VERŻJONI ELETTRONIKA

L.N. 409 of 2016

TRUSTS AND TRUSTEES ACT (CAP. 331)

Trusts and Trustees (Tourism Environmental Trust) Regulations, 2016

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

Citation and commencement.

1. (1) The title of these regulations is the Trusts and Trustees (Tourism Environmental Trust) Regulations, 2016.

(2) These regulations shall be deemed to have come into force on the 20th June, 2016.

Tourism Environmental Trust.

2. These regulations provide for the establishment of a charitable purpose trust in terms of article 2(1) of the Trusts and Trustees Act, to be known as the Tourism Environmental Trust (hereinafter referred to as "the Trust") -

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

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(b) which shall be established for the purposes of receiving amounts which shall be settled by the Government of Malta equivalent to the amounts of eco-contributions collected thereby in respect of services referred to in the Second Schedule to the Eco-Contribution Act;

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(c) which shall be established for the purpose of utilizing the sums settled therein in terms of paragraph (b) in projects aimed at improving and enhancing Malta's touristic product, namely through the promotion of culture, arts and national heritage, environmental protection and improvement (hereinafter referred to as "the Purpose");

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

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Contributions.

3. The Trust Fund shall receive the amounts settled by the Government of Malta on trust, as set out in regulation 2 and shall make use of such funds to fulfil the obligations set out in these

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regulations and in terms of the trust.

Composition of the Board of Trustees.

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

(a) the chairperson of the Foundation for Tourism Zone Development, a foundation set up in terms of a deed in the acts of Notary Doctor Rachael Mallia on the 23rd March 2015, *ex officio*;

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

(c) the Permanent Secretary of the Ministry responsible for Finance, *ex officio*; and

(d) two members, representing the Malta Hotels and Restaurants Association, appointed by the Minister responsible for Tourism.

The above-mentioned trustees shall be collectively referred to as "the Trustees".

(2) The Trustees shall be exempt from the requirements of articles 43 and 43A of the Trusts and Trustees Act, in accordance with the provisions of 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 trustee or co-trustee of a trust on a regular and habitual basis; or

(c) hold themselves out as trustees.

Bank accounts.

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

Obligations of Trustees.

6. The Trustees shall ensure that:

(a) the funds settled on trust shall be administered in a responsible and transparent manner, with the prudence, diligence and attention of a *bonus paterfamilias*, and

(b) they act at all times in utmost good faith, avoid any conflict of interest and make optimal use of the funds that they are entrusted with, in Malta’s best interests, and to achieve the Purpose of the trust in line with the terms of the trust, and

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(c) they implement and exercise such controls on spending and expenses as are commensurate with their obligations and responsibilities; and

(d) the funds utilized, committed or spent by the Trustees are, at all times, commensurate with the resources available on trust and would not involve the Trustees in any commitments which they are not in a position to satisfy from the resources held on trust; and

(e) in line with the Purpose of the Trust, the projects identified and approved by the Trustees would be those that in their honest opinion would be of most benefit in order to improve and enhance Malta's touristic product, through the promotion of culture, arts and national heritage, environmental protection and improvement, in the light of the resources available on trust; and

(f) the award of any contracts for the implementation of projects in order to achieve the Purpose of the Trust, observes the provisions of the Public Procurement Regulations.

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7. 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 Minister responsible for Finance and to the Minister responsible for Tourism a report on the financial state of the Tourism Environmental Trust.

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