VERŻJONI ELETTRONIKA

I assent.

(L.S.) **MARIE-LOUISE COLEIRO PRECA**
President

13th January, 2017

ACT No. II of 2017

AN ACT to establish a central office to coordinate inspections by government bodies and to regulate the conduct of inspections with a view to reducing the burden on entities and individuals, and making inspections more transparent and effective.

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 and commencement.

1. (1) The short title of this Act is the Coordination of Government Inspections Act, 2017.

(2) This Act shall come into force on such a date as the Prime Minister may by notice in the Gazette appoint, and different dates may be so appointed for different provisions or different purposes of this Act.

Interpretation.

2. In this Act, unless the context otherwise requires:

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"entity" means:

(a) any commercial partnership as defined by article 2(1) of the Companies Act; Cap. 386.

(b) any undertaking as defined by article 2(1) of the Companies Act; Cap. 386.

(c) any private organisation as defined by sub-articles (1) and (6) of article 1 of the Second Schedule to the Civil Code; Cap. 16.

(d) any association of persons, understood in accordance with article 1(4) of the Second Schedule to the Civil Code; and Cap. 16.

(e) the Government, including any ministry or department thereof, together with any state body or entity;

"inspection" means an inspection of an entity or an individual that is carried out by any of the bodies listed in the Schedule in the exercise of the powers granted to that body by law;

"Inspections Coordination Office" or "Office" means the body established by article 3;

"inspectorate" means any body listed in the Schedule; and

"Minister" means the Minister responsible for commerce.

Establishment of Inspections Coordination Office.

3. (1) There shall be an office of government to be known as the Inspections Coordination Office.

(2) Organisational arrangements for the Inspections Coordination Office shall be made by the Prime Minister under the Public Administration Act. Cap. 497.

(3) Appointments to the Office shall be made under those provisions of the Constitution that are applicable according to the organisational arrangements adopted for the Office in terms of sub-article (2).

Judicial representation of the Office and exercise of its powers. Cap. 12. Cap. 497.

4. (1) Judicial representation in matters pertaining to the Inspections Coordination Office shall be governed by article 181B of the Code of Organization and Civil Procedure or article 37 of the Public Administration Act, whichever provision may apply.

(2) The powers assigned by this Act to the Inspections Coordination Office shall vest in the Head of the Office and any other member of staff of the Office who acts with the authorisation of the

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Head.

Aims and objectives of the Office.

5. (1) The aims of the Inspections Coordination Office shall be to:

(a) minimise the burden of inspections on entities and individuals; and

(b) ensure that such inspections are as transparent and effective as possible.

(2) The Office shall pursue such objectives as are necessary to achieve its aims, and such objectives may include:

(a) bringing about joint inspections by different inspectorates;

(b) pooling the resources of inspectorates such that, where reasonably possible, an inspector may conduct inspections on behalf of more than one inspectorate;

(c) establishing a Common Policy Framework providing for the adoption of modern practices and methodologies pertaining to inspections, which may include:

(i) common standards, guidance and advice;

(ii) data sharing, shared feedback and shared reporting;

(iii) the use of risk analysis and risk-based assessments;

(iv) the adoption of inspection check-lists, guidelines and other relevant documentation and information;

(v) the publication, online or otherwise, of legally vetted guidance for entities and individuals subject to inspection;

(vi) the application of moratoria for start-up entities, where appropriate;

(vii) the use of self-assessments by entities and individuals subject to inspection;

(viii) the conduct of educational campaigns relating to the provisions of sub-paragraphs (i) to (vii);

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(ix) provision for compliance recognition schemes; and

(x) a common framework for administrative fines where applicable;

(d) establishing common databases with a view to avoiding duplication and facilitating joint action; and

(e) making recommendations to the Prime Minister, through the Minister, for changes to the laws governing any inspectorate, where such changes appear necessary to facilitate the achievement of the aims of the Office.

Powers of the Office and limitation thereon.

6. (1) The Office may give such directions to inspectorates as are necessary to achieve its aims and objectives under article 5 and, notwithstanding any other law, it shall be the duty of officers of inspectorates and those responsible for them to carry out those directions.

(2) Without prejudice to the generality of sub-article (1), the Office may:

(a) give directions to inspectorates concerning the conduct of joint inspections, the pooling of resources, and the sharing of data;

(b) issue binding standards governing the conduct of inspections and the adoption of practices and methodologies relating to inspections;

(c) establish and maintain common databases and other repositories of information; and

(d) establish advisory and consultative fora including such representatives of inspectorates and other persons as the Office may consider necessary, and convene meetings thereof.

(3) The Office may require any inspectorate or member of staff thereof to provide it with any information that the Office considers necessary for the purpose of ensuring compliance with the provisions of this Act, any regulations issued thereunder, and any directions or standards issued by the Office.

(4) The Office may not give directions to any inspectorate or member of staff thereof concerning the results of an inspection or the conclusions to be drawn from it, except in so far as may be necessary for corrective purposes if that inspection is carried out in

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contravention of the directions or standards issued by the Office.

Provision for inspections to be carried out by one inspectorate on behalf of another.

7. (1) The Inspections Coordination Office may, by instrument in writing, empower an inspectorate to conduct inspections on behalf of any other inspectorate, and in such a case:

(a) the officers who are tasked by their inspectorate with conducting such inspections shall act, and shall be regarded for all purposes at law, as officers of the inspectorate on behalf of which the inspections are conducted;

(b) the officers in question shall assume all powers granted by law to the officers of the inspectorate on behalf of which the inspections are conducted; and

(c) where any law requires officers of an inspectorate to act only upon authorisation from, or the delegation of powers by, their inspectorate, the Head thereof, or any other person or authority, such authorisation or delegation of powers shall be regarded as given or made by virtue of the instrument issued by the Office under sub-article (1).

(2) The provisions of sub-article (1) shall have effect notwithstanding any other law, but without prejudice to:

(a) any provisions of law requiring officers conducting particular inspections to hold any profession or other qualifications; and

(b) article 6(4) of this Act.

Safeguarding of personal data.

Cap. 440

8. (1) The sharing of data, the maintenance of common databases and repositories of information, and the provision of information to the Inspections Coordination Office under this Act shall be subject to the Data Protection Act.

(2) The sharing of data, the maintenance of common databases and repositories of information, as provided for by this Act with a view to facilitating reductions in the burden of inspections on entities and individuals, shall be regarded as activities that are carried out in the public interest for the purposes of article 9(e) of the Data Protection Act.

Cap. 440

Jurisdiction of the Inspections Coordination Office.

9. (1) The jurisdiction of the Inspections Coordination Office shall be limited to inspections carried out by the bodies listed in the Schedule.

(2) The Minister may amend or substitute the Schedule by

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order in the Gazette after consultation with the Head of the Inspections Coordination Office.

Power to make regulations.

10. The Minister may, after consultation with the Head of the Inspections Coordination Office, make regulations to give better effect to any of the provisions of this Act.

SCHEDULE
[Article 9]

Animal Welfare Department

Commission for the Rights of Persons with Disability

Department for Health Regulation

Department for Industrial and Employment Relations

Department for Social Welfare Standards

Department of Fisheries and Aquaculture

Elderly and Community Care Department

Environmental Health Directorate

Environment and Resources Authority

Government Property Division

Health Authority

Jobsplus

Malta Competition and Consumer Affairs Authority

Malta Industrial Parks

Malta Resources Authority

Malta Tourism Authority

Medicines Authority

Occupational Health and Safety Authority

Planning Authority

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A 18

Plant Health Directorate

Regulator for Energy and Water Services

Veterinary and Phytosanitary Regulation Department

Water Services Corporation

Passed by the House of Representatives at Sitting No.466 of the 9th January, 2017.

ANĠLU FARRUGIA
Speaker

RAYMOND SCICLUNA
Clerk of the House of Representatives

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