

L.N. 249 of 2004

**EUROPEAN UNION ACT, 2003
(ACT NO. V OF 2003)**

**Implementation of Directive 76-308-EEC (Mutual Assistance
for the Recovery of Claims relating to certain Levies, Duties,
Taxes and other Measures) Order, 2004**

IN exercise of the powers conferred by sub-article (2) of article 4 of the European Union Act, 2003, hereinafter referred to as “the Act”, the Prime Minister and Minister of Finance has made the following Order: -

1. (1) The title of this Order is the Implementation of Directive 76-308-EEC (Mutual Assistance for the Recovery of Claims relating to certain Levies, Duties, Taxes and other Measures) Order, 2004. Citation and commencement.

(2) This Order shall come into force on the 1st May, 2004.

2. In this Order, unless the context otherwise requires: Interpretation.

“the Directive” means the provisions of Council Directive 76-308-EEC on mutual assistance for the recovery of claims relating to certain levies, duties, taxes and other measures of 15 March, 1976 as amended and of Commission Directive 2002/94/EC of 9 December 2002 laying down detailed directives for implementing certain provisions of the said Council Directive;

“Member State” means any State referred to in the definition of “the Treaty” contained in article 2(1) of the Act.

3. The Directive is adopted as part of the laws of Malta and shall have effect in Malta accordingly. Directive to have effect.

4. (1) For the purposes of the Directive, the competent authority in Malta is the Minister responsible for finance or any other person designated by the Minister responsible for finance by means of an order in writing. Appointment and powers of the competent authority.

(2) The competent authority in Malta is hereby granted all the powers necessary in order to perform his functions in accordance with the Directive and to do all things that may be necessary for or ancillary to the performance of those functions,

including the power to request and obtain information and other assistance from any public officer.

Requests for
information.

5. (1) Any information that the competent authority in Malta is under an obligation to provide pursuant to a valid request made by the competent authority of a Member State in terms of the Directive may be so provided, and may be obtained by the competent authority in Malta from any public officer for the purpose of being so provided, notwithstanding any provision to the contrary contained in any law other than the Act.

(2) Any information obtained by the competent authority in Malta from the competent authority of a Member State in terms of the Directive shall be passed on to the public officer on whose account it had been requested and shall be treated by that public officer as information obtained exclusively in terms of the provisions of Maltese law relevant to the claim to which the information refers.

Requests for
notification.

6. (1) When the competent authority in Malta is, pursuant to a valid request made by the competent authority of a Member State in terms of the Directive, under an obligation to notify an instrument or a decision emanating in a Member State, he may, by means of an application, request the Civil Court, First Hall or the Court of Magistrates (Gozo) in its superior jurisdiction, as the case may be, to order the instrument or decision to be served on the person to whom the notification is required.

(2) The court shall, upon any such request, order the service of the said document and of a copy of the said application.

(3) The provisions of the Code of Organization and Civil Procedure shall apply to the service to which this rule applies as if the instrument or decision in question were a judicial act, subject to any Rules of Court that may be prescribed to regulate this procedure.

(4) The Registrar of Courts shall keep a record and a copy of all applications to which this rule applies. He shall inform the competent authority immediately whenever a service is effected and whenever a difficulty is identified or encountered in connection with the execution of any such service.

Requests for
action for the
recovery of claims.

7. (1) When the competent authority in Malta is, pursuant to a valid request made by the competent authority of a Member State in terms of the Directive, under an obligation to take action for the recovery of a claim, that claim shall, for all purposes of Maltese law relevant to actions taken for or in connection with its

recovery, be treated as if it were a claim for a civil debt due to the Government of Malta which the competent authority in Malta is duly authorised to collect:

Provided that actions for the recovery of any such claim shall not qualify for any privileges granted under any law in force in Malta in favour of the Government of Malta.

(2) When the official or certified copy of an instrument permitting the enforcement of a claim to which sub-article (1) refers is delivered to the competent authority in Malta in accordance with the Directive, the competent authority in Malta may request the Civil Court, First Hall or the Court of Magistrates (Malta), in its civil jurisdiction, or the Court of Magistrates (Gozo), also in its civil jurisdiction, as the case may be, to order the registration of the said official or certified copy.

(3) Any such request shall be made by means of an application in which the competent authority in Malta declares that he is satisfied that all the relevant requirements of the Directive have been complied with and specifies the Maltese currency equivalent of the claim.

(4) The court shall order that a copy of the said application and of the said document be served on the debtor and on any other party indicated in the application. Interest computed according to Maltese law shall run on the amount of the claim as from the date of the said service on the debtor.

(5) The court shall order the registration of the document in question and that document shall thereupon constitute an executive title.

(6) The Registrar of Courts shall keep a record and a copy of all applications to which this article applies. He shall inform the competent authority immediately whenever a service of that application is effected and whenever a difficulty is identified or encountered in connection with the execution of any such service.

8. When the competent authority in Malta is, pursuant to a valid request made by the competent authority of a Member State in terms of the Directive, under an obligation to take precautionary measures to ensure recovery of a claim, that competent authority shall be entitled to secure the rights of that Member State with respect to that claim by means of one or more of the precautionary acts

Precautionary measures.

listed in article 830 of the Code of Organization and Civil Procedure and the relevant provisions of that Code shall apply as if that claim were a claim for a civil debt due to the Government of Malta which the competent authority in Malta is duly authorised to collect.

Rules of Court.

9. The provisions of articles 6, 7 and 8 shall be subject to any Rules of Court that may be prescribed to regulate the relevant procedures.