kumitat għandu jkun il-bord tal-amministraturi";

(iii) fil-paragrafu (i) tiegħu, il-kliem "l-isem u l-indirizz ta' persuna residenti f'Malta", għandhom jiġu sostitwiti bil-kliem "l-isem u l-indirizz ta' persuna residenti b'mod ordinarju f'Malta"; u l-kliem "tal-assoċjazzjoni f'Malta; u" għandhom jiġu sostitwiti bil-kliem "tal-assoċjazzjoni f'Malta";

(iv) fil-paragrafu (j) tiegħu, il-kliem "jekk ikun hemm.", għandhom jiġu sostitwiti bil-kliem "jekk ikun hemm"; u

(v) minnufih wara l-paragrafu (j) tiegħu, għandu jiżdied il-paragrafu ġdid li ġej:

C 1462

"(k) meta l-kategorija tal-assoċjazzjoni hija l-benefiċċju pubbliku, dan għandu jiġu stabbilit b'mod espress fil-ftehim kostitutiv u fl-istatut tal-organizzazzjoni.";

(b) is-subartikoli (3) u (4) tiegħu għandhom jiġu enumerati mill-ġdid bħala s-subartikoli (4) u (5) rispettivament;

(ċ) minnufih wara s-subartikolu (2) tiegħu, kif emendat, għandu jiżdied is-subartikolu ġdid li ġej:

"(3) Jekk ma jiġi speċifikat ebda terminu fl-istatut tal-assoċjazzjoni, dik l-assoċjazzjoni għandha titqies li hija għal perjodu indefinit."; u

(d) is-subartikolu (4) tiegħu kif enumerat mill-ġdid, għandu jiġi sostitwit b'dan li ġej:

"(4) (a) L-istatut għandu jiġi ffirmat mill-persuni assoċjati u kull persuna li tissottoskrivi għall-istatut wara li tkun giet stabbilita l-assoċjazzjoni, titqies li tkun tat il-kunsens tagħha għad-dispożizzjonijiet kollha tal-istatut u għar-regoli kollha li jkunu ġew iddiseminati b'mod validu mill-assoċjazzjoni sa dik id-data. F'każ li aktar minn tliet persuni jkunu jixtiequ jistabilixxu assoċjazzjoni, tista' ssir dikjarazzjoni dwar dan il-fatt fl-istatut u l-firma ta' tliet persuni f'isem il-membri kollha assoċjati, imsemmija fi skeda mal-istatut, għandha tkun biżżejjed biex tindika l-kunsens tal-persuni kollha msemmija.

(b) Meta assoċjazzjoni tkun qed tiġi stabbilita bħala assoċjazzjoni għall-benefiċċju pubbliku, li tinvolvi aktar minn tliet persuni bħala promoturi, il-firma ta' tliet persuni għandha tkun suffiċjenti sabiex tindika il-kunsens tal-membri l-oħra kollha assoċjati meta tiġi mwaqqfa.

(ċ) Dokument li jkun fih lista tal-membri l-oħra kollha assoċjati għandu jkun evidenza suffiċjenti tal-kunsens tagħhom u minkejja d-dispożizzjonijiet ta' kwalunkwe liġi oħra, fir-rigward tal-persuni elenkati fid-dokument li jkun fih il-lista tal-membri kollha assoċjati, isimhom, kunjomhom u l-karta tal-identità, in-numru tal-passaport jew numru ta' registrazzjoni, kif applikabbli, għandhom ikunu suffiċjenti. Dikjarazzjoni mit-tliet persuni li huma awtorizzati jaġixxu għan-nom tal-membri l-oħra kollha assoċjati għandha titniżżel taħt il-firma tagħhom.

(d) Meta tali assoċjazzjoni tiġi mwaqqfa permezz ta' att pubbliku, in-Nutar Pubbliku m'għandux ikun marbut jaċċerta li t-tliet persuni ġew awtorizzati mill-membri assoċjati sabiex jidhru fuq l-att, iżda għandu jiddependi fuq id-dokument preżentat lilu mit-tliet persuni li jkun fih lista tal-membri kollha assoċjati bħala evidenza tal-kunsens tagħhom. Minkejja d-dispożizzjonijiet ta' kwalunkwe liġi oħra, fir-rigward tal-persuni msemmija fid-dokument li fih il-lista tal-membri kollha assoċjati, isimhom, kunjomhom u l-karta tal-identità, in-numru tal-passaport jew numru ta' reġistrazzjoni, kif applikabbli, għandhom ikunu suffiċjenti.

(e) In-Nutar Pubbliku li jirċievi kwalunkwe att li għalih jirreferi dan is-subartikolu, għandu jniżżel, fl-att ta' dikjarazzjoni mit-tliet persuni, li huma awtorizzati mill-membri assoċjati sabiex iniżżlu isimhom, kunjomhom u l-karta tal-identità, in-numru tal-passaport jew numru ta' reġistrazzjoni, kif applikabbli, fid-dokument imsemmi hawn qabel u n-Nutar Pubbliku għandu jwissu lit-tliet persuni dwar l-importanza tal-veracità ta' dik id-dikjarazzjoni.

(f) Id-dokument għandu jiġi meħmuż mal-istatut mid-dikjaranti jew, jekk ikun stabbilit b'att pubbliku, mal-att pubbliku li jistabbilixxi l-assoċjazzjoni.

(g) Kwalunkwe persuna msemmija bħala membru assoċjat fid-dokument kif imsemmi hawn qabel, li tallega li ma tawtorizzax lit-tliet persuni sabiex jinkludu isimha, kunjomha u l-karta tal-identità, in-numru tal-passaport jew numru ta' reġistrazzjoni, kif applikabbli, fid-dokument, għandha fi żmien sittin (60) jum minn meta ssir taf dwar l-inklużjoni tagħha, tkun intitolata tirreġistra dikjarazzjoni f'dan is-sens fir-Registru tal-assoċjazzjoni u fin-nuqqas ta' kwalunkwe evidenza bil-miktub li tkun turi xort'oħra li tista' tiġi preżentata f'każ ta' tilwima dwar din il-kwistjoni, għandha titqies li qatt ma kienet membru assoċjata."

92. Fis-subartikolu (5) tal-artikolu 50 tat-Tieni Skeda, il-kliem "Assoċjazzjoni bi skop soċjali" għandhom jiġu sostitwiti bil-kliem "Assoċjazzjoni għall-benefiċċju pubbliku"; u l-kliem "skopijiet soċjali" għandhom jiġu sostitwiti bil-kliem "skopijiet għall-benefiċċju pubbliku".

Emenda tal-artikolu 50 tat-Tieni Skeda.

93. L-artikolu 51 tat-Tieni Skeda għandu jiġi emendat kif ġej:

Emenda tal-artikolu 51 tat-Tieni Skeda.

C 1464

(a) is-subartikoli (1), (2) u (3) tiegħu għandhom jiġu enumerati mill-ġdid bhala s-subartikoli (2), (3) u (4) rispettivament;

(b) minnufih qabel is-subartikolu (2) tiegħu, kif enumerat mill-ġdid, għandu jiżdied is-subartikolu ġdid li ġej:

"(1) Bla hsara għad-dispożizzjonijiet tal-artikolu 12(3), l-assoċjazzjonijiet kollha għandhom ikunu eligibbli sabiex jirreġistraw taħt id-dispożizzjonijiet ta' dan it-*Titolu*.";

(c) is-subartikolu (4) tiegħu kif enumerat mill-ġdid, għandu jiġu sostitwit b'dan li ġej:

"(4) Id-dokument imsemmi fl-artikolu 49(4) relatat ma' membri oħra assoċjati, meta dan ikun il-każ, għandu wkoll fil-waqt tat-twaqqif, jiġi kkonsenjat lir-Registatur għar-registrazzjoni"; u

(d) minnufih wara s-subartikolu (4) tiegħu, kif enumerat mill-ġdid, għandhom jiżdiedu s-subartikoli ġodda li ġejjin:

"(5) L-isem, il-kunjom u l-karta tal-identità jew passaport jew numru ta' registrazzjoni, jekk applikabbli, ta' kull persuna li tingħaqad mal-assoċjazzjoni bhala membru wara li din tkun ġiet stabbilita u, jew registrata, għandhom jiddaħħlu f'registru tal-membri li għandu jiġi aġġornat b'mod regolari. Għandu wkoll jinżamm rekord tal-persuni li jtilqu mill-assoċjazzjoni fl-imsemmi registru tal-membri.

(6) Dan ir-registru tal-membri m'għandux ikun registrat mar-Registatur, iżda dan għandu jkun mingħajr preġudizzju għad-dritt ta' kwalunkwe persuna, bla hsara għall-awtorizzazzjoni tal-Qorti, u għad-dritt tal-Kummissarju għal Organizzazzjonijiet Volontarji, fil-każ ta' organizzazzjoni volontarja, u għad-dritt tal-Awtorità Maltija għas-Servizzi Finanzjarji, fil-każ ta' entitajiet li huma regolati jew li jidhru li jkunu qed iwettqu attivitajiet regolati li għalihom hi l-awtorità kompetenti taħt il-liġi applikabbli, sabiex jitolbu informazzjoni dwar membri li huma soġġetti għad-dispożizzjonijiet tal-liġi applikabbli.

(7) Minkejja s-subartikolu preċedenti, fil-każ ta' organizzazzjoni għall-benefiċċju pubbliku f'forma ta' assoċjazzjoni:

(a) jekk din tkun reġistrata mar-reġistratur, ir-reġistru tal-membri jista' jiġi reġistrat mir-Reġistratur f'kull hin, hekk kif issir talba bil-miktub mill-amministraturi u għandu jkun disponibbli għall-pubbliku fil-kazijiet kollha;

(b) ir-reġistru tal-membri għandu dejjem ikun aċċessibbli għal kwalunkwe membru.

(8) Hekk kif ir-Reġistratur jirċievi d-dokumenti msemmija fis-subartikoli (2) jew (3) flimkien mal-formoli stabbiliti u kwalunkwe annessi meħtieġa, ir-Reġistratur għandu jirreġistra l-assoċjazzjoni jekk ikun sodisfatt li d-dispożizzjonijiet kollha ta' dan is-Sub-Titolu ikunu ntlahqu."

94. L-artikolu 53 tat-Tieni Skeda għandu jiġi emendat kif ġej:

Emenda tal-artikolu 53 tat-Tieni Skeda.

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

"(2) Id-dispożizzjonijiet tal-artikolu 35 għandhom japplikaw *mutatis mutandis* għall-amministraturi tal-assoċjazzjonijiet, hliet kif hawnhekk stabbilit."; u

(b) minnufih wara s-subartikolu (2) tiegħu, kif sostitwit, għandhom jiżdiedu s-subartikoli godda li ġejjin:

"(3) Assoċjazzjoni stabbilita għall-promozzjoni ta' benefiċċju privat tista' tiġi amministrata minn amministratur wieħed biss u dak l-amministratur jista' wkoll ikun organizzazzjoni ġuridika reġistrata, bil-kundizzjoni li dik l-organizzazzjoni ġuridika jkollha minn tal-inqas amministratur wieħed fil-kariga.

(4) Fil-każ ta' assoċjazzjoni għall-benefiċċju privat, l-amministraturi tal-assoċjazzjoni jistgħu jiġu maħtura bi kwalunkwe mod, sew permezz ta' avviż bil-miktub minn kwalunkwe membru jew klassifikazzjoni ta' membri, permezz ta' elezzjonijiet minn fost il-membri, permezz ta' hatra fil-kariga mill-amministraturi jew xort'oħra kif l-istatut jista' jistabbilixxi u għal kwalunkwe perjodu jew funzjoni, bla h'sara għad-dispożizzjonijiet tas-subartikolu (5) għal hatriet indefiniti.

(5) Fil-każ ta' assoċjazzjoni għall-benefiċċju pubbliku, għandhom japplikaw l-istess regoli, iżda minkejja d-dispożizzjonijiet tal-istatut:

C 1466

(a) il-maġġoranza tal-amministraturi għandha tiġi mahtura permezz ta' elezzjonijiet fost il-membri fil-laqgħa ġenerali, hlief meta kull wieħed mill-membri, jew kull waħda mill-klassifikazzjonijiet tal-membri jingħataw id-dritt li jaħtru jew inehħu amministratur, jew meta japplikaw id-dispożizzjonijiet tas-subartikolu (6); u

(b) għandu jkun meħtieġ li l-maġġoranza tal-amministraturi tkun soġġetta għall-konferma permezz tal-laqgħa ġenerali tal-membri, minn tal-inqas darba kull hames (5) snin:

Izda meta japplikaw id-dispożizzjonijiet tas-subartikolu (6), dawk l-amministraturi li jiġu mahtura b'mod indefinit m'għandhomx ikunu soġġetti għall-konferma.

(6) Meta amministratur jiġi mahtur b'mod indefinit, dik il-ħatra timplika is-setgħa tal-laqgħa ġenerali li tneħħi lil dak l-amministratur f'kull waqt jekk tqis li ma jkunx kapaċi jwettaq il-funzjonijiet tiegħu minħabba raġunijiet ta' saħħa jew taħt l-artikolu 9:

Izda f'każ ta' diżgwig dwar kwalunkwe kwistjoni imsemmija f'dan l-artikolu, l-amministratur li jkun mahtur b'mod indefinit jista' jitlob lill-Qorti sabiex toħroġ dawk l-ordnijiet kif jidhrilha li huma xierqa wara li tkun semgħet lill-persuni rilevanti."

Emenda tal-artikolu 54 tat-Tieni Skeda.

95. L-artikolu 54 tat-Tieni Skeda għandu jiġi emendat kif ġej:

(a) is-subartikolu (3) tiegħu għandu jiġi emendat kif ġej:

(i) minnufih wara l-kliem "jinzel għal anqas minn tlieta,", għandhom jiżdiedu l-kliem "u fil-każ ta' assoċjazzjoni li tista' tiġi stabbilita bejn żewġ persuni skont l-artikolu 27, jinzel għal anqas minn tnejn,";

(ii) il-kliem "bit-terminazzjoni tar-reġistrazzjoni ta' dik l-assocjazzjoni skont dan it-Titolu.", għandhom jiġu sostitwiti bil-kliem "bl-istralċ tal-assocjazzjoni taħt din l-Iskeda.";

(b) is-subartikolu (6) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(6) Is-*shubija* ta' persuna f'organizzazzjoni għall-benefiċċju pubbliku stabbilita bħala assoċjazzjoni mhux trasferibbli, lanqas ma tista' tintiret. Il-membri la jista jkollhom drittijiet patrimonjali għall-*assi* ta' tali assoċjazzjoni ħlief kif awtorizzat taħt l-Att dwar l-Organizzazzjonijiet Volontarji u mhumiex intitolati għal xi kumpens mal-irtitar jew espulsjoni jew mal-*istralċ* tal-assoċjazzjoni."; u

Kap. 492.

(ċ) is-subartikolu (7) tiegħu għandu jiġi mħassar.

96. L-artikolu 55 tat-Tieni Skeda għandu jiġi sostitwit b'dan li ġej:

Sostituzzjoni tal-artikolu 55 tat-Tieni Skeda.

"Dotazzjonijiet.

55. (1) Id-dispożizzjonijiet tal-artikolu 34 għandhom japplikaw *mutatis mutandis* għal dotazzjonijiet addizzjonali jew *godda*, għal organizzazzjonijiet għall-benefiċċju pubbliku stabbiliti bħala assoċjazzjonijiet:

Izda d-dotazzjonijiet għandhom ikunu soġġetti għall-aċċettazzjoni bil-miktub tal-amministraturi jew kif mitlub xort'oħra mill-istatut u dik id-dotazzjoni, meta tiġi aċċettata, għandha timplika li l-konċedent sar membru tal-organizzazzjoni, sakemm ma jkunx ġie miftiehem b'mod *espress*, jew l-istatut ma jkunx jipprovd i xort'oħra fir-rigward tad-dotazzjonijiet, bl-istess drittijiet u obligazzjonijiet u mill-bqija skont id-dispożizzjonijiet ta' din l-Iskeda.

(2) Il-miżati tas-*shubija* mhumiex dotazzjonijiet u m'għandhomx jiġu ttrattati bħala tali, lanqas ma jistgħu jiġu rimborsati ħlief kif stabbilit b'mod *espress* fl-istatut.

(3) Meta assoċjazzjoni għandha benefiċċju privat, id-dotazzjonijiet il-*godda* jew addizzjonali jitqiesu generalment bħala kontribuzzjonijiet għall-kapital tal-assoċjazzjoni u għandhom japplikaw ir-regoli li ġejjin:

(a) dotazzjoni għandha tkun soġġetta għall-kunsens tal-amministraturi jew kif jitlob xort'oħra l-istatut;

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(b) meta dotazzjoni tiġi aċċettata għandha tistabilixxi kontribuzzjoni favur l-assocjazzjoni u favur il-konċedent li minn hemm 'il quddiem għandu jsir membru, u jekk ikun diġà membru tal-assocjazzjoni, dik il-kontribuzzjoni għandha titqies bħala dotazzjoni addizzjonali għad-dotazzjoni inizjali tiegħu;

(c) kemm-il darba ma jkunx miftiehem jew stabbilit xort'oħra fl-istatut jew jekk is-sugġett ma jkunx indirizzat fi kwalunkwe ftehim jew statut, għandu jiġi preżunt li l-kontribuzzjonijiet għandhom ikunu abbażi tal-proporzjonalità tad-drittijiet u l-obbligazzjonijiet kollha fi ħdan l-organizzazzjoni;

(d) l-istatut jista' jirregola u jistabilixxi regoli, li jistgħu jkunu msejsa fuq prinċipji ħlief għall-proporzjonalità, abbażi tal-kwistjonijiet segwenti:

(i) id-drittijiet tal-membri meta mqabbla mal-kontribuzzjonijiet tagħhom b'konnessjoni mal-votazzjoni, qsim fi profitti u telf u partecipazzjoni fil-kapital max-xoljiment;

(ii) il-partecipazzjoni fil-ġestjoni tal-organizzazzjoni u d-drittijiet sabiex wieħed jiġi maħtur u elett jew sabiex jaħtar u jeleġġi l-amministraturi;

(iii) bla ħsara għad-drittijiet ta' terzi persuni protetti, il-mod li bih il-kontribuzzjonijiet tal-membri jistgħu jiġu irtirati jew xort'oħra imħallsa lura lilhom."

Emenda tal-artikolu 56 tat-Tieni Skeda.

97. L-artikolu 56 tat-Tieni Skeda għandu jiġi emendat kif ġej:

(a) is-subartikolu (3) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(3) Fil-każ ta' organizzazzjonijiet għall-benefiċċju pubbliku stabbiliti bħala assocjazzjonijiet, bla ħsara għad-dispożizzjonijiet tal-istatut, kwalunkwe assi għandhom mat-terminazzjoni jiġu mogħtija jew distribwiti mill-amministraturi għan-nom tal-assocjazzjoni -

(a) lill-ewwel fundatur, jekk il-fundatur huwa

organizzazzjoni oħra għall-benefiċċju pubbliku;

(b) jekk il-paragrafu (a) ma japplikax, lil organizzazzjoni oħra għall-benefiċċju pubbliku bl-istess għanijiet jew karatteristiċi jew b'għanijiet jew karatteristiċi simili, jew fin-nuqqas, lil kwalunkwe organizzazzjoni oħra bi skop soċjali jew pubbliku:

Iżda meta l-għanijiet huma l-avvanz tar-religjon jew it-twettiq ta' vokazzjoni reliġjuża jew hemm indikazzjonijiet fid-dotazzjoni oriġinali li din kienet intiża għal organizzazzjoni reliġjuża, lil kwalunkwe fondazzjoni pija jew entità ekkleżjastika, u f'dan il-każ tad-denominazzjoni adegwata;

(ċ) lill-Gvern ta' Malta jekk l-għanijiet ikunu għall-benefiċċju pubbliku ġenerali jew utilità pubblika ġenerali, meta l-Gvern ikun ta lill-assoċjazzjoni parti sostanzjali mill-assi tagħha, kif jistgħu jiddeċiedu l-amministraturi jew il-membri fil-laqgħa ġenerali skont id-dispożizzjonijiet tal-artikolu 52(3)(b).";

(b) is-subartikolu (4) tiegħu għandu jiġi enumerat mill-ġdid bħala s-subartikolu (5); u

(ċ) minnufih wara s-subartikolu (3) tiegħu, għandu jizjed is-subartikolu ġdid li ġej:

"(4) Fil-każ ta' assoċjazzjonijiet stabbiliti għal għadd ta' għanijiet, li huma parzjalment għal benefiċċju privat u parzjalment għal skop soċjali jew skop pubbliku, l-assi għandhom jithallsu lil membri, b'mod li l-assi li jirriflettu l-benefiċċju privat tal-membri, għandhom jithallsu lil membri u l-assi rimanenti għandhom jitqassmu skont id-dispożizzjonijiet tas-subartikolu (3), kif jista' jiġi approvat mill-Ministru skont l-artikolu 52(3)(b), u f'każ ta' nuqqas ta' qbil, kif jista' jiġi dirett mill-Qorti.".

98. Is-subartikolu (1) tal-artikolu 58 tat-Tieni Skeda għandu jiġi emendat kif ġej:

Emenda tal-artikolu 58 tat-Tieni Skeda.

"(1) Mingħajr ħsara għal xi liġi speċjali li tirregola l-forma jew l-għan tal-organizzazzjoni, organizzazzjoni tista' tiġi xolta volontarjament jew b'ordni tal-Qorti.".

99. L-artikolu 59 tat-Tieni Skeda għandu jiġi emendat kif ġej:

Emenda tal-artikolu 59 tat-Tieni Skeda.

(a) fis-subartikolu (1) tiegħu, il-kliem "fil-każ ta'

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fondazzjoni.", għandhom jiġu sostitwiti bil-kliem "fil-każ ta' fondazzjoni:", u minnufih wara għandu jiżdied il-proviso ġdid li ġej:

"Iżda ir-rappreżentant lokali jista' wkoll ixlolji l-organizzazzjoni jekk ma jkun irċieva ebda forma ta' notifika minn kwalunkwe amministratur għal perjodu li jeċċedi erbgħa u għoxrin (24) xahar konsekuttivi.";

(b) fis-subartikolu (3) tiegħu, minnufih wara l-kliem "l-attiv tagħha jeċċedi l-passiv tagħha" għandhom jiżdiedu l-kliem "jew l-attiv tagħha ġie eżawrit"; u

(ċ) minnufih wara s-subartikolu (3) tiegħu, għandu jiżdied is-subartikolu ġdid li ġej:

"(4) Ladarba l-iskema ta' distribuzzjoni tiġi approvata, l-amministraturi għandhom jipproċedu għall-ħlas tal-assi rimanenti tal-organizzazzjoni skont l-istess skema ta' distribuzzjoni.".

Emenda tal-artikolu 60 tat-Tieni Skeda.

100. L-artikolu 60 tat-Tieni Skeda għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, il-kliem "organizzazzjoni b'għan" għandhom jiġu sostitwiti bil-kliem "organizzazzjoni għall-benefiċċju pubbliku"; u

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

"(2) Fil-każ tax-xoljiment u tal-istralċ ta' organizzazzjoni stabbilita għal benefiċċju privat u fin-nuqqas ta' indikazzjoni fl-istatut dwar kif l-assi għandhom jiġu distribwiti f'każ ta' stralċ, l-assi għandhom jithallsu lill-benefiċjarji jew membri, jew lill-fundaturi jew promoturi jew l-eredi tagħhom fil-liġi wara l-ħlas tal-ispejjeż kollha, kif jista' jiġi stabbilit mill-Qorti wara li tkun semgħet il-proposti tal-amministraturi, fundaturi jew promoturi jekk ikunu ħajjin, il-benefiċjarji jew il-membri u kwalunkwe partijiet oħra interessati, filwaqt li tingħata importanza għall-intenzjonijiet tal-fundatur.".

Emenda tal-artikolu 62 tat-Tieni Skeda.

101. L-artikolu 62 tat-Tieni Skeda għandu jiġi emendat kif ġej:

(a) fis-subartikolu (3) tiegħu, il-kliem "fondazzjoni privata" għandhom jiġu sostitwiti bil-kliem "fondazzjoni privata kif imfissra fl-artikolu 31B"; u

(b) fis-subartikolu (4) tiegħu, il-kliem "fondazzjoni b'għan" għandhom jiġu sostitwiti bil-kliem "organizzazzjoni għall-benefiċċju pubbliku".

102. Fis-subartikolu (3) tal-artikolu 64 tat-Tieni Skeda, il-kliem "fondazzjoni privata" għandhom jiġu sostitwiti bil-kliem "fondazzjoni privata kif imfissra fl-artikolu 31B".

Emenda tal-artikolu 64 tat-Tieni Skeda.

103. Fl-artikolu 65 tat-Tieni Skeda, minnufih wara l-kliem "tithassar mir-Registru", għandhom jiżdiedu l-kliem "tithassar mir-Registru għall-Persuni Ġuridiċi".

Emenda tal-artikolu 65 tat-Tieni Skeda.

104. L-artikolu 66 tat-Tieni Skeda għandu jiġi emendat kif ġej:

Emenda tal-artikolu 66 tat-Tieni Skeda.

(a) il-kliem "il-Qorti jkollha" għandhom jiġu sostitwiti bil-kliem "il-Qorti jkollha, fuq talba ta' kwalunkwe fundatur, tal-aħħar amministraturi li jkun servew jew kwalunkwe membru," u

(b) il-kliem "imqassam jew likwidat dak l-attiv jew dak il-passiv", għandhom jiġu sostitwiti bil-kliem "imħallsa jew likwidati dawk l-assi jew il-passiv".

105. Minnufih wara l-artikolu 67 tat-Tieni Skeda, għandhom jiżdiedu s-subartikoli godda li ġejjin:

Żjieda ta' artikoli godda fit-Tieni Skeda.

"Kumpanniji li ma joperawx.

68. (1) Meta r-Registratur ikollu raġuni motivata sabiex jemmen li organizzazzjoni registrata ma tkunx qed topera, jista' jibgħat ittra bil-posta, biex jara jekk l-organizzazzjoni hux qed topera.

(2) Jekk ir-Registratur jiġi nnotifikat bl-ittra msemmija fis-subartikolu (1), fis-sens li l-organizzazzjoni mhux qed topera, jew ma jkunx irċieva, fi żmien tliet (3) xhur minn meta jkun bagħat tali ittra, dik l-informazzjoni mingħand xi amministratur jew xi membru ieħor f'każ ta' assoċjazzjoni, għandu jipubblika avviż fil-Gazzetta u f'gurnal ta' kuljum li, mal-iskadenza ta' tliet xhur mid-data tal-aħħar pubblikazzjoni tal-imsemmi avviż, l-organizzazzjoni, sakemm ir-Registratur ma jkunx sodisfatt li giet murija kawża kuntrarja u li hemm raġunijiet suffiċjenti li l-organizzazzjoni ma waqfitx milli topera, tkun ser tithassar mir-Registru, u l-assi rimanenti tal-organizzazzjoni għandhom jgħaddu skont id-dispożizzjonijiet tal-Istatut jew fin-nuqqas ta' tali statut, skont id-dispożizzjonijiet ta' din l-Iskeda, kif jiġri jekk ikun hemm xoljiment.

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(3) Jekk xi kreditur jew kwalunkwe parti oħra interessata li tħossha aggravata bil-fatt li l-isem tal-organizzazzjoni ġie mħassar mir-Registru abbażi ta' dan l-artikolu, il-Qorti, fuq applikazzjoni magħmula minn tali kreditur jew xi parti oħra interessata qabel l-iskadenza ta' ħames snin mill-pubblikazzjoni tal-avviż għat-tħassir imsemmi fis-subartikolu (2) tista', jekk tkun sodisfatta li hemm raġunijiet suffiċjenti għar-revoka tal-ordni tar-Registratur għat-tħassir tal-organizzazzjoni, tordna li tali isem jerga' jiddaħħal fir-Registru, u hekk kif issir il-kunsinna tal-kopja uffiċjali tal-ordni mir-Registratur tal-Qrati, lir-Registratur, l-organizzazzjoni għandha titqies li komplet teżisti daqs li kieku isimha qatt ma tħassar minn fuq ir-Registru.

(4) Bla ħsara għad-dispożizzjonijiet tas-subartikolu (3), il-Qorti tista' tagħti dawk id-direzzjonijiet u tagħmel dawk il-provvedimenti li tqis li huma adegwati sabiex tpoġġi lill-organizzazzjoni u lil partijiet kollha interessati fl-istess pożizzjoni, kif kienu qabel ma l-isem tal-organizzazzjoni ġie mħassar. Ir-Registratur għandu minnufih jipproċedi għall-pubblikazzjoni ta' avviż fil-Gazzetta u f'gurnal ta' kuljum li jitqassam biss jew prinċipalment f'Malta, fis-sens li l-isem tal-organizzazzjoni reġa' ddaħħal fir-Registru.

(5) Minkejja t-tħassir ta' isem l-organizzazzjoni minn fuq ir-Registru skont it-termini tad-dispożizzjonijiet preċedenti ta' dan l-artikolu, ir-responsabbiltà, jekk ikun hemm, ta' kull promotur, fundatur, amministratur, membru tal-organizzazzjoni, għandha tibqa' u tista' tiġi infurzata daqs li kieku isem l-organizzazzjoni ma ġiex imħassar mir-Registru.

Dispożizzjoni
tranzitorja.

Kap. 492.

69. L-emendi għal din l-Iskeda introdotti permezz tal-Att tal-2018 li jemenda l-Att dwar l-Organizzazzjonijiet Volontarji, li jeħtiegu li jsiru dikjarazzjonijiet fl-istrument kostituttiv jew l-istatut tal-organizzazzjoni, li ma kienux meħtiega qabel id-dhul fis-seħħ tal-Att imsemmi hawn qabel, m'għandhomx jorbtu fuq dawk l-organizzazzjonijiet li kienu diġà jeżistu qabel id-dhul fis-seħħ tal-Att. Dawn l-organizzazzjonijiet għandhom jintroduċu dawn id-dikjarazzjonijiet fl-istrument kostituttiv jew fl-istatut biex ikunu konformi mad-dispożizzjonijiet tal-Att dwar l-Organizzazzjonijiet Volontarji, fi żmien ħames (5) snin mid-dhul fis-seħħ tal-Att tal-2018 li jemenda l-Att dwar l-Organizzazzjonijiet Volontarji."

Taqsimha III – Emendi għall-Att dwar il-Ġbir Pubbliku

106. Din it-Taqsimha temenda u għandha tinqara u tinftiehem haġa waħda mal-Att dwar il-Ġbir Pubbliku, hawnhekk iżjed 'il quddiem f' din it-Taqsimha msejjaħ "l-Att prinċipali".

Emendi għall-
Att dwar il-Ġbir
Pubbliku.
Kap. 279.

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

Emenda tal-
artikolu 2 tal-
Att prinċipali.

(a) is-subartikolu (1) tiegħu għandu jiġi emendat kif ġej:

(i) minnufih qabel it-tifsira "dar", għandha tizzied it-tifsira ġdid li ġejja:

" "benevolenti" tfisser skop pubbliku jew kwalunkwe benefiċċju jew skop pubbliku ieħor;"

(ii) it-tifsira "għan ta' karità" għandha tiġi sostitwita bit-tifsira ġdida li ġejja:

" "għan ta' karità" tfisser skop soċjali jew kwalunkwe benefiċċju jew skop pubbliku ieħor;"

(iii) it-tifsira "għbir" għandha tiġi emendata kif ġej:

A. minnufih wara l-kliem "jew bil-mezz ta' xi reklam" tiegħu, għandhom jiżdiedu l-kliem "jew bl-użu ta' mezzi teknoloġiċi, inkluż l-internet jew kwalunkwe mezz ta' midja soċjali fuq kwalunkwe pjattaforma ta' kwalunkwe tip,"

B. il-paragrafu (b) tiegħu għandu jiġi sostitwit b'dan li ġej:

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"(b) il-ġbir magħmul fi knisja jew post ta' qima fl-andament ordinarju, għaż-żamma, tisbiħ jew titjib tal-istess jew għas-servizzi li jsiru fih, u ġbir għal għanijiet dikjarati bil-miktub bhala benevolenti mill-awtoritajiet reliġjużi kompetenti lokali jew internazzjonali;"

Ċ. minnufih wara l-paragrafu (d) tiegħu, għandu jiżdied il-paragrafu ġdid li ġej:

"(e) ġbir magħmul minn kwalunkwe organizzazzjoni iskritta mal-Kummissarju għal Organizzazzjonijiet Volontarji skont l-Att dwar l-Organizzazzjonijiet Volontarji, kemm-il darba tibqa' iskritta;"

Kap. 492.

(iv) fit-tifsira "post pubbliku", minnufih wara l-kliem "jew ikollu aċċess għalih il-pubbliku", għandhom jiżdiedu l-kliem ", inkluż bl-użu ta' mezz teknoloġiċi, bhall-internet jew kwalunkwe mezz ta' midja soċjali fuq kwalunkwe pjattaforma ta' kwalunkwe tip";

(b) is-subartikolu (2) tiegħu għandu jiġi enumerat mill-ġdid bhala s-subartikolu (3);

(ċ) minnufih wara s-subartikolu (1) tiegħu, għandu jiżdied is-subartikolu ġdid li ġej:

"(2) Għall-finijiet ta' dan l-Att, it-termini "skop soċjali", "benefiċċju pubbliku" jew "skop pubbliku" għandu jkollhom l-istess tifsira mogħtija lilhom fl-Att dwar l-Organizzazzjonijiet Volontarji."; u

Kap. 492.

(d) minnufih wara s-subartikolu (3) tiegħu, kif enumerat mill-ġdid, għandu jiżdied is-subartikolu ġdid li ġej:

"(4) Għall-finijiet ta' dan l-Att, meta għan jiġi ddikjarat bhala wiehed benevolenti, kopja ta' dik id-dikjarazzjoni tista' tintalab minn kwalunkwe persuna u l-persuna responsabbli għal dak il-ġbir għandha tipproduċi l-istess fi żmien raġonevoli. Fin-nuqqas, il-Kummissarju tal-Pulizija jista' jitlob l-istess lill-awtorità kompetenti reliġjuża li għandha tibghatha fi żmien għaxart ijiem ta' xogħol u l-Kummissarju għandu jirrilaxxa l-istess lil persuna li talbitha."

Emenda tal-artikolu 5 tal-Att prinċipali.

108. Is-subartikoli (2) u (3) tal-artikolu 5 tal-Att prinċipali għandhom jiġu sostitwiti b'dan li ġej:

"(2) Liċenzja għandha tingħata biss għal skop soċjali jew għal benefiċċju jew skop pubbliku ieħor, jew għal għan approvat mill-Ministru, u għandu biss japplika għal skop soċjali jew għal benefiċċju jew skop pubbliku ieħor, jew għal dak l-għan approvat mill-Ministru. Ma għandha tingħata l-ebda liċenzja għal għan ġenerali jew għal aktar minn għan wieħed. L-applikazzjoni għal-liċenzja għandha tiġi ffirmata minn tal-inqas minn tliet individwi.

(3) Liċenzja għandha tingħata biss għal avvenimenti speċifiċi jew għal perjodu determinat li ma jeċċedix tnaħ-il xahar u għandu jiskadi hekk kif iseħħ l-avveniment speċifikat jew l-iskadenza tat-terminu stabbilit."

109. Minnufih wara l-artikolu 5 tal-Att prinċipali, għandu jiżded is-subartikolu ġdid li ġej:

Zjieda ta' artikolu ġdid fl-Att prinċipali.

"Regoli addizzjonali għal ċerti tipi ta' ġbir.

5A. Kwalunkwe ġbir magħmul minn –

(a) xi persuna li mhix organizzazzjoni volontarja iskritta, għal kwalunkwe skopijiet soċjali jew għanijiet ta' benefiċċju pubbliku;

(b) xi organizzazzjoni volontarja mhux iskritta, għall-għanijiet tagħha; jew

(ċ) dawk kollha li għalihom issir referenza fil-paragrafi (a) jew (b) għall-benefiċċju ta' organizzazzjoni oħra volontarja, sew jekk iskritta u anke jekk le,

għandu, minbarra dan l-Att, ikun wkoll suġġett għal kwalunkwe linjigwida maħruġa mill-Kummissarju għal Organizzazzjonijiet Volontarji, skont it-tip ta' ġbir magħmul, inklużi appelli elettronici u appelli bbażati fuq l-internet u ġbir mill-folla."

110. L-artikolu 3 tal-Ewwel Skeda tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

Emenda tal-Ewwel Skeda tal-Att prinċipali.

"3. Għan tal-ġabra jew avveniment speċifiku."

Taqsimha IV – Emendi tal-Att dwar il-Professjoni Nutarili u l-Arkivji Nutarili

111. Din it-Taqsimha temenda u għandha tinqara u tinftiehem haġa waħda mal-Att dwar il-Professjoni Nutarili u l-Arkivji Nutarili, hawnhekk iżjed 'il quddiem f'din it-Taqsimha msejjaħ "l-Att prinċipali".

Emendi għall-Att dwar il-Professjoni Nutarili u l-Arkivji Nutarili. Kap. 55.

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Emenda tal-
artikolu 50 tal-
Att prinċipali.**112.** L-artikolu 50 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) is-subartikolu (1) tiegħu għandu jiġi emendat kif ġej:

(i) fil-paragrafu (g) tiegħu, minnufih wara l-kliem "fuq immobbli", għandhom jiżdiedu l-kliem u kwalunkwe att li jinnotifika t-terminazzjoni tal-istess";

(ii) il-paragrafu (m) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(m) bla ħsara għad-dispożizzjonijiet tas-subartikolu (9), kwalunkwe att li permezz tiegħu tiġi stabbilita jew terminata fondazzjoni, u kwalunkwe att li permezz tiegħu tingħata dotazzjoni ġdida, għajr dotazzjoni taht skema li hija registrata taht it-Tieni Skeda tal-Kodiċi Ċivili, lil xi fondazzjoni;"

Kap. 16.

(b) is-subartikolu (9) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(9) F'każ ta' att li johloq fondazzjoni, in-nota għandu jkun fiha d-data u n-natura tal-att, isem il-fondazzjoni u l-identifikazzjoni tal-fundatur skont l-artikolu 28(1)(ċ) u f'każ ta' dotazzjoni ġdida, id-data u n-natura tal-att, isem il-fondazzjoni li tircievi u l-identifikazzjoni tal-koncedent skont l-artikolu 28(1)(ċ):

Kap. 331.

Iżda, fil-każ ta' fondazzjoni privata, in-Nutar m'għandu jkollu l-ebda obligazzjoni u m'għandux jirreġistra tali noti jekk il-fundatur jew koncedent ikun eżentah milli jagħmel dan fl-att rilevanti u l-amministratur huwa persuna awtorizzata jew ma tinhtiegħ li tkun awtorizzata sabiex taġixxi bħala amministratur għal fondazzjoni privata skont it-termini tal-artikolu 43 tal-Att dwar *Trusts* u *Trustees*."; u

(ċ) minnufih wara s-subartikolu (9) tiegħu, kif sostitwit, għandhom jiżdiedu s-subartikoli godda li ġejjin:

"(10) Meta fondazzjoni li hija registrata mar-Registratur tiġi tterminata, l-amministraturi għandhom jiskrivu fl-atti tan-Nutar il-formola preskritta lir-Registratur għall-Persuni Ġuridiċi, u n-Nota mogħtija lid-Direttur tar-Registru Pubbliku min-Nutar għandu jkun fiha biss id-data u n-natura tal-att u referenza għan-nota oriġinali mogħtija lid-Direttur tar-Registru Pubbliku mat-twaqqif ta' dik il-fondazzjoni:

Iżda meta n-Nutar li jkun ippubblika l-att li jkun stabbilixxa l-fondazzjoni, kien eżentat mill-fundatur milli jagħti n-nota dwar dak it-twaqqif lid-Direttur tar-Registru Pubbliku, l-amministraturi u n-Nutar m'għandhomx ikunu marbuta kif stabbilit hawn fuq.

(11) F'dan l-artikolu "fondazzjoni privata" tfisser fondazzjoni kif imfissra fl-artikolu 31B tat-Tieni Skeda tal-Kodiċi Ċivili." Kap. 16.

113. Minnufih wara l-artikolu 51 tal-Att prinċipali, għandu jiżdied l-artikolu ġdid li ġej:

"Nota li għandha tinghata fir-rigward ta' ċelluli ta' organizzazzjonijiet.

Kap. 16.

51A. (1) Meta jkun hemm transazzjoni relatata ma' ċellula ta' organizzazzjoni taħt l-artikolu 20A jew taħt l-artikolu 20B tat-Tieni Skeda tal-Kodiċi Ċivili, li tirriżulta f'bidla fid-dritt legali ta' proprjetà fuq kwalunkwe proprjetà immobbli jew drittijiet reali fuq dik il-proprjetà, dak l-avveniment għandu jiġu nnutat f'att pubbliku quddiem Nutar Pubbliku, eżegwit mill-amministraturi jew d-delegati tagħhom –

(a) tal-organizzazzjoni li titrasferixxi u, jekk differenti, dawk tal-organizzazzjoni li tirċievi taħt l-imsemmi artikolu 20A; jew

(b) tal-organizzazzjoni li ċ-ċellula kienet tiffirma parti minnha u dawk tal-organizzazzjoni l-ġdida taħt l-artikolu 20B, skont il-każ,

u n-Nutar għandu, fi żmien hmistax (15)-il jum mid-data tal-att, jagħti lid-Direttur tar-Registru Pubbliku, nota skont l-artikolu 50.

(2) (a) Fejn proprjetarju benefiċjarju ta' proprjetà immobbli miżmuma minn fondazzjoni privata, titrasferixxi jew tiddisponi xort'oħra mill-proprjetà benefiċjarja ta' dik il-proprjetà *inter vivos*, tali transazzjoni għandha titqies li tistabbilixxi trasferiment ta' ishma għall-finijiet tal-Att dwar it-Taxxa fuq Dokumenti u Trasferimenti, u għall-finijiet tal-artikolu 5(1) tal-Att dwar it-Taxxa fuq l-*Income*.

Kap. 364.

Kap. 123.

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Kap. 364.
Kap. 123.

(b) Meta l-bidla fil-proprjetà tal-immobbli ma tinvolvix bidla fil-proprjetà benefiċjarja tal-istess, dik il-bidla m'għandhiex titqies li tistabbilixxi trasferiment ta' ishma għall-finijiet tal-Att dwar it-Taxxa fuq Dokumenti u Trasferimenti u għall-finijiet tal-artikolu 5(1) tal-Att dwar it-Taxxa fuq l-*Income*, iżda għandha mandankollu tiġi nnutata kif meħtieġ f'dan l-artikolu.

Kap. 364.

(ċ) Għall-finijiet tal-artikolu 49 tal-Att dwar it-Taxxa fuq Dokumenti u Trasferimenti,

"il-persuna li titrasferixxi" u "il-persuna li takkwista" fi trasferiment ta' proprjetà immobbli *inter vivos*, għandha titqies li tinkludi fondazzjoni privata li taġixxi għall-benefiċċju jew tal-persuna li titrasferixxi jew tal-persuna li takkwista l-proprjetà benefiċjarja ta' dik il-proprjetà immobbli, jew kemm ta' dik persuna li titrasferixxi kif ukoll ta' dik li takkwista.

(3) F'dan l-artikolu:

"proprjetarju benefiċjarju" tfisser il-persuna intitolata għall-ishma taht fondazzjoni privata;

"fondazzjoni privata" tfisser fondazzjoni kif imfissra fl-artikolu 31B tat-Tieni Skeda tal-Kodiċi Ċivili."

Kap.16.

Sostituzzjoni tal-artikolu 68B tal-Att prinċipali.

114. L-artikolu 68B tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

"Aċċessibilità ta' atti notarili li jwaqqfu fondazzjonijiet b'ghan.

68B. (1) L-atti notarili li jwaqqfu fondazzjonijiet b'ghan għandhom ikunu aċċessibbli għal kwalunkwe persuna li titlob aċċess għall-istess, anke jekk l-iskop mhux esklussivament soċjali jew għall-benefiċċju pubbliku.

(2) L-aċċessibilità ta' atti notarili li jwaqqfu fondazzjonijiet privati għandhom ikunu id-dispożizzjonijiet tal-artikolu 31B tat-Tieni Skeda tal-Kodiċi Ċivili."

Kap. 16.

Taqsimha V - Emendi għall-Att dwar l-Arbitraġġ

Emendi għall-Att dwar l-Arbitraġġ.
Kap. 387.

115. Din it-Taqsimha temenda u għandha tinqara u tinftiehem haġa waħda mal-Att dwar l-Arbitraġġ, hawnhekk iżjed 'il quddiem f'din it-Taqsimha msejjaħ "l-Att prinċipali".

116. Minnufih wara l-artikolu 15A tal-Att prinċipali, għandu jizjed l-artikolu ġdid li ġej:

Żjieda ta' artikolu ġdid fl-Att prinċipali.

Klawżola ta' arbitraġġ fl-istatuti ta' fondazzjonijiet.

15B. (1) Huwa legittimu li fundatur idahhal klawżola ta' arbitraġġ fl-istatut ta' fondazzjoni li twaqqaf dik il-fondazzjoni jew b'emenda sussegwenti, jekk għandu s-setgħa li jemenda l-istatut. F'dan il-każ dik il-klawsola għandha tkun torbot lill-amministraturi kollha, protetturi, membri tal-kunsill superviżorju, u benefiċjarji, jekk ikun hemm, taht il-fondazzjoni b'rabta mal-kwistjonijiet kollha taht jew relatati mal-fondazzjoni. Mhux legittimu għall-amministraturi jew persuni oħra li għandhom is-setgħa li jemendaw l-istatut ta' fondazzjoni, li jdaħhlu klawżola ta' arbitraġġ billi jemendaw l-istatut.

(2) Id-dispożizzjonijiet tas-subartikolu (1) għandhom ikunu mingħajr preġudizzju għad-dritt ta' kwalunkwe persuna li tfittex direzzjonijiet mill-Qorti Ċivili (Sezzjoni ta' Ġurisdizzjoni Volontarja) skont it-Tieni Skeda tal-Kodiċi Ċivili u d-dritt ta' dik il-parti m'għandux ikun limitat minn tali klawżola. Minkejja d-dispożizzjonijiet ta' dan l-Att, l-imsemmija Qorti m'għandhiex tkun marbuta twaqqaf il-proċedimenti skont l-artikolu 15(3) jew xort'oħra, iżda għandu jkollha d-diskrezzjoni li tagħmel dan sal-waqt meta tiddeċiedi li l-kwistjoni hija waħda ta' natura kontenzjuża, f'liema każ għandha twaqqaf il-proċedimenti u tirreferi lill-partijiet għall-arbitraġġ."

Taqsim VI - Emendi għall-Att dwar il-Kumpanniji

117. Din it-Taqsim temenda u għandha tinqara u tinftiehem haġa waħda mal-Att dwar il-Kumpanniji, hawnhekk iżjed 'il quddiem f'din it-Taqsim msejjaħ "l-Att prinċipali".

Emendi għall-Att dwar il-Kumpanniji. Kap. 386.

118. Is-subartikolu (3) tal-artikolu 30 tal-Att prinċipali għandu jiġi mħassar.

Emenda tal-artikolu 30 tal-Att prinċipali.

119. Minnufih wara l-artikolu 127 tal-Att prinċipali għandu jizjed l-artikolu ġdid li ġej:

Żjieda ta' artikolu ġdid fl-Att prinċipali.

"Ishma f'kumpanniji miżmuma minn fondazzjonijiet privati, inklużi daww b'ċelluli segregati.

127A.(1) Għajr kif provdut f'dan l-artikolu, id-dispożizzjonijiet tal-artikolu preċedenti m'għandhomx japplikaw għal fondazzjonijiet u –

(a) fondazzjoni privata bħala organizzazzjoni b'personalità ġuridika; jew

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(b) meta l-fondazzjoni hija fondazzjoni multiċellulari, ċellula segregata f'fondazzjoni privata li tistabbilixxi patrimonju distint amministrat minn fondazzjoni privata,

għandha titqies li hija d-detentriċi ta' kwalunkwe ishma reġistrati f'isem il-fondazzjoni privata jew f'isem il-fondazzjoni b'referenza għal ċellula, u l-proprjetarji benefiċjarji m'għandhomx jittieħdu inkunsiderazzjoni u m'għandhomx jitqiesu għad-determinazzjoni tal-istatus tal-kumpannija għall-finijiet tal-Kapitolu XII ta' dan it-Titolu.

(2) (a) Meta proprjetarju benefiċjarju ta' ishma f'kumpannija, miżmuma minn fondazzjoni privata, jittrasferixxi u jiddisponi xort'oħra mill-proprjetà benefiċjarja ta' tali ishma *inter vivos* lil terza persuna, dik it-transazzjoni għandha titqies li tistabbilixxi trasferiment ta' ishma għall-finijiet tal-Att dwar it-Taxxa fuq Dokumenti u Trasferimenti, u għall-finijiet tal-artikolu 5(1) tal-Att dwar it-Taxxa fuq l-*Income*.

Kap. 364.

Kap. 123.

(b) Meta l-bidla fid-detentur reġistrat ta' ishma f'kumpannija ma tinvolvi bidla fil-proprjetà benefiċjarja tal-istess, dik il-bidla m'għandhiex titqies li tistabbilixxi trasferiment ta' ishma għall-finijiet tal-Att dwar it-Taxxa fuq Dokumenti u Trasferimenti u għall-finijiet tal-artikolu 5(1) tal-Att dwar it-Taxxa fuq l-*Income*, iżda minkejja dan għandha tiġi nnutata fir-reġistru tal-membri.

Kap. 364.

Kap. 123.

(ċ) Għall-finijiet tal-artikolu 49 tal-Att dwar it-Taxxa fuq Dokumenti u Trasferimenti, "il-persuna li titrasferixxi" u "il-persuna li takkwista" fi trasferiment ta' ishma *inter vivos* għandha titqies li tinkludi fondazzjoni privata li taġixxi għall-benefiċċju jew tal-persuna li titrasferixxi jew li takkwista, tal-proprjetà benefiċjarja ta' tali ishma jew kemm ta' dik persuna li titrasferixxi kif ukoll ta' dik li takkwista.

Kap. 364.

(b) meta l-fondazzjoni hija fondazzjoni multicellulari, ċellula segregata f'fondazzjoni privata li tistabbilixxi patrimonju distint amministrat minn fondazzjoni privata,

għandha titqies li hija d-detentriċi ta' kwalunkwe ishma reġistrati f'isem il-fondazzjoni privata jew f'isem il-fondazzjoni b'referenza għal ċellula, u l-proprjetarji benefiċjarji m'għandhomx jittieħdu inkunsiderazzjoni u m'għandhomx jitqiesu għad-determinazzjoni tal-istatus tal-kumpannija għall-finijiet tal-Kapitolu XII ta' dan it-Titolu.

(2) (a) Meta proprjetarju benefiċjarju ta' ishma f'kumpannija, miżmuma minn fondazzjoni privata, jittrasferixxi u jiddisponi xort'oħra mill-proprjetà benefiċjarja ta' tali ishma *inter vivos* lil terza persuna, dik it-transazzjoni għandha titqies li tistabbilixxi trasferiment ta' ishma għall-finijiet tal-Att dwar it-Taxxa fuq Dokumenti u Trasferimenti, u għall-finijiet tal-artikolu 5(1) tal-Att dwar it-Taxxa fuq l-*Income*.

Kap. 364.

Kap. 123.

(b) Meta l-bidla fid-detentur reġistrat ta' ishma f'kumpannija ma tinvolvix bidla fil-proprjetà benefiċjarja tal-istess, dik il-bidla m'għandhiex titqies li tistabbilixxi trasferiment ta' ishma għall-finijiet tal-Att dwar it-Taxxa fuq Dokumenti u Trasferimenti u għall-finijiet tal-artikolu 5(1) tal-Att dwar it-Taxxa fuq l-*Income*, iżda minkejja dan għandha tiġi nnutata fir-reġistru tal-membri.

Kap. 364.

Kap. 123.

(ċ) Għall-finijiet tal-artikolu 49 tal-Att dwar it-Taxxa fuq Dokumenti u Trasferimenti, "il-persuna li titrasferixxi" u "il-persuna li takkwista" fi trasferiment ta' ishma *inter vivos* għandha titqies li tinkludi fondazzjoni privata li taġixxi għall-benefiċċju jew tal-persuna li titrasferixxi jew li takkwista, tal-proprjetà benefiċjarja ta' tali ishma jew kemm ta' dik persuna li titrasferixxi kif ukoll ta' dik li takkwista.

Kap. 364.

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Kap. 16.

(3) Meta sseħħ transazzjoni relatata ma' ċellula ta' organizzazzjoni taħt l-artikolu 20A jew taħt l-artikolu 20B tat-Tieni Skeda tal-Kodiċi Ċivili u l-fondazzjoni privata rilevanti, jew il-fondazzjoni b'referenza għaċ-ċellula, hija d-detentriċi registrata f'kumpannija, tali transazzjoni għandha titqies bħala bidla fid-detentur registrat tal-ishma f'kumpannija mingħajr l-ebda bidla fil-proprjetà benefiċjarja tal-ishma. Bħala tali, it-transazzjonijiet jirriżultaw f'bidla fil-proprjetà legali ta' kwalunkwe ishma f'kumpannija, l-amministraturi, jew id-delegati –

(a) tal-organizzazzjoni li titrasferixxi u, jekk differenti, dawk tal-organizzazzjoni li tircievi taħt l-imsemmi artikolu 20A; jew

(b) l-organizzazzjoni li minnha ċ-ċellula kienet tagħmel parti u dawk tal-organizzazzjoni l-għdida taħt l-imsemmi artikolu 20B,

skont il-każ, għandhom, fi żmien hmistax (15)-il gurnata mid-data tal-att, jipprezentaw lir-Registatur formola sabiex jinnotifikawh dwar it-trasferiment ta' dawk l-ishma minn fondazzjoni għal oħra, jew mill-fondazzjoni għal organizzazzjoni għdida, skont il-każ.

(4) L-istess prinċipji stabbiliti hawn qabel għandhom japplikaw meta l-persuna li titrasferixxi u, jew il-persuna li takkwista huma involuti f'soċjetà *en commandite* li l-kapital tagħha huwa diviż f'ishma.

(5) F'dan l-artikolu:

"proprjetarju benefiċjarju" tfisser il-persuna li hija benefiċjarjament intitolata għall-ishma taħt fondazzjoni privata;

"fondazzjoni privata" tfisser fondazzjoni kif imfissra fl-artikolu 31B tat-Tieni Skeda tal-Kodiċi Ċivili."

Kap. 16.

Sostituzzjoni
tal-artikolu 384
tal-Att
prinċipali.

120. L-artikolu 384 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

"Applikazzjoni tal-artikoli 385 sa 389.

384. L-artikoli 385 sa 389 għandhom japplikaw għall-kumpanniji kollha, soċjetajiet kummerċjali, kif ukoll organizzazzjonijiet ġuridiċi oħrajn li għandhom personalità ġuridika, li għandhom karatteristiċi simili għal kumpanniji u soċjetajiet kummerċjali stabbiliti jew inkorporati barra minn Malta (hawnhekk iżjed 'il quddiem f'dan il-Kapitolu u fil-Kapitolu III ta' din it-Taqsima imsejha "kumpanniji barranin") li jistabbilixxu fergħa jew post tan-negozju f'Malta."

Taqsimha VII - Revoka tar-Regolamenti dwar Amalgamazzjoni ta' Organizzazzjonijiet

121. Ir-Regolamenti dwar Amalgamazzjoni ta' Organizzazzjonijiet huma b'dan imħassra.

Revoka.
L.S.16.09.

Għanijiet u Raġunijiet

L-għan ta' dan l-Abbozz huwa li jindirizza d-diffikultajiet prattiċi li qamu fl-interpretazzjoni u l-applikazzjoni tal-Att dwar l-Organizzazzjonijiet Volontarji, tat-Tieni Skeda tal-Kodiċi Ċivili u leġislazzjoni anċillari, fid-dawl tal-prattika mid-dhul tagħhom fis-seħħ fl-2007. L-abbozz jilhaq għadd ta' miri sussidjarji li jirriflettu żviluppi godda fil-qasam, inklużi żviluppi dwar il-prevenzjoni tal-ħasil tal-flus u l-finanzjament tat-terroriżmu, proposti godda dwar organizzazzjonijiet reliġjużi u politiċi, punt fokali ġdid fuq il-klassifikazzjonijiet tal-organizzazzjonijiet u kjarifiki dwar it-terminologija użata. Dawn l-emendi jirriflettu ukoll l-prinċipji adottati f'liġijiet aktar reċenti u sentenzi tal-Qrati.

C 1484

**A Bill
entitled**

AN ACT to amend the Voluntary Organisations Act and to make consequential and other amendments to the Civil Code and to the Second Schedule to the Civil Code, the Public Collections Act, the Notarial Profession and Notarial Archives Act, the Arbitration Act, the Companies Act and the Public Registry Act.

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.

1. The short title of this Act is the Voluntary Organisations (Amendment) Act, 2018.

Part I - Amendments to the Voluntary Organisations Act

Amendments to
the Voluntary
Organisations
Act.
Cap. 492.

2. This Part amends and shall be read and construed as one with the Voluntary Organisations Act, hereinafter in this Part referred to as "the principal Act".

Amendment of
article 2 of the
principal Act.

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

(a) in sub-article (1) thereof:

(i) immediately after the definition "the Commissioner", there shall be added the following new definition:

" "controlled by a religious organisation" means that the religious organisation or the authority representing the same under the

applicable Canon law or other legislation governing religious organisations, has the power, whether directly or indirectly, to nominate, appoint, change or remove more than half of the administrators of the organisation;";

(ii) the definition "controlled by the Government" shall be substituted by the following new definition:

" "controlled by the Government" means that the Government of Malta has the power, whether directly or indirectly, to nominate, appoint, change or remove any of the administrators of the organisation;";

(iii) immediately after the definition "controlled by the Government", as substituted, there shall be added the following new definition:

" "controlled by, related or affiliated to a political party" or similar terms means, in the case of the controlled, related or affiliated organisation, that:

(a) its statute, financial statements or other documents expressly state that it is controlled by, related or affiliated to the political party; or

(b) it has been established by the political party which supports it financially; or

(c) its remaining assets devolve on the political party upon its dissolution, and, in the case of a political party, that a political party as defined in the Financing of Political Parties Act, whether registered under the said Act or otherwise:

Cap. 544.

(i) has the power, whether directly or indirectly, to nominate, appoint, change or remove more than half of the administrators of the organisation; or

(ii) is a beneficiary, in any manner and at any time, of the income or capital of the organisation; or

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(iii) is the beneficiary of the purposes of the organisation, including the promotion of the specific vision, policies and goals of the political party or its candidates;";

(iv) the definition "the Council" shall be substituted by the following new definition:

" "the Council" means the Malta Council for the Voluntary Sector established by article 35;";

(v) immediately after the definition "the Council", as substituted, there shall be added the following new definition:

Cap. 16. " "ecclesiastical entity" shall have the meaning assigned to it by article 26 of the Second Schedule to the Civil Code;";

(vi) immediately after the new definition "ecclesiastical entity", there shall be added the following new definition:

Cap. 373. " "Financial Intelligence Analysis Unit" means the unit set up by article 15 of the Prevention of Money Laundering Act;";

(vii) immediately after the new definition "Financial Intelligence Analysis Unit", there shall be added the following new definition:

Cap. 9. " "funding of terrorism" means the conduct described in articles 328B and 328F to 328I, both inclusive, of the Criminal Code;";

(viii) immediately after the new definition "funding of terrorism", there shall be added the following new definition:

" "Government" means the Government of Malta, and includes any Local Council, statutory corporation, public agency and other organisation of whatever legal form controlled by the Government and also includes the President of Malta;";

(ix) immediately after the new definition "Government", there shall be added the following new definition:

" "interested party" means a person who is given rights capable of economic valuation, present or future, actual or contingent, in the statute of an organisation or who is given powers or functions therein and shall not include other persons unless the context otherwise requires, and this, without prejudice to the right of any person to pursue any civil right or remedy he may have;"

(x) immediately after the new definition "interested party", there shall be added the following new definition:

" "lawful purpose" means a purpose other than a social or public purpose or public benefit, being a legitimate purpose in terms of these provisions and which may include a private benefit, provided such private benefit is subject to the following conditional requirements:

(a) it is solely limited and incidental or ancillary to the principal purpose and objectives of the organisation;

(b) it is not directly attributable to private individuals or members of the organisation; and

(c) it is not capable of promoting any form of private interest, irrespective of whether or not such private interest involves any economic interests, or any form of economic contributions, or is otherwise capable of economic evaluation;"

(xi) immediately after the new definition "lawful purpose", there shall be added the following new definition:

" "market conditions" and "market levels" mean:

(a) in the case of goods, the standard

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price normally paid for such goods on the open market;

(b) in the case of services, the standard or level of remuneration, normally paid:

(i) by voluntary organisations of the same legal form and operating in the same or in a similar area of activity; and

(ii) to persons in the same or in a similar office or role and, or under the same or similar conditions and having the same or similar qualifications; and

(c) in all other cases, the normal commercial standards:

Provided that, on a local level, such market levels and conditions shall be applicable:

S.L. 492.01.

(i) in the case of voluntary organisations with a generated revenue or income of less than fifty thousand euro (€50,000), these shall be made subject to Category 1 enrolment organisations in terms of the Voluntary Organisations (Annual Returns and Annual Accounts) Regulations;

S.L. 281.85.

(ii) in the case of voluntary organisations with a generated revenue or income exceeding fifty thousand euro (€50,000) but less than two hundred fifty thousand euro (€250,000), these shall be made subject to the General Accounting Principles for Small and Medium-Sized Entities (GAPSME) in terms of Accountancy Profession (General Accounting Principles For Small And Medium-Sized Entities) Regulations and shall apply without prejudice to the Voluntary Organisations (Annual Returns and Annual Accounts) Regulations; and

(iii) in the case of voluntary organisations with a generated revenue or

income exceeding two hundred fifty thousand euro (€250,000), these shall be made subject to full audit by an auditor:

Provided further that, for the above principles to apply, reference shall be made to prices, standards or levels of the market in the country where the relevant activities take place:

Provided also that, in case of international organisations, which operate from Malta, or in case of local organisations, which operate internationally, such organisations shall be subject to International Financial Reporting Standards (IFRS) which shall apply without prejudice to the Voluntary Organisations (Annual Returns and Annual Accounts) Regulations;"

S.L. 492.01.

(xii) the definition "non-profit making" shall be substituted by the following new definition:

" "non-profit making", "not for profit", "non-profit" and similar phrases shall be interpreted, as the context may require, in accordance with the principles, rules and guidelines in the First Schedule to this Act;"

(xiii) the definition "pious foundation" shall be substituted by the following new definition:

Cap. 9. " "pious foundation" shall have the meaning assigned to it by article 26 of the Second Schedule to the Civil Code;"

(xiv) immediately after the definition "pious foundation", as substituted, there shall be added the following new definition:

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Cap. 544. " "political party" shall have the meaning assigned to it by article 2 of the Financing of Political Parties Act and, for the purpose of this Act, shall include any other organisation, of whatever legal form, which is controlled by, related or affiliated to the political party, and the terms "political candidate" and "political organisation" shall be construed accordingly;"

(xv) immediately after the new definition "political party", there shall be added the following new definition:

" "political purpose" means the promotion of the interests of a political party or a political candidate, whether at local, national or international level;"

(xvi) immediately after the definition "promoter", there shall be added the following new definition:

Cap. 497. " "public agency" means any entity of any legal form which is established to carry out public administration in terms of the Public Administration Act or any other law and includes a statutory body;"

(xvii) immediately after the definition "public collection", there shall be added the following new definition:

" "public purpose" or "public benefit" mean a social purpose which:

(a) promotes or serves the general public interest or the interest of a sector of the general public, whether directly or indirectly:

Provided that:

(i) if, in the opinion of the Commissioner, the organisation does not reach sufficient levels of promotion or service to the general public interest or the interest of a sector of the general public, he may decide that this criteria is not satisfied; and

(ii) such purpose is not to be presumed to exist only because the organisation has a "social purpose" as defined in this Act;

(b) does not promote or serve any private benefit unless such benefit is solely limited and incidental or ancillary to the principal purpose and objectives of the organisation and as permitted by this Act and, or the Second Schedule to the Civil Code;

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(c) is of a continuing nature and shall apply throughout the existence of the voluntary organisation; and

(d) does not include a political purpose;"

(xviii) immediately after the definition "Registrar for Legal Persons", there shall be added the following new definition:

" "religious organisation" means:

(a) a pious foundation;

(b) an ecclesiastical entity and qualifies as a diocese, parish, church or place of worship, province or similar division of any religious order, institute of consecrated life and a society of apostolic life or an ecclesiastical community; or

(c) a hospital, school, teaching or counselling institute, orphanage or residential or respite centre available to the public, which is controlled by a religious organisation referred to in paragraphs (a) and (b), whether supported by volunteers or

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otherwise;";

(xix) immediately after the new definition "religious organisation", there shall be added the following new definition:

" "remuneration" means any honorarium, wage, salary, fee or other payment for services, whether under a contract or otherwise, but shall not include the refund of any expenses incurred on behalf of any organisation;";

(xx) the definition of the term "social purpose" shall be amended as follows:

A. paragraph (d) thereof shall be substituted by the following new paragraph:

"(d) social and community advancement, including the promotion of the ethical, educational and social aspects of a particular profession or trade, but which does not include the promotion of any private economic interest;";

B. in paragraph (h) thereof, for the words "social purpose organisations" there shall be substituted by words "public benefit organisations", and the word "or" shall be deleted;

C. paragraph (i) thereof shall be re-numbered as paragraph (j);

D. immediately after paragraph (h) thereof, there shall be added the following new paragraph:

"(i) the carrying out of activities intended to raise funds to support other public benefit, non-profit or voluntary organisations or to generally support the voluntary sector as a whole or parts of it through the application, grant, transfer or otherwise making available of funds so raised to them or for their benefit; or"; and

E. immediately after paragraph (j) thereof, as re-numbered, there shall be added the following new paragraph:

"(k) shall not include a political purpose;"

(xxi) the definition "statute" shall be substituted by the following new definition:

" "statute" means a document which regulates the continuing management and operation of a voluntary organisation or any constitutive instrument or public deed of the organisation whereby such organisation is established, including a will which provides for the setting up of such organisation;"

(xxii) the definition of the term "voluntary" shall be amended as follows:

A. for the words "the existence of one or more of the following elements" there shall be substituted the words "the existence of two or more of the following elements";

B. in paragraph (a) thereof, for the words "as hereunder permitted" there shall be substituted the words "as permitted in this Act";

C. in paragraph (c) thereof:

(aa) immediately before the words "subject to limitations due to the nature or size of the organisation" there shall be added the words "in the case of an association,";

(bb) for the words "activities of the organisation; and" there shall be substituted the words "activities of the organisation and every participant in the organisation has the right to freely leave the organisation:";

D. paragraph (d) thereof shall be deleted;
and

E. sub-paragraphs (i) to (iii) of the proviso thereto shall be substituted by the following new sub-paragraphs:

"(i) when a voluntary organisation is established in the form of a foundation, only

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one of the above elements must exist for the organisation to be considered to be "voluntary";

(ii) when a member of a religious order or authority carries out functions in a voluntary organisation without remuneration, such functions shall be considered to be "voluntary" for the purposes of this definition if he or she is not appointed or engaged to do so as a means to carry out his vocational duties by the religious order or authority of which he or she forms part;

(iii) for the purposes of paragraph (c), only those limitations and discretions which are consistent with the Constitution of Malta and the European Convention Act shall be considered to be valid limitations and discretions;"

(xxiii) the definition "voluntary organisation" shall be substituted by the following new definition:

" "voluntary organisation" means a foundation, a trust, an association of persons or a temporary organisation which qualifies under article 3;" and

(b) in sub-article (2) thereof, for the words " "social purpose", "voluntary" " there shall be substituted the words " "social purpose", "public benefit", "public purpose", "voluntary" ".

Amendment of article 3 of the principal Act.

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

(a) sub-article (1) thereof shall be substituted by the following:

"(1) A voluntary organisation is an organisation which is created or established:

- (a) for any social purpose which qualifies as a public purpose or for public benefit;
- (b) as non-profit making; and
- (c) is voluntary,

Cap. 16. whether it is registered or registerable as a legal person or not in terms of the Second Schedule to the Civil Code and whether it is or may be enrolled under this Act or not.

For the purposes of this Act the above requirements shall be of a continuing nature and shall apply throughout the existence of the voluntary organisation.";

(b) sub-article (2) thereof shall be re-numbered as paragraph (a) of the said sub-article, and immediately thereafter there shall be added the following new paragraphs:

"(b) The administrators of a voluntary organisation are bound to act autonomously and independently in seeking to fulfil the express purposes of such organisation and must not be subject to the control of any other person or authority nor bound in any manner, directly or indirectly, to act under the direction or in the interest of any other person.

(c) Provisions in any statute of a voluntary organisation or in any applicable law, which administrators are bound to observe, shall not be considered as impinging on the autonomy or independence of administrators:

Provided that any such provisions in a statute, or any powers which have been vested in any person or body thereby, shall not be such as to contradict the public purpose of the organisation:

Provided further that such statute or applicable law shall include:

(i) any mission statement, standards of conduct, guidelines on corporate governance or similar statements in the statute, including those relating to ethical, reputational or commercial positions adopted by the founder;

(ii) any provisions reserving powers or rights to the founder of a foundation with a public purpose or the settlor of a charitable trust in accordance with the provisions of the Second Schedule to the Civil Code or the Trusts and Trustees Act respectively;

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(iii) any provisions on a supervisory council or a protector who may be granted powers in relation to the actions of the administrators or trustees in accordance with applicable law;

(iv) any provisions granting powers to the Courts or other authority to issue directions on any matter relating to a foundation, an association or to a trust or generally in relation to any voluntary organisation;

(v) any provisions of applicable law whereby administrators may be bound to follow the directions of a designated person on specific issues or may be under a vow of obedience or otherwise subject to the laws or rules of the competent ecclesiastical or other religious authority; or

(vi) any provisions whereby the competent ecclesiastical or other religious authorities may enjoy powers in relation to the organisation.";

(c) sub-article (3) thereof shall be substituted by the following:

"Government and other organisations.

(3) (a) An organisation shall not be considered to be a voluntary organisation if it is:

(i) controlled by the Government; or

(ii) a public agency.

(b) For the purposes of this sub-article:

(i) where any person occupies the position of Prime Minister, Minister, Parliamentary Secretary, Permanent Secretary, mayor or holds any other public office with powers to act on behalf of the Government and such person also occupies the position of an administrator within a voluntary organisation in his personal capacity, his role in the latter position shall be considered to be separate and distinct from the public office he may occupy within the Government and such organisation shall not thereby be considered to be "controlled by the Government" unless the statute or any document regulating the appointment expressly states otherwise:

Provided that when, at any time, such person holds these two positions at the same time, such person shall submit a declaration to the Commissioner confirming that he is occupying the position of administrator within the voluntary organisation in his personal capacity:

Provided further that in such cases the Commissioner may, if he considers that the duties or profile of such person holding the public office to be incompatible with the duties as administrator of the particular voluntary organisation or with the voluntary sector as a whole, request the retirement by such person from his position as administrator of the voluntary organisation;

(ii) co-operation agreements, delegation of management, guardianships or similar agreements as well as public private partnerships shall not imply "control by the Government";

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(iii) the appointment by Government of persons as protectors or as members of a supervisory council shall imply "control by the Government" unless the statute or any document regulating their appointment expressly states that such persons appointed by the Government are independent and autonomous, shall act on their own discretion and responsibility and shall not be bound to follow directions issued by the Government in carrying out their duties notwithstanding the fact that they are appointed by the Government, although they remain bound to protect the public interest even if in consultation with the Government.

For the purposes of sub-paragraph (i), if, under the provisions of a statute of an organisation, the successor incumbent of the same public office takes up the post of administrator on the retirement of the prior incumbent of the public office, this shall be considered to imply that the relevant person is not holding the position of an administrator in his personal capacity. The term "relevant person" has the same meaning as assigned to it under the Second Schedule to the Civil Code.

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(c) Religious organisations may not enrol under this Act and shall not be treated as voluntary organisations for the purposes of this Act. Nothing in this article shall hinder a religious organisation from establishing an organisation which is not itself a religious organisation as defined above. Subject to the provisions of this Act, such an organisation may enrol and, when so required under this Act, shall be obliged to enrol.

(d) Such an organisation shall not be eligible to the rights, privileges and benefits of a voluntary organisation unless enrolled as a voluntary organisation under this Act.

(e) Where a religious organisation is already enrolled in terms of this Act on the date of the coming into force of this provision, such organisation shall continue to be considered as a voluntary organisation, with all relative rights, privileges, benefits and obligations, for as long as its enrolment remains in effect.

(f) An organisation shall not be considered to be a voluntary organisation if it is a political party, has political purposes or is controlled by, related or affiliated to a political party. Such organisations may not enrol under this Act and shall not be treated as voluntary organisations for the purposes of this Act. Nothing in this article shall hinder an organisation with political purposes from establishing an organisation which is not itself a political organisation as defined in this Act. Subject to the provisions of this Act, such an organisation may enrol and, when so required under this Act, shall be obliged to enrol.

(g) Where an organisation with political purposes is enrolled in terms of this Act on the date of the coming into force of this provision, such organisation shall be required to cancel its enrolment under this Act, failing which the Commissioner shall proceed to cancel the enrolment after notice in accordance with this Act."; and

(d) immediately after sub-article (5) thereof, there shall be added the following new sub-articles:

Cap. 16. "(6) Unless otherwise permitted under the provisions of article 38, and to the extent of the applicability of article 32A of the Second Schedule to the Civil Code, a voluntary organisation may not be established to trade or to carry out commercial activities.

(7) For the purposes of the enrolment of a foreign or international organisation under this Act, when the organisation takes the form of a foundation or an association, the organisation shall be required to have either:

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(a) a minimum of three administrators; or

(b) two administrators and a representative resident in Malta; and

(c) in the case of a trust at least one trustee and a representative resident in Malta."

Amendment of article 4 of the principal Act.

5. Article 4 of the principal Act shall be amended as follows:

(a) in sub-article (1) thereof, for the words "Any voluntary organisation" there shall be substituted the words "Without prejudice to the provisions of article 12B, any voluntary organisation which has a public purpose or is for public benefit";

(b) in sub-article (2) thereof, immediately after the words "may make public collections" there shall be added the words "for the purposes of the organisation, or when the purpose of an organisation is the raising of funds for other voluntary organisations with designated social or public purposes, for the purposes of such other organisations";

(c) sub-article (3) thereof shall be substituted by the following:

"(3) Any public collections made by any enrolled voluntary organisation shall be made for the public purposes of the relevant organisation and in accordance with any regulations made by the Minister and, or any guidelines which may be issued by the Commissioner from time to time. Unless enrolled, a voluntary organisation may not make public collections.";

(d) in sub-article (4) thereof:

(a) for the words "An enrolled organisation may:" there shall be substituted the words "A voluntary organisation which is not enrolled in accordance with this Act, may not:";

(b) in paragraph (d) thereof:

(i) for the words "its social purpose" there shall be substituted the words "its public purpose";

(ii) for the words "any entity controlled by the Government:" shall be substituted the words

"any entity controlled by the Government;"

(iii) immediately after paragraph (d) thereof, there shall be added the following new sentence:

"and any act which breaches this sub-article shall be considered to be subject to revocation on the request of the Attorney General, who may act of his own initiative or at his discretion on a complaint made by the Commissioner or on a complaint made by any enrolled voluntary organisation:"

(iv) the first proviso thereto shall be substituted by the following:

"Provided that:

(i) an enrolled voluntary organisation may benefit under paragraphs (a), (b), (c) and (d) only if it is fully compliant with the provisions of this Act and any regulations made thereunder; and

(ii) if an enrolled voluntary organisation, benefiting under paragraphs (a), (b), (c) and (d), ceases to be fully compliant with the provisions of this Act and any regulations made thereunder, such enrolled voluntary organisation shall be given a time period by the Commissioner or the relevant authority granting the benefit, as the case may be, in which to rectify its position:"

(e) sub-articles (5) and (6) thereof shall be deleted, and sub-article (7) thereof shall be re-numbered as sub-article (5); and

(f) immediately after sub-article (5) thereof, as re-numbered, there shall be added the following new sub-articles:

"(6) Without prejudice to the other provisions of this Act, when implementing the provisions of this article

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in granting benefits or funds or extending privileges to enrolled voluntary organisations or in denying benefits or funds or privileges on the basis of lack of enrolment of an organisation, the Government shall consult and may rely on the information contained in the Register of Voluntary Organisations as maintained by the Commissioner.

(7) (a) The Government shall, from time to time, declare when funds for grants, sponsorships or other financial aid from the Government are available to the voluntary sector.

(b) For the purpose of paragraph (a), the Government shall distinguish between:

(i) funds which are available for organisations in the voluntary sector with activities in Malta, whether the organisations are Maltese organisations or foreign organisations with activities in Malta, and

(ii) funds which are available to support the overseas activities of organisations, whether such organisations are Maltese or foreign.

(c) In the case of funds available as stated in paragraph (b)(i), these shall be available exclusively to enrolled voluntary organisations whether Maltese or foreign.

(d) In the case of funds available as stated in paragraph (b)(ii):

(i) in the case of recipient organisations which are Maltese, these shall be available exclusively to enrolled voluntary organisations; and

(ii) in the case of recipient organisations which are not Maltese, the Government shall ensure that as far as possible, such organisations broadly meet equivalent public benefit, registration and transparency standards in their own state of registration as voluntary organisations which are enrolled under this Act.

The Minister may, from time to time, issue regulations establishing the matters upon which equivalence is required and in what manner and may, from time to time, declare when registration as a charity, public benefit, non-profit or voluntary organisation in specified countries implies equivalence for the purposes of this paragraph."

6. Article 5 of the principal Act shall be amended as follows: Amendment of article 5 of the principal Act.

(a) sub-article (3) thereof shall be amended as follows:

(i) in paragraph (d) thereof, for the words "an offence against this Act." there shall be substituted the words "an offence against this Act; or";

(ii) immediately after paragraph (d) thereof, there shall be added the following new paragraph:

"(e) is a public officer or becomes a public officer."; and

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

"(4) The appointment of a person as a Commissioner shall not render him a public officer. During his term as Commissioner, such person shall not hold any position which results in a conflict of interest or is incompatible with the appropriate performance of his official duties as Commissioner or with the impartiality expected from this office or with the public confidence therein."

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

(a) sub-article (1) thereof shall be amended as follows:

(i) paragraph (k) thereof shall be re-numbered as paragraph (m);

(ii) immediately after paragraph (j) thereof, there shall be added the following new paragraphs:

"(k) reviewing periodically new information on the voluntary sector's potential vulnerabilities to money laundering and the funding of terrorism;

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(1) should he discover facts or obtain any information which raise a suspicion that funds received by a voluntary organisation could be proceeds of criminal activity or that the activities of a voluntary organisation could be related to money laundering or the funding of terrorism, he shall promptly disclose those facts or that information, supported by any relevant and supporting documentation that may be available to him, to the Financial Intelligence Analysis Unit;"

(b) sub-articles (3) and (4) thereof shall be re-numbered as sub-articles (5) and (6) respectively; and

(c) immediately after sub-article (2) thereof, there shall be added the following new sub-articles:

"(3) The Office of the Commissioner shall be deemed to be a body corporate, shall have a distinct legal personality and shall be capable, subject to the provisions of this Act or any regulations made thereunder, of entering into contracts, of acquiring, holding and disposing of any kind of property for the purposes of his functions, of suing and being sued, and of doing all such things and entering into all such transactions as are incidental or contributory to the exercise or performance of the Commissioner's functions under this Act. The Commissioner enjoys the legal and judicial representation of the Office of the Commissioner as a legal person.

(4) The Commissioner may, on behalf of the Office of the Commissioner, in his own writing, 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 Commissioner 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."

Amendment of article 8 of the principal Act.

8. Sub-article (2) of article 8 of the principal Act shall be substituted by the following:

"(2) The Commissioner shall:

(a) seek to encourage an environment where the

credibility and good reputation of the voluntary sector is continually enhanced through high standards of operation of voluntary organisations and their administrators, of transparency and public awareness and of proper accountability; and

(b) seek to assist voluntary organisations in protecting themselves from being abused for money laundering or funding of terrorism purposes by raising their awareness about such risks and informing them of available measures to protect themselves against such abuse."

9. Article 9 of the principal Act shall be amended as follows: Amendment of article 9 of the principal Act.

(a) paragraph (a) thereof shall be substituted by the following:

"(a) the recognition, encouragement and promotion of the value and importance of voluntary action and voluntary organisations, whether operating independently of the Government, religious organisations or other public institutions or in a supporting role, and the benefit deriving to the social and cultural life in Malta;" and

(b) in paragraph (d) thereof, for the words "the interests of their beneficiaries; and" there shall be substituted the words "the interests of their beneficiaries:" and immediately thereafter there shall be added the following new proviso:

"Provided that the Commissioner shall not refuse the enrolment of an organisation solely because of the potential of duplication of efforts by other organisations with similar purposes; and".

10. Sub-article (1) of article 10 of the principal Act shall be amended as follows: Amendment of article 10 of the principal Act.

(a) in paragraph (a) thereof, immediately after the words "preceding year" there shall be added the words "including those related to the monitoring of voluntary organisations"; and

(b) in paragraph (c) thereof, immediately after the words "other matters affecting the voluntary sector" there shall be added the words "to ensure adequate regulation of such sector including initiatives for the prevention of money

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launders and the funding of terrorism".

Amendment of
article 11 of the
principal Act.

11. Article 11 of the principal Act shall be amended as follows:

(a) in sub-article (2) thereof:

(i) immediately after the words "discuss the same with the Commissioner" there shall be added the words "and unless an agreement is reached between the Commissioner and the recipient, the Commissioner may proceed with publishing the information without any further requirements"; and

(b) the proviso thereto shall be substituted by the following:

"Provided that in cases of manifest abuse, fraud or other risks to the general public, the Commissioner may publish such information without prior notice as aforesaid:

Provided further that the organisation or the person purporting to act as stated in sub-article (1), may at any time appeal to the Tribunal which may issue orders binding on the Commissioner regarding such public statements.";

(c) sub-article (3) thereof shall be substituted by the following:

"(3) Notwithstanding the provisions of any other law, the Office of the Commissioner, the Commissioner himself and any of his officials acting on his behalf shall be exempt from any liability or responsibility whether civil or criminal, in respect of any publication, statement or other communication or activity, which is *bona fide* and is intended solely for the better information, education or protection of the public. Such exemption shall extend to such persons publishing, printing, recording, broadcasting or notifying such information by any means whatsoever. For the purposes of this sub-article, a publication, statement, communication or activity shall be deemed to be *bona fide* when it is not made or undertaken recklessly or maliciously and adheres to the principles of fairness and objectivity. Any person alleging bad faith shall have the burden of proving such allegations."; and

(d) sub-article (4) thereof shall be deleted.

12. Article 12 of the principal Act shall be amended as follows: Amendment of article 12 of the principal Act.

(a) sub-article (1) thereof shall be amended as follows:

(i) for the words "paragraphs (f) to (i)" there shall be substituted the words "paragraphs (d) to (i)";

(ii) paragraphs (d) to (f) thereof shall be substituted by the following:

"(d) the names, identity card numbers, accompanied by an authenticated copy of each identity card, or passport numbers, accompanied by an authenticated copy of each passport, or registration numbers, if any, and residential addresses of the administrators of the organisation;

(e) in case of foreign organisations, the name, identity card number, accompanied by an authenticated copy of such identity card, or passport number, accompanied by an authenticated copy of such passport, or registration number, if any, and residential address of the representative resident in Malta of such organisation;

(f) a copy of the constitutive deed of the organisation and any amendments thereto authenticated by a Notary Public in the case of a public deed, and by a Notary Public or one administrator in other cases, and a statement signed by the same person as aforesaid, where the dates do not appear on the face of the documents submitted, establishing the date when the constitutive deed was drawn up and the dates when any amendments were made thereto"; and

(b) immediately after sub-article (3) thereof, there shall be added the following new sub-article:

"(4) The administrators and any representatives resident in Malta shall be bound to submit an authenticated copy of any renewed identity cards or passports within a reasonable time from the date of expiry of the document or within three months of receipt of any demand to that effect by the Commissioner."

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Addition of new articles to the principal Act.

13. Immediately after article 12 of the principal Act, there shall be added the following new articles:

"General principles on enrolment.

12A. (1) Any organisation has a right to enrol as a voluntary organisation and enjoy the privileges under article 4 only if:

(a) the social purpose of such organisation also qualifies as a public purpose or public benefit as defined by this Act; and

(b) it complies with the rules on form and content, as may be, from time to time, prescribed by the Commissioner:

Provided that exemption from mandatory enrolment under article 12B shall not, on its own, prevent an organisation from enrolment.

(2) Unless exempt under article 12C, the organisations referred to in article 12B are subject to mandatory enrolment in terms of this Act.

(3) Any voluntary organisation which -

(a) is not already enrolled in terms of this Act;

(b) is not subject to mandatory enrolment in terms of article 12B;

(c) is not an exempt voluntary organisation in terms of article 12C(2); or

(d) being enrolled, ceases to be so enrolled on its own will when permitted to do so under this Act,

is required to notify the Commissioner in writing of its existence and its principal purpose in terms of article 12D, unless it ceases to be a voluntary organisation.

(4) Where a voluntary organisation either fails to enrol and, or fails to notify when required to do so in terms of this Act, the provisions under article 12E shall apply *mutatis mutandis*.

Mandatory enrolment.

12B. (1) Any voluntary organisation shall be required to enrol under this Act in the following cases:

Mandatory enrolment on the basis of actions and the protection of the public interest.

(a) it makes or intends to make public collections; or

(b) it receives or is the beneficiary of grants, sponsorships or other financial aid from the Government or otherwise enjoys the privileges contemplated by this Act, any regulations made thereunder or any other law, or intends to be so eligible; or

(c) it is the beneficiary of any policies supporting voluntary action as these may be developed by the Government or intends to so benefit; or

(d) it receives or is the beneficiary of exemptions, privileges or other entitlements in terms of any law or intends to so benefit;

(e) it does not carry out activities as stated under paragraphs (a) to (d) but has an income of more than twenty-five thousand euro (€25,000) in any one year or has an annual income of more than five thousand euro (€5,000) for three consecutive years:

Provided that this paragraph shall not apply in the case of an organisation carrying out purposes and, or activities or having sources of income other than those related to the general public or public sources, even if such organisation has a social purpose, unless this is determined by the Commissioner in writing, of his own motion or on the request of the organisation on the basis of presumed public benefit:

Provided further that the obligation to maintain enrolment shall cease to apply if the organisation's level of income does not meet any of the relevant thresholds for more than three consecutive years;

(f) it does not carry out activities as stated under paragraphs (a) to (d) but it has capital assets of a value exceeding five hundred thousand euro (€500,000) irrespective of its income in any one year:

Mandatory enrolment on the basis of turnover and the presumed public benefit.

Mandatory enrolment on the basis of capital and presumed public benefit.

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Provided that this paragraph shall not apply in the case of an organisation carrying out purposes and, or activities or having sources of income other than those related to the general public or public sources, even if such organisation has a social purpose, unless this is determined by the Commissioner in writing, of his own motion or on the request of the organisation on the basis of presumed public benefit:

Provided further that the obligation to maintain enrolment shall apply for at least five years and shall cease to apply if thereafter the organisation's level of capital is below a value of one hundred thousand euro (€100,000) and remains so for a period of three consecutive years;

Enrolment on the basis of statute or member request.

(g) the administrators shall be under an obligation to enrol the organisation should it be so required by the statute, whether original or as amended, or in case of an association, if it is so resolved in a general meeting of members or if at least thirty five per cent of its members so request in writing provided that the purpose of the organisation is for a public purpose or benefit.

(2) There shall be a List of Enrolled Voluntary Organisations which shall be maintained by the Commissioner in accordance with this Act and in the manner he may consider appropriate to enable any member of the public to verify the existence of an enrolled voluntary organisation, and to obtain any other information provided by it to the Commissioner.

(3) The obligation to enrol shall arise:

(a) in the case of an established organisation, within ninety (90) days of its establishment but before engaging in any of the activities or prior to receiving any of the benefits referred to in sub-article (1);

(b) in the case of an established organisation, the income of which exceeds any of the income thresholds stated in sub-article (1)(e) or the capital of which exceeds the threshold stated in sub-article (1)(f), within ninety (90) days from the date on which any of the financial thresholds referred to in sub-article (1)(e) or (f) is exceeded, and in any case, prior to receiving any additional benefits referred to in sub-article (1); and

(c) in the cases contemplated in paragraph (g), within ninety (90) days from the relevant decision, resolution or similar event.

(4) It shall be the responsibility of the administrators and, in the case of sub-article (1)(e) and (f), also of any accountant, reviewer or auditor, if any, of a voluntary organisation to ensure compliance with the provisions of this article.

(5) Any accountant, reviewer or auditor, if any, engaged to review the levels of income established in sub-article (1)(e) and, or the capital in sub-article (1)(f), shall notify the administrators in writing, with a copy to the Commissioner, if the duty to enrol arises under this article and the obligation has not been fulfilled by the administrators within the established time limits. In such case, the Commissioner shall notify the administrators with a time limit for enrolment, which shall not be less than ninety (90) days, and the administrators shall be obliged to enrol the organisation within such time limit as notified by the Commissioner.

(6) For the purposes of this article:

(a) "income" includes:

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(i) any subsidies, grants and donations made to the relevant organisation but does not include internal transfers within and between affiliated organisations and any reference to a relevant organisation's annual income is to be read, in relation to a particular time, as a reference to the organisation's gross consolidated income in its financial year immediately preceding that time, having regard to all affiliated organisations. "Affiliated organisations" for the purposes of this article comprises any organisation ("parent") together with all organisations set up by the same organisation ("subsidiaries"), other organisations set up by any of the subsidiaries and, any organisations established by the same founders or promoters to achieve the same or complimentary purposes from common efforts, funds or opportunities;

(ii) a loan, other than a loan from a credit institution, raised by an organisation, any cash deposit made with the organisation or any other transfer of funds under terms which indicate that it is not an ordinary commercial arrangement but is intended to operate as a grant or donation to the organisation; and

(iii) membership fees;

(b) "financial aid" shall include any financial aid which is available to the voluntary sector from the European Union.

(7) In the event that the statute of the organisation describes it to be for public purposes, voluntary or non-profit making and the organisation appears to be carrying out any of the activities in sub-article (1)(a) to (d); and -

(a) the statute satisfies many of the requirements as described in this Act for qualifying as a voluntary organisation but also has features or elements in its statute which exclude it from qualifying as such under this Act; and

(b) any administrator, or any other person with the consent, tacit or express, of any administrator, makes any verbal or written public statement that the organisation's purposes are exclusively for public benefit and that it is non-profit making thereby seeking or encouraging public support,

the organisation shall comply with the requirements of this Act and shall enrol within ninety (90) days of the coming into force of this article or within fifteen (15) days of a notice from the Commissioner, unless it withdraws or corrects any misrepresentation and declares in writing not to repeat the same, and amends its statute and other documentation clearly stating that it is not a voluntary organisation and, where applicable, that the carrying out of its purposes and, or activities are not related to the general public or public sources, and which therefore, do not qualify as a public purpose or public benefit, even if it has a social purpose.

Provided that:

(a) should it encounter any obstacles in complying with the above within the said period, it shall apply to the Commissioner for an extension of time to do so; or

(b) if it cannot address any non-qualifying features or elements for reasons which can be justified, it may:

(i) ask the Commissioner for a ruling that it is not obliged to enrol until solutions are found but, if such ruling is given, the organisation shall be prohibited from carrying out any of the activities in sub-article (1)(a) to (d) and, if it does so, the organisation and the administrators shall be guilty of an offence; or

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(ii) ask the Commissioner to permit enrolment without full compliance with the provisions of this Act together with a ruling on how the non-qualifying features or elements are to be administered.

(8) When the provisions of sub-article (7) apply and no application is made by an organisation which is deemed by the Commissioner to be subject to mandatory enrolment, the Commissioner may issue an order in writing for the enrolment of such organisation within the time period stated in the order. The organisation may, during the period stated in the order, appeal to the Tribunal which shall:

(a) confirm the Commissioner's order for the mandatory enrolment of the organisation; or

(b) declare that the organisation is not a voluntary organisation therefore not rendering such organisation subject to mandatory enrolment but also confirming the prohibitions to carry out acts or enjoy the privileges referred to in article 4(4).

(9) Nothing in sub-article (1)(e) or (f) shall prejudice the continuing enrolment of any organisation enrolled prior to the date of the coming into force of this article.

(10) An organisation which is subject to mandatory enrolment in terms of this article for reasons referred to in sub-article (1)(c) or (d) and which has been enrolled for at least five (5) years may apply to the Commissioner to be exempted from mandatory enrolment if the activities, and, or purposes of the organisation and the sources of its income are not related to the general public or public sources and which therefore, do not qualify as a public purpose or public benefit, even if it has a social purpose.

(11) Such organisation shall submit its latest accounts and reports together with the request for exemption and if such request is accepted by the Commissioner, the organisation shall not be entitled to carry out acts or enjoy the privileges referred to in article 4(4) until such time as it remains non-enrolled.

(12) The list of all enrolled voluntary organisations as may from time to time be amended shall be made accessible to the public on demand.

Exemptions.

12C. (1) Without prejudice to the right to enrol under article 12A, the following organisations shall be exempt from mandatory enrolment under article 12B:

(a) notwithstanding that the requirements giving rise to mandatory enrolment may exist, the organisations listed in Part I of the Second Schedule;

(b) the organisations listed in Part II of the Second Schedule;

(c) those organisations or classes of organisations which are temporarily or permanently exempted by order of the Commissioner with the prior consent of the sub-committee of the Council set up in terms of article 35(13) and on compliance with the conditions for exemption;

(d) upon the issue of the appropriate determination by the Commissioner, the organisations referred to in the exception to article 12B(1)(e) or (f); and

(e) any public purpose foundation which carries out the activities under article 32A of the Second Schedule to the Civil Code and which does not engage in any of the activities in article 12B(1)(a) to (d):

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Provided that a public offer of shares or debentures, bonds or notes or other instruments shall not be considered to be a public collection and shall be governed by the law applicable to such offers.

(2) The organisations referred to in sub-article (1)(a), (b) and (c) shall also be exempt from the duty to notify the Commissioner under article 12D.

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- Notification.
- 12D. (1) Voluntary organisations which -
- (a) are not subject to mandatory enrolment;
 - (b) are not exempt under article 12C(2);
 - (c) on the basis of a determination by the Commissioner, do not qualify for enrolment as they do not have a social purpose which also qualifies as a public purpose or public benefit; or
 - (d) have opted not to enrol when they may do so under this Act,

shall notify the Commissioner of their existence and their principal purpose by means of a "Non-Enrolment Notice" in the form prescribed in the Third Schedule.

(2) There shall be a List of Non-Enrolled Voluntary Organisations which shall be maintained by the Commissioner in accordance with this Act and in the manner he may consider appropriate to enable any member of the public to verify the existence of a non-enrolled voluntary organisation, and to obtain any other information provided by it to the Commissioner.

(3) The notification mentioned in sub-article (1) shall not grant the Commissioner any rights nor impose any obligations upon him in relation to such organisations nor shall it grant the organisations making such notification any rights nor impose any obligations on them, other than as provided in this Act.

(4) The administrators of a non-enrolled voluntary organisation shall, by means of the relevant form in the Third Schedule, notify the Commissioner of:

- (a) any changes to the name or address of the organisation;
- (b) any changes to the administrator or local representative, where applicable, who is to be contacted on behalf of the organisation; and
- (c) the merger or dissolution and winding up of the organisation;

and the Commissioner shall amend or remove the form or forms relating to such organisation in the records relating to Non-Enrolled Voluntary Organisations as the case may be and shall amend the List of Non-Enrolled Voluntary Organisations as necessary.

(5) The List of Non-Enrolled Voluntary Organisations, as may from time to time be amended, shall be accessible to the public on demand.

Failure to enrol or failure to notify.

12E. (1) An organisation which, when obliged to do so under this Act, fails to enrol shall, notwithstanding the provisions of any other law, be disqualified from benefiting under any grant, sponsorship, any other financial aid from the Government or any governmental policy supporting voluntary organisations or from receiving or being the beneficiary of any exemptions, privileges or other entitlements supporting organisations under any law, and any act performed by such organisation which is in breach of this sub-article shall be subject to revocation on the request of the Attorney General who may act of his own initiative or at his discretion, on a complaint made by the Commissioner or on a complaint made by an enrolled voluntary organisation.

(2) Administrators who fail to enrol an organisation when such enrolment is mandatory in terms of article 12B or who fail to notify the Commissioner of the existence of the organisation in terms of article 12D shall, upon the lapse of thirty (30) days after being notified in writing by the Commissioner of the default and its consequences, or on the lapse of the time limit stated under article 12G(2), be guilty of an offence and shall be liable, on conviction, to a fine (*multa*) of not less than one hundred and twenty euro (€120) for every default, and a fine (*multa*) of eleven euro and sixty-five cents (€11.65) for every day such default continues.

Mandatory enrolment for foreign organisations.

12F. (1) A foreign organisation which operates in Malta in any manner and which is established -

(a) for a public purpose or public benefit;

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- (b) as non-profit making; and
- (c) is voluntary,

shall apply for enrolment by submitting the relevant form in the Third Schedule to the Commissioner.

(2) The Commissioner may issue guidelines regarding the enrolment of foreign organisations in terms of this Act.

Right to appeal.

12G. (1) Should a voluntary organisation consider that circumstances exist which create doubt as to whether it is subject to mandatory enrolment or notification under this Act and it is of the view that it is not required to enrol or to notify for any reason, it shall be entitled to formally advise the Commissioner of its position and state the relevant reasons and, until such time as the Commissioner does not order otherwise, the organisation shall not be considered to be in breach of article 12B or article 12D.

(2) Once the Commissioner rules that an organisation is required to enrol or to notify in accordance with the preceding articles, the Commissioner shall order, in writing, such organisation to do so and set a time limit for such action.

(3) The organisation may appeal against such order in accordance with article 25.

(4) Until the Commissioner determines any matter under sub-article (1) or until the Tribunal determines any appeal, such organisation shall not be considered to be in breach of article 12B or article 12D but may not carry out the acts in article 12B(1)(a) to (d) pending final determination."

Amendment of article 13 of the principal Act.

14. Article 13 of the principal Act shall be amended as follows:

(a) sub-article (1) thereof shall be substituted by the following:

"(1) All applications for enrolment shall be made by the submission of the prescribed application form to the Commissioner, which form shall be accompanied by:

- (a) an original or a copy of the constitutive deed or statute of the organisation and any

amendments thereto authenticated by a Notary Public in the case of a public deed and by a Notary Public or one administrator in other cases, and a statement signed by the same person authenticating the deed or statute and any amendments thereto as aforesaid. Where the dates do not appear on the face of the documents submitted, establishing the date or the approximate date, where this is not available from other records, a document showing the date when the constitutive deed or statute was drawn up and the dates when any amendments were made thereto;

(b) an explanation of how the public benefit shall be achieved through the activities and purposes of the organisation;

(c) the written consent of all the administrators that shall hold office after enrolment;

(d) the enrolment fees; and

(e) any other document as required by this Act or by any regulations made thereunder or as may be required by the Commissioner.";

(b) in sub-article (2) thereof, for the words "In considering an application, the Commissioner may request the applicant to provide" there shall be substituted the words "In considering an application and at any time thereafter, the Commissioner may request the voluntary organisation to provide";

(c) in paragraph (b) of sub-article (3) thereof, for the words "an express provision of this Act" there shall be substituted the words "a provision of this Act including any of the qualifying elements as stated in article 3";

(d) in paragraph (c) of sub-article (4) thereof, for the words "for such determination." there shall be substituted the words "for such determination and when the reasons relate to the absence or insufficiency of the public benefit element of the purposes of an organisation, to provide a reasoned analysis of his considerations in which case the organisation shall be granted a reasonable opportunity to make representations to the Commissioner on such matter prior to the final decision being

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taken by the Commissioner.";

(e) sub-article (5) thereof shall be substituted by the following:

"(5) The Commissioner shall seek to determine all applications by not later than three (3) months from the date of the application and failure to so determine and notify the applicant in accordance with sub-article (4) within such time shall be deemed to mean that enrolment has been accepted and the Commissioner shall process the enrolment without any further delay:

Provided that in the event that the applicant is a foundation which has not yet been registered with the Registrar of Legal Persons as required by law the duty of the Commissioner under this sub-article to proceed with enrolment shall be suspended until the date when the foundation is so registered:

Provided further in the case of an enrolment taking place in default of a determination as above stated, the Commissioner may request in writing the enrolled voluntary organisation to comply with legal requirements under this Act which may be applicable and which have not been complied with. The enrolled voluntary organisation shall be bound to fulfil such conditions within six (6) months so as to retain its enrolment:

Provided also that if the requirements are not fulfilled within the aforementioned time period, the Commissioner shall order the cancellation of the enrolment of the voluntary organisation by the issue of a Cancellation Order after giving the organisation thirty (30) days notice in writing:

Provided further that if, however, the Commissioner determines, after enrolment under this article, that the element of a public purpose or public benefit in terms of these provisions is absent in the relevant organisation, he may by notice in writing, order the suspension or the cancellation of the enrolment of the voluntary organisation by the issue of a Suspension Order or a Cancellation Order, as appears appropriate in the circumstances, solely on such basis.";

(f) in sub-article (6) thereof, immediately after the words

"administrator of an organisation" there shall be added the words "or a trustee of a trust"; and

(g) sub-article (7) thereof shall be deleted.

15. Article 14 of the principal Act shall be amended as follows: Amendment of article 14 of the principal Act.

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

"(2) Certificates of Enrolment shall be considered to be public instruments and shall be surrendered to the Commissioner on his demand in writing. The Commissioner shall be bound to provide written reasons for any withdrawal of a Certificate of Enrolment when making such written demand."; and

(b) immediately after sub-article (3) thereof there shall be added the following new sub-article:

"(4) When a Certificate of Enrolment is surrendered, cancelled or otherwise withdrawn it shall not be lawful for any person to use the organisation's identification number, unless otherwise determined by the Commissioner for legitimate purposes or if he deems it necessary in the circumstances."

16. Article 16 of the principal Act shall be amended as follows: Amendment of article 16 of the principal Act.

(a) sub-article (1) thereof shall be substituted by the following:

"(1) A voluntary organisation may be established as a temporary organisation, by using the form in the Fourth Schedule, if it is an organisation formed with one specific purpose, including the raising of funds for a specific public purpose or to support another enrolled voluntary organisation or, subject to article 16A, funds are being raised to help a specific individual or individuals who may suffer from needs which would qualify as a social purpose.";

(b) sub-article (2) thereof shall be amended as follows:

(i) in paragraph (a) thereof, immediately after the words "written constitutive instrument," there shall be

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added the words "by using the form in the Fourth Schedule,";

(ii) in paragraph (b) thereof, immediately after the words "except those listed in the constitutive instrument" there shall be added the words "and ancillary and connected acts";

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

"(4) The Commissioner may, on the written request of the administrators, consent to an extension of the expiration date of a temporary organisation.";

(d) sub-article (5) thereof shall be amended as follows:

(i) the words "by no later than the expiry date" shall be deleted;

(ii) in paragraph (b) thereof, immediately after the words "pay all monies and other assets raised to" there shall be added the words "the intended purposes or";

(e) sub-articles (6) and (7) thereof shall be deleted;

(f) sub-article (8) thereof shall be re-numbered as sub-article (6) and shall be amended as follows:

(i) for the words "has been set up regularly" there shall be substituted the words "has been set up repeatedly"; and

(ii) for the words "refuse to accept the enrolment" there shall be substituted the words "refuse to accept the repeated enrolment".

Addition of new articles to the principal Act.

17. Immediately after article 16 of the principal Act there shall be added the following new articles:

"Public collections for the benefit of specific individuals. Cap. 279.

16A. (1) Notwithstanding the provisions of this Act or the Public Collections Act, it shall not be lawful for any person to make a public collection or call for financial support or otherwise to raise any funds from the public for the benefit of a specific individual, being himself or someone else, who may suffer from a particular social, physical or other need or disability which qualifies as a social purpose except through the establishment and enrolment of a temporary organisation for such purpose and under the conditions set out in this article.

(2) When such an organisation is established, such organisation shall be considered to be for a public purpose notwithstanding that it may have just one beneficiary on condition that:

(a) any funds raised shall only be used for such individual's needs as declared in the appeal or literature promoting the collection; and

(b) any excess funds not used for such individual's benefit shall be disposed of in favour of another enrolled voluntary organisation with similar purposes unless the temporary organisation is itself converted into a voluntary organisation of extended duration to achieve the relevant social purpose in general for public benefit and not limited to one specific beneficiary.

Administrators, beneficiaries and rights of minors.

16B. (1) Voluntary Organisations shall have at least three administrators:

Provided that its beneficiaries or, in the case of minors, the person exercising parental authority or the minors being its beneficiaries cannot act as administrators.

(2) The administrators of the voluntary organisation shall be bound by the provisions of this Act and the Second Schedule to the Civil Code.

Cap. 16.

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Cap. 16. (3) Notwithstanding the provisions of the Civil Code governing minors, guardianship and tutorship, minors who have attained the age of sixteen (16) years shall be eligible to administer an organisation and shall be vested with any rights pertaining to it and, or resulting therefrom."

Amendment of article 18 of the principal Act.

18. In sub-article (4) of article 18 of the principal Act, for the words "prior to seeking" there shall be substituted the words "prior to issuing".

Amendment of article 19 of the principal Act.

19. Article 19 of the principal Act shall be amended as follows:

(a) sub-article (1) thereof shall be substituted by the following:

"(1) The Commissioner may order:

(a) the suspension of the activities of an enrolled voluntary organisation by the issue of a Suspension Order, for such period as shall be specified in such Suspension Order which period shall not exceed thirty (30) days in any single Suspension Order; or

(b) the cancellation of the enrolment of a voluntary organisation by the issue of a Cancellation Order, which shall come into effect thirty (30) days from the date on which the sole administrator or at least one of the administrators was notified of such order, unless an appeal is filed within the appeal period provided for in article 25(1), in which case such order shall only have effect if so determined and from the date established by the Tribunal:

Provided that nothing in this article shall hinder the operation of a Suspension Order pending the decision of the Tribunal.";

(b) sub-article (2) thereof shall be amended as follows:

(i) in paragraph (a) thereof for the words "for which it was established" there shall be substituted the words "stated in the statute";

(ii) paragraphs (d) to (g) thereof shall be re-

numbered as paragraphs (e) to (h) respectively;

(iii) paragraphs (b) and (c) thereof shall be substituted by the following:

"(b) is making public collections for purposes outside its objects;

(c) carries out unlawful activities or is repeatedly acting in contravention of the provisions of any law which are mandatory;

(d) is failing to comply with the provisions of its statute or of this Act or any regulations made thereunder or the administration thereof is being carried out to poor standards of corporate governance and continues to be so carried out for a period in excess of three months notwithstanding a written warning by the Commissioner;"

(iv) immediately after paragraph (h) thereof, as re-numbered, there shall be added the following new paragraph:

"(i) does not have a public purpose or its public purpose does not meet the sufficient requirements, whether this is determined by the Commissioner after the enrolment of the organisation in accordance with article 13(5) or otherwise; and in such a case the provisions of article 13(4) relating to the provision of reasons for such a decision and the opportunity to make representations shall apply *mutatis mutandis*.";

(v) immediately after paragraph (i) thereof there shall be added the following new provisos to the said sub-article (2):

"Provided that the Commissioner may not instruct the administrators on how to fulfil the purposes of the organisation:

Provided further that where the purpose of the organisation is the advancement of religion, the Commissioner shall rely on a statement issued by the relevant religious authority regarding whether the purposes of the organisation are being

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fulfilled.";

(c) sub-article (3) thereof shall be substituted by the following:

"(3) In those cases where a Suspension Order is issued, the Commissioner shall indicate which of the activities of the organisation are to be suspended and shall meet or communicate with the administrators of the organisation, as soon as possible, to review the situation and to obtain information and undertakings from the administrators as necessary. The Commissioner may use such information when reviewing any orders issued by virtue of this article.";

(d) in sub-article (4) thereof, for the words "the Tribunal" there shall be substituted the words "the Commissioner"; and

(e) sub-articles (5), (6), (7), (8) and (9) thereof shall be substituted by the following:

"(5) The Commissioner shall have the power to extend, amend or revoke a Suspension Order, as he considers appropriate, on the application of the administrators of the voluntary organisation, or of his own motion.

(6) Until a Cancellation Order comes into effect in accordance with sub-article (1)(b), the affairs of the voluntary organisation shall continue to be administered by the administrators who shall only carry out acts of ordinary administration or, in the case where an appeal is pending, such acts as may be authorised by the Commissioner or the Tribunal.

(7) The Commissioner may determine whether any suspension of the activities of an organisation is to become permanent in relation to all or part of the activities of the organisation and may issue any relevant orders in relation to the future operations of the organisation.

(8) In the case of a Cancellation Order based on the grounds specified in sub-article (2)(a) to (e), the Commissioner shall have the power to order the organisation to desist from carrying out any further activities. In all other cases the Cancellation Order shall

include all determinations under such terms and conditions as the Commissioner may consider appropriate in the circumstances:

Provided that such order shall not imply a restriction of the right of association of any persons involved in the organisation or of the right to continue to operate the organisation without the continuing benefits of enrolment under this Act.

(9) The Commissioner shall publish, in one local newspaper or by means of a notice in the official website of the Office of the Commissioner for Voluntary Organisations as the Commissioner may consider appropriate in the circumstances of the case, any Cancellation Orders which have become final with a brief statement as to the effects of the order and such statement shall be re-published regularly for as long as the Commissioner may consider necessary to ensure that the necessary public awareness has been achieved."

20. Sub-articles (3) and (4) of article 20 of the principal Act shall be substituted by the following: Amendment of article 20 of the principal Act.

"(3) Cancellation for the reasons mentioned in article 19(2)(b), (e) and (h) shall entitle the Commissioner to demand in writing the refund of, or fair compensation for, any benefits unjustly received by the voluntary organisation or any other person by virtue of its enrolment in terms of this Act, and that demand, when done by judicial letter, shall constitute an executive title against the organisation or any named administrator in favour of the Commissioner, in his own name or as trustee for the person entitled to the refund or fair compensation as aforesaid. Any person aggrieved by such order may appeal to the Tribunal within thirty days of receipt thereof:

Provided that there shall lie a right of appeal by the person aggrieved to the Court of Appeal from any confirmation of liability by the Tribunal in terms of this sub-article.

(4) An order of the Commissioner against an organisation or any named administrator shall be enforceable as an executive title once all appeals have been exhausted or no appeals have been filed within the relevant time limits."

21. Article 21 of the principal Act shall be amended as follows: Amendment of article 21 of the principal Act.

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(a) sub-article (1) thereof shall be substituted by the following:

"(1) The Commissioner may, by the issue of a Suspension Order, order the suspension of activities of a voluntary organisation which is not enrolled if, in his reasonable opinion, any of the grounds mentioned in article 19(2)(b), (c), (d) and (e) apply and this for a period to be specified in the Suspension Order. Such Order shall be notified to all or any one of the administrators, or in their absence to such person who appears to the Commissioner to be carrying out such activities:

Provided that for the purposes of article 19(2)(b) the relevant activity shall be the making of a public collection without the necessary authorisations or, if authorised, when such collection goes beyond the terms of the authorisation:

Provided further that such suspension shall not exceed thirty (30) days in any one Suspension Order and shall not be renewed more than two consecutive times.";

(b) in sub-article (2) thereof:

(i) for the words "served with such notice" there shall be substituted the words "served with such Suspension Order"; and

(ii) for the words "indicated in the notice" there shall be substituted the words "indicated in the Suspension Order";

(c) in sub-article (3) thereof, for the words " the notice" there shall be substituted the words "the Suspension Order";

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

"(4) The Commissioner may issue a Permanent Suspension Order for the permanent suspension of designated activities by such organisation should he consider it necessary under such conditions as he considers appropriate."; and

(e) in sub-article (5) thereof, immediately after the words "by a Suspension Order" there shall be added the words "or a Permanent Suspension Order".

22. Article 22 of the principal Act shall be amended as follows: Amendment of article 22 of the principal Act.

(a) paragraph (c) of sub-article (1) thereof shall be substituted by the following:

"(c) (i) take action to seize any funds raised or public collections made by such person or organisation and to return such funds to the donor thereof, or if it is not possible to locate donors within six (6) months from such seizure, pay such funds into the Voluntary Organisations Fund;

(ii) if considered necessary by the Commissioner due to lack of co-operation by persons involved or in the circumstances, he may request the First Hall, Civil Court to issue an order attaching such funds in the hands of third parties in general and to prohibit any person or organisation from transferring or from otherwise disposing of such funds;

(iii) such order shall become operative and binding on all third parties immediately as soon as it is made, and the Commissioner shall cause a notice thereof to be published without delay in the Gazette and two (2) daily newspapers;

(iv) the Court may for particular circumstances vary such order, and the provisions of the foregoing paragraphs shall apply to such order as so varied;

(v) every such order shall contain the name of the person, and the number of his identity card or passport or identification number and, if known, his profession, trade or other status, father's name, mother's name and maiden surname, place of birth and place of residence or in the case of an organisation, its name and registration number or other identification number, if any;

(vi) the order shall cease to be in force when the related civil or criminal proceedings are finally determined by the Court or when the Commissioner informs the Court that such order is no longer required and in such event the Commissioner shall cause a notice to that effect to be published without delay in the Gazette and two (2) daily newspapers."

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

"(2) Prior to the taking of any of the actions referred to in sub-article (1)(a), (b), and (c)(i), the Commissioner shall notify in writing any person or organisation who appears to him *prima facie* to have breached the provisions of sub-article (1), of his findings and of the actions he intends to take and such person or organisation shall be entitled to:

(a) make submissions to the Commissioner within five days from the date of receipt of the written notice; and

(b) file an appeal to the Tribunal within five (5) days of notification of the decision of the Commissioner, which appeal shall suspend any action taken by the Commissioner in terms of sub-article (1) until final determination by such Tribunal:

Provided that until submissions are made to the Commissioner and pending the Tribunal's decision, the recipient of such notice shall not transfer or dispose of such funds as he may control and, in case of default, the recipient shall be guilty of an offence."

Addition of new articles to the principal Act.

23. Immediately after article 22 of the principal Act, there shall be added the following new articles:

"Financial Intelligence Analysis Unit may demand access to register, information, etc.
Cap. 373.

22A. (1) The Financial Intelligence Analysis Unit, in fulfilling the responsibilities assigned to it under the Prevention of Money Laundering Act and any regulations made thereunder, may demand access to the Register or to any information or documentation relating to the operation of an enrolled voluntary organisation and to the List of Non-Enrolled Voluntary Organisations.

(2) Upon receipt of any demand for access to the Register or the List as aforesaid or to any information or documentation in terms of sub-article (1), the Commissioner shall, as soon as is reasonably practicable but not later than five (5) working days from when the demand is first made and without levying any payment as provided by article 40, give the Financial Intelligence Analysis Unit such access or information or documentation, as the case may be.

Duties of administrators in relation to anti-money laundering and the funding of terrorism.

22B. (1) It shall be the duty of all the administrators of a voluntary organisation to implement appropriate procedures relating to the prevention of money laundering and the funding of terrorism so as to ensure that their organisation is not used for such purposes. Such duties shall include but shall not be limited to:

(a) confirming the identity, credentials and good-standing of the persons or organisations which the voluntary organisations support and obtaining evidence of the identity of the persons who control such organisations;

(b) confirming the identity, credentials and good-standing of other voluntary organisations, in Malta or overseas, as well as other persons with whom the administrators associate in carrying out activities to fulfil the purposes of their organisation;

(c) identifying significant donors of the voluntary organisation, being individuals or other organisations, and, while respecting donor confidentiality, obtaining evidence of identity of the relevant individuals or the persons who control such other organisations;

(d) obtaining information on the source of funds which are donated to the organisation;

(e) verifying that the assets of the organisation are used lawfully and in a manner which is consistent with its purposes and objects.

(2) For the purpose of this article:

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(a) the administrators shall carry out their duties on a best efforts basis;

(b) the administrators shall pay regard to the context and the potential risk to money laundering or the funding of terrorism; and

(c) "significant" shall mean any donations of fifteen thousand euro (€15,000) or more, whether carried out in a single operation or in several operations which appear to be linked.

(3) In the case of voluntary organisations, the administrators of which are not ordinarily resident in Malta, the duties mentioned in the previous sub-article shall be carried out by the local representative of the organisation.

(4) The administrators or the local representative of the voluntary organisation, as the case may be, shall:

(a) keep adequate records regarding the receipt and use of all funds by the voluntary organisation, which records shall be sufficiently detailed to verify that the funds have originated from lawful activity and have been used lawfully and in a manner consistent with the purpose and objects of the organisation;

(b) ensure that the voluntary organisation has adequate financial controls and financial management which are essential to protect it against money laundering and the funding of terrorism;

(c) ensure that there are appropriate internal procedures in place within the voluntary organisation to encourage staff and volunteers to report any vulnerability of the organisation to the risk of money laundering and the funding of terrorism to the administrators or the local representative so that remedial action may be taken by the organisation; and

(d) provide adequate training to staff and volunteers to ensure they are familiar with the voluntary organisation's reporting procedures and financial controls and know what actions to take if they suspect money laundering and the funding of terrorism.

Powers of the Commissioner in relation to anti-money laundering and funding of terrorism.

22C. (1) Should the Commissioner discover facts or obtain any information which raises a suspicion that funds received by a voluntary organisation could be proceeds of criminal activity or that the activities of a voluntary organisation could be related to money laundering or the funding of terrorism, he shall promptly disclose those facts or that information, supported by any relevant documentation that may be available to him, to the Financial Intelligence Analysis Unit.

(2) The Commissioner may furthermore order the voluntary organisation to appoint, within a stated time period and at its own cost, an advocate, a notary public, an auditor or an authorised company service provider, being independent from such voluntary organisation, to review the records and activities of the voluntary organisation for a stated period and to report to the Commissioner on the compliance or otherwise to the provisions of this Act relating to the prevention of money laundering and the funding of terrorism.

Definitions.

22D. Any terms relating to the prevention of money laundering and the funding of terrorism and related terms shall have the meaning ascribed to them in the Prevention of Money Laundering Act or regulations made thereunder."

Cap. 373.

24. Article 25 of the principal Act shall be amended as follows:

Amendment of article 25 of the principal Act.

(a) in the marginal note thereof, immediately after the words "Right of appeal" there shall be added the words "from a decision of the Commissioner.";

(b) sub-article (1) thereof shall be substituted by the following:

"(1) Any person or organisation aggrieved by any decision of the Commissioner may appeal from the decision within thirty (30) days of receipt thereof.";

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

Cap. 490. "(2) Appeals shall be made in writing and shall be lodged with the Tribunal in accordance with the provisions of the Administrative Justice Act or shall be made in the manner as may be prescribed by regulations made by the Minister by virtue of this Act.";

(d) sub-articles (3), (4) and (5) thereof shall be re-numbered as sub-articles (4), (5) and (6) respectively;

(e) immediately after sub-article (2) thereof there shall be added the following new sub-article:

"(3) All appeals shall be made by application to the Tribunal, which application shall be served on the Commissioner by the applicant."; and

(f) in sub-article (4) thereof, as re-numbered, the words "the Commissioner," shall be deleted.

Substitution of article 32 of the principal Act.

25. Article 32 of the principal Act shall be substituted by the following:

"Offences.

32. Any person who -

(a) in any manner, forges or alters a Certificate of Enrolment of a voluntary organisation;

(b) acts or purports to act on behalf of an enrolled voluntary organisation when he is not authorised to do so and raises funds or acquires assets or achieves any personal benefit from so doing;

(c) gives the impression that an existing organisation is a public benefit organisation, non-profit making or voluntary organisation when it is not;

(d) makes abusive use of a Certificate of Enrolment or of a voluntary organisation's identification number;

(e) gives the impression that an organisation has a voluntary organisation identification number when it has none or uses a non-existent identification number;

(f) acts or purports to act in the name of a public benefit, non-profit making or voluntary organisation which does not exist, 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.

26. Article 33 of the principal Act shall be amended as follows: Amendment of article 33 of the principal Act.

(a) in sub-article (1) thereof, immediately after the words "an administrator of such organisation" there shall be added the words "but who does not acquire any assets or achieve any personal benefit from doing so"; and

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

"(2) Any person who makes or attempts to make a public collection when not enrolled as a voluntary organisation under this Act shall be guilty of an offence unless such person has obtained a licence or is exempt from the requirement of obtaining a licence in terms of the Public Collections Act."

Cap. 279.

27. Article 34 of the principal Act shall be amended as follows: Amendment of article 34 of the principal Act.

(a) sub-article (1) thereof shall be substituted by the following:

"(1) The Commissioner may, in the cases referred to in article 19(2), investigate the affairs of any voluntary organisation at any time and may demand from any person, in writing, any relevant information relating to the operation of a voluntary organisation or related to any person involved in the activities of a voluntary organisation, if he receives what he considers to be a valid complaint in writing or if he has cause to believe that such information is necessary in order to establish whether a voluntary organisation is acting in compliance with the provisions of this Act or any regulations made thereunder:

Provided that where the complaint arises from a member of the public who seeks information required to be filed with the Commissioner under this Act which is for any reason absent from the Register, the complaint need

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not be in writing and the Commissioner shall be entitled to presume that the complaint is valid on establishing that the information is absent from the Register and he may then proceed to take action against the organisation and, or its administrators without the need for a formal investigation under this article.";

(b) in sub-article (4) thereof, immediately after the words "The Commissioner may set a period for compliance with" there shall be added the words "any directives he may give or for compliance with"; and

(c) immediately after sub-article (5) thereof, there shall be added the following new sub-articles:

Cap. 377. "(6) 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 Commissioner shall be considered to be a public authority. Any information obtained by the Commissioner upon such a demand shall be used exclusively for the purposes of this article.

Cap. 586. (7) Notwithstanding the provisions of sub-article (1), the Commissioner has the right to request any other information required in terms of the provisions of this Act including personal information and any other data of identification of a person, provided that such data is not divulged to third parties without the written consent of the persons involved and provided this information is in conformity with the provisions of the Data Protection Act.

(8) For the purpose of sub-article (7) any personal information may include but shall not be limited to:

- (a) names of donors and beneficiaries;
- (b) names of sponsors;
- (c) details of any other person or entity with whom the organisation would have made any kind of transaction including financial transactions;
- (d) personal details of employees including payslips;

(e) beneficiaries of companies (including shareholders):

Provided that the requirements mentioned in paragraphs (a), (b) and (c) are necessary for the purpose of maximum transparency and accountability and may enable the Commissioner in identifying any irregularities or suspicions from annual returns and reports and eventually take any necessary action:

Provided further that the requirements under paragraphs (d) and (e) shall only be requested by the Commissioner in exceptional cases and shall not be made accessible to the public.

(9) For the purpose of this article, the Commissioner shall also be vested with the power to request the banks or any financial authority or entity for any other information required in terms of the provisions of this Act and he shall have the right to obtain such information as may be required without the need of having to file an action before the Tribunal or the Civil Court."

28. Article 35 of the principal Act shall be substituted by the following:

Substitution of article 35 of the principal Act.

"The Malta Council for the Voluntary Sector.

35. (1) There shall be a body, to be known as the Malta Council for the Voluntary Sector, which shall have a distinct legal personality. The role of the Council shall be to promote the voluntary sector, provide a forum for the voluntary sector and a platform from which to develop co-operation between voluntary organisations and the Government and co-operation between voluntary organisations amongst themselves. The Malta Council for the Voluntary Sector shall also assist and advise the Commissioner for the Voluntary Sector.

(2) The Council shall be composed of a Chairperson and another ten members, who shall be appointed as follows:

(a) one (1) member shall be appointed by the Minister to represent the Government;

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(b) four (4) members shall be appointed by the Minister in accordance with sub-article (3) from among the voluntary sector in order to represent voluntary organisations; and

(c) six (6) members shall be elected directly by the voluntary sector.

(3) The four (4) members of the Council who are appointed by the Minister to represent voluntary organisations shall be appointed after the receipt of nominations following a public call by the Minister for nominations in the following manner:

(a) one (1) member to represent founders of and donors to voluntary organisations;

(b) one (1) member to represent members of voluntary organisations and volunteers;

(c) one (1) member to represent administrators of voluntary organisations; and

(d) one (1) member to represent foreign and international organisations:

Provided that where there is more than one nomination representing a particular sector, the Minister shall appoint such members from among the nominations received:

Provided further that where no nominations are received, the Minister shall appoint such members at his discretion:

Provided further that prior to appointing the members of the Council, the Minister shall consult with the Social Affairs Committee of the House of Representatives or any other committee substituting the same immediately upon receiving the nominations.

(4) (a) The six (6) members of the Council who are elected directly by the voluntary organisations enrolled with the Commissioner for Voluntary Organisations shall be representative of the following sectoral groups:

(i) one (1) member from the Social and Humanitarian Sector;

(ii) one (1) member from the Health and Special Needs Sector;

(iii) one (1) member from the Education, Youth and Sport Sector;

(iv) one (1) member from the Environmental Sector and the Animal Welfare Sector;

(v) one (1) member from the Arts and Culture Sector; and

(vi) one (1) member from the Non-Governmental Organisations Sector in Gozo.

(b) All members of the Council shall be remunerated for their services in relation with their duties and functions carried out in terms of article 36(2) and (3):

Provided that such remuneration shall be established at eight hundred euro (€800) per annum.

(5) The Chairperson of the Council and the Deputy Chairperson shall be appointed by the Council from among the members of the Council. The Board shall be assisted by a Secretary.

(6) Where the Chairperson is absent from Malta or is otherwise temporarily unable to perform the functions of his office, the Deputy Chairperson shall act as Chairperson and shall exercise all the powers and functions of the Chairperson.

(7) A person shall not be qualified to be appointed or to hold office as a member of the Council if he:

(a) is a Judge, a Magistrate, a Member of the House of Representatives or a Local Council, or a candidate for election to the House of Representatives or a Local Council; or

(b) is legally incapacitated or interdicted; or

(c) has been declared bankrupt or has made a composition or arrangement with his creditors; or

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(d) has been convicted of a crime affecting public trust or theft or fraud or of knowingly receiving property obtained by theft or fraud; or

Cap. 386. (e) is subject to disqualification under article 320 of the Companies Act or is involved or has interest in any enterprise or activity which is likely to affect the proper discharge of his function as a member of the Council.

(8) Subject to the provisions of this article, the office of a member of the Council shall become vacant:

(a) at the expiration of his term of office;

(b) if a member of the Council is absent for more than half of the meetings of the same Council in a calendar year or three consecutive meetings without an excuse; or

(c) if any circumstances arise that, if he were not a member of the Council, would cause him to be disqualified for appointment as such.

(9) A member of the Council may be relieved from office by the Minister on the ground of inability to perform the functions of his office, whether due to infirmity of mind or body, or to any other cause, or on the ground of misbehaviour.

(10) A member of the Council may resign from his office by means of a letter to the Minister. If a member resigns or is relieved from office by the Minister or if the office of a member of the Council is otherwise vacant, the vacancy shall be filled reflecting the person's appointment in terms of sub-article (3), as the case may be, and any person so appointed shall continue in office for the remaining period of the term of office of the person whom he is substituting and shall be eligible for re-appointment.

(11) The Council shall meet at least once every three (3) months and shall be convened by the Chairperson:

Provided that the Chairperson shall convene a meeting of the Council when requested to do so by at least three members thereof.

(12) The Council shall, subject to the provisions of this Act, regulate its own procedures.

(13) The Council shall appoint a sub-committee composed of three (3) members of the Council and which shall be consulted by the Commissioner in the cases referred to in article 7(3). The sub-committee shall have a quorum of two (2) members and the written response of the two (2) members agreeing or disagreeing to a recommended course of action shall suffice as an expression of the views of the committee."

29. Article 36 of the principal Act shall be substituted by the following:

Substitution of article 36 of the principal Act.

"Powers of the Council.

36. (1) The powers of the Council are:

(a) to carry out such functions and have such powers as may be prescribed, from time to time, by the Minister responsible for the voluntary sector by means of regulations made by virtue of this Act;

(b) to provide a consultative forum that can effectively address issues related to the voluntary sector;

(c) to assist the Commissioner for Voluntary Organisations;

(d) to provide a platform from which to develop co-operation between voluntary organisations and the Government;

(e) to stimulate co-operation and networking between voluntary organisations;

(f) to administer the Voluntary Organisations Fund in terms of article 37(3);

(g) to promote and encourage a culture of volunteering and participation in volunteering activities among people, especially children and youths, as an aspect of personal and social development;

(h) to foster co-operation in the voluntary sector with local and international bodies, entities or other persons for the encouragement and promotion of the development of volunteering programmes, initiatives and activities; and

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(i) to encourage, in furtherance of the principle of subsidiarity, non-governmental bodies and private entities or persons and local councils to contribute to the promotion of volunteering in Malta.

(2) The functions of the Council are:

(a) to provide on-going guidance and advice in relation to the implementation of the Council's strategy;

(b) to support, develop and promote the interests and work of all voluntary organisations in Malta and Gozo;

(c) to meet the ever-increasing needs of the voluntary sector;

(d) to make recommendations to the Minister on a national volunteering policy, or otherwise, in relation to the development of volunteering;

(e) to develop and implement policies and strategies for the furtherance of its objectives and functions, to initiate, encourage and facilitate research and development in relation to volunteering;

(f) to promote and ensure the education and preparation of volunteer administrators and officials with the required vocational and professional competencies, and to promote, organise or assist by whatsoever means, educational schemes for volunteers;

(g) to promote and ensure the establishment, development and maintenance and proper use of the Voluntary Organisation Centre, to be of service and a resource to voluntary organisations;

(h) when so directed by the Minister, to represent the Government of Malta internationally or regionally in matters related to the voluntary sector as may be designated by the Minister;

(i) to support voluntary organisations in the acquisition of both local and EU funds;

(j) to collect and distribute information, and provide advice, on matters related to the activities of the Council;

(k) to keep a register of *bona fide* voluntary organisations, entities and other persons who are considered to be voluntary organisations;

(l) to raise money and to administer and expend money appropriated by the House of Representatives or otherwise received from other sources;

(m) to consult and co-operate with local councils and other persons on matters related to the voluntary sector;

(n) to draw up, develop and amend, from time to time, a Code of Ethics to be followed by volunteers and voluntary organisations; and

(o) to carry out such functions and have such powers as may be prescribed, from time to time, by the Minister responsible for Social Policy by means of regulations made by virtue of this Act.

(3) Subject to the provisions of this Act, the Council has the power to do all things necessary or convenient to be done in connection with the performance of its functions and shall be capable, subject to the provisions of this Act, of entering into contracts, of acquiring, holding and disposing of any kind of property for the purposes of its functions, of suing and being sued, and of doing all such things and entering into all such transactions as are incidental or conducive to the exercise or performance of its functions under this Act, including the lending or borrowing of money.

(4) The legal and judicial representation of the Council shall be vested in the Chairperson and the Deputy Chairperson in the absence of the former, or in any other person under such terms and conditions and with such powers as the Council may from time to time by resolution determine.

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(5) Any document purporting to be an instrument made or issued by the Council and signed by the Chairperson shall be received in evidence and shall, until the contrary is proved, be deemed to be an instrument made or issued by the Council.

(6) The Council may engage or employ persons to perform services for the Council and may enter into any agreement to exercise any of its functions through the agency or services of any person.

Cap. 497. (7) The Council shall engage a Chief Executive Officer in terms of the Public Administration Act, and:

(a) subject to the other provisions of this Act and to any directions of the Council, the executive conduct of the Council, its administration and organisation and the administrative control of its officers and staff, shall be the responsibility of the Chief Executive Officer, who shall also have such other powers as may from time to time be delegated to him by the Council;

(b) the Chief Executive Officer shall also be responsible for the implementation of the objectives of the Council and the exercise of its functions and without prejudice to the generality of the foregoing he shall develop the necessary strategies, policies and regulations for the implementation of the objectives of the Council, advise the Council on any matter it may refer to him or on any matter which he considers necessary or expedient, and perform such other duties as the Council may assign to him from time to time;

(c) the Chief Executive Officer shall have the right to attend all the meetings of the Council. The Chief Executive Officer shall not, however, have a vote or be counted for the purpose of constituting a quorum; and

(d) the Chief Executive Officer shall perform all his duties only under the direction of the Council.

(8) The Council may:

(a) obtain commercial sponsorship for the Council and participate in marketing arrangements involving the endorsement by the Council of products and services associated with volunteering;

(b) arrange for the manufacture and distribution (whether for profit or otherwise) of any article or thing bearing a mark, symbol or writing that is associated with the Council; and

(c) provide (whether for profit or otherwise) goods and services to persons using, or otherwise attending at, facilities of the Council.

(9) The Council may charge or impose such reasonable fees in respect of:

(a) access to, or use of, any of its resources or facilities; and

(b) the provision by it of programs, services, information and advice.

(10) The Council shall meet as often as may be necessary or expedient. The meetings of the Council shall be convened by the Chairperson either of his own initiative or at the request of at least four (4) of the other members.

(11) The Council shall not act unless a quorum consisting of not less than fifty percent plus one (50% +1) of the appointed members are present.

(12) The meetings of the Council shall be chaired by the Chairperson or, in his absence, by the Deputy Chairperson.

(13) Decisions of the Council shall be taken by a simple majority of the votes of the members present and voting. In the case of equality of votes, the Chairperson or in his absence the Deputy Chairperson shall have and exercise a second or casting vote.

(14) Without prejudice to the other provisions of this Act, no decision shall be valid which is not supported by at least four (4) members of the Council.

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

(16) The Minister may, after consultation with the Council, from time to time give to the Council such directives in writing as he may deem appropriate and not being inconsistent with the provisions of this Act, and the Council shall, as soon as may be, comply with and give effect to all such directives and shall conduct its affairs accordingly.

(17) The Council shall afford to the Minister all necessary facilities for obtaining information with respect to the property and activities of the Council and furnish him with returns, accounts and other information with respect thereto, and afford him the necessary facilities for the verification of information furnished, in such manner and at such times as he may reasonably require.

(18) For the purposes of this Act the Council shall submit to the Minister for his approval, a two-year strategic plan which establishes clear objectives and targets to attain its principal aims and objectives during the said period in fulfilment of its functions under this Act.

(19) The aforementioned strategic plan shall be presented to the Minister for his approval not less than two (2) months before the commencement of the period to which the strategic plan relates, and shall come into force on the day on which it is approved by the Minister or the day of commencement of the period to which it relates, whichever is the later:

Provided that the first strategic plan shall be prepared by the Council and submitted to the Minister for approval within six (6) weeks from the date of appointment of the Council.

(20) The Council shall also from time to time during the period in respect of which a strategic plan is in force, consider and propose to the Minister any necessary variations to the said plan and, following approval by the Minister, vary the said plan.

(21) The Council shall at the beginning of each year in respect of which a strategic plan is in force, prepare an operational plan that articulates the programmes, initiatives and activities that it will undertake in fulfilment of the objectives defined in the said strategic plan for the said year.

(22) (a) Subject to the provisions of the Constitution and of any other enactment applicable thereto, including this Act, the Council, acting with the concurrence of the Minister, may appoint and employ such officials and other employees with such remuneration and upon such terms and conditions as the Council may, from time to time, determine.

(b) The Chief Executive Officer shall be appointed to act as the administrative official of the Council and manage all the related operation.

(c) The officer detailed for such duty with the Council shall at all times be under the administrative authority and control of the Council but he shall for other intents and purposes remain and be considered as a public officer.

(d) Without prejudice to the generality of paragraphs (a) to (c), the officer detailed for duty as aforesaid, shall not, during the time in respect of which he is so detailed:

(i) be precluded from applying for a transfer to a department of the Government in accordance with the terms and conditions of service attached to the appointment under the Government held by him at a date on which he is so detailed for duty; or

(ii) be so employed that his remuneration and conditions of service are less favourable than those which are attached to the appointment under the Government held by him at the date aforesaid or which would have become attached to such appointment, during the said period, had such officer not been detailed for duty with the Council; and

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(e) Without prejudice to the generality of paragraphs (a) to (d), the officer detailed for duty as aforesaid, shall, during the period for which he is so engaged:

(i) be entitled to have his service with the Council considered as service with the Government, for the purposes of any pension, gratuity, or benefit under the Pensions Ordinance and the Widows' and Orphans' Pensions Act and to any other right or privilege to which he would be entitled; and, or

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(ii) be accountable for any liability:

Provided that, for the purpose of such pension, gratuity or benefit, regard shall be had solely to the substantive grade with the Government of the officer so engaged."

Amendment of article 37 of the principal Act.

30. Article 37 of the principal Act shall be amended as follows:

(a) sub-article (3) thereof shall be substituted by the following:

"(3) The objects of the Voluntary Organisations Fund shall be to assist and support enrolled voluntary organisations through education, management and support and financial grants for the said purposes."; and

(b) sub-article (8) thereof shall be deleted.

Substitution of article 38 of the principal Act.

31. Article 38 of the principal Act shall be substituted by the following:

"Voluntary organisations not to be established for trade.

38. (1) Voluntary organisations shall not be established principally for trading purposes nor shall they regularly engage in acts of trade, but to the extent that they are established for public purposes which are achieved through the carrying out of such acts of trade provided in sub-article (2), voluntary organisations may regularly carry out such acts of trade which are related and ancillary to the principal purpose and objectives of the organisations in order to achieve their public purposes:

Provided that trading activities which do not fall within the exemptions of sub-article (2) but which are only marginal to the income of the voluntary organisation may also be carried out by the voluntary organisation itself, subject to the requirements established under sub-article (6).

(2) For the purposes of this article, the following activities carried out by a voluntary organisation and, or the following income generated directly in the achievement of the public purposes of such organisation, shall be presumed to be permitted under sub-article (1):

(a) the operations and activities carried out by schools, training centres and other educational institutes and the charging of fees for educational services;

(b) income generated from the sale of goods and, or the provision of services, by a voluntary organisation when such goods and, or services are themselves donated to the voluntary organisation;

(c) income generated from the sale of goods and, or the provision of services only to members, supporters, sponsors or contributors of the voluntary organisation or the group of organisations of which it forms part;

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(d) income generated from the sale of goods or the provision of services on sites administered by the voluntary organisation and offered to *bona fide* visitors by the organisation itself through volunteers or employees:

Provided that this shall not apply to shops, bars, restaurants or other outlets on such sites, or the sites themselves when these operate under lease agreements, management agreements, licences or otherwise by third parties for profit;

(e) the operations and activities of art galleries, exhibitions, museums and other organisations established for the advancement of culture, arts and national heritage and the charging of fees for the admission at theatrical, musical activities or other such activities;

(f) participation fees in competitions;

(g) payment for residential accommodation, care and other philanthropic support provided on a cost or subsidised basis; and

(h) such other activities intended to raise funds for the achievement of the principal purpose and objectives of the organisation resulting in:

(i) income from the grant on lease or a management contract of land or buildings or other commercial property to a third party, where no services are provided by the voluntary organisation;

(ii) income from the investment of the assets of a voluntary organisation, including the holding of shares or other interests in another legal organisation;

(iii) income which may be made payable to voluntary organisations which own, administer or otherwise operate an innovative technology arrangement; and

(iv) such other activities or classes of income as may be prescribed by regulations made by the Minister on the recommendation of the Council.

(3) In cases other than those contemplated in sub-articles (1) and (2), unless acts of trade and trading activities are only marginal to the income of the voluntary organisation, such organisation shall establish a limited liability company to carry out acts of trade and the administrators of the voluntary organisation shall ensure that such establishment shall not burden the human and financial resources of such organisation beyond its means.

(4) The limited liability company established in terms of sub-article (3):

(a) shall in all cases be permitted to carry out those acts of trade which are related or ancillary to the principal purpose and objectives of the voluntary organisation, or if expressly permitted in the statute of such voluntary organisation, subject to the discretion and satisfaction of the Commissioner;

(b) shall be non-profit making in accordance with this Act;

(c) shall have directors who do not receive any remuneration for their services for carrying out such functions except as permitted by this Act and, or the statute of the voluntary organisation; and

(d) shall not permit the evasion of the limitations imposed on voluntary organisation in the First Schedule by any person in the voluntary organisation or the limited liability company and the same limitations shall also apply in this case to the limited liability company in the same way.

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(5) For the purpose of this article "marginal" means not more than ten per cent (10%) of the income generated by the voluntary organisation in any one year and the administrators shall have the duty to determine whether any activity, being an act of trade, is marginal or not, for the purpose of this article and, when such issue arises, shall submit a declaration in this regard to the Commissioner who may:

(a) issue directives at any time in writing on such matters if he deems that the declaration submitted by the administrators does not satisfy the criteria established in terms of this article and may impose conditions in relation to such activities to ensure compliance with the principles established under this article; and

(b) issue a ruling on the matter giving reasons for decision, and any administrator or any interested party may appeal from such decision before the Administrative Tribunal.

(6) Voluntary organisations shall not be exempt from the obligation to obtain any authorisations or licences which may be required to carry out any particular activity referred to in this article in terms of any other law.

(7) The Commissioner may issue guidelines on the duties and responsibilities of administrators of voluntary organisations which carry out acts of trade as permitted by this article or with regard to all aspects regarding limited liability companies which voluntary organisations establish in accordance with this article.

(8) In cases falling under sub-article (4), it shall be presumed that:

(a) a limited liability company notwithstanding that it has a separate and distinct legal personality, is only an instrument to keep the trading activities distinct from the activities of the voluntary organisation promoting its social and public purpose; and

(b) the existence of the limited liability company shall not operate in any way so as to prejudice third parties in good faith or the voluntary organisation itself, to reduce the transparency of the voluntary organisation or to create any private benefit to third parties which is not permitted within the voluntary organisation itself.

(9) Any wholly owned limited liability company established in accordance with this article, which may be carrying on trading activities from a premises or site held under any title by an enrolled voluntary organisation shall have absolutely no rights in relation to any concessions leases or other grants of property to the said voluntary organisation, including Government, which shall be deemed to permit use of such property by such wholly owned limited liability company:

Provided that any documentary arrangements set in place for governance purposes between the voluntary organisation and the wholly owned limited liability company shall be disregarded with regard to any grantor organisation and when any grant is modified or terminated for any reason by or with regard to the voluntary organisation, the limited liability company shall automatically be affected thereby.

(10) Whenever a voluntary organisation establishes a limited liability company in terms of sub-article (3) of this article, the administrators shall notify the Commissioner in the prescribed form, which form shall be included in the Register and shall be made accessible to the public. The Commissioner shall notify the Commissioner for Inland Revenue of the name and registration number of such limited liability company upon being notified. The same rules shall apply *mutatis mutandis* to the winding up of any such limited liability company."

32. Article 39 of the principal Act shall be deleted.

Deletion of article 39 of the principal Act.

33. Articles 40, 41 and 42 of the principal Act shall be re-numbered as articles 39, 40 and 41 respectively.

Re-numbering of articles of the principal Act.

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Substitution of article 39 of the principal Act, as re-numbered.

34. Article 39 of the principal Act, as re-numbered, shall be substituted by the following new article:

"Guidelines issued by the Commissioner.

39. (1) The Commissioner may, from time to time and after consultation with the Council, issue guidelines -

(a) in relation to voluntary organisations and their activities;

(b) in relation to the voluntary sector as a whole,

and such guidelines shall be binding on voluntary organisations, administrators and volunteers, as the case may be.

(2) The Commissioner may, with the consent of the Minister, issue guidelines on the objective classification of the categories of "social purpose" or "public benefit" and related concepts which may be used in the interpretation of this Act for any of its purposes.

(3) Such guidelines shall be based on internationally recognised classification methodologies and shall be implemented in the administration of the provisions of this Act and any related laws:

Provided that such guidelines shall not have retrospective effect."

Amendment of article 41 of the principal Act as re-numbered.

35. Article 41 of the principal Act, as re-numbered, shall be amended as follows:

(a) in sub-article (1) thereof:

(i) in paragraph (h) thereof, immediately after the words "of voluntary organisations or the voluntary sector" there shall be added the words "and to issue guidelines thereon";

(ii) paragraph (p) thereof shall be re-numbered as paragraph (s);

(iii) immediately after paragraph (o) thereof, there shall be added the following new paragraphs:

"(p) in relation to freezing orders and related matters to support the powers of the Commissioner in case of fraud;

(q) in relation to the enrolment of organisations, including, after consultation with the Council, to change the thresholds under article 12B(1)(e), (f) and (g) relating to mandatory enrolment and to amend the categories or classes of activities in the definition of "social purpose" in this Act;

(r) to regulate the prevention of money laundering and the funding of terrorism in voluntary organisations;"; and

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

"(3) The Minister may, by order published in the Gazette and in consultation with the Commissioner and the Council, revise or amend any of the schedules annexed to this Act."

36. Immediately after article 41 of the principal Act, as re-numbered, there shall be added the following new Schedules:

Addition of new schedules to the principal Act.

**"FIRST SCHEDULE
(Articles 2 and 38)**

Rules, Principles and Guidelines on the Non-Profit Making
requisite as used in this Act

The principle purpose of this Schedule is to ensure that any material private interest in any voluntary organisation is avoided in view of the public support and trust vested in such organisations on the basis of their non-profit making qualities.

I. Applicability

1. The following paragraphs shall apply specifically to the interpretation and application of the provisions of this Act and in particular to enrolled voluntary organisations for as long as they remain enrolled and shall be applied as rules in order to ensure a high level of observance in both form and substance by all enrolled voluntary organisations.

2. They shall apply as principles in relation to non-enrolled voluntary organisations.

3. They shall also apply to the interpretation of the provisions of other laws, where such other laws adopt the concept of non-profit

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making for the purposes and in terms of these provisions, and may apply to non-profit organisations, which, for any reason, do not qualify as voluntary organisations under this Act, political organisations, or religious organisations:

Provided that, in such cases, these paragraphs shall only operate as non-binding guidelines.

II. Definition

4. An organisation shall be considered to be non-profit making when:

(a) the statute of the organisation contains an express provision which excludes the purpose to make profit; and

(b) the purposes of the organisation do not include the promotion of private interests; and

(c) the purposes of the organisation include any of the purposes established and permitted under:

(i) article 32(8) and (10) of the Second Schedule to the Civil Code;

(ii) article 38 of this Act governing permissible trading activities, where such activities are carried out to obtain the principal purpose and objectives of the organisation;

(iii) this Schedule; and

(d) except as permitted under this Schedule or the Second Schedule to the Civil Code, no part of the income, capital or property is available directly or indirectly to:

(i) any administrator; or

(ii) any promoter, founder, member, donor or beneficiary; or

(iii) any other private interest:

Provided that such income, capital, property, or part thereof is administered solely in order to obtain the purpose and objectives for which the organisation was established.

5. If an administrator, promoter, founder, member, donor or beneficiary is -

- (a) another enrolled voluntary organisation; or
- (b) a pious foundation, an ecclesiastical entity or a person representing the same; or
- (c) the Government or an organisation controlled by the Government or a person representing the same; or
- (d) the Voluntary Organisations Fund, or
- (e) a political party as defined in the Financing of Political Parties Act (Cap. 544),

the limitation in paragraph 4(d) shall not apply provided the availability of such income, capital or property is subject to conditions, which are consistent with the general purposes and objectives of the grantor organisation.

6. (1) An endowment of property of a voluntary organisation with reversion rights or assets in favour of the donor, may only be accepted by a voluntary organisation, if the donor agrees to compensate the voluntary organisation for any costs incurred by the organisation, except for costs attributed to ordinary wear and tear, for any enhancements made to the property and which have not accrued in full to the organisation during the period of enjoyment. Such compensation shall be made by the donor in accordance with the principles agreed to between the parties.

(2) In the case of a reversion of assets endowed to a voluntary organisation under a temporary title, any administrator, partner, promoter, founder, member, donor or any member of his family may not realise a gain. Such prohibition shall also apply to shares or other interests of organisations only where the increase in value of such shares or interests, as reverting, is directly attributable to contributions or expenditures made by the voluntary organisation:

Provided that the above prohibition shall not apply if enjoyment rights of the voluntary organisation arise under a temporary title, which is onerous, including a lease, and is reasonably in accordance with standard market levels or market conditions established in terms of these provisions.

(3) If the reversion of assets, not being shares or other interests, in favour of the donor has increased in value, due to a direct expenditure by the voluntary organisation, the donor shall be obliged

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to refund the voluntary organisation the costs incurred by the voluntary organisation, regard being had to depreciation for ordinary wear and tear, where applicable:

Provided that this shall not apply if the donor is a public benefit organisation as defined in the Second Schedule to the Civil Code.

(4) When such reversion takes place, it shall be notified to the Commissioner. Such notification shall be accompanied by an auditor's report on costs incurred, wear and tear and gains received on reversion, irrespective of the value involved, and the Commissioner shall have all powers to order such refunds as deemed necessary, in order to ensure that no abuse takes place owing to or resulting from such transactions. Such order shall be subject to appeal under article 25 of the Act.

7. An organisation shall continue to be deemed as non-profit making notwithstanding that:

(a) it obtains a pecuniary gain from its activities when such gain is not received or accredited to its members, but is intended exclusively for the achievement of the purposes and objectives of the organisation as provided in its statute;

(b) it buys or sells or is otherwise involved in trading activities of goods or services where such activities are carried out exclusively to fulfil its principal purposes and objectives in accordance with article 38 of the Act;

(c) it is established for the general entertainment, hobbies, education or other similar benefits to its members; or

(d) it is established for the promotion of the social role, ethics, education and professional values exercised by its members, provided it does not promote the private interests of its members or private individuals.

III. Permissible Private Benefit

8. It shall be permissible for a voluntary organisation to have within its objects or powers the grant of limited or ancillary private benefit to identifiable persons or classes of persons provided that the object or power comply with the following conditions:

(a) the purposes for which it has been established, may, immediately or following the lapse of time or the fulfilment of a condition, be achieved notwithstanding the private benefit;

(b) the funds available for use under such object or power are not raised through a public collection, a grant or from the general public but are raised only from the founder, or organisations controlled by him, as a condition for the initial or any additional endowment; and

(c) the Commissioner approves the particular private benefit in writing and under such conditions, as he considers appropriate to safeguard the primacy and identity of the purpose of the organisation, which is not private:

Provided that, until such time as the Commissioner approves such private benefit as aforesaid, the organisation shall not be obliged to enrol nor shall it be eligible for enrolment, or where already enrolled, to maintain its enrolment but in such cases, the organisation shall be prohibited from carrying out any of the activities in article 12B(1)(a) to (d) of this Act.

9. The reservation by the founder of any right over the assets of the voluntary organisation shall not prejudice the non-profit making status of the organisation.

IV. Meaning of Private Benefit

10. The term "private benefit" means a benefit other than that which qualifies as a social or public benefit, indirectly attributed to an administrator of the organisation, and if the statute so determines, shall also include a donor, founder or promoter, a member of the organisation, a beneficiary or a volunteer of money, goods, services or property:

Provided that, such private benefit is limited and is only ancillary or incidental to the principal purpose and objectives of the organisation:

Provided further that, such benefit may be created for a lawful purpose within the meaning of these provisions.

V. Principles on Remuneration

A. Donors, Founders, Promoters, Members, Volunteers

11. Subject to the provisions of paragraph 8 of this Schedule, any donor, founder, promoter, member, or volunteer may receive remuneration from the organisation when he is engaged or is an employee of the organisation under a written contract or when he is the provider of any goods or services to the organisation:

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Provided that such remuneration:

(a) is strictly attributable to those functions being the subject of the written contract or to the governing provisions relating to goods or services rendered to the organisation;

(b) is not substantial and is in accordance with market levels and market conditions established in terms of these provisions, and in any case, is of material irrelevance when compared to the overall income and expenditure of the organisation;

(c) is not as such as to prejudice the achievement of the purposes and objectives of the organisation or its sustainability;

(d) is in any case, subject to the annual accounts and annual returns submitted by the organisation, in terms of the Voluntary Organisations (Annual Accounts and Annual Returns) Regulations (S.L. 492.01); and

(e) is recorded in sufficient detail in the minutes of the administrators during the general meeting and in the case of an investigation subject to any complaint on such matters, such minutes shall be submitted to the Commissioner, upon his request in writing, or to the Court, as the case may be.

B. Administrators

12. (1) Subject to the provisions of paragraph 8 of this Schedule and any express prohibition in the statute of a voluntary organisation, an administrator may solely receive remuneration from the organisation when he is engaged or is an employee of the organisation under a written contract which, in any case, does not prejudice the achievement of the principal and sustainable purpose and objectives of the organisation.

(2) An organisation may reimburse the administrator of any costs incurred by him, if directly related to his work as administrator of the organisation. The same rules shall apply to any fundraising officers or employees.

13. Any voluntary organisation shall not:

(a) grant an administrator remuneration which is higher than standard market levels or market conditions established in terms of these provisions, unless the Commissioner, may deem necessary in the circumstance or is otherwise satisfied that the administrator has specific skills which meet the needs of the

organisation, in which case, remuneration may exceed such market conditions or market levels as provided in guidelines issued by the Commissioner, according to his discretion, or as otherwise approved by him;

(b) remunerate any person, whether an employee or otherwise, with a salary, wage or a fee, which is higher than market levels, unless the Commissioner is satisfied that in that particular case specific conditions apply;

(c) pay interest or other remuneration on loans, credit or financial instruments capable of economic evaluation raised or acquired from organisations which are not licensed, or financial institutions, other than in accordance with market conditions; or

(d) pay a price for any property acquired which is higher than the established market price for such property, notwithstanding any special discounts, sales or other special arrangements.

VI. Expenses

14. Any administrator, donor, promoter, founder, member, volunteer, or any other person supporting the purposes and objectives of the organisation may receive a reasonable refund for expenses incurred by him on behalf of the organisation.

VII. Principles regarding shares and other interests

15. When shares in a company are endowed to a voluntary organisation to support the purposes, income or capital of the voluntary organisation, the administrators may accept and hold the same provided that such shareholding is in the interest of the organisation. Such shareholding shall also be declared and recorded in the annual returns and balance sheet in terms of the Voluntary Organisations (Annual Accounts and Annual Returns) Regulations (S.L. 492.01) and shall be accompanied by an annual report, both of which shall be submitted to the Commissioner.

16. (1) The acceptance and enjoyment by a voluntary organisation of an endowment of shares or other interests or of other property held by another organisation which -

(a) does not have the same purposes or uses which are consistent with the recipient organisation's purposes; or

(b) is profit-making,

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shall not affect the purpose of the recipient voluntary organisation nor its non-profit making status for the purposes of this Act:

Provided that, such endowment shall not result in any undue risk to the other assets of the voluntary organisation nor shall it hinder the voluntary organisation in the achievement of its purposes and objectives:

Provided further that, the following criteria and conditions shall apply:

(a) the grantor organisation of which shares, interests or the value of the property is being endowed to the recipient voluntary organisation shall strictly adhere to the principles applicable to market levels and market conditions as established in terms of these provisions; and

(b) the requirements established under item 15 of this Schedule shall apply.

(2) Without prejudice to any other law governing tax exemptions, with particular reference to article 12 of the Income Tax Act (Cap. 123) the conditional requirements mentioned under paragraph 15 and sub-paragraph (1) of this paragraph shall, in particular, apply in order to:

(a) eliminate any form of tax abuse which may potentially arise in the setting up of organisations and to strictly adhere to the non-profit making conditions;

(b) ensure that the set up of voluntary organisations and their activities which benefit from tax exemptions shall be kept separate and distinct from any trading or commercial activities set up by commercial entities or their members or related parties;

(c) ensure that any income, shares, capital, interests or value of property held by commercial entities is not accounted for as exempt income;

(d) ensure that any expenses which are related to exempt activities shall not be accounted for as expenses of taxable entities to be set off against taxable income in violation of tax exemption regulations; and

(e) ensure that tax exemptions do not result in a distortion as to the rules and conditions governing fair competition.

17. When the voluntary organisation is not the sole shareholder of a limited liability company, no part of the income, capital, interests or value of property of such limited liability company shall be available directly or indirectly to persons involved in the voluntary organisation:

Provided that, the provisions of this Part VII shall not apply to private foundations carrying out activities listed under article 31B of the Second Schedule to the Civil Code.

18. The Commissioner may issue guidelines on grantor companies or other organisations of which, shares, capital, interests or value of property are endowed to recipient voluntary organisations to ensure compliance with the principles of this Act and any regulations issued hereunder or under the Second Schedule to the Civil Code.

19. When a voluntary organisation has assets, including shares or other interests, in another legal organisation, such assets may not be sold or otherwise transferred to any administrator, partner, promoter, founder, member, donor or any member of his family, of the voluntary organisation.

VIII. Extension of Fiduciary Obligations

20. Without in any way impinging on the fiduciary obligations of any administrators or officers of any organisation, any person who has any role in an organisation for which remuneration is paid in any form and, or has his expenses refunded, or has any control or powers of disposition over the assets of a voluntary organisation, even if not an officer, shall be considered to be subject to fiduciary obligations.

IX. Powers of the Commissioner

21. The Commissioner may request any information from any person in order to enable him to establish whether an organisation qualifies as non-profit making in terms of this Schedule and whether the principles, rules or guidelines of this Schedule are being observed.

X. Rulings

22. Any promoter, founder, member, administrator or donor or other person referred to in this Schedule may apply to the Commissioner in writing for a ruling on any matter related to the qualification or otherwise of the organisation as non-profit making in accordance with this Schedule with reference to himself or any other person involved in an organisation.

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The decision of the Commissioner shall be subject to an appeal as stated in article 25 of the Act.

XI. Breaches

23. Any administrator who fails to observe the provisions of this Schedule shall be guilty of a breach of duty and shall be liable to refund the organisation:

(a) if permitted to receive remuneration, any such remuneration received by any administrator in excess of the permitted level;

(b) if not permitted to receive remuneration, all sums received apart from expenses.

24. When an administrator agrees to pay other persons sums which are not permitted to be paid or are in excess of permitted levels as stated herein, he shall be jointly and severally liable with them to refund such sums to the voluntary organisation.

XII. Applicability in Time

25. These provisions shall not apply retrospectively and shall be without prejudice to the application of any rules of law in force on the date (the "relevant date") when these provisions shall come into force. All enrolled voluntary organisations shall seek to come in line with these provisions within 2 years of the relevant date and may seek a ruling on such matters from the Commissioner in case of doubt. Nothing herein contained shall invalidate any act carried out prior to the relevant date when in accordance with applicable law nor shall it render any person liable for anything carried out when, under applicable law, this was not prohibited.

SECOND SCHEDULE

Organisations, which are exempt from mandatory enrolment with the Commissioner pursuant to article 12C of this Act*

PART I

International public benefit, non-profit making or voluntary organisations established by international treaty, or their local branch, which are exempted by any special law from being subject to enrolment.

The exemption under this Part I shall apply, provided that such international organisations do not make or intend to make public collections, and this, subject to any applicable provisions of any treaty, any special law or other agreement relating to such organisations.

PART II

Organisations which are registered with SportMalta in terms of the Sports Act.

The exemption under this Part II shall apply provided that such organisations do not engage in any of the activities in article 12B(1)(a) to (d) of this Act.

* These organisations are free to enrol at any time upon complying with the requirements of this Act.

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THIRD SCHEDULE

Form A

VOLUNTARY ORGANISATIONS ACT

(CAP. 492)

Non-Enrolment Notice - Notification by a non-enrolled voluntary organisation to the Commissioner

Pursuant to article 12D

Name of Organisation ("the Organisation")

Delivered by

To the Commissioner for Voluntary Organisations:

The Organisation hereby notifies the Commissioner that:

(a) it is a voluntary organisation in terms of article 3 of the Voluntary Organisations Act ("the Act") established in writing as an association, foundation or trust⁽¹⁾ on the⁽²⁾ and is not enrolled in terms of such Act;

(b) it is not subject to mandatory enrolment in terms of the Act because:

.....
.....

the address of the Organisation is:

.....

(where applicable) it is a legal person and its registration number is

.....

the sector of activity in which it operates is

and its principal purpose is

all communications may be made by and to⁽³⁾ as the responsible administrator appointed for the purpose at the address mentioned in (b) above.

The administrators are aware that if the activities of the organisation are such as to fall within the terms of article 12B of the Act they are obliged to enrol the organisation in accordance with article 12B of the Act.

Signature:

Name:

Responsible Administrator

Dated this day of of the year

- (1) Delete as applicable
- (2) State date of establishment
- (3) Insert name and surname of responsible administrator

Form B
VOLUNTARY ORGANISATIONS ACT
 (CAP. 492)
Notice of change in name/address⁽¹⁾ of a non-enrolled voluntary organisation
 Pursuant to article 12D

Name of Organisation⁽²⁾ ("the Organisation")

Address:
.....⁽²⁾

Delivered by:

To the Commissioner for Voluntary Organisations:

The Organisation hereby gives notice, in accordance with article 12D of the Voluntary Organisations Act, that:

- (i) with effect from⁽³⁾ its name has been changed
to
- (ii) with effect from⁽⁴⁾ it has changed
its address and its new address is
.....

Signature:

Name:
Responsible Administrator

Dated this day of of the year

- (1) Delete as applicable
- (2) Indicate old name/address as applicable
- (3) State date when change in name occurred
- (4) State date when change in address occurred

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Form C
VOLUNTARY ORGANISATIONS ACT
 (CAP. 492)
Notice of change in local representative/administrator ⁽¹⁾
of a non-enrolled voluntary organisation
 Pursuant to article 12D

Name of Organisation ("the Organisation")

Address:
.....

Delivered by:

To the Commissioner for Voluntary Organisations:

The Organisation hereby gives notice, in accordance with article 12D of the Voluntary Organisations Act that:

with effect from⁽²⁾..... the person currently acting as a local representative of the Organisation is no longer exercising such function and:

Name:.....

Address:.....

Identification number:.....

has been appointed as local representative in his/her stead.

with effect from⁽²⁾..... the administrator who was responsible for making and receiving communications on behalf of the Organisation is no longer exercising such function and:

Name:.....

Address:.....

Identification number:.....

has been appointed to carry out such function in his/her stead.

Signature:

Name:
Responsible Administrator

Dated this day of of the year

(1) Delete as applicable
 (2) State date when new appointment was made

Form D
VOLUNTARY ORGANISATIONS ACT
 (CAP. 492)
Notice of merger of a non-enrolled voluntary organisation
 Pursuant to article 12D

Name of Organisation ("the Organisation")

Address:
.....

Delivered by:

To the Commissioner for Voluntary Organisations:

(a) residing at hereby gives notice, in accordance with article 12D of the Voluntary Organisations Act that the Organisation has been merged with the following organisation/s:

(b) and will continue as an organisation with the following details:

Name:.....

Address:

Registration Number:

The notification of the Organisation may be removed from the List of Non-Enrolled Voluntary Organisations.

Signature:

Name:
Responsible Administrator

Dated this day of of the year

-
- (a) State name and residence of Responsible Administrator
 - (b) State name(s) of organisation(s) amalgamating with the Organisation

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Form E
VOLUNTARY ORGANISATIONS ACT
(CAP. 492)
*Notice of dissolution and winding up of a
non-enrolled voluntary organisation*
Pursuant to article 12D

Name of Organisation ("the Organisation")

Address:
.....

Delivered by:.....

To the Commissioner for Voluntary Organisations:

(a) residing at hereby gives notice, in accordance with article 12D of the Voluntary Organisations Act that the Organisation has been dissolved and wound up and that its notification may be removed from the List of Non-Enrolled Voluntary Organisations.

Signature:

Name:
Responsible Administrator

Dated this day of of the year

(a) State name and residence of Responsible Administrator

Form F
VOLUNTARY ORGANISATIONS ACT
(CAP. 492)
Enrolment of a Foreign Organisation
Pursuant to article 12F

Name of Organisation: ("the Organisation")

Delivered by:

The Organisation hereby notifies the Commissioner that:

- (i) it is registered or established under the laws of
bearing registration number and having a registered
office at
- (ii) it is substantially established for the public purpose or public benefit of
.....;
- (iii) it is substantially non-profit making and voluntary for the purposes of
the Voluntary Organisations Act.

The Organisation gives notice that:

Name:.....

Address:

Identification number:.....

has been appointed as local representative of the Organisation. The
Organisation confirms that the said person has accepted to so act.

Signature:

Name:

Responsible Administrator

Dated this day of of the year

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FOURTH SCHEDULE
TEMPORARY ORGANISATION

Application for the enrolment of a temporary organisation and the constitutive instrument of such temporary organisation established in accordance with the Voluntary Organisations Act

Pursuant to article 16

Name of Organisation ("the Organisation")

Delivered by:

Name

The name of the organisation is

Address

The address of the organisation is

Purpose

The organisation is formed with the one specific purpose of*

Necessary Acts

The temporary organisation shall perform the following necessary acts so as to achieve the purpose for which it is established**

.....
.....
.....

* This one specific purpose may include the raising of funds for a specific public purpose or to support another enrolled voluntary organisation, and can even be for the benefit of a named individual who may need humanitarian support.

** State acts such as paying for medical assistance, paying for flights or accommodation, paying for repairs, equipment and the like.

Acts which may not be carried out by the
temporary organisation

The temporary organisation may only carry out the acts listed in this constitutive instrument and ancillary and connected acts. The temporary organisation may not:

- (a) borrow money; or
- (b) enter into binding financial obligations in advance of raising the necessary funds to perform such obligations.

Administrators^{*}

The administrators of the temporary organisation, who sign next to their name to confirm their consent to act, shall be:

- 1.
- 2.
- 3.

Duration

This temporary organisation is established for months/1 Year^{**}. The temporary organisation shall pay out, apply or otherwise distribute all its assets for the achievement of the purpose by the expiry date of its term. If for any reason the above cannot be complied with, the administrators shall, on the lapse of the above mentioned period, select one of the following options:

- a. pays out the funds to another enrolled voluntary organisation with purposes similar to its own with an instruction to hold the funds and when possible use them for the stated purpose or pay out the funds to the Voluntary Organisations Fund;

* The beneficiary, or if a minor, his or her parents cannot be administrators. This instrument must be delivered to the Commissioner for Voluntary Organisations with the written consents of the administrators endorsed on it. There must be at least three (3) administrators for which there should be included their name, ID card number and address.

** Cannot exceed one year, but can be extended by the Commissioner.

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- b. converts the temporary organisation into a new voluntary organisation of extended duration with the same purposes; or
- c. applies to the Commissioner for an extension under article 16(4) of the Voluntary Organisations Act.

Termination

Prior to the date of its termination, the temporary organisation shall submit to the Commissioner a closing statement of account signed by the administrators:

- (a) explaining how it has achieved the purpose for which it was established;
- (b) explaining how it has applied all its assets, including receipts; and
- (c) attaching any original documents or agreements which may have been entered into by the temporary organisation in connection with the disposal or application of such assets.

Signatures*
".

Part II - Amendments to the Civil Code

Amendments to the Civil Code. Cap. 16.

37. This Part amends and shall be read and construed as one with the Civil Code or the Second Schedule to the Civil Code, as the case may be, hereinafter in this Part referred to as the "Code" or the "Second Schedule" as the case may be.

Amendment of article 1124A of the Code.

38. Article 1124A of the Code shall be amended as follows:

(a) sub-article (1) thereof shall be amended as follows:

(i) immediately after the word "quasi-contract," there shall be added the words "unilateral declarations"

* This constitutive instrument must also be signed by the promoters, who may be the administrators as well.

including wills,";

(ii) in paragraph (a) thereof, immediately after the words "of another person" there shall be added the words "and it shall be presumed that such an obligation where a fiduciary acts in or occupies a position of trust is in favour of another person";

(iii) in paragraph (b) thereof, for the words "holds, exercises control or powers of disposition over property" there shall be substituted the words "has registered in his name, holds, exercises control or powers of disposition over property";

(b) sub-article (4) thereof shall be amended as follows:

(i) in paragraph (a) thereof, for the words "in the performance of his obligations" there shall be substituted the words "in the performance of his fiduciary obligations";

(ii) in paragraph (b) thereof, immediately after the words "any conflict of interest" there shall be added the words "or any conflict of trust or fiduciary obligations";

(iii) in paragraph (c) thereof, immediately after the words "from his position or functions" there shall be added the words "nor permit any other person to do so, nor enter into any transaction related to the property, directly or indirectly, unless authorised to do so by the instrument creating the fiduciary obligation or permitted by a person or authority empowered to approve such dealings under the instrument or applicable law or as otherwise authorised by the Court:"; and immediately thereafter there shall be added the following proviso:

"Provided that any references to "the Court" shall be construed as references to the Civil Court (Voluntary Jurisdiction Section) unless otherwise indicated or unless the context refers to any court seized of any matter in which case it is the court where the matter arises;"

(iv) in paragraph (e) thereof, immediately after the words "similar obligations" there shall be added the words "and to affect a change in the registration of any relevant property, as may be required for such purpose;"

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(v) in paragraph (g) thereof, the word "and" shall be deleted;

(vi) paragraph (h) thereof shall be substituted by the following:

"(h) to return on demand any property held under fiduciary obligations to the person lawfully entitled thereto or as instructed by him as otherwise required by the written instrument regulating the fiduciary obligation or by applicable law, and for such purpose, execute such agreements, including any public deed, or other instruments and, or effect a change in the registration of any relevant property, as may be required;" and

(vii) immediately after paragraph (h) thereof, there shall be added the following new paragraphs:

"(i) to return any property held under the fiduciary obligations upon the termination of the fiduciary obligations to the person lawfully entitled thereto, as required by the written instrument regulating the fiduciary obligation or by applicable law, and for such purpose, execute such agreements, including any public deed, or other instruments and, or effect a change in the registration of any relevant property, as may be required;

(j) to keep confidential the affairs of the person to whom fiduciary duties are owed, subject to the fiduciary's duty to provide information to the beneficiary of the specific fiduciary obligation or to other persons in accordance with and subject to any restrictions contained in the written instrument, if any, giving rise to the fiduciary obligation with reference to this sub-article, unless the fiduciary is given consent from the person to whom fiduciary obligations are owed to disclose such information:

Provided that a fiduciary has the right to declare on any written instrument or when carrying out any act, that he is acting as a fiduciary in such context and such declaration shall not be considered to be a breach of this sub-article; and

(k) to carry out the designated purpose, where property has been entrusted to him."; and

(c) immediately after sub-article (6) thereof, there shall be added the following new sub-articles:

"(7) Subject to the provisions of sub-article (8), where the competent court, in any proceedings, finds that a person owns, has registered in his name, holds, exercises control or has powers of disposition over property and is bound by fiduciary obligations arising in any manner in relation to such property, the court may make any order or declaration in favour of or for the benefit of such persons and under such terms and conditions as it considers appropriate in the circumstances to protect the beneficiary of such obligations under the provisions of this Title and any special law including:

(a) to order the transfer, restitution or delivery of any property, or the change in the registration thereof, to another fiduciary or order that it be held jointly with another fiduciary;

(b) to terminate the powers of disposition of property;

(c) to order the fiduciary to give adequate security;

(d) to establish a trust in relation to property subject to fiduciary obligation and to establish the terms of such trust;

(e) to rescind any transfer or other transaction or declaring the same null and void; or

(f) imposing damages on the fiduciary.

(8) The court shall also have such powers, whether the proceedings are instituted under article 1124E or under any other provision of law, by any beneficiary, a successor in title of such beneficiary, a creditor of such beneficiary when such creditor may exercise the rights of the beneficiary under applicable law, or by any other person whom the court considers to be entitled under the relevant fiduciary obligation, as the case may be, and on the basis of the demands in the relevant proceedings.

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Where a third party acquires any property under an onerous title or acquires rights over any property owned, held or registered in the name of a fiduciary, he shall not be prejudiced by any remedy granted by the court to any person as aforesaid:

Provided that the third party who acquires any property pursuant to this sub-article was not aware of that he was dealing with a fiduciary.

(9) Fiduciary duties may, in particular cases, be implicitly waived or varied in certain circumstances, such as:

(a) the method of engagement of the fiduciary, in particular where the fiduciary is engaged for two or more purposes, functions or offices or where the fiduciary is engaged for a purpose, function or office at the same time as when the fiduciary is granted an entitlement;

(b) the scope, purposes and contexts of the fiduciary obligations imposed;

(c) the handing over of property, by delivery, registration in name of another person, assignment or transfer, to or for the benefit of a beneficiary's creditor for purpose of security or other purpose which is distinct from that of the beneficiary; or

(d) the manner of the acceptance or assumption or undertaking of the fiduciary obligations.

(10) Where there is an express waiver of fiduciary obligations as stated in sub-article (4) or an implicit waiver as stated in sub-article (9), the fiduciary may, in case of doubt, apply for directions from the competent court on how to act in the circumstances. The Court shall give due regard to the intentions of the person establishing or imposing the fiduciary obligations and to the interests of both the fiduciary and the beneficiary."

Amendment of
article 1124B of
the Code.

39. Article 1124B of the Code shall be amended as follows:

(a) the marginal note thereof shall be substituted by the following:

"Dealings with third parties aware of fiduciary obligations.";

(b) sub-article (1) thereof shall be substituted by the following:

"(1) Where a third party is aware that a fiduciary is vested with ownership, has registered in his name, holds, exercises control or powers of disposition over property subject to fiduciary obligations, third parties may, in good faith, act in relation to the fiduciary as though he were the absolute owner thereof.";

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

"(2) A third party who acquires property under an onerous title as provided for in sub-article (1) shall not be affected by the fiduciary obligations to which the said property is subject, unless otherwise agreed upon.";

(d) immediately after sub-article (2) thereof, as substituted, there shall be added the following new sub-article:

"(2A) Where a third party acquires property under gratuitous title as provided for in sub-article (1) from a fiduciary who acts in breach of the fiduciary obligation or where the third party has acquired property under gratuitous title to the detriment of a beneficiary, the third party shall be subject to the same fiduciary obligations which the fiduciary was subject to, which shall take effect when the third party becomes aware or where he reasonable ought to have become aware from the circumstances of the breach of the fiduciary obligations:

Provided that the fiduciary obligations which the third party is subject to shall be limited to the extent of the breach or unauthorised gain, unless the Court provides otherwise pursuant to any of the remedies in article 1124A:

Provided further that the performance of the fiduciary obligations in accordance with the terms and conditions that the fiduciary is subject to shall not be considered to be gratuitous for the purpose of this article.";

(e) paragraph (a) of sub-article (3) thereof shall substituted by the following:

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"(a) enquire into the terms and conditions of his authority, except in the case of a gratuitous transaction; or";

(f) immediately after sub-article (3) thereof there shall be added the following new sub-article:

"(3A) Any third party dealing with a fiduciary in a transaction shall be entitled to enquire about the purposes of the fiduciary obligation, including the obligation of not exceeding the value raised by the transaction, or otherwise relating to the propriety subject to the transaction or the applicability of the funds in question."; and

(g) immediately after sub-article (5) thereof there shall be added the following new sub-articles:

"(6) Where a fiduciary is vested with ownership, has registered in his name, holds, exercises control or powers of disposition over property informs a third party with whom he is dealing that he is acting as a fiduciary, the third party is otherwise aware or should reasonably be aware, the fiduciary shall not be personally liable for the obligations entered into with such third party, other than those entered into in the exercise of his obligations. Where the third party is unaware of the fiduciary obligations, the fiduciary shall, subject to any terms which may have been stipulated or which otherwise apply under the applicable law, be personally liable to such third party in respect of any obligation entered into.

(7) The fiduciary shall have a right of recourse against the beneficiary where contemplated in the provisions of this Code or in any special law, by way of indemnity against such liability unless he has acted in breach of his duties, in which case he shall not be entitled to be indemnified.

(8) A fiduciary shall be presumed to have all the powers at law which are required for him to perform his fiduciary obligations towards beneficiaries or purposes."

Addition of new articles to the Code.

40. Immediately after article 1124B of the Code there shall be added the following new articles:

"Property subject to fiduciary obligations and ownership.

1124C. (1) Where a person is vested with ownership, has registered in his name, holds, exercises control or powers of disposition over property subject to fiduciary obligations, such property shall constitute a distinct and separate patrimony, consisting of all relative rights and obligations with respect thereto, and such property shall not be subject to the claims or rights of action of the fiduciary's personal creditors, nor of his spouse or heirs at law, except as stated in the provisions of this Code or of special laws.

(2) Fiduciary ownership of property is ownership as contemplated by Title II of Book Second of this Code in so far as third parties are concerned, but which is modified by the provisions of this Title and any special laws and other provisions of this Code which may be applicable, in so far as it is subject to obligations towards and for the benefit of another person, referred to as a beneficiary, or for the achievement of a purpose, or both. Such modifications imply restrictions and limitations on the right of ownership consistent with the provisions of this Title, the special laws on trusts and other provisions of this Code.

(3) Where property subject to fiduciary obligation is in the possession of a fiduciary and owned by the beneficiary, the provisions of this Code or of any other special law governing their relationship shall apply in accordance with the terms and conditions established by the fiduciary and the beneficiary:

Provided that such terms and conditions may be modified in terms of the provisions of this Title for the protection of the beneficiary and, or the achievement of the obligation.

Retirement of a fiduciary and appointment of his successor.

1124D. Where a fiduciary is vested with ownership of a property, has it registered in his name, holds, exercises control or powers of disposition over such property and for any reason, ceases to act as fiduciary and is thereafter replaced by another fiduciary the latter shall continue to perform the same fiduciary obligations, as may be applicable at the relevant time:

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Provided that:

(a) the transfer of rights and obligations with respect to the property subject to fiduciary obligations shall take place in favour of beneficiaries and third parties upon the execution of a written instrument between the fiduciary ceding his fiduciary obligation and the fiduciary replacing him. The written instrument shall specify the property subject to fiduciary obligations, and shall empower the new fiduciary to transfer all rights and obligations, including possession and, or, delivery of the property in favour of the beneficiary and any third party, as the case may be, except as stated in paragraphs (d) and (e);

(b) for any rights over immovable property to be validly vested in the new fiduciary, the execution of a public deed shall be required;

(c) the sole consideration for the said transaction shall be that referred to in article 958L, which shall apply *mutatis mutandis* in case of fiduciary obligations other than those arising from trusts, and notwithstanding any other law it shall not be required to state in the relative instrument, including any public deed, the value of the property being transferred or delivered;

(d) the provisions of this article shall also apply *mutatis mutandis* to the transfer of a cell from one organisation to another or the constitution of a cell as a new organisation under articles 20A or 20B of the Second Schedule, as the case may be;

(e) all rights and obligations, including any contracts which may be in force, shall continue to operate in accordance with their terms with reference to the property subject to fiduciary obligations and shall accrue and be binding on the new fiduciary upon the transfer and, or delivery to him of the property in accordance with applicable law and any written instrument regulating the fiduciary obligations and the property subject to fiduciary obligation and this without the need of any notice to or consent of any other person except as provided in this sub-article or applicable law;

(f) the fiduciary who ceases to act as a fiduciary shall no longer be entitled to all the rights and powers and, subject to paragraph (g), shall be released from all the fiduciary obligations related to the property subject to fiduciary obligations, including any obligations under any contracts, once he has carried out the transfer and delivery of the property to the successor fiduciary after obtaining all such consents as are required to terminate his engagement as fiduciary under any written instrument and observing all formalities under applicable law;

(g) the fiduciary who ceases to act as a fiduciary shall not be released of his obligations towards the beneficiary with respect to any property subject to fiduciary obligations he may not have transferred, delivered or accounted for or which may come into his possession thereafter or for any breaches of fiduciary obligations when he was acting as fiduciary;

(h) the fiduciary who ceases to act as a fiduciary shall not be released from any obligations towards third parties which:

(i) he has expressly entered into in his own personal capacity and interest and not in a fiduciary capacity;
or

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(ii) he is personally liable for under the provisions of this Title towards a third party who was not aware he was acting as a fiduciary, unless the third party expressly releases him from liability;

(i) the appointment of another fiduciary, as aforesaid, shall not be subject to the provisions on assignment of rights nor constitute a novation under the provisions of this Code but shall be regulated by this article and the provisions of the Trusts and Trustees Act, when applicable;

Cap. 331.

(j) any undertaking, guarantee, hypothec, pledge or other forms of security granted by the fiduciary or over or in relation to the property shall not be affected in any manner by the substitution of a fiduciary and shall continue to attach to the property in accordance with its terms and the applicable law and when property subject to a hypothec or privilege is the subject of a transaction where another fiduciary replaces a fiduciary, the fiduciary replacing the previous fiduciary and the provisions of articles 2070 to 2083 shall not apply; provided that this paragraph shall not apply where the retiring fiduciary is already a third party in possession in which case articles 2070 to 2083 shall apply;

(k) the fiduciary ceasing his functions or the replacing fiduciary shall:

(i) notify interested third parties of such substitution, at what time and to what extent, while abiding with any confidentiality obligations regarding beneficiaries and their interests;

(ii) where rights over immovable property are subject to fiduciary obligations, execute a public deed with the fiduciary who has ceased to perform his fiduciary obligations to record that the fiduciary obligations relating to such property have been transferred to another fiduciary. Nevertheless, if for any reason the fiduciary ceasing his functions is not able to appear on such public deed and the property is in the possession of the replacing fiduciary, the latter may state such facts as are known to him, confirm that such property is in his possession and shall declare by means of a written declaration or notification, his acquisition of title over the property and the undertaking of the fiduciary obligations. The transfer of ownership of such property shall take place upon the execution of such public deed and the same rules shall apply *mutatis mutandis* to other registered movable property by the execution of a private writing and any applicable registrations or notifications as may be required by law;

(iii) in so far as any security forms part of the property subject to fiduciary obligations and it is duly registered in the Public Registry, the new fiduciary shall, upon making a unilateral declaration relating to the relevant security, in accordance with the applicable law, register the substitution resulting from the written instrument between himself the former fiduciary in the said register;

(1) in cases where the substitution is ordered or approved by a competent court or regulatory authority, then no further consent or agreements which may otherwise be required under this article, applicable law or the written instrument regulating the fiduciary obligations, shall be necessary;

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(m) the fiduciary who has ceased to perform his functions shall be entitled to be indemnified for liabilities, expenses or losses he may incur with reference to the property subject to fiduciary obligations even after he has ceased to perform his functions except for any breaches thereof;

(n) where a fiduciary dies in the course of performing his fiduciary obligation:

(i) his universal heir who has reached majority and is capable at law, or if more than one, each one of such heirs severally, shall be deemed to be executors *ex lege* of the property and shall immediately transfer or deliver the property to a successor fiduciary or the beneficiary;

(ii) should the heir fail to perform the duties in sub-paragraph (i) within thirty (30) days, extendable by the Court, he shall be considered to be the temporary successor fiduciary and shall have the same obligations towards the beneficiaries as the deceased fiduciary until he performs his obligations as aforesaid;

(iii) should the heir be unable to perform his duties in sub-paragraph (i) for any reason not attributable to himself, he shall apply to the competent court providing the relevant information and seeking an order as stated below;

(iv) when the deceased fiduciary has appointed a testamentary executor, the above duties, and all relative powers to so act, shall bind only the executor, unless the executor is also a universal heir in which case sub-paragraph (i) shall apply, such testamentary executor shall be deemed to have all the necessary powers for the purposes solely of recovering, transferring or returning the property to another fiduciary or to the beneficiary;

(v) notwithstanding the above, a beneficiary, the heirs, the executor, as the case may be, may apply to the Court to confirm their powers or may appoint an ad hoc testamentary executor at any time, to act for the estate of the deceased fiduciary for the purposes of recovering, transferring or returning the property to another fiduciary or the beneficiary and the competent court may confirm to which property such powers refer or may accede to such request notwithstanding any contestation of the will or his appointment;

(vi) the successor fiduciary is the person:

A. designated in any instrument governing the fiduciary obligations; or

B. designated in accordance with any applicable law; or

C. appointed by the Court for such purposes, even if only temporarily for this purpose, on the demand by application of any interested party;

(o) where the fiduciary is a legal person which is declared bankrupt, dissolved or wound up, such obligations shall bind the last directors jointly and severally or, if a liquidator has been appointed, the liquidator, as the case may be, and the provisions of paragraph (j) shall apply *mutatis mutandis*;

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(p) where there is more than one fiduciary who holds, exercises control or powers of disposition over property for a beneficiary, such property shall, by operation of law, consolidate in the ownership of the remaining fiduciary or fiduciaries on the death, resignation or removal of a co-fiduciary. The remaining fiduciary or fiduciaries shall execute a unilateral declaration by public deed or other writing in accordance with applicable law, which shall be registered in the relevant register, so as to declare the consolidation in his or their name of the title or control of such property and the consolidation shall thereon take place without the need of any other formality.

Fiduciary
action.

1124E. (1) It shall be competent to any beneficiary, in order to enforce fiduciary obligations owed to him, to exercise a right of action on the basis of the provisions of this Title.

(2) The demand may be made together with any other action available under the provisions of this Code or any other law and where such specific right of action is not exercised, the remedies contemplated herein may also be demanded by an additional application to the Court, at any time of the proceedings until the award of a final judgement by the competent court or the Court of Appeal.

(3) In the case of a fiduciary obligation undertaken solely for the achievement of a purpose and in the absence of any beneficiary, the above right of action may be exercised by any person or body granted the power to protect, supervise or enforce the purpose in the instrument creating the obligation or, in the case of an obligation undertaken by a public benefit organisation, also by the Attorney General.

Prescription.

1124F. (1) Notwithstanding any provision of this Code or any other law, an action brought against a fiduciary, or a person considered to be a fiduciary under the provisions of article 1124A -

(a) in respect of any fraud or dishonesty to which such person was a party or of which he had knowledge; or

(b) for the recovery from the fiduciary, or any person considered to be a fiduciary as aforesaid, of any property subject to fiduciary obligations or previously received by the fiduciary and converted to his use, or for benefits or gains received as a result of breach of duty,

shall not be barred by prescription, notwithstanding the lapse of time.

The action shall not be barred by prescription irrespective of whether it is brought against the fiduciary by a beneficiary who has suffered prejudice as a result of the behaviour of the fiduciary in relation to the same property or property substituting the same.

(2) Notwithstanding the provisions of article 2140 and without prejudice to article 2155, a fiduciary or any person considered to be subject to fiduciary obligations under this Title, shall not acquire any property held under fiduciary obligations by means of prescription.

(3) Where the fiduciary or beneficiary acts in bad faith under the provisions of this Code, such act shall be sufficient for an action not to be barred by prescription.

(4) With the exception of the matters falling within the scope of the preceding sub-article for which there is no prescription, no action may be brought against a fiduciary by a beneficiary for breach of other fiduciary obligations referred to in sub-article (4) of article 1124A, after the lapse of five years. Such period shall commence -

(a) from the date of the delivery of a written account, or part thereof, of the fiduciary activity to the beneficiary; or

(b) from the date on which the beneficiary first had knowledge of the occurrence of the breach of fiduciary duty,

whichever is the earlier date:

Provided that, if the account or part thereof is itself fraudulent or dishonest then, with reference to the account or the relevant part, the period shall only commence on the date referred to in paragraph (b).

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Fiduciary obligations towards a purpose.

1124G. (1) When a fiduciary obligation is imposed or undertaken solely to achieve a designated purpose or purposes, including in the case of a charitable trust or a purpose foundation, without there being a beneficiary, such obligation shall be valid and enforceable, and:

(a) where there is more than one person who is so bound, their obligations shall be joint and several; and

(b) in case of a foundation, the administrators of the foundation shall be jointly and severally obliged to perform the fiduciary obligations with the foundation itself.

(2) The provisions of this Title shall be applied *mutatis mutandis* and the obligations of the fiduciary shall be attributed towards achieving the designated purpose in accordance with the terms of the fiduciary obligation, any applicable law and the provisions of this Title.

(3) When a fiduciary obligation is imposed or undertaken by any religious organisation, Canon law and other legislation governing religious organisations shall apply and in case of inconsistency shall prevail over the provisions of this Title.

Obligations of the beneficiary towards the fiduciary.

1124H. (1) The beneficiary shall be bound towards the fiduciary:

(a) to perform all such obligations as are agreed by him in writing or as may be established in the relative instrument under which the fiduciary obligations arise or as may arise under the applicable law;

(b) to pay the remuneration to, and all expenses incurred by, the fiduciary as may be established in the relative instrument under which the fiduciary obligations arise or are governed;

(c) subject to the provisions of any special law or this Code which exclude remuneration, where not expressly agreed in the relevant instrument:

(i) to pay such fees as are reasonable as is established in agreement with all beneficiaries who are of age or as may be established by the Court; and

(ii) the fiduciary may reimburse himself or pay out of the property subject to fiduciary obligations all expenses properly incurred by him in connection with his duties, in which case the fiduciary shall notify the beneficiary, or the persons required to be notified in the relevant instrument or applicable law, of such reimbursement in the manner and at the time established by applicable law.

(2) The beneficiary must at all times act in good faith towards the fiduciary irrespective of the manner by which or by whom the fiduciary has been appointed.

(3) Subject to the terms of the instrument governing the fiduciary obligations, the beneficiary shall, to the extent of the property unless the beneficiary has agreed otherwise, indemnify the fiduciary for any liabilities the fiduciary may incur in the carrying out of his fiduciary duties except to the extent that the fiduciary is guilty of negligence, wilful misconduct or fraud.

(4) Nothing in this article shall limit the rights or remedies of the fiduciary under this Code or any other law arising from bad faith or other harmful acts on the part of a beneficiary.

Directions
from the Court.

1124I. (1) A fiduciary may, at any time, apply to the Court for directions regarding the performance of his obligations.

(2) Upon such application the Court may issue any orders or directions as it thinks fit.

Applicability
of the
provisions of
this Title.

1124J. In the application of the provisions of this Title the following principles shall apply:

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(a) when a fiduciary relationship is governed by particular rules, whether because of the source and type of the obligations or because of any special law, such particular rules shall apply to the context and these provisions shall apply as necessary to support the interpretation of the said rules;

(b) it shall be presumed that these provisions operate consistently with particular rules applicable to any particular fiduciary relationship or obligation but, in case of inconsistency, the particular rules shall prevail over the provisions of this Title;

(c) the provisions of this Title shall apply to all fiduciary obligations, which exist at the time of the coming into force of these provisions, or any amendments thereof, even if arising before such date, as well as any fiduciary obligations arising thereafter:

Provided that such provisions shall not apply retrospectively where their effect is to deny or restrict any vested right or create any liability where such did not occur under law prior to such provisions coming into force;

(d) where a fiduciary obligation is vitiated by a breach or attempted breach of law by the parties or any one of them and is thereby rendered unenforceable due to the falsity or illegality of the cause, the compliance by the beneficiary or the fiduciary, or both, with such law or a change in law resulting in the causa no longer being false or unlawful, shall render the fiduciary obligation enforceable with effect therefrom. In such cases, the Court may give such interim orders it considers appropriate to ensure compliance with the law or to prevent the further abuse by the parties or any one of them."

Amendment of
article 1 of the
Second
Schedule.

41. Article 1 of the Second Schedule shall be amended as follows:

(a) sub-articles (2), (3), (4), (5), (6), (7), (8) and (9) thereof shall be re-numbered as sub-articles (6), (7), (8), (9), (10), (11), (12) and (13) respectively;

(b) immediately after sub-article (1) thereof, there shall be added the following new sub-articles:

"(2) Organisations may be established in different legal forms.

(3) The lawful purpose of an organisation referred to in sub-article (1) shall not be contrary to morals and public policy, which purpose or purposes shall be one of the categories referred to in sub-article (4).

(4) Every organisation shall be categorised according to its purpose and the purpose of any organisation may be:

(a) to exclusively promote a social or public purpose on a non-profit making basis, excluding any private benefit, or if it has beneficiaries, be for the benefit of public interest beneficiaries. For the purposes of this paragraph "public interest beneficiaries" shall mean any of the following:

(i) organisations, which are themselves established exclusively for social or public purposes on a non-profit making basis;

(ii) religious organisations;

(iii) public organisations; or

(iv) beneficiaries referred to in article 32(8):

Provided that, this excludes any private benefit other than those listed under the First Schedule to the Voluntary Organisation Act (Cap. 492) or under this Schedule, in which case it is referred to as a "public benefit organisation"; or

(b) to promote any lawful purpose in terms of the Voluntary Organisations Act (Cap. 492) other than those referred to in sub-paragraph (i), whether for a private benefit or not, in which case it is referred to as a "private benefit organisation".

(5) When a private benefit organisation is established with beneficiaries, the organisation shall be for

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the benefit of a person or class of persons who can be ascertained, through the designation of named persons, whether they are members, shareholders or other interests or rights, or are otherwise ascertainable.";

(c) in sub-article (6) thereof, as re-numbered, immediately after the words "constitutive instrument" there shall be added the words "or statute";

(d) in sub-article (11) thereof, as re-numbered, for the words "to the particular legal form shall apply.", there shall be substituted the words "to the particular legal form shall also apply.";

(e) sub-article (13) thereof, as re-numbered shall be substituted by the following:

"(13) In this Schedule:

(a) "constitutive instrument" means the public deed, private writing, resolution or any other written instrument or document, or the relevant part thereof, which establishes an organisation of any form and includes a will which provides for the setting up of an organisation;

(b) any reference to "the Court" shall be deemed to be a reference to the Civil Court (Voluntary Jurisdiction Section) unless it is otherwise expressly stated;

(c) "deed of foundation" means the public deed or part thereof, which establishes a foundation and regulates its governance in terms of article 29. When a provision in this Schedule establishes a requirement relating to the deed of foundation, this shall be satisfied if such requirement is found in the constitutive instrument or in the statute, or a combination of both, as the case may be;

(d) "interested party" means a person who is given rights capable of economic valuation, present or future, actual or contingent, in the constitutive instrument or statute of an organisation or who is given powers or functions therein and shall not include other persons unless the context otherwise requires, and this, without prejudice to

the right of any person to pursue any civil right or remedy he may have;

(e) "international organisation" means an organisation of which only States or other international organisations are members;

(f) the term "non-profit making" shall have the meaning as assigned to it in article 2 of the Voluntary Organisations Act (Cap. 492);

(g) "political purpose" means the promotion of the interests of a political party or a political candidate, whether at local, national or international level and "political party" shall have the meaning assigned to it by the Financing of Political Parties Act (Cap. 544) and for the purpose of this Schedule shall include any other organisation, of whatever legal form, financially controlled by or affiliated with a political party or its purpose, as stated in its statute or constitutive instrument or public deed or an organisation which acts in such manner which is not autonomous from a political party and the terms "political candidate" and "political organisation" shall be construed accordingly;

(h) "promoter" means a person who promotes the establishment of an organisation or holds himself out to third parties as such and, after the establishment of an organisation, in the case of a foundation means the founder and in the case of an association means the first associating members;

(i) "public deed" shall include any documents annexed to such public deed in accordance with the Notarial Profession and Notarial Archives Act (Cap. 55);

(j) the terms "public purpose", "public benefit" and similar phrases mean a social purpose and any other purpose or benefit which promotes or serves the general public or general interest or a sector of the general public and does not promote or serve any private benefit except as permitted by the Voluntary Organisations Act (Cap. 492) and this Schedule;

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(k) the term "public organisation" shall mean any organisation which is controlled, directly or indirectly, by the Government and an organisation is "controlled by the Government" where the Government enjoys the power to appoint or remove a majority of the administrators of the organisation;

(l) "relevant date" means the 1st April, 2008;

(m) "relevant persons" means:

(i) the administrators;

(ii) the protector or members of a supervisory council, if any; and

(iii) any other natural person exercising ultimate and effective control over the association by means of indirect ownership or by other means, including any person, other than those already referred to in paragraphs (a) and (b) of this definition, whose consent is to be obtained or whose direction is binding, in terms of the statute of the association or any other instrument in writing, for material actions to be taken by the administrators thereof;

(n) "religious organisation" means an organisation established by a religious authority or another religious organisation of any denomination to fulfil a religious purpose including a pious foundation or ecclesiastical entity as defined in this Schedule;

(o) "social purpose" means any charitable or philanthropic purpose, and without prejudice to the generality of the aforesaid, includes:

(i) the advancement of education, including physical education and sports;

(ii) the advancement of religion;

(iii) the advancement of health;

(iv) social and community advancement, including the promotion of the ethical, educational and social aspects of a particular profession or trade;

(v) the advancement of culture, arts and national heritage;

(vi) the advancement of environmental protection and improvement, including the protection of animals;

(vii) the promotion of human rights, conflict resolution, democracy and reconciliation;

(viii) the promotion or protection of the interests of other public benefit organisations, including federations of such organisations;

(ix) the carrying out of activities intended to raise funds to support other organisations which are exclusively public benefit organisations or to support the voluntary sector as a whole or parts of it through the application, grant, transfer or otherwise making available of funds so raised to them or for their benefit;

(x) any other purpose as may be prescribed by the Minister responsible for justice by means of regulations made by virtue of this Schedule,

and for the purpose of this Schedule, includes a political purpose;

(p) "special law" means an Act of Parliament or any regulations made thereunder or a part of this Code or a part of this Schedule which regulates specifically a particular legal form or forms of organisations, including civil partnerships, foundations and associations;

(q) "statute" means the public deed, private writing, resolution or any other written instrument or document, or the relevant part thereof, which

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governs the purposes, objects, structure, internal management and administration of an organisation on a continuing basis after the organisation has been established, whether it forms part of the constitutive instrument, as an appendix or otherwise, or is an independent instrument;

(r) "writing" when used in relation to a notice to be sent shall mean printed, typewritten, or otherwise visibly represented, copied or reproduced, including by fax or electronic mail or other electronic means and in the case of a private writing a combination of several signed copies of the same instrument shall suffice."

Amendment of article 2 of the Second Schedule.

42. Article 2 of the Second Schedule shall be amended as follows:

(a) sub-article (1) thereof shall be amended as follows:

(i) immediately after the words "under the laws by which they are established" there shall be added the words "or if they are registered overseas, under the laws of the place of registration,"; and

(ii) for the words "for all purposes of law" there shall be substituted the words "for all purposes of law, with the characteristics of the legal form they may take under the applicable law";

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

"(2) International organisations which are granted legal personality in any multilateral or bilateral treaty or agreement to which States or international organisations, as subjects of international law are parties, shall be recognised as legal persons for all purposes of law, which personality shall be governed by the relevant treaty or agreement or by any law of any State which is selected for the purpose by the parties thereto. The Minister responsible for justice shall, from time to time, publish a list of such organisations in the Gazette.";

(c) sub-article (3) thereof shall be substituted by the following:

"(3) In the case of a foreign or international

organisation which has legal personality, the law, treaty or agreement applicable in terms of sub-articles (1) and (2) shall apply to all matters regarding such legal persons, including their form, their existence, the setting-up and effects of their statute, constitutive instrument or public deed and their administration, the liability of persons who control or manage or are otherwise involved in such organisations and their dissolution, and to the extent that an international organisation is subject to a special law following the ratification by the State of the treaty establishing such organisation, such organisation shall also be governed by such law and in case of inconsistency with its Statute or agreement, the latter shall prevail.";

(d) sub-article (4) thereof shall be re-numbered as sub-article (6);

(e) immediately after sub-article (3) thereof, there shall be added the following new sub-articles:

"(4) Subject to the provisions of article 19(8), a foreign or international organisation which does not have legal personality under the applicable law shall be recognised as a legal organisation and all matters regarding such foreign or international organisation including its form, its existence, the construction and effects of its constitutive instrument or statute, the liability or otherwise of its promoters, members or its administrators, its administration and its dissolution shall be governed by the proper law applicable to its constitutive instrument or statute, either express or according to applicable law.

(5) Notwithstanding the law applicable in accordance with the preceding provisions, when there exists the power to carry out a trading or a commercial activity, the limitations established under article 32A shall apply to activities in Malta in case of foundations established outside Malta.";

(f) sub-article (6) thereof, as re-numbered, shall be amended as follows:

(i) immediately after the words "required to register" there shall be added the words "by notice in the prescribed form"; and

(ii) for the words "For the purposes of this article

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"regular activity" means activity having a duration of more than three months or which is carried out through a permanent establishment in Malta." there shall be substituted the following:

"For the purposes of this sub-article:

(a) "regular activity" means an activity having a duration of more than three months or which is carried out through a permanent establishment in Malta; and

(b) "permanent establishment" includes a place of business, office or branch through which an activity is carried out on a stable and continuous basis:

Provided that the obligation to register shall not apply to foreign religious organisations."; and

(g) immediately after sub-article (6) thereof, as re-numbered, there shall be added the following new sub-articles:

"(7) Where a foreign or international organisation, whether having legal personality or not, does not carry out regular activities in Malta, but needs to prove its recognition under this article for the purpose of applicability of the laws of Malta other than this Schedule, the organisation may register under this sub-article by means of a notice in the prescribed form.

(8) Whenever the purposes or activities of a foreign or international organisation are the subject of laws regulating credit institutions, insurance undertakings, investment services or funds or the provision of trustee, fiduciary, or corporate services or other licensable or regulated activities, such organisation may only be registered with the prior written consent of the Malta Financial Services Authority, when so required by the applicable law and where it is otherwise the competent authority under such law, unless the foreign or international organisation is expressly exempted from obtaining authorisation under Maltese law.

(9) The Minister responsible for justice may from time to time issue regulations to modify and redefine what constitutes "regular activity" and to regulate registrations

under this article."

43. Article 3 of the Second Schedule shall be amended as follows:

Amendment of article 3 of the Second Schedule.

(a) in sub-article (1) thereof, for the words "Legal personality shall be granted on the registration of an organisation in the Public Registry in accordance with article 12 of this Schedule." there shall be substituted the words "Except where legal personality is recognised or established by a law or an international treaty or agreement or is granted in virtue of registration pursuant to any special law, legal personality shall only be acquired by an organisation on its registration with the Registrar for Legal Persons in accordance with article 12."; and

(b) in sub-article (4) thereof, for the words "or to their purpose or both" there shall be substituted the words "or to their purpose or category".

44. Article 4 of the Second Schedule shall be amended as follows:

Amendment of article 4 of the Second Schedule.

(a) sub-article (1) thereof shall be substituted by the following:

"(1) Every legal person has a patrimony which shall be appropriated to a purpose or purposes in accordance with article 1.";

(b) in sub-article (4) thereof, for the words "it has members" there shall be substituted the words "they have members";

(c) sub-article (5) thereof shall be amended as follows:

(i) for the words "shall be vested in the manner stated in the statute of the organisation or the applicable law, and the administrators" there shall be substituted the following:

"shall be vested:

(a) in all cases, in any one or more of the administrators, jointly and severally, in the manner stated in the statute or the applicable law;

(b) without limiting the powers of representation of the administrators as stated in

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paragraph (a), in other persons as are named in the statute of the organisation or other holders of office therein designated; and

(c) the administrators;"

(ii) for the words "the constitutive act" there shall be substituted the words "the statute";

(iii) in the proviso thereto, for the words "from the deed of constitution" there shall be substituted the words "from the statute"; and

(iv) immediately after the proviso thereto, there shall be added the following new proviso:

"Provided further that in the absence of any statement on the legal representation of any organisation in the statute, the sole administrator, or if there are more than one, any two administrators, shall have the legal representation of the organisation in accordance with this sub-article.";

(d) sub-article (6) thereof shall be substituted by the following:

"(6) Every legal person shall have at least one administrator who may act on its behalf or have such minimum number of administrators as may be required by the law applicable to its legal form, purpose or category.";

(e) sub-article (7) thereof shall be amended as follows:

(i) for the words "undertaken, except as otherwise stated in any special law" there shall be substituted the words "undertaken, and except as otherwise stated in any special law";

(ii) immediately after the proviso thereto there shall be added the following new proviso:

"Provided further that, notwithstanding the provisions of this sub-article, where a third party deals in good faith with persons acting in the name or on behalf of a legal person before its establishment, any contract would come into effect from the date on which the organisation shall come

into existence, and the organisation shall be entitled to be indemnified by the persons who had acted in its name or on its behalf with respect to its liability under this sub-article towards the said third party.";

(f) sub-article (9) thereof shall be amended as follows:

(i) in paragraph (a) thereof, immediately after the words "shall be revocable on demand" there shall be added the words "by application to the Court";

(ii) in paragraph (b) thereof, immediately after the words "shall be revocable on demand" there shall be added the words "by application to the Court"; and

(iii) in paragraph (d) thereof, immediately after the words "or other interested party" there shall be added the words "or to order the administrator or any other relevant person to register the organisation and do all such acts as may be necessary to ensure that the intent of the testator or donor, as the case may be, is achieved"; and

(g) sub-article (10) thereof shall be substituted by the following:

"(10) The provisions of sub-article (9) shall not apply to testamentary dispositions and donations in favour of pious foundations, marriage legacies and ecclesiastical entities."

45. Article 5 of the Second Schedule shall be amended as follows:

Amendment of article 5 of the Second Schedule.

(a) in sub-article (1) thereof, for the words "constitutive act" there shall be substituted the words "statute, constitutive instrument or public deed"; and

(b) sub-article (4) thereof shall be amended as follows:

(i) in paragraph (a) thereof, for the words "constitutive act" there shall be substituted the words "statute, constitutive instrument or public deed";

(ii) in sub-paragraph (i) of paragraph (b) thereof, for the words "constitutive act" there shall be substituted the words "constitutive instrument or statute";

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(iii) in sub-paragraph (ii) of paragraph (b) thereof, for the words "to their particular legal form" there shall be substituted the words "to its particular legal form";

(iv) in paragraph (c) thereof, for the words "the purpose for which they have been established" there shall be substituted the words "the purpose for which it has been established";

(v) in paragraph (d) thereof, immediately after the words "no administrator in office" there shall be added the words "or the number of administrators falls below the minimum required by law for a particular legal form;"; and

(vi) paragraph (e) thereof shall be substituted by the following:

"(e) when the number of members falls below that required by this Schedule in the case of an association or when there are no beneficiaries in the case of a beneficiary foundation."

Amendment of
article 6 of the
Second
Schedule.

46. Article 6 of the Second Schedule shall be amended as follows:

(a) sub-article (1) thereof shall be amended as follows:

(i) the words "in terms of customary law or" shall be deleted;

(ii) immediately after the words "delivered by any Court" there shall be added the words "relating to that particular organisation";

(iii) in paragraph (a) thereof, for the words "or any special law, is required" there shall be substituted the words "or any special law, or is required";

(b) in sub-article (3) thereof, for the words "in accordance with sub-article (1) but such foundation, as well as its administrators, shall be governed by the provisions of this Schedule applicable to unregistered organisations with effect from the lapse of the two-year period referred to in sub-article (2)." there shall be substituted the words "in accordance with sub-article (1).";

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

"(4) Religious organisations and marriage legacies which are constituted as foundations shall not be bound to register and shall continue to be recognised as legal persons until they are wound up.";

(d) sub-articles (5) and (6) thereof shall be substituted by the following:

"(5) An existing foundation which has been established by a public deed and notwithstanding whether it was registered pursuant to this Schedule or not shall:

(a) have full legal capacity and all the powers of a registered legal person as stated in this Schedule and the restrictions in article 14 shall not apply to it;

(b) continue to be the exclusive owner of all its property even if acquired after the lapse of the period referred to in sub-article (2) and shall be liable for its own obligations;

(c) until it is registered in accordance with this Schedule, the liability of its administrators shall be governed by the provisions of article 17 and other provisions applicable to unregistered organisations for all acts carried out from the lapse of the period stated in sub-article (2) until the date of registration but the administrators shall not be in any way liable for obligations entered into by the existing foundation prior to such date unless they have personally assumed such obligations in writing; and

(d) when it is registered, the provisions of article 16 shall thereafter apply to all acts of the administrators after the date of registration.

(6) An existing foundation which has not been established by a public deed and which fails to register shall:

(a) have the capacity only to achieve its stated purposes and all ancillary matters;

(b) be subject to the restriction in article 14(5);

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(c) be deemed to be the exclusive owner of all its property which shall constitute a distinct patrimony; and

(d) have its administrators be jointly and severally liable and with the organisation for the obligations entered into by the foundation, subject to the provisions of the second proviso to article 17(3)."; and

(e) immediately after sub-article (6) thereof, as substituted, there shall be added the following new sub-articles:

"(7) All associations, established in writing before the relevant date, hereinafter referred to as "existing associations", the form of which is recognised as a legal person in accordance with applicable law or, in terms of any final judgement delivered by the Court relating to that particular organisation prior to the relevant date shall continue to be recognised as legal persons although they are not registered; however, existing associations which do not register as legal persons, as well as their administrators, shall be governed by the provisions of this Schedule applicable to unregistered organisations with effect from the lapse of four calendar years from the relevant date.

(8) When an organisation -

(a) is established as an association but has the characteristics of a foundation; or

(b) is established as a foundation but has the characteristics of an association; or

(c) qualifies for registration both as a foundation and as an association,

it shall be referred to herein as a "hybrid organisation" and shall be regulated by the following provisions of this article.

(9) A hybrid organisation shall be established by means of a statute, which may be amended from time to time, to clearly identify the form of a foundation or an association.

(10) Until the hybrid organisation complies with sub-article (9), the administrators shall be subject to the provisions of this Schedule on both foundations and associations in their administration.

(11) Where an action to modify the statute of a hybrid organisation is not taken by the founders or such other persons or bodies authorised by the statute or, in the case of associations, the members, or it is impossible or impracticable to do so, the administrators of a hybrid organisation may, at any time, apply to the Court to sanction such modifications as are appropriate to clarify the legal form of such organisation either as a foundation or an association and the Court shall issue such orders as it deems appropriate, including amendments to the statute and the name of the organisation, after considering all evidence submitted to it and after hearing interested parties who may wish to make submissions.

(12) In reaching a decision in terms of the preceding sub-article, the Court shall *inter alia* pay regard to the initial intentions of the promoters, the purposes of the organisation and its current operations, the rights of beneficiaries or members, the future fulfilment of its purposes and management of the organisation.

(13) The Court shall also have the power to:

(a) order, upon application of the administrators, the re-organisation of the organisation by the creation of other organisations whereby one or more promoters, founders, members or beneficiaries, as the case may be:

(i) cease to be treated as founders or otherwise of a foundation and, or form an association with the sole purpose of supporting the said foundation or enjoying the benefits of membership; or

(ii) cease to be treated as members of an association and, or form a foundation to achieve the stated purposes without any benefits of membership;

(b) direct otherwise than as provided in paragraph (a) so as to ensure the effective

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achievement of the initial purposes of the organisation.

(14) In making an order referred to in the preceding sub-article, the Court shall ensure that neither the purposes of the organisation nor any vested rights of any person shall be affected, nor shall any obligations other than those freely undertaken by any person arise from such modification or reorganisation.

(15) It shall not be lawful to register a hybrid organisation under this Schedule and the Registrar shall require compliance with sub-article (9) prior to accepting the registration thereof."

Amendment of article 7 of the Second Schedule.

47. Article 7 of the Second Schedule shall be amended as follows:

(a) sub-article (1) thereof shall be amended as follows:

(i) immediately after the words "ensuring compliance with the" there shall be added the words "constitutive instrument and"; and

(ii) for the words "particular legal form" there shall be substituted the words "particular legal form, purpose or category";

(b) sub-article (3) thereof shall be substituted by the following:

"(3) The statute shall designate the first administrators, how they are appointed and removed from office or if not designated, how administrators are appointed and removed."; and

(c) immediately after sub-article (4) thereof, there shall be added the following new sub-article:

"(5) If a legal person does not have at least one administrator in office or the minimum number of administrators required at law, the Attorney General or any other interested party shall be entitled to request the Court to appoint an administrator or administrators for such purposes, for such time and under such conditions as the Court considers appropriate. When such an application is made, the period referred to in article 5(4)(d) shall be suspended until the Court determines the application and

should an application be made after the lapse of the said period, an appointment by the Court shall be effective provided it is made at any time prior to the striking off of the legal person from the relevant register."

48. Article 8 of the Second Schedule shall be amended as follows:

Amendment of article 8 of the Second Schedule.

(a) in sub-article (1) thereof, immediately after the words "in the previous ten years" there shall be added the words "or persons who have been interdicted by order of any court in Malta in terms of the Criminal Code, or overseas under laws of equivalent effect,";

(b) sub-articles (2) and (3) thereof shall be substituted by the following:

"(2) Persons convicted of any offence involving money laundering or the funding of terrorism shall not be eligible for appointment or election to the office of administrator or, if already appointed or elected, shall not be eligible to retain such office.

(3) The Court may, either generally or with reference to a particular organisation -

(a) disqualify any person from holding an office within an organisation; or

(b) disqualify any person from performing identified functions within an organisation,

and this, on any of the grounds mentioned in this article, following the application of any interested party, the Attorney General or, in the case of voluntary organisations, the Commissioner for Voluntary Organisations.

The Court may rehabilitate such person in accordance with regulations, which may be made by the Minister responsible for justice from time to time regulating the disqualification of administrators, their rehabilitation and the registration of such disqualification and rehabilitation orders in the Registry for Legal Persons or the Public Registry, as the case may be."; and

(c) immediately after sub-article (3) thereof, as substituted, there shall be added the following new sub-article:

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"(4) Persons who are subject to a disqualification order issued by the Court in terms of sub-article (3) shall not perform such functions, either generally or with reference to a particular organisation, and this, for such times as are stated in the order."

Amendment of
article 10 of the
Second
Schedule.

49. Article 10 of the Second Schedule shall be amended as follows:

(a) in sub-article (2) immediately after the words "shall be reviewed" there shall be added the words "and shall be published and, or filed";

(b) sub-article (3) thereof shall be re-numbered as sub-article (4); and

(c) immediately after sub-article (2) thereof there shall be added the following new sub-article:

"(3) Until such time as:

(a) the form and content of accounts and reports; and

(b) the rules on review, publication and, or filing are prescribed in terms of sub-article (2), for legal organisations, the form of which is not already regulated by a special law, in which case the special law shall apply, the following shall apply:

(i) in the case of organisations established exclusively for public benefit, the provisions applicable to enrolled voluntary organisations shall apply, irrespective of whether such organisations are enrolled or not:

Provided that this paragraph shall not apply to organisations established for a political purpose, which shall be regulated *mutatis mutandis* by the Financing of Political Parties Act (Cap. 544):

Provided further that, when the organisation is not a political party as defined under article 2 of the Financing of Political Parties Act (Cap. 544) but is only controlled by or affiliated to the political party, or its purpose as stated in its statute or constitutive deed, is such as renders it non-autonomous;

(ii) in the case of organisations, which promote a form of private benefit:

A. in the case of foundations which are permitted to carry out commercial activities under article 31B, in lieu of the requirements prescribed under articles 13 to 18 of the Commercial Code, the provisions of Chapter IX and X of Part V of Title I of the Companies Act (Cap. 386) shall apply *mutatis mutandis* and any references made to the Registrar of Companies shall be made to the Registrar for Legal Persons:

Provided that the Minister shall have the power to issue regulations on matters stated in articles 188 and 189 of the Companies Act (Cap. 386) and also to exclude the application of specific articles or sub-articles of the said Act and to determine the manner in which they are to apply in such context;

B. in the case of private foundations as defined in article 31B, the guidelines issued by the Malta Financial Services Authority relating to trustees;

C. in the case of associations promoting a form of private benefit where all the members are limited liability companies, the provisions of sub-paragraphs A and B shall also apply; and

D. in all other cases the provisions of sub-article (1) shall apply:

Provided that, the Commissioner shall have the power to issue guidelines to exclude the application of such associations when these are promoting a form of private interest, which goes beyond the limit of incidental or ancillary private benefit as defined in terms of the provisions prescribed under the Voluntary Organisations Act (Cap. 492)."

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Amendment of
article 11 of the
Second
Schedule.

50. Immediately after sub-article (4) of article 11 of the Second Schedule, there shall be added the following new sub-article:

"(5) The Registrar for Legal Persons shall administer the Registry for Legal Persons which shall form part of the Public Registry and, in the absence of any provisions to the contrary, the Public Registry Act (Cap. 56) shall apply *mutatis mutandis* to registrations made in terms of this Schedule. In case of inconsistency, the provisions of this Schedule shall prevail. Save as otherwise provided, all registrations in terms of this Schedule shall be made with the Registrar for Legal Persons unless registration in the Public Registry is specifically required."

Amendment of
article 12 of the
Second
Schedule.

51. Article 12 of the Second Schedule shall be amended as follows:

(a) in sub-article (2) thereof, for the words "registered at the Public Registry" there shall be substituted the words "registered with the Registrar for Legal Persons";

(b) in sub-article (4) thereof, immediately after the words "are already registered" there shall be added the words "in a public registry";

(c) sub-article (5) thereof shall be substituted by the following:

"(5) It shall be a condition for registration of any organisation the administrator or administrators of which are not ordinarily resident in Malta, to appoint and retain at all times, a person who is ordinarily resident in Malta to act as local representative and such representative shall have, by operation of the law and without the need of any act on the part of the administrators:

(a) the legal representation of such organisation in Malta and this for all purposes of any law in Malta; and

(b) the legal representation of such organisation limitedly to the signing of forms and other notifications to the Registrar and other competent authorities in Malta and the enrolment of instruments and other documents executed by the administrators with a Notary Public in Malta when necessary to comply with the legal obligations of the organisation in Malta:

Provided that if the administrators appoint another person or persons to carry out the acts stated in paragraphs (a) and (b), the local representative shall only act in consultation with such persons when such person or persons are not in Malta or if they fail to carry out any such function when required to do so within the times stated in this Schedule.

For the purpose of this sub-article, residence shall be established by documentary evidence."; and

(d) immediately after sub-article (6) thereof there shall be added the following new sub-article:

"(7) The provisions of this Schedule regulating the registration and filing of documents and notes of registration in the Register of Legal Persons shall apply to the registration and filing of acts by all registered legal organisations governed by this Schedule and the provisions of any other law regulating the filing and registration of documents in a public registry shall not apply except where expressly stated."

52. Article 13 of the Second Schedule shall be amended as follows:

Amendment of article 13 of the Second Schedule.

(a) in sub-article (2) thereof, for the words "has been established, which purposes shall be construed restrictively." there shall be substituted the words "has been established.";

(b) sub-article (4) thereof shall be amended as follows:

(i) immediately after the words "although they are not registered" there shall be added the words "with the Registrar for Legal Persons";

(ii) in paragraph (b) thereof, the word "and" shall be deleted;

(iii) paragraph (c) thereof shall be substituted by the following:

"(c) foreign and international organisations not obliged to register in Malta; and

(d) pious foundations, marriage legacies and ecclesiastical entities,

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each of which shall be regulated and governed by the law applicable to their particular form or purpose or category and, except as herein provided, shall not be subject to the provisions of this Schedule."

Amendment of article 14 of the Second Schedule.

53. Article 14 of the Second Schedule shall be amended as follows:

(a) sub-article (1) thereof shall be substituted by the following:

"(1) Saving as otherwise stated in this Schedule, unregistered organisations are not legal persons but, pursuant to this Sub-Title, they enjoy recognition, as a matter of fact, and legal powers to achieve the stated purposes for which they are constituted.";

(b) in sub-article (2) thereof, for the words "it may require, strictly for the achievement of the express purposes of the organisation" there shall be substituted the words "it may require for the achievement of the express purposes of the organisation and all ancillary matters";

(c) sub-article (5) thereof shall be substituted by the following:

"(5) An unregistered organisation may establish other organisations provided the other organisations are registered."; and

(d) sub-article (6) thereof shall be deleted.

Amendment of article 15 of the Second Schedule.

54. Sub-articles (3) and (4) of article 15 of the Second Schedule, shall be substituted by the following:

"(3) Any property acquired by any means by an unregistered organisation shall be considered to be held by or for the following interests as the case may be where it is established:

(a) as a private benefit organisation, unless otherwise stated in its statute or in any written instrument signed by the promoters and authenticated by a Notary Public, such property shall be considered to be held for the promoter in ownership or the promoters in co-ownership according to the proportion of their contribution to the unregistered organisation;

(b) partly for a private benefit and partly for a social or other public purpose, unless otherwise stated in its statute or in any written instrument signed by the promoters and authenticated by a Notary Public, such property shall be considered to be held in ownership for the private benefit subject to the performance, by the promoters or administrators, as fiduciaries, of the social or other public purpose, until the said purpose is achieved, exhausted or becomes impossible or is otherwise addressed by the appropriation or endowment of a sufficient part of the property to a registered public benefit organisation with a similar purpose;

(c) solely for a social or other public purpose, or in the case of religious organisations and marriage legacies and public organisations in the form of foundations, religious or public purposes respectively, such property shall be held by the promoters or administrators as fiduciaries only for the purpose stated in the statute or any special law which may be applicable to it.

(4) On dissolution of an unregistered organisation which is:

(a) established as a public benefit organisation, the property of the organisation must be applied in accordance with article 32;

(b) established as a private benefit organisation, the property shall be distributed in accordance with the express terms of the statute, failing which to the promoters or their heirs:

Provided that any person with a co-ownership right in property of an unregistered organisation may only demand the division of such patrimony and any promoter or administrator may only dissolve the organisation and, or withdraw his contribution from an unregistered organisation when all obligations towards third parties have been performed and, or its purposes have been achieved, exhausted or become impossible."

55. Article 16 of the Second Schedule shall be amended as follows:

Amendment of
Article 16 of the
Second
Schedule.

(a) sub-article (1) thereof shall be substituted by the following:

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"(1) The promoters or members of a registered organisation, or in case of a registered foundation, the founders, the donors or the beneficiaries shall not be liable for the obligations of such an organisation, except to the extent that they expressly agree to be so liable. The liability of such persons towards third parties for the obligations of the organisation shall be determined in accordance with any rules which may be applicable to the legal form of the organisation in terms of any special law or, in the absence of any special law, the provisions of this Schedule.";

(b) in sub-article (2) thereof, immediately after the words "The promoters and members of a registered organisation" there shall be added the words "or in the case of a registered foundation, the founders, the donors or the beneficiaries,";

(c) in sub-article (3) thereof, for the words "declare the founders, promoters, administrators or members" there shall be substituted the words "declare the founders, promoters, administrators, beneficiaries or members";

(d) in paragraph (d) of sub-article (4) thereof, for the word "interest:" there shall be substituted the word "interest;"; and

(e) immediately after paragraph (d) of sub-article (4) thereof there shall be added the following new paragraph:

"(e) to the Registrar for the payment of any fees which may be due by the organisation upon failure by the organisation to pay the same within three months of the date on which they are due:".

Amendment of
article 17 of the
Second
Schedule.

56. Article 17 of the Second Schedule shall be amended as follows:

(a) sub-article (3) thereof shall be deleted;

(b) sub-articles (1) and (2) thereof shall be re-numbered as sub-articles (2) and (3) respectively;

(c) immediately before sub-article (2) thereof, as re-numbered, there shall be added the following new sub-article:

"(1) Any member, donor, or beneficiary involved in any unregistered public benefit organisation, shall not be

liable for the obligations of such organisation except as follows:

(a) he shall be liable to the extent that he expressly agrees to be so liable in the statute or any other document signed by him;

(b) he shall be liable for the obligations of the organisation if these were entered into by him in the name of the organisation in favour of third parties at a time when he knew or ought to have known that there was no reasonable prospect that the organisation would avoid being wound up due to insolvency; and

(c) he shall be liable if he is guilty of fraud or bad faith in entering into any obligations on behalf of the organisation.";

(d) sub-article (4) thereof shall be re-numbered as sub-article (6); and

(e) immediately after sub-article (3) thereof, as re-numbered, there shall be added the following new sub-articles:

"(4) The liability of members and administrators of an unregistered organisation having a particular legal form, towards third parties, for the obligations of the unregistered organisation shall be determined in accordance with any rules which may be applicable to the legal form of the organisation under any special law or, in the absence of any special law, the provisions of this article.

(5) Any provision in the statute of an unregistered organisation or any agreement with the unregistered organisation exonerating an administrator from liability for wilful misconduct, gross negligence or breach of duty shall be null and void."

57. Article 19 of the Second Schedule shall be amended as follows:

Amendment of article 19 of the Second Schedule.

(a) in sub-article (4) thereof, for the words "shall *mutatis mutandis* apply to unregistered organisation" there shall be substituted the words "shall *mutatis mutandis* apply to an unregistered organisation"; and

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(b) sub-article (8) thereof shall be substituted by the following:

"(8) Notwithstanding the provisions of article 2, the liability of all foreign and international public benefit organisations which -

(a) operate in Malta, including if they raise funds in Malta; or

(b) provide services available to the public within Malta,

as well as that of their administrators, shall also be subject to the provisions of this Schedule in so far as their activity in Malta is concerned, subject however to any provisions of any special law applicable to them."

Amendment of
article 20 of the
Second
Schedule.

58. Article 20 of the Second Schedule shall be amended as follows:

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

"(b) subsequently by a resolution of the administrators pursuant to a power vested in them by the statute and in either case shall be established:

(i) by reference to shares, interests or other rights of the members or beneficiaries or by reference to purposes, or by reference to both such rights and purposes; or

(ii) for purely administrative purposes which support the main purposes and operations of the organisation; and

(iii) with other purposes which shall be consistent with the main purposes of the organisation.";

(b) sub-article (9) thereof shall be deleted;

(c) sub-articles (10) and (11) thereof shall be re-numbered as sub-articles (17) and (18) respectively;

(d) sub-articles (3), (4), (5), (6), (7) and (8) thereof shall be re-numbered as sub-articles (7), (8), (9), (10), (11) and (12)

respectively;

(e) immediately after sub-article (2) thereof there shall be added the following new sub-articles:

"(3) Segregated cells may be established, except for those established for purely administrative reasons:

(a) in the case of a public benefit organisation, only to the extent as they are established for public benefit purposes and, or public interest beneficiaries; and

(b) in the case of a private benefit organisation, only to the extent as they are established for a lawful purposes in terms of the Voluntary Organisations Act (Cap. 492), including:

(i) any public benefit purposes or public interest beneficiaries; or

(ii) any public purposes established for the carrying out of any of the activities referred to in article 32A, provided such activities are carried out solely in order to attain the principal purpose and objectives of the organisation.

(4) When the segregated cell is established by the statute of the organisation, the administrators shall be presumed to have the power to supplement such statute with additional guidelines on the purposes and activities of the cell in a manner which supports the purposes and objects of the organisation.

(5) Segregated cells shall, after establishment, be regulated either in the statute of the organisation and, or in a cell statute. A cell statute shall be consistent with the statute of the organisation. The statute of the organisation shall apply on any issue which is not addressed in the cell statute and shall prevail over the cell statute in case of inconsistency.

(6) A cell statute shall:

(a) state the following matters:

(i) the name of the cell;

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(ii) the purposes or objects of the cell;

(iii) the manner in which the administrators shall manage its affairs, directly or through an administrative committee, which shall in any case not have legal representation of the cell;

(b) be in the form of a resolution or guideline of the administrators;

(c) in case of a cell for beneficiaries, either state the names of the beneficiaries or the class of beneficiaries or, in the absence of such indication, a declaration that the cell is constituted for the benefit of beneficiaries. In the latter case the beneficiaries shall be indicated in a written instrument, which need not form part of the cell statute, called a "cell beneficiary statement" and which shall be signed by the administrators in the presence of a notary public, and all provisions in the Schedule relating to beneficiary statements shall apply *mutatis mutandis* to cell beneficiary statements; and

(d) comply with the requirements of this article.";

(f) sub-article (7) thereof, as re-numbered, shall be substituted by the following:

"(7) A segregated cell shall have its own distinct name or designation and it shall refer to the organisation of which it forms part in all its dealings, but shall not be a legal person nor shall it be eligible for registration as a legal person. A cell may not change its name or designation under any circumstances.";

(g) in paragraph (a) of sub-article (8) thereof, as re-numbered, the words "for the achievement of one or more defined purposes which are consistent with the main purposes of the organisation" shall be deleted;

(h) in sub-article (11) thereof, as re-numbered, for the words "The legal effects stated in sub-article (6) shall arise only if-" there shall be substituted the words "The legal effects stated

in sub-article (10) shall arise only if -";

(i) immediately after sub-article (12) thereof, as re-numbered, there shall be added the following new sub-articles:

"(13) The rules, including without limitation the rules applicable to dissolution and winding up, applicable to the legal form of an organisation within which a cell is established shall apply *mutatis mutandis* to the cell as though the cell were itself a registered organisation of the same legal form with such modifications as are necessary to accommodate the fact that the cell is not a legal person.

(14) The winding up of a cell, whether voluntarily or due to its inability to perform its obligations shall not affect the continuing operation of the organisation which established it or other cells in any manner whatsoever and the appointment of a liquidator for a cell shall not affect the powers of the administrators in relation to the organisation or any other cells. Where a cell is being wound up and a liquidator is appointed, the powers of the administrators of the organisation shall cease and shall vest in the liquidator, solely in respect of that cell.

(15) Any winding up proceedings in relation to an organisation within which cells are established shall respect the legal status of each cell as a patrimony separate from the assets and liabilities of the organisation and other cells of the organisation and from the assets and liabilities of the organisation not attributable to any cell.

(16) A cell shall be administered by the administrators of the organisation who may, if authorised by the statute, establish an administrative committee with reference to one or more cells, and the administrators may delegate any of their powers to such administrative committee or committees as the case may be. Such delegation shall:

(a) not in any way restrict the powers of the administrators of the organisation in relation to the cell; and

(b) not include the legal and judicial representation in relation to the assets and liabilities of the cell.";

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(j) in sub-article (18) thereof, as re-numbered, for the words "or incidental thereto, including on the dissolution of cells and on the transfer of assets of a cell to another organisation, with or without segregated cells, and the legal effect of such transfer." there shall be substituted the following:

", including:

(a) any formalities which shall be necessary for a cell to be created by the appropriation of assets already belonging to the organisation to the cell;

(b) the dissolution of cells;

(c) the transfer of assets of a cell to another organisation, with or without segregated cells;

(d) the legal effects of such transfers; and

(e) all matters related and incidental thereto.";
and

(k) immediately after sub-article (18) thereof, as re-numbered, there shall be added the following new sub-article:

"(19) The Minister may also make regulations to regulate the establishment of segregated cells having legal personality."

Addition of new articles to the Second Schedule.

59. Immediately after article 20 of the Second Schedule, there shall be added the following new articles:

"Transfer of cells.

20A. (1) It shall be lawful for the cell of one organisation, hereinafter referred to as the "transferring organisation", to be transferred to another organisation, hereinafter referred to as the "recipient organisation" where:

(a) the administrators of the transferring organisation so resolve in writing pursuant to a power vested in them by the statute;

(b) the creditors of the cell in the transferring organisation do not object to this transfer following public notice of at least thirty (30) days of the intent to transfer;

(c) the recipient organisation has the same legal form and is of the same purpose or category as that of the transferring organisation;

(d) the administrators of the recipient organisation resolve in writing to accept such cell pursuant to a power vested in them by the statute;

(e) a notice relating to the transfer of the cell is delivered to the Registrar by the administrators of the recipient organisation and the Registrar shall:

(i) record the notice of transfer of the cell in the records of the transferring organisation; and

(ii) issue a new certificate relating to the transfer of such cell and record such transfer in the records of the recipient organisation; and

(f) it is required, under a special law, to obtain the approval or consent of any regulatory or governmental authority for such action, that such consent or approval is obtained.

(2) The assets and liabilities of a cell shall constitute a distinct patrimony which shall be distinct from all other assets and liabilities of the recipient organisation or other cells of such organisation, if any.

(3) The transfer of a cell shall not entitle the creditors of the recipient organisation to have recourse to the assets of the transferred cell or of the transferring organisation.

(4) All rights and obligations of the organisation and any third parties shall cease to be those of the transferring organisation with respect to the cell and shall continue unaffected as rights and obligations of the recipient organisation with respect to the cell by operation of law with effect from the date of notification to the Registrar in terms of sub-article (1)(e), notwithstanding the absence of any agreements or consents that would otherwise be necessary for the transfer to be effective in law for those purposes.

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(5) Upon the completion of the transfer, the administrators of the recipient organisation shall notify in writing all interested parties of which they are aware regarding the transfer of such cell from the transferring organisation to the recipient organisation providing details of its name and purpose and other material information.

(6) When a cell is transferred it shall retain its name or designation notwithstanding the transfer of the cell in accordance with this article but the administrators of the recipient organisation may enter into a unilateral declaration by public deed and register this event in the applicable public register.

(7) The transfer of a cell as contemplated in this article shall constitute a change in fiduciary and shall be governed by the provisions of article 1124C(4) of the Code regulating the succession of fiduciary obligations.

Constitution of
a cell into a
new
organisation.

20B. (1) It shall be lawful for a cell of an organisation to be constituted as a new organisation, with all the assets and liabilities of the cell becoming the patrimony of the new organisation or a part thereof.

(2) The name of the new organisation shall reflect the name or designation of the cell as closely as possible to comply with the applicable law in this regard.

(3) Such action may be taken under such conditions as may be applicable by the administrators of the existing organisation by means of a resolution of the board of administrators only if the statute of the organisation provides for such power.

(4) The cell shall be constituted as a new organisation upon the observance by the administrators of the requirements applicable to the creation of a new organisation of the same legal form as the organisation in which the cell is currently established, including its registration with the Registrar, and if the cell is created with reference to members, the members shall sign the statute of the new organisation, and:

(a) the administrators in office shall be the administrators of the new organisation unless new administrators are appointed in the constitutive documents when a cell is being constituted as a new organisation;

(b) the purposes and beneficiaries, if any, of the new organisation shall be those of the cell;

(c) all rights and obligations of the organisation and any third parties shall cease to be those of the organisation with respect to the cell and shall continue unaffected as rights and obligations of the new organisation by operation of law with effect from the date of notification to the Registrar under sub-article (6) and the registration of the organisation in terms of sub-article (7) notwithstanding the absence of any agreements or consents that would otherwise be necessary for the transfer to be effective in law for those purposes; and

(d) the constitution of a cell as a new organisation as contemplated in this article shall constitute a change in fiduciary and shall be governed by the provisions of article 1124D of the Code regulating the succession of fiduciary obligations.

(5) The creditors of the cell being constituted as a new organisation shall be given the opportunity to object to such constitution following public notice of at least thirty (30) days of the intent to such constitution and this only if the new legal form which the cell is to take creates limitations on the liabilities of the organisation or its administrators or members which reduce the rights of the creditors when compared to those prevailing with reference to the cell.

(6) The administrators shall be bound to notify the Registrar by means of the prescribed form when a cell no longer forms part of an organisation under this article and shall surrender any certificate issued by the Registrar relating to the cell.

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(7) The Registrar shall register in the Register the notification of the removal of a cell from an organisation by the administrators and shall then, subject to sub-article (8), immediately proceed to register the new organisation in the Register. The same shall apply when the cell is being registered in another register pursuant to a special law.

(8) When the new organisation takes a legal form which is governed by a special law which provides for registration which differs from this article, the Registrar shall furthermore issue his confirmation that he has been notified of the constitution of the cell as a new organisation and only upon such confirmation shall the new organisation be registered in the relevant register.

(9) Upon registration, the administrators of the new organisation shall notify in writing all interested parties of which they are aware regarding the constitution of the cell as a new organisation.

Objections by creditors.

20C. In accordance with the previous articles, any creditor of a cell may within fifteen (15) working days of receipt or publication of any notice issued under the previous articles, by sworn application in the Court, object to -

(a) the transfer of a cell from the transferring organisation to the recipient organisation; or

(b) the constitution of a cell into a new organisation,

and, upon good cause being shown that such transfer should not take effect, the Court shall either accede to the creditor's demand, authorise the aforementioned transfer or constitution on sufficient security being given or give such other orders as it deems appropriate.

Power to make regulations.

20D. The Minister may make regulations to regulate the transfer of cells from one organisation to another or the constitution of a cell as a new organisation, to establish forms and notifications, to establish rules for the protection of third parties and generally for the better implementation of the preceding provisions.

Publication of notices.

20E. For the purposes of the notifications contemplated by article 20A and 20B it shall be sufficient if the administrators publish the relative notices as follows:

(a) if the organisation has creditors in Malta, in two daily newspapers published in Malta, one in Maltese and one in English; or

(b) in the case of an organisation which does not have its principal creditors in Malta, in two general distribution newspapers, one published in Malta in the English language and one published in the country where the principal creditors of the organisation carry out business in the language of the place of business."

60. Immediately after sub-article (5) of article 21 of the Second Schedule, there shall be added the following new sub-article:

Amendment of article 21 of the Second Schedule.

"(6) It shall also be lawful to convert a legal organisation registered in the Register of Legal Persons into a cell of another multi-cell organisation and this following the procedures which may be laid down in regulations made by the Minister responsible for justice in terms of this article."

61. Article 22 of the Second Schedule shall be amended as follows:

Amendment of article 22 of the Second Schedule.

(a) in sub-article (1) thereof, for the words "the provisions of the Companies Act" there shall be substituted the words "the provisions of Title II of Part VIII of the Companies Act";

(b) sub-article (2) thereof shall be re-numbered as sub-article (4); and

(c) immediately after sub-article (1) thereof, there shall be added the following new sub-articles:

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Cap. 386. "(2) For the purposes of the application, *mutatis mutandis*, of the provisions of article 345 of the Companies Act to the amalgamation of two or more associations at least one of which is registered, any extraordinary resolution that may be required in terms of the Companies Act, shall be an extraordinary resolution taken and passed by the general meeting of an association in accordance with provisions regulating the taking and passing of extraordinary resolutions as found in the statute or constitutive instrument of the said association, and the provisions of article 135(1) and (3) of the Companies Act shall not apply:

Cap. 386. Provided that if the statute or constitutive instrument of the association does not contain any provisions regulating the manner in which extraordinary resolutions are to be taken and passed, the provisions of article 135(3) of the Companies Act shall regulate the taking and, or passing of such an extraordinary resolution, *mutatis mutandis*.

Cap. 386. (3) Article 348 of the Companies Act shall not apply to the amalgamation of two or more associations."; and

(d) immediately after sub-article (4) thereof, as re-numbered, there shall be added the following new sub-article:

Cap. 386. "(5) Articles 339 and 370 of the Companies Act regarding the issue and cancellation of certificates in the context of amalgamations and divisions shall apply *mutatis mutandis*."

Addition of new article to the Second Schedule.

62. Immediately after article 22 of the Second Schedule there shall be added the new following new article:

"Continuation in Malta of a foreign organisation.
22A. (1) An organisation formed and incorporated or registered under the laws of a state within the European Union or the European Economic Area other than Malta which is similar in nature to an organisation -

(a) governed by this Schedule; or

(b) governed by any special law which does not, itself or by virtue of regulations, provide for continuation, may, if it is authorised to do so by its constitutive instrument or statute, or by the applicable law in its state of registration, request the Registrar to be registered as being continued in Malta.

This article shall also apply in the case of such an organisation incorporated or registered under the law of any other country or jurisdiction which is approved by notice as may be issued and reviewed, from time to time, by the Minister responsible for justice.

(2) When registered in Malta, the foreign organisation shall be registered in the same legal form which it has under the law of the foreign country or jurisdiction. In the event that a similar form does not exist under the laws of Malta, the applicant shall select a form as similar as possible to the one being continued in Malta and shall designate the form selected.

(3) Where the continuation in Malta of foreign organisations taking a particular form is regulated by a special law, the provisions of this article shall not apply.

(4) The continuation in Malta of a foreign organisation shall require:

(a) the adoption of Maltese law to govern the statute from the time of registration under this Schedule; and

(b) the compliance with:

(i) all matters required for the relevant legal form of organisation to be established and registered under this Schedule;

(ii) all matters required under any other applicable law relating to its activities or its administrators;

(iii) any other procedures or formalities which may be stated in the statute of the organisation:

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Provided that if the statute does not address the subject or vest powers relating to continuation in any person or body, it shall be presumed that compliance shall be with a resolution of the board of administrators or equivalent or if the organisation is an association of persons, a resolution of the members having the support required under the statute or, if silent, with applicable law for decisions on matters considered to be extraordinary or special; and

(iv) any requirements which may be prescribed from time to time.

(5) The Registrar may request such undertakings, activities, documentation and other information from the applicant to satisfy himself of compliance with the provisions of this article and the laws of the relevant foreign country and may impose such conditions as appears appropriate to him for the publicity of such procedure in Malta and any other relevant state, for the avoidance of fraud or abuse and for the protection of beneficiaries, members or creditors of the organisation.

(6) An organisation registered under this Schedule may continue in any state within the European Union or the European Economic Area when it is authorised to do so by its constitutive instrument or statute. In such case, and after the relevant procedures are followed, the Registrar shall proceed to terminate the registration of such organisation under this Schedule on such basis.

S.L. 16.07. (7) The registration fees set out in the Civil Code (Second Schedule) (Fees) Regulations relating to the registration of an organisation shall apply *mutatis mutandis* to foreign organisations requesting to be registered as being continued in Malta."

Substitution of article 23 of the Second Schedule.

63. Article 23 of the Second Schedule shall be substituted by the following:

"Registration
of public
organisations.

23. (1) Except where an organisation is established as a foundation or an association, public organisations may not be registered under the provisions of this Schedule. The Minister responsible for justice may, by regulation, permit or require such registration. The registration of public organisations or classes of public organisations shall thereafter be made in terms of this Schedule and in accordance with such conditions as the Minister may prescribe.

(2) The Minister responsible for justice may by regulation expressly prescribe which provisions of this Schedule shall apply to public organisations, generally or where they take a particular legal form, specifically to such form, and to their administrators, and may also determine or modify the mode of application of any of the said provisions in such regulation."

64. Article 24 of the Second Schedule shall be amended as follows:

Amendment of
article 24 of the
Second
Schedule.

(a) the current article shall be re-numbered as sub-article (1) of the said article;

(b) sub-article (1) thereof, as re-numbered, shall be amended as follows:

(i) paragraph (c) thereof shall be substituted by the following:

"(c) establish the forms and fees for the registration of any organisation, the certificates of registration and to establish the powers of the Registrar in relation to registration and all related matters;"

(ii) paragraph (e) thereof shall be substituted by the following:

"(e) regulate foreign or international organisations carrying out activities in Malta and the forms and content for registration and the terms and conditions of registration including the principles applicable to the determination of the proper law applicable to the constitutive instrument

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and, or the statute of such organisation and the implementation of provisions of any private international law treaty or any European Union law on such matters;";

(iii) paragraph (m) thereof shall be deleted;

(iv) paragraphs (n), (o) and (p) thereof shall be re-numbered as paragraphs (m), (n) and (o) respectively, and shall be substituted by the following:

"(m) regulate the conversion of an organisation having one legal form into that having another legal form;

(n) lay down rules on the powers of the Court in relation to the interpretation or variation of a statute and the administration of an organisation;

(o) lay down rules for the better carrying out of any of the provisions of this Schedule;"; and

(v) immediately after paragraph (o) thereof, as re-numbered, there shall be added the following new paragraphs:

"(p) regulate the procedure for registration of public organisations, including the forms and content for registration, the terms and conditions for registration, and to establish the powers of the Registrar in relation to the registration of such organisations and all related matters;

(q) establish any requirements for notifications to be made to the Registrar by any legal organisation for the purposes of this Schedule;

(r) further regulate the segregated cells of organisations, whether such cells are incorporated as legal persons or otherwise;

(s) regulate the accessibility or otherwise of the register of members of associations;

(t) regulate the procedure for the continuation of organisations, whether under the

laws of Malta or the laws of another country, including the forms needed for such continuation, the terms and conditions for continuation, and to establish the powers of the Registrar in relation to the continuation of organisations;

(u) provide for any matter incidental to or connected with any of the above; and

(v) lay down rules for the better carrying out of any of the provisions of this Schedule.", and

(c) immediately after sub-article (1) thereof, as re-numbered, there shall be added the following new sub-articles:

"(2) The Minister responsible for justice may, with the concurrence of the relevant minister empowered to make regulations under any other special law, make regulations in accordance with the provisions of this Schedule to regulate:

(a) the applicability to forms of legal organisations or particular types thereof, or in relation to particular sectors of activity carried out by such legal organisations, established under such special law;

(b) the mode of their applicability to such forms of legal organisations; and

(c) all related and ancillary matters, including the powers of the relevant registrar, any requirements for notification to such registrar or for registration in the relevant registry, applicable fees, forms, or otherwise.

(3) The Minister may by means of regulations amend any annexes to this Second Schedule to the Civil Code."

65. In paragraph (a) of article 25 of the Second Schedule, for the words "provisions of this Schedule" there shall be substituted the words "provisions of this Schedule and any regulations made thereunder".

Amendment of article 25 of the Second Schedule.

66. Article 26 of the Second Schedule shall be amended as follows:

Amendment of article 26 of the Second Schedule.

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(a) sub-article (1) thereof shall be substituted by the following:

"(1) A foundation is an organisation consisting of a universality of things constituted in writing, including by means of a will, by a founder or founders whereby assets are destined either -

(a) for the fulfilment of a specified purpose;
and, or

(b) for the benefit of a named person or class of persons,

and which are entrusted to the administration of a designated person or persons.

The patrimony, namely assets and liabilities, of the foundation is distinct from that of its founder, administrators or any beneficiaries. The fiduciary obligations in 1124A of this Code shall be binding upon the foundation and all persons administering it towards any beneficiaries for the fulfilment of the stated purposes of the foundation:

Provided that, the fiduciary obligations shall be subject to such restrictions or modifications as may be stated in the statute or the terms of engagement of the administrators, as the case may be.";

(b) sub-article (5) thereof shall be deleted and sub-articles (6) and (7) shall be re-numbered as sub-articles (5) and (6) respectively;

(c) sub-article (6) thereof, as re-numbered, shall be substituted by the following:

"(6) Foundations may be established in one or two legal forms being either for the benefit of beneficiaries (called "beneficiary foundations") or for the fulfilment of a specified purpose without beneficiaries (called "purpose foundations"). Whatever legal form they take, foundations may have any of the purposes stated in article 1.";

(d) sub-article (7) thereof shall be re-numbered as sub-article (12); and

(e) immediately after sub-article (6) thereof, as re-

numbered, there shall be added the following new sub-articles:

"(7) In this Schedule:

(a) any reference to "pious foundation" includes:

(i) an autonomous pious foundation, that is, an aggregate of things destined for pious or religious purposes and established as juridical persons by the competent ecclesiastical or other religious authorities;

(ii) non-autonomous pious foundations, that is, temporal goods given in any way to a public juridical person established by the competent ecclesiastical or other religious authorities and carrying with them a long-term obligation, such period to be determined by applicable religious or national law, and where a long-term obligation consists of binding the juridical person, from the annual income, to celebrate Masses or other religious ceremonies, to perform other determined ecclesiastical functions, or in some other way to fulfil the pious or religious purposes as defined by the applicable religious laws or rules; and

(iii) "pious or religious purposes" are understood to be those which concern acts of piety, of the apostolate, or of charity, whether spiritual or temporal and include similar organisations of any religious denomination;

(b) any reference to "ecclesiastical entity" shall be a reference to an association of persons or a universality of things which are established by the competent ecclesiastical or other religious authority so that they might, in the name of such authority and in accordance with the provisions of the relevant law, fulfil the specific task entrusted to them in view of the public good, including the imparting of religious teaching, the promoting of public worship and the undertaking of projects which are appropriate to their character and governed by their statutes, under the higher

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direction of the said authority. Such entities include dioceses, parishes and all institutes of consecrated life and societies of apostolic life, and include similar organisations of any religious denomination.

(8) With effect from the relevant date, it shall not be lawful to establish a foundation other than by public deed or by will for marriage legacies or ecclesiastical entities.

(9) The appropriation of assets to a purpose or for the benefit of beneficiaries written in the form indicating an intent to establish a foundation but which is not made by a public deed of foundation or by will, shall be regulated by the provisions relating to unregistered organisations. In such cases, the persons who may be acting as administrators or fiduciaries shall be deemed to have the power to constitute such appropriation of assets into a foundation in accordance with this Schedule and to register the same.

(10) Until such time as it is registered, it shall not be lawful for such an organisation to use the word "foundation" in its name and the Registrar may, upon being notified thereof or upon becoming otherwise aware of such circumstances, by notice in writing demand the removal of such word from the name.

(11) It shall be presumed that a mandate regulated by Title XVIII of this Code or a deposit regulated by Title XIX of this Code, has been established, where a written instrument is executed vesting a person with the ownership or possession of property for the fulfilment of a specified purpose or for the benefit of beneficiaries, unless there is clear evidence of an intent to create a foundation as stated in sub-article (9) and to appoint the recipient as an administrator, or a trust and to make the recipient a trustee."

Amendment of
article 27 of the
Second
Schedule.

67. In sub-article (1) of article 27 of the Second Schedule, for the words "or any beneficiaries." there shall be substituted the words "or any beneficiaries:", and immediately thereafter there shall be added the following new proviso:

"Provided that an association which is not established as a public benefit organisation may be established between two

persons."

68. Article 28 of the Second Schedule shall be substituted by the following:

Substitution of article 28 of the Second Schedule.

"28. Religious organisations constituted as foundations or associations and established for purposes as defined in applicable religious laws shall not be subject to or in any manner regulated by this Schedule and shall be regulated by the relative religious laws. In the event that they are registered as foundations or associations under this Schedule they shall also be regulated by the provisions of this Schedule from such date and in case of inconsistency the provisions of this Schedule shall prevail."

69. Article 29 of the Second Schedule shall be amended as follows:

Amendment of article 29 of the Second Schedule.

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

"(2) The deed of foundation shall contain, on pain of nullity, an endowment of money or property worth at least one thousand and one hundred and sixty-four euro and sixty-nine cents (€1,164.69) except in the case of a public benefit foundation in which case the endowment shall be of at least two hundred and thirty-two euro and ninety four cents (€232.94).";

(b) in sub-article (3) thereof, immediately after the words "When the property endowed is not cash or" there shall be added the word "any";

(c) sub-article (4) thereof shall be amended as follows:

(i) for the words "shall, on pain of nullity, state the following:" there shall be substituted the words "shall state the following:";

(ii) in paragraph (c) thereof, immediately after the words "the purposes or objects" there shall be added the following:

"and in those cases where the foundation falls within the following specific categories:

(i) the foundation is a public benefit foundation as defined in article 1(4); or

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(ii) the foundation is a private foundation as defined in article 31B,

an indication of the category of the foundation in the statute;"

(iii) paragraph (e) thereof shall be substituted by the following:

"(e) (i) the composition of the board of administration and the name, surname, identification, passport or registration number, as applicable, nationality and residential address of the administrators, if any, or when there are no administrators at the time of establishment or registration, the person who has the power to appoint the administrators;

(ii) the manner in which administrators are appointed and removed from office and the duration of their appointment, if any:

Provided that if the duration of the appointment of the administrators is not stated in the deed of foundation, administrators shall be deemed to have been appointed indefinitely until they retire or are removed.";

(iv) paragraph (f) thereof shall be deleted;

(v) paragraphs (g), (h) and (i) thereof shall be re-numbered as paragraphs (f), (g) and (h) respectively;

(vi) paragraph (f) thereof, as re-numbered, shall be substituted by the following:

"(f) the term for which it is established, if any and if not stated it shall be presumed to be established for an indefinite term except in a beneficiary foundation in which case the provisions of articles 29(7) and 33 shall apply;"

(vii) in paragraph (g), as re-numbered, for the words "the name and address of a person resident in Malta" there shall be substituted the words "the name and address of a person ordinarily resident in Malta";

(viii) paragraph (h) thereof, as re-numbered, shall

be substituted by the following:

"(h) in the case of a beneficiary foundation, either the names of beneficiaries, or, in the absence of such indication, a declaration that the foundation is constituted for the benefit of beneficiaries. Such beneficiaries may be indicated in a written instrument, which need not form part of the public deed, called the "beneficiary statement", signed by the founder and addressed to the administrators, and the same shall be signed in the presence of a Notary Public. The use of a beneficiary statement shall not be permitted in the case of a beneficiary foundation, or a cell of such a foundation, when it is established exclusively for the benefit of public interest beneficiaries."; and

(ix) immediately after paragraph (h) thereof, as re-numbered, there shall be added the following new paragraphs:

"(i) where there exist more than one board or committee in virtue of the deed of foundation, the deed of foundation shall specify which board or committee shall be the board of administration;

(j) when the category of any foundation is for the public benefit, this shall be stated expressly through the use of the words "public benefit", "social purpose" or "public purpose" in the constitutive instrument and in the statute of the foundation.";

(d) sub-article (5) thereof shall be amended as follows:

(i) immediately after the words "any person subscribing to the statute after a foundation is established" there shall be added the words "by means of a public deed or in such other manner provided for in the statute"; and

(ii) for the words "In the event that more than three founders wish to establish a foundation, a statement may be made of this fact in the statute and the signature of three founders on behalf of all founding members stated in a schedule to the statute shall be sufficient to indicate the consent of all stated founders." there shall be substituted the following:

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"Where a foundation is being established as a public benefit foundation involving more than three persons as promoters, the signature of three persons shall be sufficient to indicate the consent of all founders at the time of establishment. A document containing a list of all founders shall be sufficient evidence of their consent. The Notary Public shall not be bound to ascertain that the three persons have been authorised by the founders to appear on the deed but shall rely on the document submitted to him by the three persons containing a list of all founders as evidence of their consent. Notwithstanding the provisions of any other law, in respect of the persons listed in the document containing the list of all founders, their name, surname and identity card, passport number or registration number, as applicable, shall suffice:

Provided that the Notary Public who receives any deed to which this sub-article refers shall record in the deed a declaration by the three persons that they are authorised by the founders to state their names, surnames and identity card, passport number or registration number, as applicable, in the document above referred to and the said Notary Public shall warn the said three persons of the importance of the truthfulness of such declaration. The document shall be attached to the public deed establishing the foundation:

Provided further that any person named as a founder in a document as referred to above who claims that he did not authorise the three persons to include his name and surname and identity card, passport number or registration number, as applicable, in the document shall, within sixty (60) days of his becoming aware of his inclusion in the document, be entitled to register a declaration to that effect in the Register of the foundation and absent any written evidence to the contrary which may be produced in case of dispute on such matter, he shall not be considered ever to have been a founder.";

(e) sub-article (6) thereof shall be substituted by the following:

"(6) When administrators are designated in the statute, unless they consent on the said statute itself, the written consent of the administrators must be delivered to the Registrar prior to registration of any foundation. When the administrators are not designated in the statute, their written consent must be submitted to the Registrar on the notification of their appointment.";

(f) sub-article (7) thereof shall be substituted by the following:

"(7) (a) It shall not be lawful to state a term for a foundation in excess of one hundred and twenty-five (125) years except in the following cases in which a foundation may have an unlimited duration:

- (i) public benefit foundations; or
- (ii) foundations governed by article 31B(4), (5) and (6).

(b) When no term is specified in the deed of foundation, a foundation shall be considered to be valid for one hundred and twenty five (125) years from its establishment except in the cases referred to in paragraph (a).

(c) Saving as otherwise provided, in the event that a longer term is stated in a deed of a beneficiary foundation, it shall terminate on the hundred and twenty fifth anniversary from when it came into existence. The limitation on duration also applies in the case where a foundation results from the conversion of another registered organisation or of a trust in accordance with this Schedule and any regulations or from the transfer of a patrimony by a foundation to another foundation or trust. In such a case periods of existence shall be considered cumulative.";

(g) paragraph (b) of sub-article (11) thereof shall be substituted by the following:

"(b) The administrators of a foundation may not renounce to a benefit to the foundation under a will pursuant to a disposition in its favour except with the prior consent of the beneficiaries or in the case of a purpose foundation, the Court:

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Provided that nothing in this sub-article shall oblige any administrator to accept a benefit under a will or an endowment if such administrator has reason to suspect that the same consists of assets derived from any criminal offence or involves money laundering or the funding of terrorism:

Provided further that, if the administrator is not willing to accept to act as an administrator or to continue in such office, the provisions of article 35 shall apply."; and

(h) immediately after sub-article (12) thereof there shall be added the following new sub-articles:

"(13) The Registrar shall register an existing foundation without its name being changed even if this is not in conformity with the requirements of sub-article (4)(a) or any other article imposing rules on the names of organisations.

(14) The Minister responsible for justice may make regulations permitting foundations to use alternative words instead of the word "foundation" in their name.

(15) The provisions of this article shall apply *mutatis mutandis* in the case of foundations governed by any directive or regulation of the European Parliament and the Council regulating the establishment and operation of foundations as may be in force at any time."

Addition of new articles to the Second Schedule.

70. Immediately after article 29 of the Second Schedule, there shall be added the following new articles:

"Mandatory rules to prevail.

29A. (1) Subject to the provisions of sub-article (2), in the case of a foundation governed by Maltese law, where the laws of Malta contain provisions with regard to the following matters -

(a) the protection of minors or incapable parties;

(b) the personal and proprietary effects of marriage;

(c) succession rights, whether testate or intestate, especially the indefeasible shares of spouses, ascendants and descendants,

hereinafter referred to as "rules of mandatory application" or "mandatory rules" which cannot be derogated from by a voluntary act, such laws shall prevail over the terms of the foundation and related endowments unless otherwise expressly provided in this Schedule or in applicable law.

(2) To the extent that there exist rules of mandatory application, the courts shall apply such mandatory rules subject to the provisions of article 29B.

(3) When a foundation is governed by Maltese law and has no connection to Malta by reason of the domicile of the founder at the time of the endowment of the property to the foundation or the situs of the property, when immovable, any rules of mandatory application shall not apply in any manner. In such cases no regard shall be had to:

(a) the domicile, habitual residence, registration, authorisation or place of business in Malta of any protector or any person rendering administration, accounting or other services to the foundation; or

(b) the fact that the proper law of the foundation is Maltese law and the place of registration is Malta; or

(c) the *situs* of property in Malta, when movable; or

(d) the fact that the place of execution of the deed of foundation, any documents relating to the foundation or relating to the foundation property or other transaction documents is Malta.

(4) In the case of a foreign foundation, the rules of mandatory application shall only apply to any relevant endowment to the foundation when the founder is domiciled in Malta at the time of creation of the foundation or the making of the endowment, subject always to the rules stated in article 29B.

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(5) In the case of a foreign foundation, when the founder of such a foundation is not domiciled in Malta at the time of the creation of the foundation or the making of the endowment, the provisions of this Schedule shall apply only in so far as they regulate the continuation or otherwise in Malta of the foundation or the endowment.

(6) To the extent that there exist rules of mandatory application in the law applicable in the circumstances in terms of Maltese private international law, the courts of Malta may apply such mandatory rules subject to the provisions of article 29B.

(7) When a court is requested to recognise a foreign judgement which enforces any rules of mandatory application as referred to in sub-article (6), the court may accede to such request subject to the provisions of article 29B.

Management
of
inconsistent
provisions.

29B. In order to ensure that the provisions of applicable law which cannot be derogated from by voluntary act are applied in a manner which preserves the endowment to the foundation and its terms as far as possible, the following rules shall apply:

(a) the application of the mandatory rules shall not produce the failure or invalidity of the endowment or the foundation, and where possible, the endowment and the foundation shall continue under the same terms in relation to property which is unaffected by such mandatory laws. Subject to any order of the court, the affected property shall be held by the foundation for the founder absolutely, or if he is dead, for his heirs;

(b) the administrators shall be empowered to:

(i) vary the terms of the foundation in so far as relates to the nature or the extent of benefit or the endowment; or

(ii) do such acts as are necessary and legally permissible:

Provided that the beneficiaries or the purpose of the foundation derive the benefits in accordance with the intentions expressed by the founder in the deed of foundation in a manner compatible with the mandatory rules and any property which becomes free from the terms of the foundation for any reason shall be held by the foundation for the founder absolutely, or if he is dead, for his heirs;

(c) for the purposes of resolving conflicts between the endowment and the foundation and any mandatory rules and to enable the continuance of the foundation as specified in paragraphs (a) and (b), the terms of the foundation or the endowment, where silent, shall be deemed to include:

(i) the power, without any obligation to do so, of the administrator to reduce the foundation assets and return all or part of them to the founder or the estate of the founder so as to achieve compliance with such provisions of law;

(ii) the power of the administrator to enter into arbitration and mediation agreements and to reach a compromise to disputes and claims by third parties; and

(iii) the power to seek directions from the Court on such matters:

Provided further that such powers shall be exercisable notwithstanding any contrary provisions of the deed of foundation or the endowment and, provided the administrator acts honestly, in good faith and reasonably, such acts shall not constitute a breach of any fiduciary duties and any applicable law;

(d) the property of the founder which is not endowed to the foundation shall first be utilised, to the extent possible, to meet the claims of any person seeking to invalidate or reduce an endowment;

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(e) notwithstanding any other applicable law, the foundation may meet a valid claim being made against the foundation property, whether voluntarily or as a result of a court direction, order or judgement, by a payment of value in money and shall not be obliged to return property endowed to the foundation in kind;

(f) any person who succeeds in reducing the property of the foundation or obtains a court order to invalidate an endowment in whole or in part or who enjoys the benefits of an arrangement with the foundation as provided in paragraph (c)(i), shall forfeit the benefits under the foundation, unless the terms of the foundation expressly state otherwise or the administrators consider it unreasonable in the circumstances and obtain the consent of the Court to maintain in force rights in favour of such person subject to such conditions as the Court may consider appropriate;

(g) in any event and notwithstanding any provision of law, a foundation shall not be subject to an obligation to pay or return more than the foundation property held by it, after deducting any fees and costs, and shall not be subject to any obligation for any distributions made by it, in good faith prior to having written notice of any claim.

29C. Article 958R of this Code shall apply to foundations and endowments thereto *mutatis mutandis*."

Property in Malta, Maltese or foreign foundations, foreign domiciliary.

Substitution of article 30 of the Second Schedule.

71. Article 30 of the Second Schedule shall be substituted by the following:

"Obligation to register.

30. (1) It shall be the obligation of the administrators of any foundation established after the relevant date, other than pious foundations, marriage legacies and ecclesiastical entities constituted as foundations, to register such foundation in terms of this Schedule within the periods stated in this Title:

Provided that when no administrators are designated, the foundation shall be registered by any of the persons mentioned in article 31(2), (3) and (4) or by the person designated in the statute as having the power to appoint the administrators.

(2) After a foundation has been established by public deed in accordance with this Sub-Title of this Schedule or at any time after the opening of succession in case of a foundation established by will, the provisions of article 14 shall apply to any acts carried out by the administrators on behalf of a foundation prior to its registration and in such cases the administrators shall not be personally liable in accordance with article 17(2) if:

(a) the actions carried out implement what is expressly required of them in the public deed or will; and

(b) the foundation is registered within the period stated in article 31."

72. Article 31 of the Second Schedule shall be amended as follows:

Amendment of article 31 of the Second Schedule.

(a) sub-article (1) thereof shall be substituted by the following:

"(1) For the purpose of registration of a foundation the prescribed application form shall be submitted to the Registrar together with:

(a) in the case of a private foundation as defined in article 31B:

(i) an authentic copy of the constitutive instrument and the statute without the beneficiary statement, if any;

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(ii) save as otherwise provided in this Schedule, the prescribed Note of Initial Registration; and

(iii) the written consent of the administrators, if any; and

(b) in all other cases, an authentic copy of the constitutive instrument and the statute and the written consent of the administrators, if any;"

(b) in paragraph (ii) of sub-article (2) thereof, the words "appointed in the said deed" shall be deleted;

(c) in sub-article (4) thereof, for the words "the said extract is to delivered" there shall be substituted the words "the said extract is to be delivered";

(d) in sub-article (7) thereof, immediately after the words "sub-articles (2), (3) and (4)" there shall be added the words "or by the person designated in the statute as having the power to appoint the administrators";

(e) in paragraph (b) of sub-article (8) thereof, for the words "for such refusal." there shall be substituted the words "for such refusal:", and immediately thereafter there shall be added the following new proviso:

"Provided that, the fact that the Registrar registers a foundation in the absence of compliance with any requirement under any special law, shall not exempt such foundation or its administrators from their obligation to comply with such law or to be subject to any penalties or proceedings which may arise from the breach of such special law.";

(f) in sub-article (9) thereof, for the words "private foundation" there shall be substituted the words "private foundation as defined in article 31B";

(g) sub-article (10) thereof shall be amended as follows:

(a) immediately after the words "the persons mentioned in sub-articles (2), (3) and (4)" there shall be added the words "and the person designated in the statute as having the power to appoint the administrators";

(b) in the proviso thereto, for the words "or any

other relevant fact." there shall be substituted the words "or any other relevant fact:" and immediately thereafter there shall be added the following new proviso:

"Provided further that in case of a public benefit foundation which is enrolled in accordance with the Voluntary Organisations Act (Cap. 492), the penalty above referred to shall be reduced to twenty-three euro (€23)."; and

(h) sub-articles (12) and (13) thereof shall be deleted.

73. Immediately after article 31 of the Second Schedule there shall be added the following new articles:

Addition of new articles to the Second Schedule.

"Amendments to statutes and notices of changes.

31A. Any amendments to the statute of a foundation or changes in a foundation after a foundation has been registered, shall be registered in the Register as follows:

(a) notwithstanding what is stated in the statute, if there is a form which is prescribed, by the filing of such form and such amendments or changes shall not require a public deed or enrolment in the records of a Notary Public;

(b) notwithstanding the provisions of any other law, any other amendments or changes not the subject of notification through the filing of a prescribed form shall be made by resolution, private writing or notarial deed in accordance with the statute and unless made by a notarial deed, shall be enrolled in the records of a Notary Public and shall be registered in the Register by the Notary Public publishing or enrolling the deed, as the case may be, within fourteen days from the date of publication of the deed or its enrolment in his records, as the case may be;

(c) the duty of the administrators with regards to amendments to the statute, shall be as prescribed from time to time; and

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(d) in the case of a private foundation as defined in article 31B, if such amendment affects any matter referred to in the Note of Initial Registration referred to in article 31, which is not already otherwise addressed in a prescribed form filed in terms of paragraph (a), an Amended Note of Initial Registration shall also be submitted to the Registrar.

Private foundations and trading activities.

31B. (1) Private foundations may carry out the trading activities referred to in:

(a) this sub-article and sub-articles (2) and (3); and

(b) sub-articles (4), (5) and (6) without limitation:

Provided that private foundations may also establish another legal organisation to carry out acts of trade or trading activities to achieve and promote their principal purposes and objectives. They may establish another legal organisation to carry out any acts of trade which are not related to their principal purposes and objectives only when this power is expressly granted in their statute.

For the purpose of this article, a private foundation means a foundation, which neither qualifies as a public benefit foundation nor is it established for a public or social purpose and which is not a voluntary or non profit organisation but which can be established for a lawful purpose as defined in terms of the provisions of the Voluntary Organisations Act.

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(2) Notwithstanding the provisions of sub-article (1), a private foundation:

(a) may have additional objectives and powers contained in its statute to enable it to carry out any such activities referred to in this article to achieve its purposes or to protect its assets and, or to otherwise comply with legal requirements; and

(b) shall, in any case, be deemed to have all the powers to do anything which is necessary or ancillary to achieve the said purposes.

(3) In addition to the activities referred to in sub-articles (1) and (2), a private foundation may:

(a) hold assets as an investment portfolio and to do all such acts ordinarily carried out in such context;

(b) carry out any specific actions with shares it may hold as may be designated in the statute of the foundation for the achievement of any designated purpose, transaction or for the protection of any designated interests;

(c) own, establish, grant and license a franchise, a trade mark or other intellectual property which gives rise to income;

(d) own income which may be made payable to voluntary organisations which own, administer or otherwise operate an innovative technology arrangement; and

(e) own commercial property or a ship or aircraft.

(4) For the purposes of sub-article (3):

(a) a foundation shall act as the passive owner of such assets, the administration of which is delegated to a third party, including another legal organisation with its own board of directors or a third party under a fiduciary agreement or temporary title; and

(b) the carrying out of acts of trade of any kind by the delegate with assets belonging to the foundation shall not imply that the foundation is itself carrying out such activities.

For the purpose of this sub-article "passive" shall mean that the foundation is not involved in the day to day operations of the relevant activity but shall not imply limitations on the foundation or its administrators from exercising or protecting the rights of the foundation in relation to any of its purposes or assets.

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(5) Subject to any authorisations, registrations or notifications as may be necessary under applicable laws, a foundation may operate :

(a) as a collective investment vehicle, and issue units to investors therein, for the holding of a common pool of assets, the management of which is delegated to a third party;

(b) as a pension or employee benefit arrangement;

(c) as a securitisation vehicle or for the purpose of supporting or implementing a securitisation transaction, including to hold any assets in connection therewith, borrow monies against the issue of bonds, establish security or collateral and do all relative and ancillary acts;

(d) as a retirement scheme or fund;

(e) for the holding, administration, development, or sale of undivided property originating from an inheritance deriving from one or more deceased person or persons common to the beneficiaries for the sole purpose of the division or liquidation of the common estate; or

(f) for any other purpose as may be prescribed in a notice issued by the Minister under this Schedule.

(6) A foundation may be used in the context of the following transactions and any transactions connected or ancillary thereto:

(a) securities offerings, whether to the public or for private placement, portfolio management and custody of investment instruments;

(b) the grant of real or personal security interests, including hypothecs, mortgages, privileges, pledges and guarantees;

(c) collective loan agreements and other multi-creditor banking facilities;

(d) insurance policies and the payment of proceeds thereunder;

(e) timeshare and multi-property structure; and

(f) such other commercial transactions as may be prescribed in a notice issued by the Minister under this Schedule.

(7) When a foundation is established with segregated cells, the foundation may itself render services against remuneration in favour of any of its cells which are established for the benefit of beneficiaries or for purposes or both.

(8) Whenever the activities of a foundation intended to be carried out under sub-articles (4), (5) and (6) are subject to laws regulating credit or financial institutions, insurance undertakings, investment services or funds, trusts and trustees, corporate or other licensable fiduciary institutions, such foundation shall only be permitted to register with the prior written consent of the Malta Financial Services Authority, where applicable in terms of law and when it is the competent authority under such law, or may be permitted by such authority to register but not to carry out activities, until it is authorised by means of a notice issued by such authority.

(9) Where such activities are exempt from registration in terms of sub-article (8), the Registrar for Legal Persons may request confirmation of such exempt status from the Malta Financial Services Authority prior to registering the foundation in terms of the provisions of this Schedule.

(10) Nothing in this article shall prohibit foundations regulated by European Union law from carrying out acts of trade or trading activities if they are permitted to do so under such law.

Accessibility
of registered
documents and
confidentiality
of private
foundations.

31C. (1) The following registration documents are accessible to the public, except as stated in sub-article (2):

(a) the application form;

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(b) any forms notified to the Registrar under the Civil Code (Second Schedule) (Notifications and Forms) Regulations, including the Note of Initial Registration, as the same may be amended from time to time, except the following forms:

(i) Form DD relating to assets added to an organisation by additional endowments, as the same may be amended or re-numbered from time to time;

(ii) such other forms stated in a notice issued by the Minister;

(c) the written consent of any administrator to act as administrator; and

(d) the Certificate of Registration,

as well as any changes made thereto.

(2) Unless the founder has expressly waived confidentiality under sub-article (3), in the case of a private foundation, all documents, statements or declarations submitted to the Registrar, including those accompanying notified forms referred to above, shall not be accessible to third parties without the prior written consent of the administrators or the supervisory council of the foundation, if any, duly authenticated by a Notary Public, or with the permission of the Court and only when the Court is satisfied that the person requesting such information has a legitimate interest therein:

Provided that:

(a) nothing in this article shall render confidential any transactions which are subject to registration in the Public Registry according to law;

(b) unless the founder has expressly waived confidentiality under sub-article (3), the applicant shall be obliged to submit a Note of Initial Registration signed by the administrators, the founder or by the person designated in the statute as having the power to appoint the administrators as a condition to registration and this shall be accessible to the public; and

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(c) articles 47, 48, 49 and 50 of the Trusts and Trustees Act shall apply to the administrators of a private foundation.

(3) The founder may, by means of a statement in the statute or by a notarially authenticated notice in writing, filed with the Registrar, declare that all registration documents in relation to a private foundation are accessible to third parties, and the Registrar shall act accordingly. Such declaration shall be filed in the Register by the Registrar and shall be accessible to third parties.

(4) The Registrar shall implement procedures and take all measures to ensure the privacy of all documents relating to a private foundation which are not accessible to the public.

(5) A person dealing with administrators of a private foundation in relation to foundation property need not:

(a) enquire into the terms of the foundation or of any endowment; or

(b) obtain the consent of the beneficiaries or any other person, and shall, where he acts in good faith, be entitled to rely on declarations made by the administrators with regard to any matters therein stated.

(6) The administrators may furnish to any person with whom they are dealing in the interest of the foundation, a certificate containing the following information without being in breach of any confidentiality obligations:

(a) that the foundation exists, is registered and that the Note of Initial Registration is complete and factually correct;

(b) the identity and address of the current administrators in office;

(c) that the administrators, or any of them, are duly authorised and empowered to carry out the relevant transaction and have obtained all necessary internal consents, if any;

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(d) the revocability or irrevocability of the endowments of the foundation and, if revocable, that the endowments have not been revoked, or if any have been revoked, which ones have been revoked since the last accounts made available; and

(e) the latest accounts of the foundation.

(7) When there is more than one administrator, a certificate may be signed and authenticated by any administrator.

(8) Without prejudice to any liability under applicable law or to other fine or penalty which may be applicable under any other law, any administrator who issues any certificate containing any statement which he knows or ought to know is false shall be guilty of an offence and shall on conviction be liable to the punishment of imprisonment for a term not less than thirteen months and not exceed four years or to a fine (multa) of not less than one thousand and one hundred and sixty-four euro and sixty-nine cents (€1,164.69) but not more than two thousand and three hundred and twenty-nine euro and thirty-seven cents (€2,329.37) or to both."

Amendment of article 32 of the Second Schedule.

74. Article 32 of the Second Schedule shall be amended as follows:

(a) in sub-article (1) thereof, for the words "including a social purpose" there shall be substituted the words "including a social or public benefit purpose"; and the words "as provided in article 26(7)" shall be deleted;

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

"(2) The founder may, at any time amend or add to the deed of a purpose foundation, including its purpose, by means of an amendment to the statute done in accordance with the provisions of the statute, if any, and, or any applicable law. The statute may expressly permit any other body or person to amend the statute in the manner and subject to the conditions as may be stated. After the death of the founder, unless the statute provides for the manner in which amendments may be made, the Court may authorise such amendment or addition to the deed of a

purpose foundation, including its purpose, on the application of:

- (a) any administrator;
- (b) the supervisory council;
- (c) any interested party, or
- (d) in the case of a public benefit foundation, the Attorney General:

Provided that a public benefit foundation may not have its purpose changed or extended to other purposes which are not also social or public purposes.";

(c) in sub-article (3) thereof, immediately after the words "is made the administrators may exercise their discretion." there shall be added the following new paragraph:

"A purpose foundation may use money or property of the foundation to acquire shares or interests in other organisations when the principal purposes and objectives of the other organisations are related or ancillary to the purpose foundation or established to implement the purposes of the said foundation:

Provided that, if an endowment of shares or interests in an organisation is made to a purpose foundation to help the foundation and its principal purposes and objectives, such purposes and objectives of the organisation need not be related or ancillary to the purposes of the foundation.";

(d) sub-article (4) thereof shall be amended as follows:

(i) for the words "unless the founder amends the purpose in terms of sub-article (3)" there shall be substituted the words "unless the purpose is amended in terms of sub-article (2), or, if the founder is no longer alive, the administrators unanimously determine that the foundation is to be terminated and the proceeds distributed in accordance with this article"; and

(ii) the words "Any disposal of assets shall be made only to another purpose foundation with similar purposes." shall be deleted;

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(e) sub-article (5) thereof shall be re-numbered as sub-article (8);

(f) immediately after sub-article (4) thereof, there shall be added the following new sub-articles:

"(5) In the case of a purpose foundation established for a public benefit, the indication of alternative purposes must refer to other public benefit organisations.

(6) Any disposal of assets pursuant to the statute of the foundation shall be made on the following basis:

(a) in the case of a purpose foundation established for a public benefit to another public benefit organisation having the same or a similar purpose:

Provided that when an organisation is controlled by the Government, a religious organisation or a political party then the disposal of assets may be made in favour of the Government, another religious organisation of the same denomination or the relevant political party, as the case may be; and

(b) in the case of a purpose foundation established for any other purpose in accordance with the deed of foundation.

(7) Any disposal of assets by the Court under sub-article (4), shall be made on the following basis:

(a) if the purpose foundation is not established for a public benefit purpose, in the absence of express direction in the statute, the assets shall be paid out to the founder or his heirs;

(b) if the foundation is a public benefit foundation, in the absence of express direction in the statute in accordance with sub-article (6)(a), the assets shall be disposed of in favour of:

(i) the founder, if it is also a public benefit organisation, irrespective of its purpose; or

(ii) if sub-paragraph (i) does not apply, another public benefit organisation with the same or similar purposes but the recipient shall make reasonable efforts to achieve the original purposes of the endowments made to the original organisation:

Provided that when the purposes are the advancement of religion or the carrying out of a religious vocation or there are indications in the original endowment that this was intended for a religious organisation, to any pious foundation or ecclesiastical entity, and in such case of the appropriate denomination; or

(iii) if the Government of Malta is the founder, to the Government of Malta if the purposes are for the general public benefit or utility;

(c) if the foundation has a combination of purposes, being partly private benefit and partly social or public purposes, the assets shall be paid out as follows:

(i) unless the social or public purposes have already been achieved or are specifically determined such that their extent can be calculated, the assets shall be paid out, in accordance with paragraph (b) in such manner that reasonably proportionately reflects the benefit intended for the social or public purposes as may be approved on application to the Court; and

(ii) the balance shall be paid out as stated in paragraph (a); and

(iii) where the assets are not immediately payable due to the fact that payment is subject to a condition, a contingency or a discretion, they shall be retained until the condition or contingency occurs or the discretion can be exercised;

(d) where the foundation is a pious foundation, marriage legacy or ecclesiastical entity

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which is constituted as a foundation and which qualifies as a long-term obligation, in the event that there may be any remaining assets from the sum dedicated to the performance of the long-term obligation after it has been performed, this shall be paid out as may be determined in accordance with Canon law and other legislation governing religious organisations.";

(g) sub-article (8) thereof, as re-numbered, and shall be substituted by the following:

"(8) When the dominant purpose of a foundation is to support a class of persons which constitute a sector within the community as a whole, because they suffer from a particular social, physical or mental disability it shall be permissible to indicate one or more individuals who suffer from such condition as named beneficiaries. Notwithstanding such indication, the foundation shall be considered to be a public benefit purpose foundation on condition that after the death of such beneficiaries, the residual property of the foundation is, by the express terms of the statute, to be held either for the exclusive benefit of the designated class of beneficiaries or for another foundation established for a similar social purpose which qualifies as a public benefit."; and

(h) immediately after sub-article (8), as re-numbered and substituted, there shall be added the following new sub-articles:

"(9) Notwithstanding the provisions of this article and other provisions of this Schedule, a "purpose foundation" which is not established as a public benefit foundation shall be subject to the provisions of Column A with the modifications in Column B which prevail over its legal form in deference to its non-public benefit purposes:

Column A	Column B
29(2)	The foundation must have an initial endowment of money or property of at least one thousand and one hundred and sixty four euro and sixty nine cents (€1,164.69);
29(7)	The foundation may not be established for more than one hundred and twenty-five years (125) except where expressly permitted by this Schedule;

- 32(4) This sub-article shall not apply to the foundation and if the foundation terminates because the purposes have not been amended in accordance with the statute, the assets of the foundation shall, subject to the terms of the foundation, devolve on the founder or his heirs at law;
- 34(6), (7) Any endowments to the foundation may be expressed to be revocable;
- 35(2) The foundation may have only one (1) administrator and the administrator or administrators shall be subject to or otherwise require authorisation by the Malta Financial Services Authority under article 43 of the Trusts and Trustees Act in accordance with its terms;
- 40(9) The foundation may be constituted in a revocable manner;
- 60(1) This article shall not apply and article 60(2) shall apply in lieu thereof.

(10) Without prejudice to the provisions of this article, a provision in the statute granting the power to the administrators to apply the proceeds to another public benefit purpose when the stated purpose has been achieved, exhausted or is no longer possible shall be valid."

75. Article 32A of the Second Schedule shall be substituted by the following:

Substitution of article 32A of the Second Schedule.

"Public benefit foundations and trading activities.

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32A. (1) Without prejudice to the ability of any public benefit foundation to carry out acts of trade in the ordinary course of carrying out its principal purposes and objectives, in terms of article 38(2) of the Voluntary Organisations Act, where applicable, a foundation shall not be established to carry out acts of trade or trading activities on a regular or continuing basis nor shall it do so in practice, except as permitted under this article and when the proceeds of such trading activities are attributable to a social or public purposes.

(2) Notwithstanding the provisions of sub-article (1) a foundation may own, acquire or be endowed with shares or other interests in another legal organisation and may generally:

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(a) carry out any specific actions with shares it may hold as may be designated in the statute of the foundation for the achievement of its main purposes and objectives;

(b) subject to such authorisations as may be necessary under applicable laws, issue tokens and carry out any trading activity resulting from such foundations owing, administering or otherwise operating an innovative technology arrangement; and

(c) seek the achievement of designated social purposes which may include health and education:

Provided that this shall not apply to management agreements, licences or otherwise to third parties for profit:

Provided further that:

(i) when the foundation owns a shareholding in an organisation established to trade, the trading organisation shall not be restricted in its activities by the purposes of the foundation in any manner, unless otherwise stated in the statute of such trading organisation;

(ii) when the foundation qualifies as a voluntary organisation and owns shares or other interests in another legal organisation established pursuant to the provisions of article 38 of the Voluntary Organisations Act, the provisions of sub-article (4) of the said article 38 shall apply but the relevant limitations shall not apply to persons who are not involved in the foundation and are not related parties thereto; and

(iii) the purposes of the holding, acquisition or endowment of shares or other interests shall not be to enable the foundation to speculate with such assets.

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For the purposes of sub-paragraph (ii), "related parties" shall mean persons related by consanguinity or affinity in the direct line in any degree or in the collateral line up to the third degree inclusively, and shall also include any person involved in the same business under any legal structure or otherwise.

(3) With reference to a public benefit foundation:

(a) its statute may contain additional objectives and powers to enable it to carry out any such activities, to achieve its purposes, to protect its assets and otherwise to comply with legal requirements; and

(b) it shall, in any case, be deemed to have all the powers to do anything which is necessary or ancillary to achieve the said purposes.

(4) It shall be lawful for -

(a) the administrators or a person designated in the statute;

(b) any public benefit beneficiary, in the case of public benefit foundations; or

(c) the Attorney General, in the case of a public benefit foundation and, or the Commissioner for Voluntary Organisations in the case of foundations which are voluntary organisations enrolled in accordance with the Voluntary Organisations Act,

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to seek directions from the Court as to whether the actual or proposed activity of the foundation constitutes regular or continuing trading activity beyond what is permitted under sub-article (1) and the Court may, in such cases, issue directives to the foundation on the manner in which it shall carry out activities consistently with this article, including a direction to amend its purposes and objectives, but any such order shall not affect or invalidate acts already lawfully carried out or interrupt lawful acts in progress.

(5) The Court shall also consider the following principles and circumstances:

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(a) in case of a public benefit foundation, the avoidance of speculation which may affect the assets of the foundation and the achievement of its purposes;

(b) the creation of liabilities which may impinge on the achievement of the purposes of the foundation;

(c) the protection of third parties dealing with the foundation; and

(d) the competence of the administrators to carry out such activities and the extent of the delegation of such functions to third parties.

(6) When a public benefit foundation is established with segregated cells, the foundation may itself render services against remuneration in favour of any of its cells which are established for the benefit of its beneficiaries or its purposes or both.

(7) Nothing in this article shall prohibit public benefit foundations regulated by European Union law from carrying out acts of trade or trading activities if they are permitted to do so under such law:

Provided such acts or activities are carried out solely to achieve and promote the principal purposes and objectives of the foundation."

Amendment of article 33 of the Second Schedule.

76. Article 33 of the Second Schedule shall be amended as follows:

(a) in the marginal note thereto, for the words "Private foundations" there shall be substituted the words "Beneficiary foundations";

(b) in sub-article (1) thereof the words "Foundations imply fiduciary obligations under this Code upon all persons administering them." shall be deleted;

(c) in sub-article (3) thereof, the words "If the foundation terminates for any other reason at law the assets of the foundation shall, subject to the terms of the foundation, devolve on the founder or his heirs at law." shall be deleted;

(d) sub-article (4) thereof shall be amended as follows:

(i) for the words "Private foundations" there shall be substituted the words "Beneficiary foundations";

(ii) in the paragraph immediately following paragraph (b) thereof, for the words "as aforesaid the foundation," there shall be substituted the words "as aforesaid,";

(iii) in the paragraph immediately following the paragraph referred to in sub-paragraph (ii), for the words "Such identification need not be made in the deed constituting the foundation" there shall be substituted the words "Such identification need not be made in the constitutive instrument or statute";

(e) sub-article (7) thereof shall be amended as follows:

(i) for the words "Subject to the terms of the deed of foundation, if the founders are still alive and capable of acting they may freely amend the deed and substitute, add or remove beneficiaries:" there shall be substituted the words "Subject to the terms of the deed of foundation which may exclude or restrict such power, if the founder is still alive and capable of acting he may freely amend the deed of foundation including substituting, adding or removing beneficiaries:"; and

(ii) in the proviso thereto, for the words "he receives notice" there shall be substituted the words "they receive notice"; and

(f) immediately after sub-article (19) thereof, there shall added the following new sub-articles:

"(20) When permitted by the statute of a beneficiary foundation, beneficial interests may be established in the statute or a beneficiary statement in unitised form, of whatever nomenclature, where each unit reflects a share in the assets of the foundation with such rights to income, capital or other entitlements or powers as may be stated in the statute or beneficiary statement and if nothing is stated, proportionately to the total number of units:

Provided that the units may be subject to rules on recordation in a register of units, transfers, pledges and other such matters as the administrators may establish

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from time to time or as are provided in the statute. In such cases, the beneficial interest is presumed, unless otherwise stated in the statute or beneficial statement, to be subject to inheritance in favour of the beneficiary's heirs under his will or at law in case of intestacy and shall not terminate as provided for in sub-article (3).

(21) In the event that a private foundation as defined in article 31B is dissolved for any reason at law, the assets of the foundation shall subject to the performance of all obligations towards beneficiaries and any other terms of the foundation, be presumed to be held for the founder or his successors in title.

(22) Notwithstanding the provisions of this article, and other provisions of this Schedule, where a "beneficiary foundation" is established exclusively for public interest, beneficiaries shall be regulated by the provisions in Column A:

Provided that such provisions listed in Column A shall be subject to the modifications in Column B:

Column A	Column B
29(2)	The foundation may have an initial endowment of money or property of only two hundred and thirty two euro and ninety four cents (€232.94);
29(4)(h)	The beneficiaries or class of beneficiaries must be indicated in the statute and the use of a beneficiary statement shall not be permitted;
29(7)	The foundation may be established for an unlimited term and the one hundred and twenty-five year (125) limit shall not apply;
32(2)	Any amendments or addition to the purpose of the foundation may not introduce any purpose or beneficiary which amounts to a private benefit;
32(4), (5), (6), (7)	These sub-articles on the using, disposal or distribution of assets on termination of a public benefit foundation shall apply to the foundation <i>mutatis mutandis</i> ;
33(7), (9)	The founder or the administrators may add beneficiaries if given such power but, at all times, the new beneficiaries shall only be public interest organisations;

- The founder or the administrators may be given the power to amend the deed of foundation consistently with the rules applicable to public benefit foundations;
- 33(21) Any transfer of the beneficial interest may only be made in favour of other public interest organisations;
- 34(6), (7) Endowments to the foundation are irrevocable and the constitutive instrument or statute of the foundation or the instrument of additional or new endowment may not state that such endowments are revocable;
- 35(2) The foundation must have at least three (3) administrators or at least one juridical person acting as administrator in accordance with article 35(1);
- 38(1)(g) The Attorney General or the Commissioner in terms of the Voluntary Organisations Act may request information from the administrators;
- 38(4) The administrators are not bound to inform certain beneficiaries until such time as they intend making a distribution to them;
- 40(2) The beneficiaries may not terminate the foundation;
- 40(9) This sub-article shall apply to the foundation;
- 45 The provisions of this article shall not apply; however the founder may impose confidentiality to protect the identity of the named persons referred to in article 32(8);
- 60(2) This sub-article shall not apply and on dissolution and winding up of the foundation the distribution of the assets shall be governed by article 60(1)."

77. Article 34 of the Second Schedule shall be amended as follows:

Amendment of article 34 of the Second Schedule.

(a) sub-article (1) thereof shall be substituted by the following:

"(1) Subject to the provisions of the statute, any person may add to the assets of a foundation by endowments at any time. Endowments shall be considered to have been made under the same terms and conditions, for the same beneficiaries or for the same purposes, as the case may be, in terms of the statute of the foundation. Unless the provisions of sub-article (2) apply, the grantor of such endowments, if not the founder, shall have no

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status or powers in relation to the foundation and the endowment shall be referred to as an additional endowment.";

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

"(2) When permitted by the provisions of the statute or with the express concurrence of the founder, the supervisory council or protector, the administrators or, in default of such persons, the Court, a person, hereinafter referred to as "the grantor" may make an endowment in such a manner that he shall be considered to have the status and powers of a founder in the foundation in relation to such endowment or in relation to the whole foundation, or where such endowment is granted to a cell if so contemplated and consented to as aforesaid, such endowment shall be considered a new endowment.";

(c) sub-articles (3), (4), (5), (6), (7), (8), (9), (10), (11) and (12) thereof shall be re-numbered as sub-articles (5), (6), (7), (8), (9), (10), (11), (12), (13) and (14), respectively;

(d) immediately after sub-article (2) thereof, as re-numbered, there shall be added the following new sub-articles:

"(3) When such augmentation by third parties is made by means of a will, the testamentary disposition shall be deemed to require the creation of a new foundation and the administrators of the nominated foundation shall proceed accordingly, even without the concurrence of the persons mentioned in sub-article (2).

(4) Where the statute of a foundation provides for the establishment of segregated cells, a new endowment, whether transferred *inter vivos* or *causa mortis*, may be constituted as a new segregated cell by the administrators in which case the grantor's status and powers may be limited to such segregated cell. When a grantor becomes a new founder as aforesaid the rules in article 39 shall apply when there is more than one founder.";

(e) sub-article (6) thereof, as re-numbered, shall be substituted by the following:

"(6) In the event that endowments are received by such foundation in a regular manner in terms of a scheme

which is registered with the Registrar, it shall not be required that the administrators file a descriptive note on each occasion that a new or additional endowment is made but they shall file a schedule of endowments on an annual basis. Neither shall it be required that the administrators enter into a public deed on each occasion that an endowment is made, unless the endowment involves immovable property. In each case, the administrators shall file the prescribed form and required attachments to notify such endowments to the Registrar.";

(f) sub-article (7) thereof, as re-numbered, shall be substituted by the following:

"(7) Endowments may be granted under a condition, for a fixed time or in accordance with express rules stated in the statute. A new endowment may be made for purposes which are different from those of the foundation. In the absence of any indication, endowments shall be considered to be unconditional and made for the same purposes of the foundation.";

(g) sub-article (8) thereof, as re-numbered shall be substituted by the following:

"(8) Additional and new endowments to public benefit foundations shall be irrevocable notwithstanding any term to the contrary in the constitutive instrument or statute of the foundation or the instrument providing for the additional or new endowment.";

(h) sub-article (9) thereof, as re-numbered, shall be amended as follows:

(i) for the words "Unless expressly stated otherwise, endowments to foundations shall be deemed" there shall be substituted the words "Unless expressly stated otherwise, additional and new endowments to beneficiary foundations shall be presumed"; and

(ii) for the words "in the deed of constitution" there shall be substituted the words "in the constitutive instrument or statute of the foundation or the instrument of additional or new endowment";

(i) in sub-article (10) thereof, as re-numbered, for the words "Where an endowment is made" there shall be substituted

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the words "Where, in the case of a beneficiary foundation, an additional or new endowment is made";

(j) sub-article (11) thereof, as re-numbered, shall be substituted by the following:

"(11) In the case of a beneficiary foundation, the revocation of an endowment shall not affect or invalidate acts already carried out or interrupt acts in progress, nor affect commitments made and not yet fulfilled. The revocation of an endowment shall be suspended until such time as the administrators certify to the Registrar that all commitments have been fulfilled and shall be deemed to refer only to such amount as shall not have been utilised in fulfilment of such commitments.";

(k) sub-articles (12), 13 and (14) thereof, as re-numbered, shall be substituted by the following:

"(12) The revocation of an additional or new endowment shall not imply the termination of a foundation but shall, unless otherwise stated in the statute, imply the cessation of the status of founder and all related rights in relation to the grantor.

(13) If a foundation is the beneficiary of a new or additional endowment granted for specific purposes different from its own purposes, unless permitted in accordance with sub-article (5), the administrators shall seek new instructions from the grantor and if that is not possible, such endowment shall not be accepted and shall be deemed to require the creation of a new foundation and the administrators of the recipient foundation shall proceed accordingly.

(14) When a foundation receives an endowment without sufficiently specific terms and from the circumstances it is evident that the foundation owes fiduciary duties in relation to such property towards a beneficiary or a class of beneficiaries or a purpose, the administrators shall execute a unilateral declaration by instrument in writing containing all the fiduciary terms under which the foundation is holding the same, comprising the information enabling the identification of all the beneficiaries or purposes. The administrators may ask the Court to confirm the contents of their declarations."; and

(1) immediately after sub-article (14) thereof, as re-numbered and substituted, there shall be added the following new sub-articles:

"(15) In the event that there are no administrators at the time of establishment or registration of a foundation, the founder or the person having the power to appoint administrators shall be deemed to have the power to accept any endowment but shall not have the power to bind the foundation on any other matter nor shall the foundation be entitled to commence operations prior to the appointment of the required number of administrators.

(16) The term "endowment" for the purposes of this Title shall mean any grant of money or other property under a gratuitous title, including rights to money or other property, existing or which may arise in the future."

78. Article 35 of the Second Schedule shall be amended as follows:

Amendment of article 35 of the Second Schedule.

(a) in sub-article (2) thereof, for the words "Purpose foundations shall have" there shall be substituted the words "When a foundation is a public benefit foundation it shall have";

(b) in sub-article (3) thereof, for the words "constitutive deed" there shall be substituted the words "constitutive instrument or statute";

(c) sub-article (9) thereof shall be amended as follows:

(i) paragraphs (a), (b) and (c) thereof shall be substituted by the following:

"(a) the lapse of the term for which the administrator was appointed;

(b) the removal of the administrator by any person or body having the power to do so in terms of the public deed of the foundation or by the Court on grounds stated in the deed of foundation or in this Schedule;

(c) steps are taken for the winding up of the administrator when a legal person;"; and

(ii) immediately after paragraph (c) thereof, there shall be added the following new paragraphs:

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"(d) when the administrator is a legal person, the retirement, resignation or removal of all administrators, including directors in a company acting as administrator, from their office in the said legal person or steps are taken for its winding up; or

(e) where an administrator is appointed without any indication of his duration of office and:

(i) is the sole administrator, he shall require that the statute caters for a substitute administrator or the manner in which a new administrator may be appointed upon his retirement, resignation or removal. Where the administrator is in default of the obligation in this paragraph, a new administrator may be appointed to substitute such administrator at any time with the consent of the founder, of any person designated in the statute or of the Court in the absence of such persons; and

(ii) there is more than one administrator, it is implied that the other administrators shall have the power to remove the administrator at any time when they consider that he is unable to carry out his functions due to health or in accordance with the provisions of article 9:

Provided that in case of disagreement on any of the matters referred to in this paragraph, the administrator who was appointed without any indication of his duration in office may apply to the Court and demand that the Court issues such orders regarding his substitution, retirement, resignation or removal, as it considers appropriate after hearing the relevant persons."

Amendment of
article 36 of the
Second
Schedule.

79. Article 36 of the Second Schedule shall be amended as follows:

(a) in sub-article (1) thereof, immediately after the words "are being dealt with by the Court." there shall be added the following:

"The founder may also be vested with powers to appoint, add or remove any administrators, protectors or beneficiaries and powers to appoint an investment adviser or investment manager and where a power mentioned in this sub-article has been reserved or exercised by the founder, an administrator who acts in accordance with any directions issued pursuant to the founder's power as aforesaid shall not be considered to be acting in breach of his fiduciary duties.";

(b) in sub-article (2) thereof, immediately after the words "A founder may be an administrator" there shall be added the words "or a protector";

(c) in sub-article (3) thereof, for the words "private foundation" there shall be substituted the words "beneficiary foundation"; and

(d) immediately after sub-article (3) thereof, there shall be added the following new sub-article:

"(4) It shall be lawful for a founder to give non-binding written guidance to the administrators on how to exercise the powers or discretions vested in them in the deed of foundation or the beneficiary statement and to substitute, modify or withdraw such guidance from time to time as the founder sees fit. A beneficiary may also be permitted to give such guidance by means of specific clauses in the deed of foundation or the beneficiary statement, and this, with effect from the date of death of the founder."

80. Article 37 of the Second Schedule shall be amended as follows:

Amendment of article 37 of the Second Schedule.

(a) sub-articles (2), (3), (4), and (5) thereof shall be re-numbered as sub-articles (3), (4), (5) and (6) respectively;

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

"(2) The founder may be the sole or one of the members of the supervisory council or may also be a protector. However, a founder may not carry out the functions of a protector for as long as he holds the office of an administrator.";

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(c) sub-article (3) thereof, as re-numbered, shall be substituted by the following:

"(3) The members of the supervisory council or the protectors:

(a) may be designated in the statute of the foundation; or

(b) where no such designation is made, may be subsequently appointed by the administrators and in the manner prescribed in the statute; and

(c) may be removed and replaced by the administrators and in the manner prescribed in the statute.";

(d) in sub-article (5) thereof, as re-numbered, immediately after the words "or addition of administrators" there shall be added the words "and such other powers as may be stated in the statute including the power to give guidance to the administrators in the exercise of their powers, discretions or duties.";

(e) in sub-article (6) thereof, as re-numbered, for the words "The exercise of any action or discretion" there shall be substituted the words "The exercise of any power, action or discretion"; and

(f) immediately after sub-article (6) thereof, as re-numbered, there shall be added the following new sub-articles:

"(7) Unless the statute of a foundation expressly states otherwise and until such time as the supervisory council or protectors are appointed, in the event that a deed of foundation contemplates a supervisory council or protectors whose consent or direction is needed for the administrators to carry out any act, the administrators shall be presumed to have the power to carry out any act without such consent or direction:

Provided that, the decision to act without consent is taken unanimously by the administrators.

(8) The presumption in sub-article (7) shall not apply if the statute requires the administrators or any of them to appoint the members of the supervisory council or

the protectors."

81. In paragraph (f) of sub-article (1) of article 38 of the Second Schedule, for the words "purpose organisation" there shall be substituted the words "public benefit organisation".

Amendment of article 38 of the Second Schedule.

82. Article 40 of the Second Schedule shall be substituted by the following:

Substitution of article 40 of the Second Schedule.

"Termination of a foundation.

40. (1) Subject to the provisions of sub-article (2), unless expressly provided otherwise in the statute or in this Title, a foundation shall not be subject to termination prior to the term for which it is established.

(2) Unless the founder has expressly excluded such a right, a beneficiary foundation may be terminated on the demand of all the beneficiaries of the foundation provided they are all in existence, have been ascertained and no one of them is an interdicted or a minor. If the founder is still alive his consent shall be required for termination by the beneficiaries. The founder may subject termination to the consent of a person or the supervisory council or the protectors, other than the administrators, stated in the statute.

(3) Notwithstanding anything stated in the statute or in sub-article (2), after the death of the founder, the Court shall have the power to dissolve and wind up any beneficiary foundation when requested to do so by all the beneficiaries of the foundation if it is satisfied that the continuance of the foundation is no longer necessary to achieve the intentions of the founder or is otherwise unreasonable.

(4) The statute of a foundation may provide that it may be terminated at any time but termination shall not affect or invalidate acts already lawfully carried out or interrupt lawful acts in progress. Nor shall termination affect lawful commitments made and not yet fulfilled. Termination shall be suspended until such time as the administrators certify to the Registrar that all lawful commitments have been fulfilled.

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(5) The express reservation by the founder of the right to terminate a foundation shall not be exercisable by the heirs or spouse of such founder unless expressly provided otherwise in the deed of foundation. Without prejudice to any other remedies available at law, creditors of the founder may not exercise the right to terminate a foundation.

(6) When a foundation is terminated, the procedures in article 59 shall apply.

(7) Except in cases contemplated in article 47(2), where a foundation is converted into a trust, termination of registration shall imply termination of the foundation but not of the fiduciary obligations therein contained and upon notice of the conversion, the Registrar shall proceed to strike off the foundation.

(8) The administrators shall have a duty to maintain in good standing the registration of a foundation until it is terminated as provided for in this article.

(9) Public benefit foundations may only be constituted in an irrevocable manner and, without prejudice to the power to terminate such a foundation in accordance with article 32 for the reasons and subject to the conditions therein stated, any clause in the statute reserving the right for the founder or any other person or body to revoke such foundation shall not apply."

Substitution of article 41 of the Second Schedule.

83. Article 41 of the Second Schedule shall be substituted by the following:

"Jurisdiction of the Court.

41. The Court shall have jurisdiction in relation to all non-contentious matters which are internal to the foundation, its administrators and beneficiaries:

Provided that if a non-contentious matter being examined by the Court becomes contentious, the Court shall declare the proceedings before it to be contentious and shall continue to deal with the matter as a contentious issue, providing the parties the opportunity to promote the claim and respond to it according to law."

84. Article 42 of the Second Schedule shall be amended as follows:

Amendment of article 42 of the Second Schedule.

(a) sub-article (4) thereof shall be re-numbered as sub-article (5);

(b) immediately after sub-article (3) thereof, there shall be added the following new sub-article:

"(4) In sub-articles (1) and (2) of this article all references to "foundation" shall be references to a beneficiary foundation.";

(c) sub-article (5) thereof, as re-numbered, shall be substituted by the following:

"(5) An application to the Court made under the previous sub-articles may be made by the administrator, by any beneficiary or by any interested party, as the case may be."; and

(d) immediately after sub-article (5) thereof, as re-numbered and substituted, there shall be added the following new sub-articles:

"(6) In the event that the statute of a purpose foundation does not contain any provisions relating to amendments to such statute, if the Court is satisfied that circumstances exist justifying a request made for such amendments to be made to the statute, the Court may order -

(a) any variation or addition to the statute;

(b) any variation to the purposes for which property may be applied;

(c) any variation of any provision of the statute as may be required for the effective achievement of the purposes of the foundation or its administration; and

(d) any variation to achieve the re-organisation of the structure of the foundation including its division into two or more foundations or legal organisations of a similar nature, or its conversion into a trust or trusts,

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and to the extent that the provisions of article 32(8) apply, the Court shall have the powers referred to in this article with reference to any identifiable beneficiaries to whom the provisions of sub-article (1) apply.

(7) The Court shall not approve a request under the previous sub-article unless it is of the opinion that such amendment is, as far as reasonably practicable, consistent with the principal purpose and objectives of the foundation.

(8) Any variation approved by the Court shall be implemented by an amendment to the statute and the administrators shall abide by the formalities as may be prescribed in the statute and in applicable law.

(9) Any application to the Court made under sub-article (6) may be made by the administrator, any person vested with such power in the statute or by the Attorney General, as the case may be."

Amendment of
article 43 of the
Second
Schedule.

85. Article 43 of the Second Schedule shall be amended as follows:

(a) in the proviso to sub-article (3) thereof, for the words "in terms of article 36 of this Schedule" there shall be substituted the words "in terms of article 38"; and

(b) in sub-article (7) thereof, for the words "under a foundation" there shall be substituted the words "under a beneficiary foundation".

Amendment of
article 44 of the
Second
Schedule.

86. Article 44 of the Second Schedule shall be amended as follows:

(a) in sub-article (1) thereof, immediately after the words "of this Schedule" there shall be added the words "except where the matter has been declared to be contentious and the Court has, after the relevant proceedings have been completed, rendered a judgement on any matter"; and

(b) in sub-article (2) thereof, for the words "declarations or directions" there shall be substituted the words "declarations, directions or judgements".

Amendment of
article 45 of the
Second
Schedule.

87. Article 45 of the Second Schedule shall be amended as follows:

(a) in sub-article (1) thereof, for the words "private foundation" there shall be substituted the words "beneficiary foundation"; and

(b) immediately after sub-article (4) thereof, there shall be added the following new sub-article:

"(5) The provisions of this article shall apply only to beneficiary foundations."

88. Immediately after sub-article (3) of article 47 of the Second Schedule, there shall be added the following new sub-article: Amendment of article 47 of the Second Schedule.

"(4) The provisions of this article shall apply *mutatis mutandis* to:

(a) the conversion of a cell of a foundation into a trust, whether relating only to the assets of such cell or by incorporating the cell assets as a segregated patrimony under an existing trust; and

(b) the conversion of a trust, or a segregated part thereof, into a cell of a multi-cell foundation."

89. Article 48 of the Second Schedule shall be amended as follows: Amendment of article 48 of the Second Schedule.

(a) the marginal note thereto shall be substituted by the following:

"Associations established as private benefit organisations.";

(b) sub-article (1) thereof shall be deleted and sub-articles (2), (3), (4) and (5) thereof shall be re-numbered as sub-articles (1), (2), (3) and (4) respectively;

(c) sub-article (1) thereof, as re-numbered, shall be amended as follows:

(i) for the words "When established for the promotion of a private interest an association of persons shall be regulated by -" there shall be substituted the words "When established for the promotion of a private benefit, an association of persons shall be regulated by special laws mentioned in this sub-article as the case may be, based on the purposes and legal form chosen by its promoters, whether it is registered or not with the Registrar:";

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(ii) paragraphs (d) and (e) thereof shall be substituted by the following:

"(d) the special laws relating to unions and employer associations;

(e) the special laws relating to co-operatives;"

(iii) immediately after paragraph (e) thereof, there shall be added the following new paragraphs:

"(f) the provisions of special law, where promoting ancillary or incidental private benefit, other than those listed above;

(g) where there is no other special law which is applicable, the provisions of this Sub-Title III "Of Associations" other than those governing public benefit organisations; or

(h) where for any reason the provisions of a special law cease to apply to an association which continues to exist, the provisions of this Schedule shall apply.";

(d) sub-article (2) thereof, as re-numbered, shall be substituted by the following:

"(2) The special laws referred to in sub-article (1) shall be supplemented by the provisions of this Schedule, with the exception of provisions which apply solely to public benefit organisations in the form of associations:

Provided that, where the provisions of this Schedule are not consistent with the special laws, the special laws shall prevail.";

(e) sub-articles (3) and (4) thereof, as re-numbered, shall be substituted by the following:

"(3) Where an association is governed in accordance with the provisions of sub-article (1)(g) and irrespective of whether the association is registered or not:

(a) the provisions of the statute shall, in case of inconsistency, prevail over the provisions of this Sub-Title III "Of Associations" and the

applicable provisions of this Schedule except where such provisions are mandatory;

(b) subject to the benefit of discussion of the assets of an association, which must first be discussed, any member shall be liable to third parties with whom the association has contracted in proportion to his share in the profits and losses or in proportion to his benefit or other interests in such association, whichever is the higher, unless:

(i) his liability has been varied in a contract entered into with the third party, which contract shall not bind other members of the association without their consent; or

(ii) such liability has been excluded or limited by any provision of law;

(c) when the share of the profits or losses, or the benefit or other interests, is not determined on the basis of a designated proportion, the liability of a member shall be based on the proportion which his monetary contribution bears to the total contributions of the members.

The matters referred to in paragraphs (b) and (c) shall be determined on the basis of express provisions in the statute and absent any such provisions, the liability to third parties shall be equally borne by the members and any private agreement among members shall not affect the rights of third parties.

(4) If any member, for any reason, directly or indirectly, pays or is subject to a liability greater than his proportional share as stated in sub-article (3)(b) or (c), such member shall have a right of relief against the other members proportional to their share, subject to any agreement among the members or the provisions of the statute on such matters."; and

(f) immediately after sub-article (4) thereof, as re-numbered, shall be added the following new sub-article:

"(5) The Minister may make regulations in relation to associations governed by the provisions of this Schedule for their better governance and shall have the

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power:

(a) to extend the application of specific provisions of special laws regulating other types of associations to such associations; and

(b) to introduce rules which apply when such associations are registered with the Registrar, which rules may establish different principles to those stated in sub-article (3) for such registered associations; and

(c) to introduce any special rules, including limited liability for the members for particular cases and establish the conditions under which such limited liability may be enjoyed."

Addition of new article to the Second Schedule.

90. Immediately after article 48 of the Second Schedule, there shall be added the following new article:

"Associations established as public benefit organisations.

"48A. (1) When an association is established as a public benefit organisation, it shall be governed by the provisions of this Sub-Title III "Of Associations" and the applicable provisions of this Schedule, with the exception of provisions of article 48.

(2) The provisions of the statute of such association shall, in case of inconsistency, prevail over the provisions of this Sub-Title III "Of Associations" and the applicable provisions of this Schedule except where they are mandatory.

(3) The rules on liability of the members of such an association towards third parties shall be governed by:

(a) article 16 if the association is registered with the Registrar; and

(b) article 17 if the association is not so registered.

(4) Where applicable the associations referred to in sub-article (1) shall also be regulated by the provisions of the Voluntary Organisations Act.

Cap. 492.

(5) In the event that the statute of an association established as a public benefit organisation does not contain any provisions relating to amendments to such statute, if the Court is satisfied that circumstances exist justifying a request made for such amendments to be made to the statute, the Court may order:

(a) any variation or addition to the statute;

(b) any variation to the purposes for which property may be applied;

(c) any variation of any provision of the statute as may be required for the effective achievement of the purposes of the foundation or its administration; and

(d) any variation to achieve the re-organisation of the structure of the foundation including its division into two or more associations or legal organisations of a similar nature.

(6) The Court shall not approve a request under the sub-article (5) unless it is of the opinion that such amendment is, as far as reasonably practicable, consistent with the spirit of the promoter's intention.

(7) Any variation approved by the Court shall be implemented by an amendment to the statute and the administrators shall abide by the formalities as may be prescribed in the statute, if any, and in applicable law.

(8) Any application to the Court made under sub-article (5) above may be made by the administrator, any person vested with such power in the statute or by the Attorney General, as the case may be.

(9) The provisions of article 32(8) shall also apply to associations *mutatis mutandis*."

91. Article 49 of the Second Schedule shall be amended as follows:

Amendment of article 49 of the Second Schedule.

(a) sub-article (2) thereof shall be amended as follows:

(i) paragraph (c) thereof shall be substituted by the following:

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"(c) (i) the purposes or objects of the association; and

(ii) the category of the association when the association is a public benefit association as defined in article 1(4);";

(ii) paragraphs (f), (g) and (h) thereof shall be substituted by the following:

"(f) the composition of the board of administration and the name, surname, identification, passport or registration number as applicable, nationality and ordinary residence of the administrators;

(g) the manner in which administrators are appointed or elected to and removed from office;

(h) where there exist more than one board or committee in virtue of the statute, the statute shall specify which board or committee shall be the board of administration;";

(iii) in paragraph (i) thereof, for the words "the name and address of a person resident in Malta" there shall be substituted the words "the name and address of a person ordinarily resident in Malta"; and for the words "of the association in Malta; and" there shall be substituted the words "of the association in Malta;";

(iv) in paragraph (j) thereof, for the words "if any." there shall substituted the words "if any;"; and

(v) immediately after paragraph (j) thereof, there shall be added the following new paragraph:

"(k) when the category of the association is public benefit, this shall be stated expressly in the constitutive instrument and statute of the organisation.";

(b) sub-articles (3) and (4) thereof shall be re-numbered as sub-articles (4) and (5) respectively;

(c) immediately after sub-article (2) thereof, as amended, there shall be added the following new sub-article:

"(3) If no term is specified in the statute of the association, such association shall be considered to be indefinite in duration."; and

(d) sub-article (4) thereof, as re-numbered shall be substituted by the following:

"(4) (a) The statute shall be signed by the associating persons and any person subscribing to the statute after an association is established shall be deemed to have consented to all the provisions of the statute and all rules which may have been validly promulgated by the association until such date. In the event that more than three persons wish to establish an association, a statement may be made of this fact in the statute and the signature of three persons on behalf of all associating members stated in a schedule to the statute shall be sufficient to indicate the consent of all stated persons.

(b) Where an association is being established as a public benefit association involving more than three persons as promoters, the signature of three persons shall be sufficient to indicate the consent of all other associating members at the time of establishment.

(c) A document containing a list of all other associating members shall be sufficient evidence of their consent and notwithstanding the provisions of any other law, in respect of the persons listed in the document containing the list of all associating members, their name, surname and identity card, passport number or registration number, as applicable, shall suffice. A declaration by the three persons that they are authorised to act on behalf of all other associating members shall be recorded under their signature.

(d) When such association is constituted by public deed, the Notary Public shall not be bound to ascertain that the three persons have been authorised by the associating members to appear on the deed but shall rely on the document submitted to him by the three persons containing a list of all associating members as evidence of their consent. Notwithstanding the provisions of any other law, in respect of the persons listed in the document containing the list of all associating members, their name, surname and identity card, passport number or registration number, as applicable, shall suffice.

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(e) The Notary Public who receives any deed to which this sub-article refers shall record in the deed a declaration by the three persons that they are authorised by the associating members to state their names, surnames and identity card, passport number or registration number, as applicable, in the document above referred to and the said Notary Public shall warn the said three persons of the importance of the truthfulness of such declaration.

(f) The document shall be attached to the statute by the declarants or, if established by public deed, to the public deed establishing the association.

(g) Any person named as an associating member in a document as referred to above who claims that he did not authorise the three persons to include his name and surname and identity card, passport number or registration number, as applicable, in the document shall, within sixty (60) days of his becoming aware of his inclusion in the document, be entitled to register a declaration to that effect in the Register of the association and in the lack of any written evidence to the contrary which may be produced in case of dispute on such matter he shall not be considered ever to have been an associating member."

Amendment of article 50 of the Second Schedule.

92. In sub-article (5) of article 50 of the Second Schedule, for the words "A social purpose association" there shall be substituted the words "A public benefit association"; and for the words "social purposes" there shall be substituted the words "public benefit purposes".

Amendment of article 51 of the Second Schedule.

93. Article 51 of the Second Schedule shall be amended as follows:

(a) sub-articles (1), (2) and (3) thereof shall be re-numbered as sub-articles (2), (3) and (4) respectively;

(b) immediately before sub-article (2) thereof, as re-numbered, there shall be added the following new sub-article:

"(1) Subject to the provisions of article 12(3), all associations shall be eligible to register under the provisions of this Title.";

(c) sub-article (4) thereof, as re-numbered, shall be substituted by the following:

"(4) The document referred to in article 49(4) relating to the other associating members, when such is the case, at the time of establishment shall also be delivered to the Registrar for registration."; and

(d) immediately after sub-article (4) thereof, as re-numbered, there shall be added the following new sub-articles:

"(5) The name, surname and identity card or passport or registration number, as applicable, of every person who joins an association as a member after this has been established and, or registered, shall be entered in a register of members which shall be regularly updated. A record of the persons who leave the association shall also be maintained in the said register of members.

(6) Such register of members shall not be registered with the Registrar but this shall be without prejudice to the right of any person, subject to Court authorisation, and to the right of the Commissioner for Voluntary Organisations in the case of a voluntary organisation, and to the right of the Malta Financial Services Authority in the case of entities which are regulated or which appear to be carrying out regulated activities for which it is the competent authority under applicable law, to require information about members subject to the provisions of applicable law.

(7) Notwithstanding the preceding sub-article, in the case of a public benefit organisation in the form of an association:

(a) if it is registered with the Registrar, the register of members may be registered by the Registrar at any time upon the written request of the administrators and shall be available to the public in all cases;

(b) the register of members shall always be accessible to any member.

(8) On receipt of the documents mentioned in sub-articles (2) or (3) together with the prescribed forms and any required attachments, the Registrar shall register the association on being satisfied that all the provisions of this Sub-Title have been complied with."

C 1688

Amendment of
article 53 of the
Second
Schedule.

94. Article 53 of the Second Schedule shall be amended as follows:

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

"(2) The provisions of article 35 shall *mutatis mutandis* apply to administrators of associations except as herein provided."; and

(b) immediately after sub-article (2) thereof, as substituted, there shall be added the following new sub-articles:

"(3) An association established for the promotion of a private benefit may be administered by only one administrator and such administrator may also be a registered legal organisation on condition that such legal organisation has at least one administrator in office.

(4) In the case of a private benefit association, the administrators of the association may be appointed in any manner whether by notice in writing from any member or class thereof, by elections among the members, by designation to an office by the administrators or otherwise as the statute may establish and for any term or function, subject to the provisions of sub-article (5) for indefinite appointments.

(5) In the case of a public benefit association the same rules shall apply but notwithstanding the provisions of the statute:

(a) the majority of the administrators shall be appointed by means of elections among the members in general meeting except where every member or every class of members is each given the right to appoint and remove an administrator or where the provisions of sub-article (6) apply; and

(b) it shall be required that a majority of the administrators shall be subject to confirmation by the general meeting of the members at least once every five (5) years:

Provided that when the provisions of sub-article (6) apply, such administrators as are appointed indefinitely shall not be subject to such confirmation.

(6) When an administrator is appointed indefinitely, such appointment shall imply a power of the general meeting to remove such administrator at any time when it considers that he is unable to carry out his functions due to health or under article 9:

Provided that, in case of disagreement on any of the matters referred to in this sub-article, the administrator who is appointed indefinitely may request the Court to issue such orders as it considers appropriate after hearing the relevant persons."

95. Article 54 of the Second Schedule shall be amended as follows:

Amendment of article 54 of the Second Schedule.

(a) sub-article (3) thereof shall be amended as follows:

(i) immediately after the words "falls, below three" there shall be added the words "and in case of an association which may be established between two person in accordance with article 27, falls below two,";

(ii) for the words "with the termination of the registration of such association in terms of this Title." there shall be substituted the words "with the winding up of the association under this Schedule.";

(b) sub-article (6) thereof shall be substituted by the following:

Cap. 492. "(6) The membership of a person in a public benefit organisation established as an association is not transferable nor shall be subject to inheritance. Members may not have patrimonial rights to the assets of such an association except as permitted under the Voluntary Organisations Act and are not entitled to any compensation on retirement or expulsion or on winding up of the association."; and

(c) sub-article (7) thereof shall be deleted.

96. Article 55 of the Second Schedule shall be substituted by the following:

Substitution of article 55 of the Second Schedule.

C 1690

"Endowments. 55. (1) The provisions of article 34 shall apply *mutatis mutandis* to endowments, additional and new, to public benefit organisations established as associations:

Provided that endowments shall be subject to the written acceptance of the administrators or as otherwise required by the statute and such endowment, when accepted, shall imply that the grantor has become a member of the organisation, unless otherwise expressly agreed or provided for in the statute in relation to endowments, with the same rights and obligations and otherwise in accordance with the statute and the provisions of this Schedule.

(2) Membership fees are not endowments and shall not be treated as such nor shall they be refundable except as expressly stated in the statute.

(3) When an association has a private benefit, new or additional endowments shall generally be considered to be contributions to the capital of the association and the following rules shall apply:

(a) an endowment shall be subject to the consent of the administrators or as otherwise required by the statute;

(b) an endowment when accepted, shall constitute a contribution in favour of the association and in favour of the grantor who shall thereupon become a member, and if he is already a member of the association, such contribution shall be considered to be an additional endowment to his initial endowment;

(c) unless otherwise agreed or stated in the statute or if the subject is not addressed in any agreement or the statute, it shall be presumed that the contributions shall be the basis of proportionality of all rights and obligations within the organisation;

(d) the statute may regulate and establish rules, which may be based on principles other than proportionality, on the following matters:

(i) the rights of members in relation to their contributions with regard to voting, sharing in profits and losses and participation in capital on dissolution;

(ii) participation in management of the organisation and rights to be appointed or elected as and appoint or elect administrators;

(iii) subject to the rights of third parties being protected, the manner in which the contributions of the members may be withdrawn or otherwise paid back to them."

97. Article 56 of the Second Schedule shall be amended as follows:

Amendment of article 56 of the Second Schedule.

(a) sub-article (3) thereof shall be substituted by the following:

"(3) In the case of public benefit organisations established as associations, subject to the provisions of the statute, any assets on termination shall be donated or distributed by the administrators on behalf of the association to -

(a) first to the founder, if the founder is another public benefit organisation;

(b) if paragraph (a) does not apply, to another public benefit organisation with the same or similar purposes and features, or in default to any other organisation with a social or public purpose:

Provided that, when the purposes are the advancement of religion or the carrying out of a religious vocation or there are indications in the original endowment that this was intended for a religious organisation, to any pious foundation or ecclesiastical entity, and in such case of the appropriate denomination;

C 1692

(c) to the Government of Malta if the purposes are general public benefit or utility when the Government has granted the association a substantial part of its assets,

as the administrators or the members in general meeting may determine in accordance with the provisions of article 52(3)(b).";

(b) sub-article (4) thereof shall be re-numbered as sub-article (5); and

(c) immediately after sub-article (3) thereof, there shall be added the following new sub-article:

"(4) In the case of associations established for a combination of purposes, being partly private benefit and partly social or public benefit, the assets shall be paid out to the members in such manner that the assets reflecting the private benefit owned by the members shall be paid to the members and the remaining assets shall be disposed of in accordance with the provisions of sub-article (3), as may be approved by the members in accordance with article 52(3)(b), and in case of disagreement as may be directed by the Court."

Amendment of article 58 of the Second Schedule.

98. Sub-article (1) of article 58 of the Second Schedule shall be substituted by the following:

"(1) Without prejudice to any special law regulating the form or purpose of an organisation, an organisation may be wound up voluntarily or by order of the Court."

Amendment of Article 59 of the Second Schedule.

99. Article 59 of the Second Schedule shall be amended as follows:

(a) in sub-article (1) thereof, for the words "in case of a foundation." there shall be substituted the words "in case of a foundation:", and immediately thereafter there shall be added the following new proviso:

"Provided that the local representative may also wind up the organisation if he has not received any form of notification from any of the administrators for a period which exceeds twenty-four (24) consecutive months.";

(b) in sub-article (3) thereof, immediately after the words "its assets exceed its liabilities" there shall be added the

words "or its assets have been exhausted"; and

(c) immediately after sub-article (3) thereof, there shall be added the following new sub-article:

"(4) Once the scheme of distribution is approved, the administrators shall proceed to pay out the remaining assets of the organisation in accordance with such scheme of distribution."

100. Article 60 of the Second Schedule shall be amended as follows:

Amendment of article 60 of the Second Schedule.

(a) in sub-article (1) thereof, for the words "purpose organisation" there shall be substituted the words "public benefit organisation"; and

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

"(2) In case of dissolution and winding up of an organisation established for a private benefit and in the absence of an indication in the statute of how assets are to be distributed in case of winding up, the assets shall be paid to the beneficiaries or members, or, to the founders or promoters or their heirs at law after payment of all expenses, as may be determined by the Court after hearing the proposals of the administrators, the founders or promoters if alive, the beneficiaries or members and any other interested parties, keeping in view the intentions of the founder."

101. Article 62 of the Second Schedule shall be amended as follows:

Amendment of article 62 of the Second Schedule.

(a) in sub-article (3) thereof, for the words "private foundation" there shall be substituted the words "private foundation as defined under article 31B"; and

(b) in sub-article (4) thereof, for the words "purpose foundation" there shall be substituted the words "public benefit organisation".

102. In sub-article (3) of article 64 of the Second Schedule, for the words "private foundation" there shall be substituted the words "private foundation as defined in article 31B".

Amendment of article 64 of the Second Schedule.

C 1694

Amendment of article 65 of the Second Schedule.

103. In article 65 of the Second Schedule, immediately after the words "struck off the Register" there shall be added the words "of Legal Persons".

Amendment of article 66 of the Second Schedule.

104. Article 66 of the Second Schedule shall be amended as follows:

(a) for the words "the Court shall" there shall be substituted the words "the Court shall, on the demand of any founder, the last serving administrators or any member," and

(b) for the words "distributing or liquidating such assets or liabilities." there shall be substituted the words "paying out or liquidating such assets or liabilities.".

Addition of new articles to the Second Schedule.

105. Immediately after article 67 of the Second Schedule there shall be added the following new articles:

"Defunct organisations.

68. (1) Where the Registrar has reasonable cause to believe that a registered organisation is not in operation, he may send a letter by post, to enquire whether the organisation is in operation.

(2) In the event that the Registrar is notified with the letter referred to in sub-article (1), to the effect that the organisation is not in operation, or does not within three months of sending such letter receive such notification from any administrator or any member in the case of an association, he shall publish a notice in the Gazette and in a daily newspaper that, at the expiration of three months from the date of the last publication of the said notice, the organisation, unless the Registrar is satisfied that cause has been shown to the contrary and there are sufficient grounds that the organisation is not defunct, shall be struck off the Register, and the remaining assets of the organisation shall devolve in accordance with the provisions of the Statute or in the absence of such statute, in accordance to the provisions of this Schedule as would occur on dissolution.

(3) If any creditor or any other interested party who feels aggrieved by the fact that the name of the organisation has been struck off the Register by virtue of this article, the Court, on an application made by such creditor or any other interested party before the expiration of five years from the publication of the notice of the striking off provided for in sub-article (2) may, if satisfied that there are sufficient grounds to revoke the Registrar's order to strike off the organisation, order that such name be restored to the Register, and upon an official copy of the order being delivered by the Registrar of the Courts to the Registrar for registration, the organisation shall be deemed to have continued in existence as if its name had not been struck off.

(4) Subject to the provisions of sub-article (3), the Court may give such directions and make such provisions it deems appropriate for placing the organisation and all other interested parties in the same position as they were before the name of the organisation had been struck off. The Registrar shall forthwith proceed to publish a notice in the Gazette and in a daily newspaper circulating wholly or mainly in Malta that the name of the organisation has been restored to the Register.

(5) Notwithstanding that the name of the organisation has been struck off the Register in terms of the preceding provisions of this article, the liability, if any, of every promoter, founder, administrator, member, of the organisation shall continue and may be enforced as if the name of the organisation had not been struck off the Register.

C 1696

Transitory provision.

69. Amendments to this Schedule introduced by means of the Voluntary Organisations (Amendment) Act, 2018, requiring statements to be made in the constitutive instrument or the statute of an organisation which were not required prior to the coming into force of the afore-mentioned Act, shall not be binding on those organisations which already existed prior to the coming into force of the Act. Such organisations are required to introduce such statements in their constitutive instrument or statute in conformity with the provisions of the Voluntary Organisations Act within five (5) years of the coming into force of the Voluntary Organisations (Amendment) Act, 2018."

Cap. 492.

Part III - Amendments to the Public Collections Act

Amendments to the Public Collections Act. Cap. 279.

106. This Part amends and shall be read and construed as one with the Public Collections Act, hereinafter in this Part referred to as "the principal Act".

Amendment of article 2 of the principal Act.

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

(a) sub-article (1) thereof shall be amended as follows:

(i) before the definition "charitable purpose" there shall be added the following new definition:

" "benevolent" shall mean a social purpose or other public benefit or public purpose;"

(ii) the definition "charitable purpose" shall be substituted by the following new definition:

" "charitable purpose" shall mean a social purpose or other public benefit or public purpose;"

(iii) the definition "collection" shall be amended as follows:

A. immediately after the words "or by means of any advertisement," thereof, there shall be added the words "or by the use of technological means, including the internet or any social media channel on any platform of any type,"

B. paragraph (b) thereof shall be substituted by the following:

"(b) collections made in a church or in a place of public worship in the ordinary course for the upkeep, embellishment or improvement thereof or for services held therein, and collections for the purposes declared in writing to be benevolent by the competent local or international religious authorities;"

C. immediately after paragraph (d) thereof, there shall be added the following new paragraph:

Cap. 492. "(e) collections made by any organisation enrolled with the Commissioner for Voluntary Organisations in terms of the Voluntary Organisations Act for as long as it remains so enrolled;"

(iv) in the definition "public place", immediately after the words "or has access" there shall be added the words "including by the use of technological means, such as the internet or any social media channel on any platform of any type";

(b) sub-article (2) thereof shall be re-numbered as sub-article (3);

(c) immediately after sub-article (1) thereof, there shall be added the following new sub-article:

Cap. 492. "(2) For the purposes of this Act, the terms "social purpose", "public benefit" or "public purpose" shall have the meaning assigned to them in article 2 of the Voluntary Organisations Act."; and

(d) immediately after sub-article (3) thereof, as re-numbered, there shall be added the following new sub-article:

"(4) For the purposes of this Act, when a purpose is declared to be benevolent, a copy of such declaration may be requested by any person and the person responsible for such collection shall produce the same within a

C 1698

reasonable time. In case of default the Commissioner of Police may demand the same from the competent religious authority which shall deliver the same within ten working days and the Commissioner shall release the same to the person requesting it."

Amendment of article 5 of the principal Act.

108. Sub-articles (2) and (3) of article 5 of the principal Act shall be substituted by the following:

"(2) A licence shall only be granted for a social purpose or other public benefit or public purpose, or for a purpose approved by the Minister, and shall only apply to a social purpose or other public benefit or public purpose or such purpose approved by the Minister. No licence shall be granted for a general purpose or for more than one purpose. The application for a licence must be signed by at least three individuals.

(3) A licence shall only be granted for specific events or for a stated period not exceeding twelve months and shall lapse on the taking place of the specified event or the lapse of the stated term."

Addition of new article to the principal Act.

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

"Additional rules for certain types of collections.

5A. Any collection made by -

(a) any person, not being an enrolled voluntary organisation, for any social or public benefit purposes;

(b) any non-enrolled voluntary organisation for its own purposes; or

(c) any of those referred to in paragraphs (a) or (b) for the benefit of another voluntary organisation, whether enrolled or not,

shall, in addition to this Act, also be subject to any guidelines issued by the Commissioner for Voluntary Organisations depending on the type of collection made, including electronic or internet based appeals and crowd funding."

Amendment of the First Schedule to the principal Act.

110. Article 3 of the First Schedule to the principal Act shall be substituted by the following:

"3. Purpose of the collection or specific event".

**Part IV - Amendments to the Notarial Profession and
Notarial Archives Act**

111. This Part amends and shall be read and construed as one with the Notarial Profession and Notarial Archives Act, hereinafter in this Part referred to as "the principal Act".

Amendments to the Notarial Profession and Notarial Archives Act. Cap. 55.

112. Article 50 of the principal Act shall be amended as follows:

Amendment of article 50 of the principal Act.

(a) sub-article (1) thereof shall be amended as follows:

(i) in paragraph (g) thereof, immediately after the words "on immovable property" there shall be added the words "and any act notifying the termination thereof";

(ii) paragraph (m) thereof shall be substituted by the following:

Cap. 16. "(m) subject to the provisions of sub-article (9), any act whereby a foundation is established or terminated and any act whereby a new endowment, other than an endowment under a scheme which is registered under the Second Schedule of the Civil Code, is granted to a foundation;"

(b) sub-article (9) thereof shall be substituted by the following:

"(9) In the case of a deed creating a foundation, the note shall contain the date and nature of the act, the name of the foundation and the designation of the founder in accordance with article 28(1)(c) and in the case of a new endowment, the date and nature of the act, the name of the recipient foundation and the designation of the grantor in accordance with article 28(1)(c):

C 1700

Provided that, in the case of a private foundation, the Notary shall have no obligation and shall not register such notes if the founder or grantor has exempted him from so doing in the relevant deed and the administrator is a person who is authorised or not required to be authorised to act as an administrator for a private foundation in terms of article 43 of the Trusts and Trustees Act."; and

Cap. 331.

(c) immediately after sub-article (9) thereof, as substituted, there shall be added the following new sub-articles:

"(10) When a foundation which is registered with the Registrar is terminated, the administrators shall enrol in the records of a Notary the relative form presented to the Registrar for Legal Persons, and the note delivered to the Director of Public Registry by the Notary shall only contain the date and nature of the act and a reference to the original note delivered to the Director of Public Registry on the establishment of such foundation:

Provided that when the Notary who published the deed establishing the foundation was exempted by the founder from delivering the note regarding such establishment to the Director of Public Registry, the administrators and the Notary shall not be bound as aforesaid.

(11) In this article "private foundation" shall mean a foundation as defined in article 31B of the Second Schedule of the Civil Code."

Cap. 16.

113. Immediately after article 51 of the principal Act, there shall be added the following new article:

"Note to be delivered in relation to cells of organisations
Cap. 16.

51A. (1) When there is a transaction relating to a cell of an organisation under article 20A or under article 20B of the Second Schedule to the Civil Code which results in a change in legal ownership of any immovable property or real rights over such property, such event shall be recorded in a public deed before a Notary Public executed by the administrators or their delegates of -

(a) the transferring organisation and, if different, those of recipient organisation under the said article 20A; or

(b) the organisation of which the cell formed part and those of the new organisation under the said article 20B,

as the case may be, and the Notary shall, within fifteen (15) days from the date of the act, deliver to the Director of the Public Registry a note in accordance with article 50.

(2) (a) Where a beneficial owner of immovable property which is held by a private foundation, transfers or otherwise disposes of the beneficial ownership of such property inter vivos to a third party, such a transaction shall be deemed to constitute a transfer of shares for the purposes of the Duty on Documents and Transfer Act, and for the purposes of article 5(1) of the Income Tax Act.

Cap. 364.

Cap. 123.

(b) Where a change in the ownership of immovable property does not involve a change in the beneficial ownership thereof, such change shall not be deemed to constitute a transfer of shares for the purposes of the Duty on Documents and Transfers Act, and for the purposes of article 5(1) of the Income Tax Act but shall nevertheless be recorded as required in this article.

Cap. 364.

Cap. 123.

(c) For the purposes of article 49 of the Duty on Documents and Transfers Act, "transferor" and "transferee" in a transfer of immovable property inter vivos shall be deemed to include a private foundation acting for the benefit of either the transferor or the transferee of the beneficial ownership of such immovable property, or of both such transferor and transferee.

Cap. 364.

(3) In this article:

"beneficial owner" means the person beneficially entitled to the shares under a private foundation;

"private foundation" shall mean a foundation as defined in article 31B of the Second Schedule of the Civil Code."

Cap. 16.

114. Article 68B of the principal Act shall be substituted by the following:

Substitution of article 68B of the principal Act.

C 1702

"Accessibility of notarial deeds creating purpose foundations.

68B.(1) Notarial deeds creating purpose foundations shall be accessible to any person requesting to have access thereto even if the purpose is not exclusively social or public benefit.

(2) The accessibility of notarial deeds creating private foundations shall be governed by the provisions of article 31B of the Second Schedule to the Civil Code."

Cap. 16.

Part V - Amendment to the Arbitration Act

Amendment to the Arbitration Act. Cap. 387.

115. This Part amends and shall be read and construed as one with the Arbitration Act, hereinafter in this Part referred to as "the principal Act".

Addition of new article to the principal Act.

116. Immediately after article 15A of the principal Act, there shall be added the following new article:

"Arbitration clause in foundation statutes.

15B.(1) It shall be lawful for a founder to insert an arbitration clause in a foundation statute when creating the foundation or by subsequent amendment if he has the power to amend the statute. In such event such clause shall be binding on all administrators, protectors, members of a supervisory council, and beneficiaries, if any, under the foundation in relation to all matters arising under or in relation to the foundation. It shall not be lawful for the administrators or other persons having the power to amend the statute of a foundation to insert an arbitration clause by amending its statute.

(2) The provisions of sub-article (1) shall not prejudice the right of a party to seek directions from the Civil Court (Voluntary Jurisdiction Section) in terms of the Second Schedule to the Civil Code and the right of the party shall not be limited by any such clause. Notwithstanding the provisions of this Act, the said Court shall not be bound to stay proceedings in terms of article 15(3) or otherwise, but shall enjoy a discretion to do so until such time as it determines that the matter is of a contentious nature, in which case it shall stay the proceedings and shall refer the parties to arbitration."

Cap. 16.

Part VI - Amendments to the Companies Act

117. This Part amends and shall be read and construed as one with the Companies Act, hereinafter in this Part referred to as "the principal Act".

Amendments to the Companies Act. Cap. 386.

118. Sub-article (3) of article 30 of the principal Act shall be deleted.

Amendment of article 30 of the principal Act.

119. Immediately after article 127 of the principal Act there shall be added the following new article:

Addition of new article to the principal Act.

"Shares in companies held by private foundations, including those with segregated cells.

127A. (1) Except as provided for in this article, the provisions of the preceding article shall not apply to foundations and -

(a) a private foundation as an organisation with legal personality; or

(b) when the foundation is a multi-cell foundation, a segregated cell in a private foundation which constitutes a distinct patrimony administered by the private foundation,

shall be considered to be the holder of any shares registered in the name of the private foundation or in the name of the foundation with reference to a cell, and beneficial owners shall not be taken into account and shall be disregarded for determining the status of the company for the purpose of Chapter XII of this Title.

Cap. 364.
Cap. 123.

(2) (a) Where a beneficial owner of shares in a company, which are held by a private foundation, transfers or otherwise disposes of the beneficial ownership of such shares inter vivos to a third party, such a transaction shall be deemed to constitute a transfer of shares for the purposes of the Duty on Documents and Transfer Act, and for the purposes of article 5(1) of the Income Tax Act.

Cap. 364.
Cap. 123.

(b) Where a change in the registered holder of shares in a company does not involve a change in the beneficial ownership thereof, such change shall not be deemed to constitute a transfer of shares for the purposes of the Duty on Documents and Transfers Act, and for the purposes of article 5(1) of the Income Tax Act, but shall nevertheless be noted in the register of members.

C 1704

Cap. 364. (c) For the purposes of article 49 of the Duty on Documents and Transfers Act, "transferor" and "transferee" in a transfer of shares *inter vivos* shall be deemed to include a private foundation acting for the benefit of either the transferor or the transferee of the beneficial ownership of such shares, or of both such transferor and transferee.

Cap. 16. (3) When a transaction takes place relating to a cell of an organisation under article 20A or under article 20B of the Second Schedule to the Civil Code and the relevant private foundation, or the foundation with reference to a cell, is the registered holder of any shares in a company, any such transaction shall be treated as a change in the registered holder of the shares in a company without any change in the beneficial owner of the shares. As such transactions result in a change in legal ownership of any shares in a company, the administrators, or their delegates, of -

(a) the transferring organisation and, if different, those of recipient organisation under the said article 20A; or

(b) the organisation of which the cell formed part and those of the new organisation under the said article 20B,

as the case may be, shall, within fifteen (15) days from the date of the act, deliver to the Registrar a form notifying him of the transfer of such shares from one foundation to the other, or from the foundation to a new organisation, as the case may be.

(4) The same principles above stated shall apply when the transferor and, or transferee are involved in a partnership *en commandite* the capital of which is divided into shares.

(5) In this article:

"beneficial owner" means the person beneficially entitled to the shares under a private foundation;

"private foundation" shall mean a foundation as defined in article 31B of the Second Schedule of the Civil Code."

Cap. 16.

120. Article 384 of the principal Act shall be substituted by the following:

Substitution of article 384 of the principal Act.

"Application of articles 385 to 389.

384. Articles 385 to 389 shall apply to all companies, commercial partnerships, as well as other legal organisations enjoying legal personality which have characteristics similar to companies and commercial partnerships constituted or incorporated outside Malta (hereinafter in this Chapter and in Chapter III of this Part referred to as "oversea companies") which establish a branch or place of business within Malta."

Part VII - Repeal of Regulations

121. The Amalgamation of Organisations Regulations are hereby repealed.

Repeal. S.L. 16.09.

Objects and Reasons

The object of this Bill is to address the practical difficulties which have arisen in the interpretation and application of the Voluntary Organisations Act, the Second Schedule to the Civil Code and ancillary legislation in the light of practice since their coming into force in 2007. The Bill achieves many subsidiary goals of reflecting new developments in the area, including developments on the prevention of money laundering and the financing of terrorism, new proposals on religious and political organisations, a new focus on the classification of organisations and clarifications on terminology used. These amendments also reflect the principles adopted in more recent laws and judgments of the Courts.

