CHAPTER 233

EXTERNAL TRANSACTIONS ACT

To establish a framework for the liberalisation of external transactions and to provide for the collection of related information.

Substituted by: IX. 2003.30.

29th December, 1972;
1st February, 1973

ACT XLIX of 1972, as amended by Acts XXIV of 1973 and LVIII of 1974; Legal Notice No. 148 of 1975; Acts XXII of 1976, XXXI of 1981, XIII of 1983, II of 2002, IX of 2003, III and XIII of 2004, II of 2005 and I of 2007; and Legal Notice 411 of 2007 and Act IX of 2025.

PART I

PRELIMINARY

1. The short title of this Act is the External Transactions Act.

Short title. *Amended by: IX. 2003.32.*

2. (1) In this Act unless the context otherwise requires -

Interpretation. *Amended by: II. 2002.34. Substituted by: XI. 2003.33. Amended by: III. 2004.109; XIII. 2004.59; I. 2007.52; L.N. 411 of 2007.*

"capital transactions" means external transactions arising from the transfer or movement of capital and includes:

(*a*) transfers of immovable property;

(*b*) direct investments;

(*c*) the issue, sale or purchase of securities including shares and stock in the capital of a company, debentures, certificates of deposit and any other similar instrument acknowledging indebtedness;

(*d*) the issue, sale or purchase of units in a collective investment scheme, life and annuity long-term insurance policies whether index-linked or not;

(*e*) lending, borrowing and payment or receipt of amortisation on loans;

(*f*) granting of guarantees or any other form of security for payment;

(*g*) warrants, options, futures and other derivatives as well as any other financial instrument entered into for investment purposes;

(*h*) deposits with credit institutions;

(*i*) gifts and endowments; and

(*j*) any other type of transaction which the Minister may, after consultation with the Central Bank, determine by notice in the Gazette;

"Central Bank" means the Central Bank of Malta established under the Central Bank of Malta Act; Cap. 204.

"current transactions" means external transactions arising from current flows and include:

(*a*) foreign trade in goods and services including interest

payments, dividend, royalties, reinvested earnings and distributed profits;

(*b*) other current business payments arising from services, short-term banking and credit facilities; and

(*c*) remittance for family living expenses;

Cap. 371. "eligible asset" means deposits as defined in the Banking Act, securities including shares and stock in the capital of a company, debentures, certificates of deposit, bonds, notes and any other instrument acknowledging indebtedness, units in a collective investment scheme, life and annuity long term insurance policies, whether index-linked or not, precious metal, bullion, warrants, options, futures and other derivatives as well as any other financial instruments entered into for investment purposes, and also includes any other asset as may be determined from time to time by the Minister by notice in the Gazette;

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

"external transactions" includes both capital and current transactions involving operations between resident and non-resident persons or other entities, whether in or outside Malta, and may also include operations involving foreign exchange by a resident or between residents;

"foreign exchange" means any note, coin, cheque, draft, travellers' cheque, letter of credit, promissory note, bill of exchange, voucher, credit or debit card or other card or means in which value is inputted through electronic or magnetic methods and which any unspecified person is able to use for payment in lieu of currency, or other means of payment expressed in the currency of any country which is not legal tender in Malta and references in this Act to foreign exchange include references to any right to receive on demand foreign exchange in respect of any credit or balance at any credit institution anywhere;

"Member State" means a state which is a member of the European Union;

"Minister" means the Minister responsible for finance;

"monetary instruments" includes cheques, drafts or travellers' cheques, any anonymous or bearer certificates of a financial or monetary nature which are convertible into cash, irrespective of the issuer, and in particular, negotiable and other securities and instruments, whether denominated in euro or foreign currency;

Cap. 422. "National Statistics Office" means the National Statistics Office established under the Malta Statistics Authority Act;

"non-resident" means:

(*a*) any person, body corporate or other entity which is not a resident;

(*b*) any resident trustee in terms of a trust where any of the beneficiaries are non-resident and in the case of a discretionary trust, where the power of appointment or

any discretion may be exercised in favour of any non-resident;

"payment" means -

(*a*) any event which, wholly or in part, extinguishes a debt of a sum of money between a resident and a non-resident in connection with an external transaction;

(*b*) any transfer of funds, on account or in cash, between Malta and a foreign country carried out by a resident who transfers funds to or repatriates funds from his account held by him abroad;

(*c*) any transfer of funds on an account or in cash between Malta and a foreign country for which the principal and the beneficiary are both residents;

(*d*) any transfer of funds in foreign exchange carried out in Malta between residents;

"resident" means:

(*a*) any natural person regardless of nationality whose centre of economic interest is ordinarily in Malta and who has resided in or has the intention to reside in Malta for a continuous period of one year;

(*b*) any body corporate incorporated in or under the laws of Malta or of a Member State, or any entity which operates from or is otherwise registered in Malta or in a Member State;

(*c*) any trustee in terms of a trust whose place of residence is ordinarily outside Malta or any Member State but where all the beneficiaries of the trust are determined and are residents and in case of a discretionary trust where the power of appointment or any discretion may be exercised only in favour of residents;

"the Treaty" has the same meaning assigned to it by the European Union Act. Cap. 460.

(2) The Minister may appoint the Central Bank to act as agent for the said Minister for any one or more of the purposes of this Act, but any such appointment shall be without prejudice to the exercise of any such power by the Minister.

(3) For such time as the Central Bank is appointed as agent for the Minister under subarticle (2), the references in this Act to the Minister shall, to the extent and subject to the terms and conditions of such appointment, be deemed to include references to the Central Bank. Notice of any such appointment, and of any revocation of, or change in the terms and conditions of such appointment, shall be published in the Gazette.

PART II

LIBERALISATION AND SAFEGUARD MEASURES

Liberalisation. *Substituted by: IX. 2003.33.*

3. Unless otherwise specified by means of regulations or orders issued by the Minister under articles 4 and 5 all external transactions and related payments may be carried out without restriction.

Restrictions in exceptional circumstances. *Substituted by: IX. 2003.33.*

4. (1) Where exceptional circumstances arise, the Minister may, on the recommendation of the Central Bank, make regulations imposing such restrictions on capital transactions and related payments, whether of a specific or a generic nature, as may be deemed necessary:

Provided that such restrictions shall not be imposed in relation to a Member State.

(2) For the purposes of subarticle (1), exceptional circumstances shall be deemed to exist, where the Minister acting upon the recommendation of the Central Bank, declares that:

(*a*) there is a sudden crisis in Malta's balance of payments; or

(*b*) movements of capital to or from Malta cause or threaten to cause serious difficulties for the stability of the financial system.

(3) Regulations made under subarticle (1) shall be revoked by the Minister without delay as soon as the grounds which gave rise to such restrictions cease to exist and, in any case, shall not remain in effect for a period exceeding six months.

Sanctions. *Substituted by: IX. 2003.33.* Cap. 365.

5. The provisions of articles 4 and 5 are without prejudice to the powers granted by the National Interest (Enabling Powers) Act to impose controls or restrictions on capital or other transactions or related payments in respect of any state, person or group of persons whether arising from Malta's international obligations under the United Nations Charter, the Treaty or otherwise unilaterally to defend Malta's national interests.

PART III

COLLECTION OF INFORMATION AND ACCESS TO RECORDS

Request for information. *Substituted by: IX. 2003.33.*

6. Without prejudice to any other provision of this Act, the Minister may require any person in Malta to provide such information and, or clarification as the Minister may consider necessary for the purpose of ensuring compliance with any regulations made under Part II of this Act.

Declaration of import and export of currency. *Substituted by: IX. 2003.33; III. 2004.110. Amended by: L.N. 411 of 2007.*

7. The Minister may by regulations require any person to declare to the Comptroller of Customs the import or export by such person of banknotes and coins denominated in euro and, or in foreign currencies, and, or foreign exchange, and, or monetary instruments, and, or precious metals, and, or precious stones into or from Malta in such amounts as may be specified in such regulations and to disclose such other information as may be prescribed in such

regulations regarding such import or export.

Statistical information. *Substituted by: IX. 2003.33.*

8. Without prejudice to the previous provisions of this Act, the Minister may after consultation with the Central Bank and the National Statistics Office by regulations require any person within such time and in such manner as may be prescribed to furnish the Minister such information, return or other detail relating to external transactions as may be required to collect, compile and disseminate statistical information on external transactions.

Non-dissemination of information. *Substituted by: IX. 2003.33. Amended by: II. 2005.16.*

9. (1) Except for the purpose of any prosecution for an offence against the Act, no information which can be related to an identifiable person and which is obtained under this Act shall be disseminated, shown or communicated to any person or body without the written consent of the individual or his representative.

(2) Notwithstanding the provision of subarticle (1), the Minister may disclose any information provided or obtained under this Act, even where this relates to an identifiable person to any body or authority in Malta responsible for the collection of any tax, and may likewise, on the basis of any agreement with other states which provide for the reciprocal exchange of such information disclose information to similar bodies or authorities in the states:

Provided that:

(*a*) the bodies or authorities to whom the information is disclosed are subject to obligations of secrecy which are equivalent to those applying under the law of Malta; and

(*b*) an undertaking is obtained from such bodies or authorities that the information provided will only be used for the purposes for which it was requested and will be kept confidential and will not be communicated to anyone who is not employed by the authorities and who is not subject to a similar duty of secrecy in respect of the said information.

Offences and penalties. *Substituted by: IX. 2003.33. Amended by: III. 2004.111; L.N. 411 of 2007; IX.2025.18*

10. (1) Regulations under this Act imposing restrictions on any transactions, or any obligation to report, provide statistics or other information may also provide -

(*a*) that any person who contravenes any provisions thereof shall be guilty of an offence and shall be liable on conviction to a fine (*multa*) of not more than forty-six thousand and five hundred and eighty-seven euro and forty-seven cents (46,587.47);

(*b*) for the forfeiture of any monies, wholly or partially, monetary instruments or other things not declared in terms of any regulations made under article 7;

(*c*) for administrative penalties in lieu of criminal proceedings, the procedures therefor, as well as for procedures for bringing appeals from decisions in connection therewith to the Financial Services Tribunal within such period and under such conditions as established under article 21 of the Malta Financial Cap. 330.

Services Authority Act or such other body as may be prescribed.

(2) No criminal proceedings for any offence under such regulations may be commenced without the consent of the Attorney General.

Offences.
Amended by: II. 2002.35; IX. 2003.34; III. 2004.112.

11. (1) Any person who, after having registered any eligible assets in terms of and within the period as may be established in any scheme as may from time to time be made by the Minister, would, but for the provisions of this subarticle, have contravened any restriction, prohibition or requirement under article 39(1) of the Exchange Control Act as in force on the 1st July, 2003, or such other law as the Minister may prescribe, shall be deemed not to have committed an offence under the said article 39 or other law as prescribed with regard to the eligible assets so registered or monies or other assets represented by such eligible assets so registered.

(2) The Minister may, by regulations under this subarticle, make schemes for the registration of eligible assets and upon the registration of such eligible assets in accordance with such scheme, the provisions of subarticle (1) shall apply and the eligible assets so registered may continue to be retained as prior to the date of registration without the need to obtain such permits or to comply with such requirements under this or any other law as may be prescribed.

(3) (*a*) Any scheme made by the Minister in accordance with subarticle (2) may impose such conditions as may appear to the Minister to the appropriate and may, without prejudice to the generality of the foregoing, include -

(i) the payment of such fee as may be established in the scheme not being a fee more onerous than the tax that would otherwise be payable under the relevant laws;

(ii) the manner in which such fee shall be paid and recorded;

(iii) the manner in which registration shall be made and recorded; and

(iv) such circumstances under which any asset may not be registered.

(*b*) For the purposes of paragraph (*a*), the term "relevant laws" has the same meaning assigned to it in article 9B of the Income Tax Act.

Cap. 123.