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L.N. 257 of 2015

TRUSTS AND TRUSTEES ACT (CAP. 331)

Trusts and Trustees (Maternity Leave Trust) Regulations, 2015

BY VIRTUE of the powers conferred by article 57(1) of the Trusts and Trustees Act, the Minister for Finance, has made the following regulations:-

Citation and commencement.

1. (1) The title of these regulations is the Trusts and Trustees (Maternity Leave Trust) Regulations, 2015.

(2) These regulations shall be deemed to have come into force on the 1st July, 2015.

Interpretation.

2. In these regulations, unless the context otherwise requires -

"employee" shall have the same meaning assigned to it by the Social Security Act: Cap. 318.

Provided that for the purposes of these regulations, the term "employee" shall exclusively refer to an employee not engaged in the General Government Sector, Authorities, Agencies or Public Corporations;

"employer" shall have the same meaning assigned to it by the Social Security Act: Cap. 318.

Provided that for the purposes of these regulations, the term "employer" shall exclusively refer to an employer not in the General Government Sector, Authorities, Agencies or Public Corporations.

Maternity Leave Trust.

3. These regulations shall provide for the establishment of a Trust, to be known as the Maternity Leave Trust (hereinafter referred to as "the Trust"):

(a) which shall be established in writing and by means of a unilateral declaration of trust in terms of article 7 of the Trust and Trustees Act; Cap. 331.

(b) which shall be established for the purposes of receiving maternity leave contributions from employers as provided for in terms of the Tenth Schedule to the Social Cap. 318.

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Security Act;

(c) in relation to which, the employers which contribute to this Trust shall, subject to the terms of the Trust, be entitled to reimbursement from this Trust, for any maternity leave payment paid to their employees;

(d) to which, subject to the provisions of regulation 7(2) of these regulations, the provisions of the Trusts and Trustees Act shall apply.

Cap. 331.

Contributions.

Cap. 318.

4. The Trust Fund shall receive the contributions specifically payable by the employers in terms of the Tenth Schedule to the Social Security Act to fulfil the obligations set out in the terms of these regulations and the Maternity Leave Trust.

Failure to pay contributions.
Cap. 318

5. (1) Any employer who is required to pay contributions in terms of the Tenth Schedule to the Social Security Act, and who fails to pay such contribution, shall be liable to fines and penalties as indicated by Part X of the Social Security Act.

(2) Subject to the terms of the Trust, an employer as is referred to in sub-article (1) shall, while still being responsible to pay the full salary to the employee, lose his entitlement for any re-imbursement for maternity leave thus paid.

Trustees.

6. The Trustees composed as set out in regulation 7, hereinafter referred to as "the Trustees".

Composition of Trustees.

7. (1) The Trustees shall be composed of the following:

(a) the Permanent Secretary of the Ministry responsible for Industrial Relations, *ex officio*;

(b) the Permanent Secretary of the Ministry for Finance, *ex officio*;

(c) three members, representing the employer constituted bodies, appointed by the Minister responsible for Industrial Relations from amongst the members of the Malta Council for Economic and Social Development;

(d) one member representing trade unions appointed by the Minister responsible for Industrial Relations from amongst the members of the Malta Council for Economic and Social Development.

(2) The term of office of the representatives of the constituted bodies shall be for a period of two years and such members may be

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re-appointed as Trustees.

(3) The Trustees shall be exempt from the requirements of articles 43 and 43A of the Trusts and Trustees Act in accordance with article 57(1)(g) of the said Act: Cap. 331.

Provided that none of the Trustees shall:

(a) receive or be entitled to remuneration for so acting, whether directly or indirectly; or

(b) receive property upon trusts or accept to act as a trustees or co-trustees of a trust on a regular and habitual basis; or

(c) hold themselves out as trustees.

8. Any bank account in which any of the funds of the Trust are deposited shall be held in the name of the Trustees. Bank accounts.

9. The Trustees shall be responsible to ensure that, in any financial year, revenues from the contributions specifically paid by employers for this Trust shall be sufficient to provide for: Revenues from contributions.

(a) the payment of the maternity leave incurred by the employers; and

(b) meeting any other disbursements authorised by the Trustees.

10. The Trustees shall be responsible to recommend adjustments in the rate of the contribution payable specifically by the employer to fulfil the obligations pursuant of the Maternity Leave Trust in terms of the Tenth Schedule of the Social Security Act, after consultation with the Minister for Finance. Adjustments. Cap. 318.

11. In accordance with the provisions of the Protection of Maternity (Employment) Regulations, an employee on maternity leave shall be entitled to the first fourteen weeks of maternity leave with full wages but if the employee chooses to avail herself of any additional maternity leave beyond the fourteen weeks in terms of regulation 6(1) of the above-mentioned regulations, the employer shall not be obliged to pay any wages for those weeks of maternity leave which go beyond the afore-mentioned fourteen weeks, without prejudice to any relevant benefit in respect of any period of maternity leave which goes beyond fourteen weeks in terms of the Social Security Act to which the employee may be entitled if she chooses to avail herself of maternity leave beyond the paid fourteen weeks. Applicability of the Protection of Maternity (Employment) Regulations. S.L.452.91 Cap. 318.

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Annual report. Cap. 331.

12. Without prejudice to the provisions of article 29 of the Trust and Trustees Act, and to anything to the contrary which may be provided by the terms of the Trust, the Trustees shall, by not later than four weeks after the end of each financial year, make and transmit to the Malta Council for Economic and Social Development a report on the financial state of the Maternity Leave Trust.

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