I assent.

(L.S.) **MYRIAM SPITERI DEBONO**
President

20th November, 2026

ACT No. XXII of 2026

AN ACT to amend the Companies Act, Cap. 386.

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, scope and commencement. Cap. 386.

1. (1) The short title of this Act is the Companies (Amendment) Act, 2026 and this Act shall be read and construed as one with the Companies Act, hereinafter referred to as the "principal Act".

(2) The scope of this Act is partially to implement the relevant provisions of Regulation (EU) 2022/2560 of the European Parliament and of the Council of 14 December 2022 on foreign subsidies distorting the internal market, Directive (EU) 2024/2810 of the European Parliament and of the Council of 23 October 2024 on multiple-vote share structures in companies that seek admission to trading of their shares on a multilateral trading facility, and Directive (EU) 2026/470 of the European Parliament and of the Council of 24 February 2026 amending Directives 2006/43/EC, 2013/34/EU, (EU) 2022/2464 and (EU) 2024/1760 as regards certain corporate sustainability reporting requirements and certain corporate sustainability due diligence requirements.

(3) This Act shall come into force on such date as the Minister

responsible for the registration of commercial partnerships may, by notice in the Gazette establish, and different dates may be so established for different provisions and different purposes of this Act.

Amendment of article 2 of the principal Act.

2. Sub-article (1) of article 2 of the principal Act shall be amended as follows:

(a) immediately after the definition "body corporate" there shall be added the following new definition:

" "book-entry form" means the recording of ownership and transfers of a security by way of entries on an electronic record maintained:

(i) by a central securities depository following immobilisation or by direct issuance in dematerialised form; or

(ii) on a distributed ledger;";

(b) the definition "central securities depository" shall be substituted by the following new definition:

" "central securities depository" shall have the same meaning as assigned to it in Article 2, point (1) of Regulation (EU) No. 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No. 236/2012;";

(c) the definition "dematerialised form" shall be substituted by the following new definition:

" "dematerialised form" means the fact that securities issued by a company exist only as book-entry records in a book-entry system maintained by a central securities depository;";

(d) immediately after the definition "directors' report" there shall be added the following new definition:

" "distributed ledger" shall have the same meaning as assigned to it in Article 3(1)(2) of Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No. 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937;";

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

" "eIDAS Regulation" means Regulation (EU) No. 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transaction in the internal market and repealing Directive 1999/93/EC;";

(f) the definition "group company" shall be substituted by the following new definition:

" "group company", in relation to any company, means any body corporate which is that company's subsidiary or parent company, and the term "group" shall be construed accordingly, as well as meaning a parent undertaking and all its subsidiary undertakings;";

(g) immediately after the definition "individual accounts" there shall be added the following new definition:

" "insolvency practitioner" means a person authorised to act as an insolvency practitioner in accordance with the Insolvency Practitioners Act;";

Cap. 632.

(h) immediately after the definition "money market instruments" there shall be added the following new definitions:

" "multilateral trading facility" or "MTF" shall have the same meaning as assigned to it in Article 2(1)(14) of Regulation (EU) 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No. 648/2012;

"multiple-vote share structure" shall have the same meaning as assigned to it in Article 2(3) of Directive (EU) 2024/2810 of the European Parliament and of the Council of 23 October 2024 on multiple-vote share structures in companies that seek admission to trading of their shares on a multilateral trading facility;";

(i) the definition "recognised jurisdiction" shall be deleted;

(j) immediately after the definition "system of interconnection of registers" there shall be added the following new definition:

" "SME growth market" shall have the same meaning as assigned to it in Article 2(1)(8a) of Regulation (EU) 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No. 648/2012;";

(k) immediately after the definition " "small and medium-sized enterprises" or "SMEs" " there shall be added the following new definition:

" "trading venue" shall have the same meaning as assigned to it in Article 2(1)(16) of Regulation (EU) 600/ 2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No. 648/2012;".

Amendment of article 3A of the principal Act.

3. Immediately after paragraph (x) of article 3A of the principal Act there shall be added the following new paragraph:

"(y) Regulation (EU) 2022/2560 of the European Parliament and of the Council of 14 December 2022 on foreign subsidies distorting the internal market.".

Substitution of article 68 of the principal Act.

4. Article 68 of the principal Act shall be substituted by the following new article:

"The legal constitution of a company.

68. A company shall not be validly constituted under this Act unless a memorandum of association is entered into and subscribed by one (1) or more persons, and a certificate of registration is issued in respect thereof. Companies formed and registered under the Ordinance shall comply with this Act in accordance with the provisions of article 428.".

Amendment of article 69 of the principal Act.

5. Immediately after sub-article (1) of article 69 of the principal Act there shall be added the following new sub-articles:

"(1a) Without prejudice to the provisions of sub-articles (1), (2), (3) and (4), at least one (1) of the following requirements shall be observed upon incorporation and throughout the existence of a company:

(a) at least one (1) director shall be a person resident in a Member State;

(b) the company secretary is a company service provider licensed by the Malta Financial Services Authority in accordance with the Company Service Providers Act;

Cap. 529.

(c) a Maltese warranted auditor is appointed to audit the financial statements of the company, which audited financial statements shall be registered with the Registrar;

(d) the company is incorporated and serviced by a company service provider licensed by the Malta Financial Services Authority in accordance with the Company Service Providers Act;

Cap. 529.

(e) twenty-five per cent (25%) or more of the shares in the company are held on a fiduciary or mandate basis by a mandatary authorised by the Malta Financial Services Authority in accordance with the Trusts and Trustees Act;

Cap. 331.

(f) the company holds a bank account with a credit, payment or financial institution licensed by the Malta Financial Services Authority;

(g) at least half of the beneficial owners are resident in Malta at all times;

(h) the company holds a licence that is issued by a regulatory authority in Malta in accordance with the Prevention of Money Laundering and Funding of Terrorism Regulations and, or Malta Enterprise as established by the Malta Enterprise Act; or

S.L. 373.01.

Cap. 463.

(i) the company is a subsidiary or holding company of another company that satisfies the conditions contained in paragraphs (a) to (h).

(1b) Any company which was already in existence on the date of the coming into force of sub-article (1a) and which on such date does not comply with any of the requirements stipulated in in paragraphs (a) to (i) of the said sub-article, shall be allowed a period of six (6) months from the date of the coming into force of this provision to regularise its position.

(1c) Where upon the expiration of the period referred to in sub-article (1b) a company has failed to comply with at least one (1) of the requirements established in sub-article (1a), such company shall not be deemed to be in operation, and the Registrar shall proceed to strike the name of the company off the register in accordance with the provisions of article 325.".

6. Article 70 of the principal Act shall be amended as follows:

Amendment of article 70 of the principal Act.

(a) in sub-article (2) thereof the words "or its abbreviation "ltd." " shall be substituted by the words "or its abbreviation "ltd" ";

(b) in paragraph (a) of sub-article (6) thereof the words "or "limited" or "ltd." " shall be substituted by the words "or "limited" or "ltd" ".

Amendment of article 72 of the principal Act.

7. In sub-article (1) of article 72 of the principal Act the words "not less than one thousand and one hundred and sixty-four euro and sixty-nine cents (1,164,69) subscribed by at least two persons in the case of a private company." shall be substituted by the words "not less than one thousand and one hundred and sixty-four euro and sixty-nine cents (€1,164.69) subscribed by one (1) or more persons in the case of a private company.".

Amendment of article 73 of the principal Act.

8. The proviso to sub-article (4) of article 73 of the principal Act shall be substituted by the following new proviso:

"Provided that when the said consideration does not exceed the equivalent monetary value of fifty thousand euro (€50,000), a director's declaration shall suffice and such report shall not be required. The said director's declaration shall be delivered to the Registrar for registration and the provisions of sub-article (6) shall apply only in respect of companies that have already been registered and shall not be invoked prior to registration.".

Amendment of article 79 of the principal Act.

9. Sub-article (1) of article 79 of the principal Act shall be substituted by the following new sub-article:

"(1) A company may by extraordinary resolution alter or add to its memorandum or articles:

Provided that:

(i) where the alteration consists in a change of the registered office in Malta or of the electronic mail address of the company such alteration may be effected by a resolution of the directors;

(ii) where the alteration consists in the conversion of any shares into stock or in the reconversion of that stock into shares, such alteration may only be made if the shares to be converted are paid up shares and if the stock is reconverted into paid up shares, but if the company is so authorised by its memorandum or articles, it may by ordinary resolution convert any paid up shares into stock and reconvert that stock into paid up shares of any denomination; and

(iii) where a company whose shares are not already admitted to trading on a regulated market or an MTF intends to alter its memorandum or articles to adopt or modify a multiple-vote share structure with a view to seeking admission to trading of its shares on an MTF, any such alteration shall be subject to a separate vote and extraordinary resolution of each class of shares whose rights are affected by the adoption or modification of the multiple-vote share structure.".

Addition of a new article to the principal Act.

10. Immediately after article 82 of the principal Act there shall be added the following new article:

"Validity of electronic documents and signatures.

82A. (1) Where any provision of this Act or any regulations made thereunder require that a document, record, certificate, or other information be created, retained or submitted in physical or paper form, such requirement shall be deemed satisfied if the information is created, retained or submitted in electronic form.

(2) Where any provision of this Act requires a signature for documents, forms, returns or notifications delivered to the Registrar for registration, such requirement is met in relation to an electronic document only if it is signed by means of a qualified electronic signature.

(3) For the purposes of sub-article (2), a signature shall only be valid if it complies with the requirements for a qualified electronic signature as established in the eIDAS Regulation.

(4) A document or record shall not be denied legal effect, validity or enforceability solely on the grounds that it is in electronic form or signed with a digital signature, provided that the requirements of this article are met.".

Amendment of article 83 of the principal Act.

11. In paragraph (b) of sub-article (1) of article 83 of the principal Act the words "authorised profit" shall be substituted by the words "realised profit".

Amendment of article 106 of the principal Act.

12. Article 106 of the principal Act shall be amended as follows:

(a) sub-article (1) thereof shall be amended as follows:

(i) paragraph (e) thereof shall be substituted by the following new paragraph:

"(e) it shall not be possible for a company to acquire any of its own shares except out of the proceeds of a fresh issue of shares made specifically for the purpose, or out of profits available for distribution as established in the company's annual, interim or initial accounts, as applicable, in accordance with article 197;";

(ii) in paragraph (f) thereof the words "paid up shares; and" shall be substituted by the words "paid up shares;";

(iii) in paragraph (g) thereof, the words "ordinary shares." shall be substituted by the words "ordinary shares; and";

(iv) immediately after paragraph (g) thereof, as amended, there shall be added the following new paragraph:

"(h) no acquisitions by a public company of its own shares shall be made when on the closing date of the relevant accounting period, the net assets as established in the company's annual, interim or initial accounts, as applicable, in accordance with article 197 are, or following such distribution, would become, lower than the amount of called up issued share capital plus those reserves which may not be distributed under the provisions of this Act or the company's

memorandum or articles.";

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

"(4) The provisions of sub-article (1)(b) shall furthermore not apply to shares acquired by the company itself or by a person acting in his own name but on the company's behalf for distribution to that company's employees or to the employees of its parent company or of any of its subsidiary undertakings. Such shares shall be distributed within one (1) year of their acquisition. Where shares acquired in accordance with this sub-article are not so distributed by the company within one (1) year of their acquisition, the company shall cancel such shares within six (6) months from the lapse of that one (1) year period by an extraordinary resolution, and sub-articles (6) and (7) shall apply.".

Amendment of article 107 of the principal Act.

13. Paragraph (a) of sub-article (1) of article 107 of the principal Act shall be substituted by the following new paragraph:

"(a) acquired by the company upon the completion of a reduction of the issued share capital made in accordance with article 83; or".

Amendment of article 110 of the principal Act.

14. Article 110 of the principal Act shall be amended as follows:

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

"(2) The provisions of sub-article (1) shall not apply to transactions effected with a view to the acquisition of shares by or for the company's employees or the employees of a group company:

Provided that in the case of a public company, such transactions shall not have the effect of reducing the net assets of the company below the amount specified in article 106(1)(e).";

(b) sub-article (3) thereof shall be substituted by the following new sub-article:

"(3) The provisions of sub-article (1) shall not apply to the provision of financial assistance by an investment company with fixed share capital for the

purpose of or in connection with the acquisition of its fully paid up shares by another undertaking:

Provided that such provision of financial assistance may not have the effect of reducing the net assets of a public company below the amount specified in article 106(1)(e).".

Substitution of article 111 of the principal Act.

15. Article 111 of the principal Act shall be substituted by the following new article:

"Effect of a public company's acceptance of its own shares as security.

111. The acceptance by a public company of its own shares by way of pledge or other form of security shall be treated as an acquisition by the company of such shares for the purposes of articles 106, 107 and 109.".

Amendment of article 118 of the principal Act.

16. Sub-article (3) of article 118 of the principal Act shall be substituted by the following new sub-article:

"(3) The provisions of this article shall not apply to shares or debentures of a company held in book-entry form.".

Amendment of article 119 of the principal Act.

17. Immediately after sub-article (6) of article 119 of the principal Act there shall be added the following new sub-article:

"(7) The provisions of this article shall not apply to shares or debentures of a company held in book-entry form.".

Amendment of article 120 of the principal Act.

18. Article 120 of the principal Act shall be amended as follows:

(a) sub-article (1) thereof shall be substituted by the following new sub-article:

"(1) Every company shall, within two (2) months after the allotment of any of its shares or debentures and within two (2) months after the date on which a transfer of any such shares or debentures is registered with the company, and within one (1) month from the date on which any such shares or debentures transmitted *causa mortis* have been registered in the name of the person entitled to be registered as the holder thereof, as the case may be, deliver the certificates of all shares, debentures or debenture stock allotted, transferred or transmitted *causa mortis* to the persons entitled thereto:

Provided that the foregoing requirement to issue and deliver certificates shall not apply if the memorandum or articles of association of the company or

the conditions of issue of the shares or debentures otherwise provide, or if the shares or debentures are held in book-entry form.";

(b) sub-article (3) thereof shall be substituted by the following new sub-article:

"(3) In the case of a transfer or of a transmission *causa mortis* of shares the company shall within fourteen (14) days after the date on which a transfer of any such shares is registered with the company, and within one (1) month from the date on which any such shares transmitted *causa mortis* have been registered in the name of the person entitled to be registered as the holder thereof, deliver to the Registrar for registration a notice of the transfer or the transmission *causa mortis* which shall contain the names and addresses of the transferees or the names and addresses of the persons entitled to the shares transmitted *causa mortis*, as the case may be:

Provided that the provisions of this sub-article shall not apply in the case of public companies whose shares are admitted to listing or trading on a trading venue or on an equivalent market in a non-Member State or non EEA State.".

19. Article 122 of the principal Act shall be amended as follows:

(a) sub-article (12) thereof shall be substituted by the following new sub-article:

"(12) (a) In the case of a pledge of securities held as book-entries in a central securities depository in Malta, following immobilisation or direct issuance in dematerialised form, the provisions of sub-articles (2) to (11) and (15) shall not apply and instead the following provisions shall apply:

(i) the pledgor or the pledgee shall deliver within fourteen (14) days of the granting of the pledge of a security a certified copy of the signed pledge agreement to the Maltese central securities depository, which shall also be served with a notice of termination of the pledge by the pledgee within fourteen (14) days of the termination of the pledge;

(ii) the company whose securities have been pledged shall also be notified of the pledge or of its termination within the periods stipulated in sub-paragraph (i);

(iii) such pledge of securities shall be effective in relation to a third party only from the date of delivery of the signed pledge agreement to the Maltese central securities depository and any transfer or other assignment made therefrom by the pledgor, whether by onerous or gratuitous title, of the pledged securities shall be null and void; and

(iv) the pledgee shall, in the event of a default under the agreement of pledge and upon giving notice by judicial act to the pledgor, the Maltese central securities depository and the company, have the securities sold through a person duly licensed under the Investment Services Act.

Cap. 370.

(b) In the case of a pledge of securities held as book-entries in a central securities depository outside Malta, following immobilisation or direct issuance in dematerialised form, the provisions of sub-articles (7) to (11) shall not apply and in the event of a default under the agreement of pledge, the pledgee shall, upon notice to the pledgor and the company in accordance with sub-article (6) have the securities sold through a person duly authorised for this purpose.";

(b) sub-article (13) thereof shall be substituted by the following new sub-article:

"(13) In the exercise of his rights under this article, the pledgee shall only sell or appropriate such number of securities as are needed to raise sufficient proceeds to repay the debt due. All remaining securities shall be released to the pledgor.";

(c) sub-article (16) thereof shall be substituted by the following new sub-article:

"(16) Subject to the provisions of sub-articles (6) to (9) and (13), the terms and conditions of the pledge of a debenture warrant shall be determined by agreement between the pledgor and the pledgee. The pledge of a debenture warrant shall be effective in relation to a third party from the date of delivery of the debenture warrant to the pledgee.".

Amendment of article 123 of the principal Act.

20. Sub-article (3A) of article 123 of the principal Act shall be substituted by the following new sub-article:

"(3a) Notwithstanding the provisions of this article, a company may make arrangements for some or all of its shares to be held in book-entry form:

Provided that the company shall remain responsible for ensuring the accuracy and integrity of the records of the relevant central securities depository or distributed ledger relating to its shareholders and shall ensure that it has access to such records at all times.".

Addition of a new article in the principal Act.

21. Immediately after article 123 of the principal Act, as amended, there shall be added the following new article:

"Register of officers' and shareholders' residential addresses.

123A. (1) Every company shall keep a register of the residential addresses of its officers and shareholders and shall enter therein the following particulars:

(a) the names of each of the company's officers and shareholders;

(b) the usual residential address of each of the company's officers and shareholders:

Provided that where an officer's or shareholder's usual residential address is the same as the service address, the register of the residential addresses of the company's officers and shareholders need only contain an entry to that effect:

Provided further that an officer's or shareholder's service address may be stated as the company's registered or principal office, so however that in such case the foregoing proviso shall not apply;

(c) the electronic mail address of each of the company's officers and shareholders.

(2) The directors and the company secretary shall be jointly and severally liable for ensuring that an electronic form, as prescribed by the Registrar, is submitted to the Registrar within fourteen (14) days of any change occurring in the residential addresses of the company's officers or shareholders. Such submission shall include an updated copy of the residential addresses register reflecting the said changes:

Provided that the Registrar shall store and keep the records as contained in the register of residential addresses of the company's officers and shareholders and that such register shall only be used for regulatory purposes and shall not be open to public inspection.

(3) If default is made in complying with the provisions of sub-article (2), every officer of the company who is in default shall be liable to a penalty, unless such default is remedied within thirty (30) days from receipt of a notice of default sent by the Registrar, and to a further penalty for every day during which the default subsists:

Provided that the Registrar shall also refuse to register the change in officers or shareholders if the information required by this article has not been submitted, or if he is not satisfied that the company has provided accurate and up-to-date information concerning its officers and shareholders in accordance with the provisions of this Act.".

Amendment of article 124 of the principal Act.

22. Sub-article (3A) of article 124 of the principal Act shall be substituted by the following new sub-article:

"(3a) Notwithstanding the provisions of this article, a company may make arrangements for some or all of its debentures to be held in book-entry form:

Provided that the company shall remain responsible to ensure the accuracy and integrity of the records of the relevant central securities depository or distributed ledger relating to its debenture holders and shall ensure that it has access to such records at all times.".

Deletion of article 126A of the principal Act.

23. Article 126A of the principal Act shall be deleted.

Amendment of article 127 of the principal Act.

24. Sub-article (6) of article 127 of the principal Act shall be substituted by the following new sub-article:

"(6) Save as otherwise provided in this Act, this article shall not be deemed to imply that a company may have less than two (2) members:

Provided that a private company may have a single (1) member.".

Amendment of article 131 of the principal Act.

25. Paragraph (b) of article 131 of the principal Act shall be substituted by the following new paragraph:

"(b) two (2) members personally present shall be a quorum, save that where a private company has a single (1) member, the provisions of article 212(4) shall apply.".

Addition of a new article to the principal Act.

26. Immediately after article 135 of the principal Act there shall be added the following new article:

"Resolutions in writing for public companies.

135A. Subject to the provisions of this Act, in the case of a public company, a resolution in writing signed by all members for the time being entitled to receive notice of, and to attend and vote at the general meetings shall be as valid and effective as if it had been passed at a general meeting of the company duly convened and held, and the provisions of article 155 shall not apply. Annual general meetings of the company may be held in accordance with this article:

Provided that a resolution in writing shall be void if it purports to remove a director or an auditor before the expiration of his term of office, or otherwise purports to deprive the auditors of the right to attend and be heard at any general meeting of the company on any part of the business of the meeting which concerns them as auditors.".

Amendment of article 159 of the principal Act.

27. Sub-article (3) of article 159 of the principal Act shall be substituted by the following new sub-article:

"(3) The company or the auditor shall, within fourteen (14) days from the deposit of a notice of resignation, give notice thereof to the Registrar for registration. If default is made in complying with this sub-article, every officer of the company who is in default shall be liable to a penalty and, for every day during which the default subsists, to a further penalty.".

Amendment of article 168 of the principal Act.

28. Sub-article (4) of article 168 of the principal Act shall be substituted by the following new sub-article:

"(4) The Minister may by notice in the Gazette prescribe regulations in relation to the annual accounts of investment companies with fixed share capital.".

Amendment of article 184 of the principal Act.

29. Article 184 of the principal Act shall be substituted by the

following new article:

"Annual return.

184. (1) Every company shall, upon each anniversary of its registration, submit a return in the form stipulated in the Seventh Schedule containing the information specified in the said Schedule and made up to the date of such anniversary.

(2) The duly completed annual return shall be signed by at least one director of the company, the company secretary or an individual specifically authorised for such purpose by the memorandum, by a resolution of the board of directors, or by an extraordinary resolution of the company and shall be forwarded by electronic means to the Registrar for registration within forty-two (42) days after the date to which it is made up.

(3) If default is made in complying with the provisions of this article, every officer of the company who is in default shall be liable to a penalty and, for every day during which the default subsists, to a further penalty.".

Amendment of article 185 of the principal Act.

30. Sub-article (9) of article 185 of the principal Act shall be substituted by the following new sub-article:

"(9) When calculating the thresholds mentioned in this article, undertakings shall include income from other sources for which "net turnover" is not relevant. The net turnover referred to in this article means the amounts derived from the sale of products and the provision of services after deducting sales rebates and value added tax and other taxes directly linked to turnover.".

Amendment of article 192 of the principal Act.

31. Paragraph (c) of sub-article (2) of article 192 of the principal Act shall be substituted by the following new paragraph:

"(c) the reduction of the issued share capital by extinguishing or reducing the liability of any member on any of the company's shares in respect of unpaid issued share capital, or by paying off paid up issued share capital, or pursuant to the reduction of an undistributable reserve carried out in accordance with sub-articles (1) to (3) of article 83, where such reduction was not carried out for the purposes of creating a distributable reserve; and".

Amendment of article 194 of the principal Act.

32. Sub-article (2) of article 194 of the principal Act shall be substituted by the following new sub-article:

"(2) In sub-article (1)(a) "liabilities" includes any provision recognised in accordance with generally accepted

accounting principles and practice applicable under this Act and any subsidiary legislation made thereunder.".

Substitution of article 202 of the principal Act.

33. Article 202 of the principal Act shall be substituted by the following new article:

"202. For the purposes of articles 192 and 193, any provision of any kind, or any amount recognised as an expense, loss, impairment, depreciation, amortisation, expected loss, expected credit loss, write-down or other valuation adjustment to reflect decreases in asset values, recognised in accordance with generally accepted accounting principles and practice, shall be treated as a realised loss.".

Substitution of article 203 of the principal Act.

34. Article 203 of the principal Act shall be substituted by the following new article:

"203. Where a company makes a distribution consisting of, or including, or treated as arising in consequence of the sale, transfer or other disposition of a non-cash asset, and any part of the amount at which that asset is stated in the accounts relevant for the purposes of the distribution in accordance with articles 197 to 202 represents an unrealised profit, that profit shall be treated as a realised profit:

(a) for the purpose of determining the lawfulness of the distribution in accordance with this Act, whether before or after the distribution takes place; and

(b) for the purpose of the application, in relation to anything done with a view to or in connection with the making of the distribution, of any provision of this Act or any other applicable legislation, under which only realised profits are to be included in or transferred to the profit and loss account.".

Addition of a new article to the principal Act.

35. Immediately after article 203 of the principal Act there shall be added the following new article:

"Distributions in kind and determination of amount.

203A. (1) This article applies for the purpose of determining the amount of a distribution consisting of or including, or treated as arising in consequence of the sale, transfer or other disposition by a company of a non-cash asset, where if the amount of the distribution were to be determined in accordance with this article, the company may carry out the distribution without breaching this Act.

(2) The amount of the distribution, or the relevant part of it, is taken to be:

(a) in the case where the amount or value of the consideration received by the company for the transfer or other disposition of the non-cash asset is not less than the book value of the asset, zero; and

(b) in any other case, the amount by which the book value of the asset exceeds the amount or value of any consideration received by the company for the transfer or other disposition of the said asset.

(3) Where the amount or value of any consideration for the sale, transfer or other disposition exceeds the book value of the asset, the company's profits available for distribution are treated as increased by the amount, if any, by which the amount or value of any consideration for the sale, transfer or other disposition exceeds the book value of the asset.

(4) In this article "book value", in relation to an asset, means the amount at which the asset is stated in the relevant accounts or, where the asset is not so stated at any amount, zero.

(5) The provisions of articles 197 to 202 shall have effect subject to the provisions of this article.".

Substitution of article 206 of the principal Act.

36. Article 206 of the principal Act shall be substituted by the following new article:

"Capitalisation of undistributable reservers.

206. (1) Notwithstanding the provisions of articles 192 and 193, a company may apply amounts standing to the credit of any undistributable reserve, including the share premium account and the capital redemption reserve, in paying up in full unissued shares of the company to be allotted to members of the company as fully paid bonus shares.

(2) An application under sub-article (1) shall not constitute a "distribution" for the purposes of this Act.".

Amendment of article 211 of the principal Act

37. Sub-article (2) of article 211 of the principal Act shall be substituted by the following new sub-article:

"(2) The conditions required by sub-article (1) are:

(a) that the number of persons holding debentures of the company is not more than fifty (50); and

(b) neither the company nor any of its directors is party to an arrangement whereby the policy of the company is capable of being determined by persons other than the directors, members or debenture holders thereof.".

Substitution of article 212 of the principal Act.

38. Article 212 of the principal Act shall be substituted by the following new article:

"212. (1) Notwithstanding any other provision of this Act, a private company may have a single (1) member.

(2) The provisions of article 214(2)(b)(i) shall not apply to companies falling within the terms of this article.

(3) A private company may have a single (1) member upon registration or it may become a single (1) member company through the acquisition of all its shares by one (1) person.

(4) The single (1) member shall exercise the powers of the general meeting of the company and the decisions taken by that member in this capacity shall be recorded as minutes of the general meeting and the provisions of this Act regulating general meetings shall apply. The decisions referred to in this sub-article shall be deemed to be resolutions of the company for the purposes of the application of the provisions of this Act:

Provided that the provisions of this sub-article shall not prejudice the rights of the auditors of the company in accordance with the provisions of article 155, nor the rights granted under the articles of the company to persons entitled to receive notice of, attend and be heard at general meetings of the company.

(5) The single (1) member shall record in writing all agreements between him and the company represented by him in a minute book kept by the company specifically for the purpose.

(6) If the provisions of sub-article (5) are not complied with, the single member shall be liable to a penalty.".

Amendment of article 214 of the principal Act.

39. Paragraph (b) of sub-article (2) of article 214 of the principal Act shall be amended as follows:

(i) in the proviso to sub-paragraph (i) thereof the words "single member companies specified in article 212(3)" shall be substituted by the words "a private company having any single

(1) member in accordance with article 212";

(ii) in sub-paragraph (iv) thereof the words "wound up voluntarily." shall be substituted by the words "wound up voluntarily;";

(iii) immediately after sub-paragraph (iv) thereof, as amended, there shall be added the following new sub-paragraph:

"(v) if the company is in breach of or fails to satisfy the requirements stipulated in any of the articles 69(1a) to (1c).".

Amendment of article 214A of the principal Act.

40. Article 214A of the principal Act shall be amended as follows:

(a) the proviso to sub-article (1) thereof shall be substituted by the following new proviso:

"Provided that the provisions of this article shall not apply to entities regulated by any applicable law in Malta or to public limited companies or to any other such company which, at the time of application, is not in good standing with the Registrar due to outstanding statutory filings or unpaid administrative penalties.";

(b) paragraph (d) of sub-article (2) thereof shall be deleted;

(c) sub-paragraph (i) of paragraph (c) of sub-article (3) thereof shall be substituted by the following new sub-paragraph:

"(i) an extraordinary resolution of the shareholders of the company has been duly adopted to approve the simplified voluntary dissolution procedure referred to in this article, in accordance with the company's memorandum and articles of association;".

Amendment of article 218 of the principal Act.

41. Article 218 of the principal Act shall be amended as follows:

(a) sub-article (1) thereof shall be amended as follows:

(i) in paragraph (a) thereof the words "with article 214(1)(a);" shall be substituted by the words "with article 214(1)(a):" and immediately thereafter there shall be added the following new proviso:

"Provided that where the application is made by the company following a decision of the general meeting or by its board of directors, the share capital of the company shall be fully paid up before the application is filed and the application shall be accompanied by a statement of affairs of the company;";

(ii) in the proviso thereof the words "or director of the company." shall be substituted by the words "or director of the company:" and immediately thereafter there shall be added the following new proviso:

"Provided further that the winding up application shall, on pain of nullity, include sufficient information clearly indicating whether it is being made on the basis of paragraph (a), (b), or (c), as well as the reasons why the applicant considers that the relevant grounds for making the winding up application subsist, in terms of article 214(1)(a), 214(2)(a), or 214(2)(b), as the case may be.";

(b) sub-article (6) thereof shall be substituted by the following new sub-article:

"(6) The directors, the company secretary and every contributory shareholder and creditor of the company shall be entitled to make submissions on the hearing of a winding up application made under this article, provided that they have informed the court, by means of a note, that they intend to make submissions during the said hearing.";

(c) in sub-article (8) thereof the words "a copy thereof shall forthwith be forwarded" shall be substituted by the words "a copy thereof shall forthwith and without delay be forwarded".

Substitution of article 220 of the principal Act.

42. Article 220 of the principal Act shall be substituted by the following new article:

"Stay of proceedings against company.

220. (1) After the filing of a winding up application, and until such time as the winding up application is dismissed or the winding up order is stayed or dismissed, no action or proceeding shall be proceeded with or commenced against the company or its property except by the leave of the court and subject to such terms as the court may impose:

Provided that the provisions of this sub-article shall not prevent any appeal from being proceeded with or commenced against any decision, order or judgment having been made prior to the winding up application.

(2) The court, or any other relevant court before which an action or proceeding in accordance with sub-article (1) may be instituted, shall suspend, stay or disallow any action or proceeding *ex officio* upon being notified that a winding up application has been filed and that leave has not been given to proceed with or commence an action or proceeding against the company.

(3) Where a winding up application has been filed and before the making of a winding up order, the court may grant leave for the company, or any creditor or contributory of the company, or the provisional administrator, to make an application for entry into a preventive restructuring procedure in accordance with the Pre-Insolvency Act, provided that it is not manifestly clear, in the opinion of the court, that preventive restructuring is unlikely to achieve a better outcome for the body of creditors than would be achieved if the company were to be wound up without having first been placed under preventive restructuring:

Cap. 631.

Provided that the court shall, if it has given leave for the making of an application for entry into a preventive restructuring procedure in accordance with the Pre-Insolvency Act, refrain from making a winding up order until the application has been decided:

Cap. 631.

Provided further that the court shall dismiss a winding up application if the company is placed under preventive restructuring.".

Amendment of article 223 of the principal Act.

43. Immediately after sub-article (2) of article 223 of the principal Act there shall be added the following new sub-article:

"(3) Where a winding up order is dismissed in accordance with the provisions of article 248, the company shall, as of the date that the winding up order is dismissed, no longer be in a state of dissolution.".

Amendment of article 226 of the principal Act.

44. Article 226 of the principal Act shall be amended as follows:

(a) in sub-article (1) thereof the words "Where the court has made" shall be substituted by the words "Where the company has made a winding up application or the court has made";

(b) in paragraph (d) of sub-article (2) thereof the words "to which the statement relates." shall be substituted by the words "to which the statement relates;" and immediately thereafter there shall be added the following new paragraph:

"(e) who have provided their services in relation to the administration of the company or its compliance with any provision of the law within the said twelve (12) months, and who, in the opinion of the official receiver, are capable of giving the information required.".

Amendment of article 244 of the principal Act.

45. In sub-article (2) of article 244 of the principal Act the words "shall forthwith deliver" shall be substituted by the words "shall forthwith and without delay deliver".

Substitution of article 248 of the principal Act.

46. Article 248 of the principal Act shall be substituted by the following new article:

"Power to stay or dismiss winding up proceedings.

248. (1) The court may, at any time after the granting of a winding up order, on the application of the liquidator, the official receiver, any creditor or contributory, make an order:

(a) staying the winding up proceedings, for such duration and on such terms and conditions as the court deems appropriate, upon it being proven to the satisfaction of the court that all proceedings in relation to the winding up ought to be stayed, provided that any such stay of proceedings shall not affect the continuing validity or operation of the winding up order; or

(b) dismissing the winding up proceedings, on such terms and conditions as the court deems appropriate, upon it being proved to the satisfaction of the court that, in view of circumstances arising after the making of the original winding up order, the grounds for the making of such order no longer subsist or would be remedied if the winding up order were to be dismissed.

(2) Where winding up proceedings are dismissed in accordance with this article, the court shall, by the order dismissing the winding up proceedings, give such directions and make such provisions as it deems fit to place the company and all other persons in the same position as if the company had not been placed in dissolution, release the liquidator from his appointment, and direct the Registrar of Courts to deliver a notice of the release to the Registrar for registration forthwith and without delay.

(3) The court may, either on the application of any person interested in the winding up or of its own motion, before making any order in accordance with this article, require the official receiver or liquidator to furnish to the court a report with respect to any facts or matters which are in its opinion relevant to the application.

(4) A copy of every order made under this article shall forthwith and without delay be forwarded by the Registrar of Courts to the Registrar for registration.".

Amendment of article 258 of the principal Act.

47. Sub-article (2) of article 258 of the principal Act shall be amended as follows:

(a) in paragraph (d) thereof the words "by the special controller in the course of his office in terms of articles 329A and 329B" shall be substituted by the words "by the insolvency practitioner";

(b) paragraph (e) thereof shall be substituted by the following new paragraph:

"(e) the remuneration of the insolvency practitioner;";

(c) paragraph (m) thereof shall be substituted by the following new paragraph:

"(m) any interim financing granted to the company for the purpose of a preventive restructuring procedure in accordance with the Pre-Insolvency Act;";

Cap. 631.

(d) immediately after paragraph (m), as substituted, there

shall be added the following new paragraph:

"(n) any new financing granted to the company for the purpose of a preventive restructuring procedure in accordance with the Pre-Insolvency Act.".

Cap. 631.

Amendment of article 275 of the principal Act.

48. In sub-article (2) of article 275 of the principal Act the words "shall forthwith forward a copy" shall be substituted by the words "shall forthwith and without delay forward a copy".

Amendment of article 285 of the principal Act.

49. In sub-article (2) of article 285 of the principal Act the words "shall forthwith forward a copy" shall be substituted by the words "shall forthwith and without delay forward a copy".

Amendment of article 292 of the principal Act.

50. In sub-article (4) of article 292 of the principal Act the words "shall forthwith be forwarded" shall be substituted by the words "shall forthwith and without delay be forwarded".

Amendment of article 300 of the principal Act.

51. In sub-article (2) of article 300 of the principal Act the words "shall forthwith deliver a notice" shall be substituted by the words "shall forthwith and without delay forward a notice".

Addition of a new article to the principal Act.

52. Immediately after article 302 of the principal Act there shall be added the following new article:

"Conversion of debts.

"302A. Where a proved debt is denominated in a foreign currency, the amount of such debt shall be converted into euro, by reference to the deemed date of dissolution, using the official euro reference middle exchange rate published by the European Central Bank or the indicative middle exchange rate published by the Central Bank of Malta, as the case may be, for that date.".

Amendment of article 303 of the principal Act.

53. Article 303 of the principal Act shall be amended as follows:

(a) in sub-article (1) thereof the words "shall be void." shall be substituted by the words "shall be void:" and immediately thereafter there shall be added the following new proviso:

"Provided that where the person in whose favour the act is made or the obligation is incurred, as referred to in this sub-article, is a related person or a related entity, the said period of six (6) months before the dissolution of the company shall be extended to a period of twenty-four (24) months before the dissolution of the company.";

(b) in sub-paragraph (ii) of paragraph (b) of sub-article

(2) thereof the words "not occurred." shall be substituted by the words "not occurred;" and immediately thereafter there shall be added the following new paragraphs:

"(c) a person is a related person if, at the time of the act or obligation being contested in accordance with this article, that person was:

(i) a director or manager of the company;

(ii) a member of the company;

(iii) appointed as insolvency practitioner responsible of assisting the debtor in a preventive restructuring procedure in accordance with the Pre-Insolvency Act; or

Cap. 631.

(iv) a partner or employee of, or a person related by consanguinity or affinity in the direct line, or in the collateral line up to the third degree, to a related person in accordance with sub-paragraphs (i), (ii), or (iii);

(d) a person is a related entity if, at the time of the act or obligation being contested in terms of this article, that person was:

(i) a group company, in relation to the company;

(ii) a commercial partnership having, as its partner, any of the persons referred to in sub-paragraphs (i) to (iii) of paragraph (c); or

(iii) a company, or a subsidiary or parent company thereof, in which more than half the voting power is exercised, directly or indirectly, separately or jointly, by any of the persons referred to in sub-paragraphs (i) to (iii) of paragraph (c).".

Amendment of article 307 of the principal Act.

54. In sub-article (1) of article 307 of the principal Act the words "When a company has been dissolved in accordance with the provisions of article 214, any person, being a past or present officer of the company, shall be guilty of an offence if, within the twelve months immediately preceding the deemed date of dissolution, he has -" shall be substituted by the words "When a company has been dissolved in accordance with the provisions of article 214, any person, being a past or present officer of the company, shall be guilty of an offence if he has:".

Substitution of article 325 of the principal Act.

55. Article 325 of the principal Act shall be substituted by the

following new article:

"Defunct companies.

325. (1) When the Registrar has reasonable cause to believe that a commercial partnership is not carrying on business or is not in operation, he may send a letter by post to the commercial partnership, inquiring whether the commercial partnership is carrying on business or is in operation.

(2) If the Registrar receives a reply to the effect that the commercial partnership is not carrying on business or is not in operation, or does not receive a reply within one (1) month from sending the letter referred to in sub-article (1), he may send to the commercial partnership by post, and publish a notice in the Gazette or on a website maintained by the Registrar and in a daily newspaper circulating wholly or mainly in Malta that, at the expiration of three (3) months from the date of the last publication of the said notice, the commercial partnership's name shall, unless cause to the contrary is shown prior to the expiration of such period or the Registrar is satisfied that there are sufficient grounds not to proceed with the striking off, be struck off the register and the assets of the commercial partnership shall devolve upon the Government of Malta.

(3) If in any case where a commercial partnership is being wound up voluntarily, the Registrar has reasonable cause to believe either that no liquidator is acting or that the affairs of the commercial partnership are fully wound up, and the returns required to be made by the liquidator in accordance with article 322 are overdue by six (6) months or more, the Registrar may publish in the Gazette or on a website maintained by the Registrar and in a daily newspaper circulating wholly or mainly in Malta, a notice stating that, upon the expiration of three (3) months from the date of the last publication of the said notice, the winding up of the commercial partnership shall, unless cause to the contrary is shown prior to the expiry of that period, be deemed to be concluded and consequently, the commercial partnership's name be struck off the register.

The Registrar shall also cause a copy of the said notice to be sent by post to the commercial partnership and to the liquidator, if any. Upon the expiration of the said period of three (3) months, the winding up of the commercial partnership shall, unless cause to the contrary is shown prior to the expiry of such period, be deemed to be concluded, and the Registrar shall strike the name of the commercial partnership off the register, and consequently the commercial partnership's assets shall devolve upon the Government of Malta.

(4) If any member or creditor of the commercial partnership, or any other person who appears to the court to have an interest feels aggrieved by the fact that the name of the commercial partnership has been struck off from the register by virtue of this article, the court may, on an application made by the member, creditor or such other person, before the expiration of ten (10) years from the publication of the notice of the striking off referred to in sub-articles (2) and (3), if it is satisfied that it is proper that the name of the commercial partnership be restored to the register, order that such name be restored to the register. Upon an official copy of the order being delivered by the Registrar of the Courts to the Registrar for registration, the commercial partnership shall be deemed to have continued in existence as if its name had not been struck off, and the court may by its order give such directions and make such provisions as it deems fit for placing the commercial partnership and all other persons, as nearly as may be, in the same position as if the name of the commercial partnership had not been struck off. The Registrar shall forthwith proceed to publish a notice in the Gazette or on a website maintained by the Registrar and in a daily newspaper circulating wholly or mainly in Malta that the name of the commercial partnership has been restored to the register:

Provided that in the event that the court has ordered that a commercial partnership's name shall be restored to the register in accordance with this sub-article, and the court by its decree, has directed that the name of the commercial partnership be restored on the register for a definite period and such period is nearing its expiration, any member or creditor of the commercial partnership, or any other person who appears before the court and informs it that it has an interest, would still have such an interest due to ongoing proceedings, the said person may, jointly with the Registrar, submit a joint application to the court requesting for an extension of the time period for which the commercial partnership's name is to remain restored to the register:

Provided further that the said joint application before the court is to be accompanied, on pain of nullity, with documentary evidence, including the pending court case reference number of the ongoing proceedings:

Provided further that any member may apply to the Registrar for restoration within five (5) years from the publication of the notice of striking off referred to in sub-articles (2) and (3):

Provided further that the Registrar may only restore the name once the commercial partnership's affairs are regularised through the filing of all outstanding documents and the payment of all applicable fees and penalties, and the submission of any other documentation that the Registrar may require.

(5) A notice required to be sent to a liquidator under this article may be addressed to the liquidator at his last known place of business or address, and any letter or notice required to be sent to a commercial partnership under this article shall be addressed to the commercial partnership at its registered office.

(6) Notwithstanding that the name of the commercial partnership has been struck off the register in accordance with the preceding provisions of this article, the liability, if any, of every director or other officer and of every member of the commercial partnership shall subsist and may be enforced as if the name of the commercial partnership had not been struck off the register.

(7) Notwithstanding the provisions of article 429(1), the provisions of this article shall apply to commercial partnerships whose dissolution and consequential winding up is regulated by the Ordinance.".

A 946

Substitution of article 327 of the principal Act.

56. Article 327 of the principal Act shall be substituted by the following new article:

"Use of mediation for compromise or arrangement with creditors and members.

327. (1) Where a compromise or arrangement is proposed between a company and its members, or between the company and its creditors or a class of creditors, the company or any member or creditor, with the sanction of not less than two-thirds of the members or creditors or class of creditors by reference to the value of their claims, may request the appointment of a mediator in accordance with article 20 of the Mediation Act. Such mediator shall summon a meeting of the members, creditors or class of creditors that would be affected by the proposed terms, in order for the company and the members or creditors or class of creditors to unanimously agree upon the proposed terms of compromise or arrangement, and the provisions of the Mediation Act shall apply.

Cap. 474.

(2) If as a result of the mediation process, the company by extraordinary resolution, together with its members or creditors, enters into a compromise or arrangement in the form of a written agreement, it shall be binding on all persons that are a party thereto, as well as on the company or, in the case of a company in the course of being wound up, on the liquidator or, in the case of a company under administration, on the administrator, but shall not be binding upon, or prejudicial to, any members or creditors or other persons who have not executed the agreement and are not a party to the compromise or arrangement.

(3) Where, without the appointment of a mediator in accordance with sub-article (1), a compromise or arrangement has been discussed between a company and its members, creditors or a class of creditors, and the proposed compromise or arrangement has received the unanimous support of all the members, creditors or class of creditors that would be affected by the proposed terms, the parties to the proposed arrangement may unanimously appoint an insolvency practitioner to approve the compromise or arrangement.

(4) Where the insolvency practitioner is satisfied that the company by extraordinary resolution, together with its members or creditors, has entered into a compromise or arrangement discussed in accordance with sub-article (3) in the form of a written agreement, and that the compromise or arrangement shall not be prejudicial to any members, creditors or other persons who are not a party thereto, the insolvency practitioner shall approve the compromise or arrangement which shall become binding on all creditors who are a party thereto and on the company or, in the case of a company in the course of being wound up, on the liquidator or, in the case of a company under administration, on the administrator:

Provided that the compromise or arrangement shall not be binding upon, or prejudicial to any members or creditors or other persons who have not entered into, and are not a party to, the compromise or arrangement.

(5) For the purposes of this article and article 328:

(a) "company" means any company which is unable to pay its debts in accordance with article 214(5), or in those circumstances where the court is of the opinion that there are grounds of sufficient gravity that would otherwise warrant the dissolution and consequent winding up of the company in accordance with article 214(2)(b)(iii), or which has been placed under administration, or which is in the course of being wound up; and

(b) "arrangement" includes a reorganisation of the company's share capital by the consolidation of shares of different classes or by the division of shares into shares of different classes, or by both of those methods.".

Substitution of article 329A of the principal Act.

57. Article 329A of the principal Act shall be substituted by

the following new article:

"Duties of directors when the company is unable to pay debts.

329A. When the directors of a company become aware that the company is unable to pay its debts or is imminently likely to become unable to pay its debts, they shall forthwith, by not later than thirty (30) days from when the fact became known to them, duly convene a general meeting of the company by means of a notice to that effect for a date not later than forty (40) days from the date of the notice for the purpose of reviewing the company's position and of determining what steps should be taken to deal with the situation, including consideration as to whether the company should be dissolved or, where applicable, whether the company should file an application for a preventive restructuring procedure in accordance with the Pre-Insolvency Act.".

Cap. 631.

Deletion of article 329B of the principal Act.

58. Article 329B of the principal Act shall be deleted.

Amendment of article 343 of the principal Act.

59. Sub-article (7) of article 343 of the principal Act shall be substituted by the following new sub-article:

"(7) A company may only be amalgamated with one (1) or more companies, and may not be amalgamated with any other kind of commercial partnership:

Provided that in the case of a cell company as defined in any regulations made in accordance with the Act, every cell of a cell company and that part of a cell company in which non-cellular assets are held, shall each be deemed, to the extent necessary, to be a separate company with separate legal personality for all intents and purposes of this Title:

Provided further that any words and expressions in this Title II which are referable to a company shall be construed accordingly, and the interpretation of any such words and expressions insofar as applicable to a cell company shall be made on the basis of the relevant provisions of the regulations made under this Act regulating such cell company.".

Amendment of article 358 of the principal Act.

60. Article 358 of the principal Act shall be amended as follows:

(a) the marginal note thereof shall be substituted by the following new marginal note:

"Simplified formalities for certain mergers by acquisition.";

(b) sub-article (1) thereof shall be substituted by the following new sub-article:

"(1) (a) In the case of a merger by acquisition of one (1) or more companies by an acquiring company which:

(i) is the holder of all the shares and other securities conferring the right to vote at general meetings of the companies being acquired;

(ii) is held, directly or indirectly, by one (1) person who also holds, directly or indirectly, all of the shares or other securities conferring the right to vote at general meetings in the companies being acquired; or

(iii) has its issued share capital held, in the same proportion and by the same members, as the companies being acquired,

the provisions of articles 344 to 356 shall apply, to the exclusion of the provisions contained in article 344(2)(b), (c) and (d), article 346, article 348, article 349(1)(d) and (e), article 354(1)(b) and article 355.

(b) In the case of mergers by acquisition which fall within the scope of paragraph (a), no shares shall be issued by the acquiring company as a result of the merger.".

Amendment of article 359 of the principal Act.

61. In sub-article (1) of article 359 of the principal Act the words "Where a merger by acquisition is carried out by a company which holds ninety per cent or more, but not all, of the shares and other securities conferring the right to vote at general meetings of the company or companies being acquired, the general meeting of the acquiring company need not approve the acquisition provided the following conditions are fulfilled:" shall be substituted by the words "When a merger by acquisition is carried out by a company which holds ninety per cent (90%) or more, but not all, of the shares and other securities conferring the right to vote at general meetings of the company or companies being acquired and where the provisions of article 358 do not apply, the general meeting of the acquiring company need not approve the acquisition provided the following conditions are fulfilled:".

Addition of a new article to the principal Act.

62. Immediately after article 400 of the principal Act there shall be added the following new article:

"Reporting of insolvency proceedings.

400A. The Registrar of Courts shall, within not more than ten (10) working days from becoming cognisant of an act, decision, or judgment within the context of insolvency proceedings referred to in Annex A of Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings, notify the Insolvency and Receivership Service within the Malta Business Registry established by article 9A of the Malta Business Registry (Establishment as an Agency) Order, of the making of such act, decision or judgment and, within the same period of time, provide any such ancillary information as the latter may from time to time require.".

S.L. 595.27.

Amendment of article 403 of the principal Act.

63. Immediately after sub-article (5) of article 403 of the principal Act there shall be added the following new sub-article:

"(6) The inspector referred to in articles 414 to 417 shall be selected, authorised and, or appointed by the Registrar from persons he deems competent to act as inspectors for the purposes of article 414, and may include *inter alia* officers from the Registry, officers from the National Foreign Direct Investment Screening Office, officers from the Malta Competition and Consumer Affairs Authority and officers from the Department of Contracts and any other person whom the Registrar considers necessary for the purposes of an inspection:

Provided that the said authorisation and, or appointment may be revoked at any time by the Registrar.".

Addition of a new article to the principal Act.

64. Immediately after article 411 of the principal Act there shall be added the following new article:

"Appeal.

411A. (1) Any final order or decision of the court, in a cause instituted in terms of articles 214, 300A, 300B, 303, 304, 315, 316, 325 or 402, shall be deemed to be a judgment of the court, from which there shall lie a right of appeal to the Court of Appeal:

Provided that an interim decree given by the court shall not be deemed to be a judgment of the court, and there shall be no right of appeal.

(2) An appeal made in accordance with sub-article (1) may be entered by the contending parties by means of an application filed in the registry of the Court of Appeal within twenty (20) days from the date of the judgment.".

Substitution of article 414 of the principal Act.

65. Article 414 of the principal Act shall be substituted by the following new article:

"Powers of inspections and information gathering.

414. (1) For the purposes of this article and articles 415 to 417 the term "undertaking" shall have the same meaning as assigned to it in Regulation (EU) 2022/2025, and "association of undertakings" shall be interpreted accordingly.

(2) The Registrar and, or any inspectors duly authorised and, or appointed by the Registrar in accordance with article 403(6), duly authorised by a warrant issued by a Magistrate may, for the purposes of an inspection in accordance with Article 14(1) of Regulation (EU) 2022/2560, or for the purposes of an inspection or other fact-finding measure in accordance with Article 14(7) of Regulation (EU) 2022/2025, conduct all necessary announced or unannounced inspections and, or other fact-finding measures and enter into and search any premises, land or means of transport, of the undertaking or association of undertakings that shall be subject to a European Commission investigation in accordance with Regulation (EU) 2022/2025.

(3) In the course of any search in accordance with sub-article (2), the Registrar and, or any inspector shall be empowered to:

(a) inspect and examine any object or document, including books and other records related to the business, irrespective of the medium on which they are stored and access any information or document which are accessible to the entity subject to the inspection, and take or request copies or extracts from those books or records:

Provided that this shall include the power to search for documents, files or data on devices which are not precisely identified in advance in accordance with article 12(7)(c) of the Competition Act:

Cap. 379.

Provided further that the power to examine books or records covers all forms of correspondence, including electronic messages irrespective of whether they appear to be unread or have been deleted;

(b) seize and confiscate any object or document, or take or obtain in any form, copies of or extracts from such books or records or any other document and where they consider it appropriate, to continue making such searches for information and the selection of copies or extracts at the premises of the office or at any other designated premises;

(c) require any information which is stored in a computer or any other object or device including external servers and cloud services which are accessible from the premises, land or means of transport, and which the Registrar and, or the inspectors consider relevant to the investigation, to be delivered in a form in which it can be taken away and in which it is visible and legible;

(d) order the non-removal of objects or documents from any such premises, land or means of transport;

(e) ask any representative or member or staff of the undertaking or association of undertakings concerned for an explanation of any fact or document relating to the subject-matter and purpose of the inspection, or to state to the best of their knowledge and belief where the documents may be found, and record the replies;

(f) close and seal any or all parts of such premises, land or means of transport, or put any books or records or any other object or document under seal for the period and to the extent necessary for the inspection;

(g) take any steps which appear to be necessary to preserve any object or document or to prevent any interference with such object or document.

(4) The Registrar and, or any of the inspectors entering premises, land or means of transport in accordance with this article may take such equipment as appears to them to be necessary.

(5) In the course of an inspection under this article, the undertakings or association of undertakings or persons subject to the inspection may be assisted by legal counsel of their choice:

Provided that inspectors may wait a reasonable time, not exceeding sixty (60) minutes, for the legal counsel to arrive before starting the inspection and during this time, inspectors may take any reasonable measures to prevent any potential tampering with evidence or to prevent any potential communication by which other undertakings will be informed that investigation is taking place:

Provided further that the right of such assistance may delay but shall not have the effect of suspending the inspection.

(6) The Registrar shall always issue a receipt to the person on the premises or in control of any object that has been seized:

Provided that anything which has been lawfully seized by the Registrar and any order given by the Registrar in accordance with this article may be retained or shall remain in force as long as it is considered necessary by the Registrar.

(7) A search may not commence on any premises, land or means of transport subsequent to seven o'clock (07:00 p.m.) in the evening and prior to seven o'clock (07:00 a.m.) of the next following morning, unless there is reason to believe that such delay could cause the loss of information and the search is expressly authorised by the Magistrate, to take place between the said times.

(8) To assist the European Commission in accordance with Article 13(5) and Article 14 of Regulation (EU) 2022/2025, and to carry out the duties assigned to him by virtue of this article, the Registrar and, or the inspectors, as the case may be, may request any undertaking or association of undertakings to provide him, or them, with any information or document which are accessible to such undertaking and, or association of undertakings, including information regarding its tender in a public procurement procedure, which the Registrar and, or the inspectors have a valid reason to believe are necessary to the matter under investigation, within such time that in the circumstances of the investigation the Registrar and, or the inspectors may consider reasonable:

Provided that to assist the European Commission in accordance with Article 13(5) and Article 14 of Regulation (EU) 2022/2025, and to carry out the duties assigned to him by virtue of this article, the Registrar may also, taking into account the principle of proportionality, request any other natural or legal persons to provide any information or document that may be required, including information regarding their tenders in public procurement procedures, within a specified and reasonable time limit:

Provided further that a request for information in accordance with this sub-article shall:

(a) state its legal basis and its purpose, specify the information that is required and indicate the time limit within which the information is to be provided;

(b) contain a statement that if the information supplied is incorrect, incomplete or misleading, the fines (*multa*) or periodic penalty payments provided for in article 417 could be imposed;

(c) contain a statement that, in accordance with Article 16 of Regulation (EU) 2022/2025, a lack of cooperation shall allow the European Commission to take a decision on the basis of the facts that are available to it:

Provided further that the European Commission and, or the Registrar may interview a natural or legal person who consents to be interviewed for the purpose of collecting information relating to the subject matter of an investigation under Regulation (EU) 2022/ 2025.".

Substitution of article 415 of the principal Act.

66. Article 415 of the principal Act shall be substituted by the following new article:

"Issue of warrant and appeal from refusal.

415. (1) The powers conferred by article 414(2), (3), (4) and (5) shall be exercised by the Registrar and, or the inspectors on production of the warrant issued under article 414.

(2) In deciding whether to issue a warrant under article 414, the Magistrate shall ensure that the coercive measures envisaged are neither arbitrary nor excessive, and the warrant shall specify the subject-matter, purpose of the inspection, the date on which the inspection may begin and the relevant penalties in accordance with article 417:

Provided that without prejudice to the right of obtaining a new warrant for the same purpose, the warrant may not be executed after the lapse of thirty (30) days from the date of issue.

Cap. 9.

(3) Notwithstanding any provisions contained in the Criminal Code, the Registrar shall have the right to appeal against a decision of the Court of Magistrates to refuse to issue a warrant under this article, before the Court of Criminal Appeal within five (5) days from the date of such a decision and the Court of Criminal Appeal shall endeavour to decide in the shortest time possible.".

Substitution of article 416 of the principal Act.

67. Article 416 of the principal Act shall be substituted by the following new article:

"Police assistance.

416. (1) During any search in accordance with article 414, the Registrar and, or any of the inspectors may request the assistance of the police and in such case the police shall require a warrant issued by the Magistrate to assist the Registrar and, or the inspectors in the search.

(2) Where police assistance is sought by the European Commission in accordance with Article 14(6) of Regulation (EU) No. 2022/2560, a warrant from a Magistrate shall be required.

(3) In issuing a warrant enabling the European Commission to carry out an inspection in terms of Article 14 of Regulation (EU) No. 2022/2560, the Magistrate shall follow the provisions of article 415:

Provided that articles 414 to 416 shall not be deemed to detract from the powers of the police under the Criminal Code or under any other law.".

Cap. 9.

Substitution of article 417 of the principal Act.

68. Article 417 of the principal Act shall be substituted by the following new article:

"Obstruction, non-compliance and penalties.

417. (1) Where during the course of any inspection in accordance with article 414 a person being a director, manager, secretary or other similar officer of an undertaking or association of undertakings, knowingly or recklessly:

(a) gives any false, incorrect or misleading information;

(b) supplies incomplete information;

(c) prevents or hinders any investigation;

(d) produces or furnishes, or causes or knowingly allows to be produced or furnished, any document or information which he knows to be false in any particular material;

(e) fails without reasonable cause to supply the information requested;

(f) refuses to produce any book or document which it is his duty under article 414 to produce to the inspectors;

(g) refuses to attend before the inspectors when required to do so;

(h) refuses to answer any question put to him by the inspectors with respect to the affairs of the undertaking or association of undertakings, as the case may be; or

(i) does not comply with any lawful order of an inspector or of a European Commission inspector or of the Police assisting the said inspectors,

he shall be guilty of an offence and shall be liable on conviction to a fine (*multa*) of not more than four thousand and six hundred and fifty-eight euro (€4,658), or to imprisonment for a term not exceeding six (6) months, or to both such fine (*multa*) and imprisonment.

(2) The court shall impose a penalty on any undertaking and, or association of undertakings not exceeding fifty thousand euro (€50,000) where any undertaking and, or association of undertakings in the course of any inspection in accordance with article 414, intentionally or negligently:

(a) produces and, or furnishes, or causes or knowingly allows to be produced or furnished, any document or information which they know to be false in any particular material;

(b) fails to comply with an inspection and, or obstructs the Registrar and, or any inspector in the exercise of their powers under a warrant issued under articles 414 and 415 and, or of the police assisting the said inspectors in accordance with article 416;

(c) breaks the seals affixed by the inspectors during an inspection;

(d) in response to a question referred to in article 414(3)(e) gives an incorrect, misleading reply, fails or refuses to provide a complete reply; or

(e) discloses information to any third party not party to the proceedings concerned in accordance with article 414.

(3) Where an undertaking or an association of undertakings, intentionally or negligently:

(a) fails to submit to an inspection in accordance with article 414;

(b) produces the required books or other records related to the business in incomplete form during inspections in accordance with article 414;

(c) in response to a question asked in accordance with article 414(3)(e) and article 414(8):

(i) gives an incorrect or misleading reply;

(ii) fails to rectify within a time-limit established by the inspectors or by the European Commission an incorrect, incomplete or misleading reply given by a member of staff; or

(iii) fails or refuses to provide a complete reply on facts relating to the subject-matter and purpose of an inspection in accordance with article 414,

that undertaking or association of undertakings shall be liable, upon conviction to a periodic penalty payment, not exceeding five per cent (5%) of the average daily aggregate turnover of the undertaking or association of undertakings concerned in the preceding financial year for each working day of delay, calculated from the date established in the decision, until it submits complete and correct information as required by the court, or until it submits to an inspection.

(4) Where an offence under this Act is committed by a body corporate or by a person acting on behalf of a body corporate, and is proved to have been so committed with the consent, connivance or approval of, or to have been attributable to any neglect on the part of any other officer of such body or any person who was purporting to act in any such capacity, such person shall also be guilty of an offence and shall be proceeded against and be liable to a penalty as if he had committed the offence.".

Amendment of article 420 of the principal Act.

69. Article 420 of the principal Act shall be amended as follows:

(a) sub-article (1) thereof shall be amended as follows:

(i) the words "an entity as is referred to in article 418(1) which has been obtained under the said article 418 or article 419" shall be substituted by the words "an entity as is referred to in articles 414 or 418(1) which has been obtained under the said articles 414, 418 or 419";

(ii) in paragraph (c) thereof the words "the Banking Act and the Financial Institutions Act" shall be substituted by the words "the Banking Act, the Financial Institutions Act, and Regulation (EU) 2022/2560";

(iii) in paragraph (d) thereof the words

"proceedings under article 419" shall be substituted by the words "proceedings under articles 414 or 419";

(b) sub-article (3) thereof shall be amended as follows:

(i) paragraph (f) thereof the words "Financial Markets Act; and" shall be substituted by the words "Financial Markets Act;";

(ii) in paragraph (g) thereof the words "the Financial Institutions Act." shall be substituted by the words "the Financial Institutions Act; and"; and immediately thereafter there shall be added the following new paragraph:

"(h) the European Commission carrying out its functions under Regulation (EU) 2022/2560.".

70. Article 425 of the principal Act shall be amended as follows: Amendment of article 425 of the principal Act.

(a) in paragraph (s) of sub-article (1) thereof the words "as may be necessary." shall be substituted by the words "as may be necessary;" and immediately thereafter there shall be added the following new paragraphs:

"(t) prescribe regulations for the purposes of better regulating matters connected to article 325;

(u) prescribe regulations to establish ranking of creditors.";

(b) immediately after sub-article (14) thereof there shall

be added the following new sub-article:

"Power to make regulations.

(15) The Minister may make regulations for the introduction and implementation of a system of electronic means for the transmission of information, so as to ensure that any person may register their interest to receive notifications, by electronic means, that are pertinent to any commercial partnership. Such system shall operate in addition to the system of notifications already provided for in accordance with this Act, so as to ensure that any notification which shall be published in the Gazette, is also circulated by electronic means to any persons that have registered their interest, in accordance with this article, to receive notifications in respect of the relevant commercial partnership:

Provided that any such system of electronic means for circulating information shall enable any person who has registered their interest to receive notifications to withdraw the registration of their interest and cease receiving such notifications.".

Amendment to the First Schedule of the principal Act.

71. The first proviso to item 80 of the First Schedule to the principal Act shall be substituted by the following new proviso:

"Provided that any undistributable reserve, including the share premium account and the capital redemption reserve may, for the purposes of this regulation, only be applied in the paying up of unissued shares to be issued to members of the company as fully paid bonus shares:".

Amendment of the Third Schedule to the principal Act.

72. The Third Schedule to the principal Act shall be amended as follows:

(a) item 1 thereof shall be amended as follows:

(i) immediately before the definition "large groups" there shall be added the following new definition:

" "EU Growth issuance prospectus" shall have the same meaning as assigned to it in Article 15a of the Prospectus Regulation;";

(ii) immediately after the definition "medium-sized undertakings" there shall be added the following new definitions:

" "multiple-vote share" shall have the same

meaning as assigned to it in Article 2(2) of Directive (EU) 2024/2810 of the European Parliament and of the Council of 23 October 2024 on multiple-vote share structures in companies that seek admission to trading of their shares on a multilateral trading facility;

"prospectus" for the purposes of this Schedule means a prospectus as referred to in Article 6 of the Prospectus Regulation;";

(b) immediately after item 9 thereof there shall be added PART III with the following new items:

"10. Companies whose shares are not already admitted to trading on a regulated market or an MTF, and which have adopted or modified a multiple-vote share structure for the purpose of admitting their shares to trading on an SME growth market, shall include the information listed in paragraph 12 in the following documents:

(a) the prospectus, the EU Growth issuance prospectus or the admission document referred to in Article 33(3)(c) of Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (recast), whichever the company publishes; and

(b) the annual financial report referred to in Article 78(2), point (g), of Commission Delegated Regulation (EU) 2017/565 of 25 April 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of the said Directive, in cases where there has been a change to the information referred to in paragraph 12 since that information was last published in the prospectus, the EU Growth issuance prospectus or the admission document referred to in point (a) or in the preceding such financial report.

11. Companies whose shares are not already admitted to trading on a regulated market or an MTF, and

which have adopted or modified a multiple-vote share structure for the purpose of admitting their shares to trading on an MTF which is not registered as an SME growth market, shall include the information listed in paragraph 12 in the following documents:

(a) the prospectus, the EU Growth issuance prospectus, or any admission document required by the rules of the relevant MTF, in cases where the company publishes such a prospectus or admission document; and

(b) the annual financial statements of the company where the information has not been previously published, or has otherwise changed since that information was last published, in the prospectus or in the admission document referred to in point (a) of paragraph 10, or in the preceding financial statements of the company.

12. The information referred to in paragraphs 10 and 11 consists of detailed information on the following:

(a) the share structure of the company, with an indication of the different classes of shares, including shares which are not admitted to trading and, for each class of shares:

(i) the rights and obligations attached to the shares in that class;

(ii) the percentage of the total share capital or of the total number of shares that the shares in that class represent; and

(iii) the total number of votes that the shares in that class represent;

(b) any restrictions on the transfer of shares, including agreements between shareholders which are known to the company and that could result in such restrictions;

(c) any restrictions on voting rights of shares, including agreements between shareholders which are known to the company and that could result in such restrictions;

(d) the identity, if known to the company, of shareholders holding multiple-vote shares representing more than five per cent (5%) of the voting rights of all shares in the company, and of natural persons or legal entities entitled to exercise voting rights on behalf of those shareholders, where applicable:

Provided that where the shareholders or the persons entitled to exercise voting rights on their behalf are natural persons, the disclosure of their identity shall require only the provision of their names.".

Substitution of the Seventh Schedule to the principal Act.

73. The Seventh Schedule to the principal Act shall be substituted by the following new Schedule:

"SEVENTH SCHEDULE
(Article 184)

Company No: .....

CONTENTS AND FORM OF ANNUAL RETURN

Annual Return of
.....
…….....
(*name of company*)

Date to which this return is made up: .....…….. (*being the anniversary of the company's date of registration)*

1. Email Address of the company …….

2. I confirm that the company details and the details of all officers and shareholders are up-to-date. ☐

3. I confirm that the company satisfies at least one of the requirements of Article 69(1a), as per below:

a. at least one (1) director shall be a person resident in a Member State; ☐

b. the company secretary is a company services provider licensed by the Malta Financial Services Authority in accordance with the Company Service Providers Act; ☐

c. a Maltese warranted auditor is appointed to audit the financial statements of the company, which audited financial statements shall be registered with the Registrar; ☐

d. the company is incorporated and serviced by a company service provider licensed by the Malta Financial Services Authority in accordance with the Company Service Providers Act; ☐

[Name of Company Service Provider – {not visible to the public}]

e. twenty-five per cent (25%) or more of the shares in the company are held on a fiduciary or mandate basis by a mandatary authorized by the Malta Financial Services Authority in accordance with the Trusts and Trustees Act; ☐

f. the company holds a bank account with a credit, payment or financial institution licensed by the Malta Financial Services Authority; ☐

[Name of credit, payment or financial institution – {not visible to the public}]

g. at least half of the beneficial owners are resident in Malta at all times; ☐

h. the company holds a licence that is issued by a regulatory authority in Malta in accordance with the Prevention of Money Laundering and Funding of Terrorism Regulations and, or Malta Enterprise as established by the Malta Enterprise Act; or ☐

[Name of Entity – {not visible to the public}]

i. the company is a subsidiary or holding company of another company that satisfies the conditions contained in paragraphs (a) to (h). ☐

Signed……

Director/ Company Secretary".

74. The Eleventh Schedule to the principal Act shall be amended as follows: Amendment to the Eleventh Schedule of the principal Act.

(a) immediately after item:

"123(4)	Failure of officers of company to comply with provisions with regard to the register of members	€465	€23"

thereof there shall be added the following new item:

"123A	Failure of officers of company to comply with provisions with regard to the register of residential addresses of company officers and shareholders	€465	€23";

(b) item:

"212(6)	Officers of company failing to deliver notice to Registrar of becoming or ceasing to be a single member company	€465	€23"

thereof shall be deleted;

(c) item:

"212(9)	The single member failing to record in writing all agreements between him and the company	€1,164	None"

thereof shall be substituted by the following new item:

"212(6)	The single member failing to record in writing all agreements between him and the company	€1,164	None";

(d) item:

"327(4)	Officer failing to annex to memorandum a copy of court's order, compromise or arrangement	€465	€23"

thereof shall be deleted.

Amendment of Act No. I of 2026.

75. In Act No. I of 2026 entitled the Various Laws relating to Corporate Sustainability Reporting (Amendment) Act, 2026, sub-article (2) of article 179C of the principal Act, as added by article 24 thereof, shall be substituted by the following new sub-article:

"(2) The auditors shall prepare the report referred to in sub-article (1), based on a limited assurance engagement as regards the compliance of the sustainability reporting with the requirements of the Accounting Directive and the Corporate Sustainability Reporting Regulations, including the compliance of the sustainability reporting with the sustainability reporting standards adopted by the Commission from time to time, the process carried out by the undertaking to identify the information reported pursuant to those sustainability reporting standards, and the compliance with the requirement to mark up sustainability reporting as regards the single electronic reporting format, and as regards the compliance with the reporting requirements provided for in Article 8 of Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088:

Provided that the limited assurance engagement referred to in this sub-article shall be prepared in a manner that fully respects the right of the undertakings in the value chain which, on their balance sheet dates, do not exceed an average number of one thousand (1,000) employees during the preceding financial year which decline to provide to the reporting undertaking any information that goes beyond the information specified in the standards for voluntary use established by delegated acts adopted by the European Commission from time to time on voluntary sustainability reporting by undertakings.".

A 967

Passed by the House of Representatives at Sitting No. 40 of the 17th November, 2026.

CARMELO ABELA
Speaker

ELEANOR SCERRI
Clerk of the House of Representatives

VERŻJONI ELETTRONIKA

Ippubblikat mid-Dipartiment tal-Informazzjoni (doi.gov.mt) — Valletta — ***Published by the Department of Information (doi.gov.mt) — Valletta***
Mitbugħ fl-Istamperija tal-Gvern fuq karta FSC — ***Printed at the Government Printing Press on FSC certified paper***

Prezz/*Price*
€4.77