

A 200

I assent.

(L.S.)

**MARIE-LOUISE
COLEIRO PRECA
President**

22nd March, 2019

ACT No. VII of 2019

AN ACT to implement Budget Measures for the financial year 2019 and other administrative measures.

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.

1. The short title of this Act is the Budget Measures Implementation Act, 2019.

PART I

Coming into
force of this
Part.

2. The provisions of this Part shall be deemed to have come into effect on the 1st January, 2019.

Interpretation.
Cap. 174.

3. For the purposes of this Part, "revenue" has the same meaning as is assigned to it in article 2 of the Financial Administration and Audit Act, but does not include proceeds from loans.

4. (1) Subject to the provisions of this Act, the Government of Malta may raise, by way of loan, a sum of money not exceeding four hundred fifty million euro (€450,000,000). Authority to raise loan.

(2) For the purpose of raising the aforesaid loan the Minister for Finance is hereby authorised to raise such loans under the provisions of the Government Borrowing and Management of Public Debt Act, on such terms and conditions as the said Minister may approve. Cap. 575.

5. Any money borrowed under the authority of this Part shall be appropriated and applied for the purpose of: Purpose.

(a) redeeming registered stocks which are due for redemption during 2019; and

(b) contributing funds in the sinking fund; and

(c) effecting portfolio changes in relation to amounts raised through Treasury Bills, amounts raised through Government Stocks, and in respect of loans raised outside Malta as and when required in line with Government's debt management policies.

PART II

6. This Part amends the Customs Ordinance and it shall be read and construed as one with the Customs Ordinance, hereinafter in this Part referred to as "the Ordinance". Amendments to the Customs Ordinance. Cap. 37.

7. The Ordinance shall be amended as follows: General amendment of the Ordinance.

(a) the words "officer of the Customs" and "officer of Customs" shall be substituted by the words "Customs official" wherever they occur; and

(b) the words "an officer of the Customs" and "an officer of Customs" are to be substituted by the words "a Customs official" wherever they occur.

8. Article 2 of the Ordinance shall be amended as follows: Amendment of article 2 of the Ordinance.

(a) immediately before the definition "breaking bulk" thereof, there shall be added the following new definition:

" "authorised and empowered" means an official that has an identity card issued by the Department of Customs and which shows the powers given to him by the Commissioner by virtue of the provisions of the laws of

A 202

Malta and the European Union;"

(b) immediately after the definition "Commissioner for Revenue" thereof, there shall be added the following new definition:

" "computer" means any electronic device used for information storage or retrieval and includes a mobile phone or any other electronic means of information storage or retrieval;"

(c) immediately after the definition "customs declaration" thereof, there shall be added the following new definition:

" "Customs official" means any official of the Department of Customs as authorised and empowered by the Commissioner, by virtue of the relevant legislation and includes any other person having an express or implied authority to act for the said Commissioner in carrying out the provisions of this Ordinance as authorised for this purpose by the applicable legislation;"

(d) immediately after the definition "importer" thereof, there shall be added the following new definition:

" "information in a non-legible form" means information that needs to be deciphered before being understood;"

(e) the definition "officer of the Customs" thereof, shall be deleted; and

(f) immediately after the definition "place beyond the seas" thereof, there shall be added the following new definition:

" "records" means any books, accounts, documents or other recorded information, including information in a computer or information in other non-legible form;"

9. Article 62 of the Ordinance shall be amended as follows:

(a) in paragraph (m) thereof, the words "makes any statement or furnishes any document or information which, to his knowledge, is false in a material particular, or recklessly makes any statement which is false in a material particular, or knowingly or negligently makes or gives, or is instrumental in the making or the giving of, any declaration, document or

Amendment of
article 62 of the
Ordinance.

information, to the Commissioner, which is not true in any of its material particulars." shall be substituted by the words "makes or gives or submits or is instrumental in the making or the giving of any declaration, document or information to the Commissioner, and which to his knowledge is false in any detail:";

(b) paragraph (q) thereof, shall be substituted by the following:

"(q) knowingly or negligently fails to give to the Customs official information required by law, or knowingly or negligently fails to give to the Customs official any document or records requested according to law or knowingly or negligently neither places the goods under any Customs procedure nor exports them within the given time limit; or";

(c) in paragraph (r) thereof, the words "knowingly or negligently presents an incomplete declaration to the Customs officer," shall be substituted by the following:

"knowingly presents an incomplete declaration to the Commissioner, including when the person is not in possession of a document which is required with the declaration:

Provided that a person who makes an incorrect declaration and informs the Commissioner in writing about the said incorrect declaration;

(i) before the Commissioner informs the person that the particulars of the customs declaration are not correct; and

(ii) during the period where it is not yet established, in the systems relating to the processing of customs declarations, whether manual or electronic, if control of the goods will be exercised, or when it is established that such control is not to be exercised; and

(iii) such information is given to the Commissioner by not later than ten working days from the date of release of the goods; and

(iv) such incorrect declaration does not tend to

A 204

make the declaration applicable to goods, other than those which were originally covered by the declaration,

such person shall be deemed not to have committed an offence under this paragraph,"; and

(d) the paragraph that immediately follows paragraph (r) thereof, including its proviso, shall be substituted by the following:

"shall, on conviction, for each such offence be liable to a fine (*multa*) equivalent to three times the amount of duty payable on the goods or five times the amount of the endangered duty, whichever is the lesser, so however that in each case it will not be less than six hundred euro (€600), such that one-third of such amount shall be considered as a civil debt owed and payable to the Department of Customs, or to such fine together with imprisonment for a term not exceeding three years, and the offender may be either detained or proceeded against by summons, in the manner and form, and subject to all other provisions laid down in the Criminal Code:

Cap. 9.

Provided that:

(a) in the case of offences relating to tobacco mentioned in the First Schedule, on conviction the offender is liable for each such offence to a fine (*multa*) equivalent to three times the amount of duty payable on the goods or five times the amount of duty endangered, whichever is the lesser, but in each case not less than four thousand euro (€4,000), and such that one-third of such amount shall be considered as a civil debt owed and payable to the Department of Customs, together with imprisonment for a term not exceeding three years, and the offender may be either detained or proceeded against by summons, in the manner and form, and subject to all other provisions laid down in the Criminal Code;

Cap. 9.

(b) where the goods in respect of which the offender is proceeded against are any of the goods set out in the First Schedule, the punishment of imprisonment herein prescribed shall in every case be applied; and

(c) in the case of a second or subsequent conviction for any offence under this article within a period of twelve months from the date of the previous conviction, the offender shall be liable to imprisonment for a term from six months to four years, in addition to the pecuniary penalties herein prescribed."

10. Immediately after article 62 of the Ordinance there shall be added the following new article:

Addition of new article 62A to the Ordinance.

"Crime of negligence.

62A. It is a duty of every importer to submit a complete and correct declaration about his goods to the Customs official. Any person who:

(a) negligently makes or gives or submits or is instrumental in the making or the giving of any declaration, document or information to the Customs official which is false in any detail; or

(b) negligently submits an incomplete declaration to the Customs official, including when the person is not in possession of a document which is required with the declaration; or

(c) leaves out or mistakenly declares a letter, number, currency, unit of measure or other similar data elements in his declaration to the Customs official,

shall be deemed to have breached this obligation and committed a crime of negligence, and shall, on conviction, for each such offence, be liable to a fine (multa) equivalent to three times the duty endangered but not less than three hundred and fifty euro (€350):

Provided that in the circumstances mentioned in paragraph (b), when it is a case of a refund of duty and, or taxes, it shall be deemed that an offence has not been committed."

11. Article 65 of the Ordinance shall be renumbered as article 65A, and immediately before, there shall be added the following new article:

Addition and renumbering of article 65 of the Ordinance.

"Access to systems and records.

65. (1) Every economic operator shall give access to his computer systems and all his records to the Commissioner so that a systems based audit can be carried out as and when requested by the Commissioner.

A 206

(2) For the purposes of sub-article (1), the Commissioner may delegate to any person any right, duty, power and other function vested in him, conferred to him or imposed upon him by this Ordinance as the Minister may direct in writing:

Provided that the Commissioner may not delegate those rights, duties, powers and other functions vested in him to any person, if that person is not considered by the Commissioner as a fit and proper person to exercise those rights, duties, powers and other functions.

(3) Every person having been so delegated together with all his employees, shall be bound by the duty of secrecy and confidentiality of public officers as provided in the relevant laws, and the person and all his employees shall also be subject to the rules of protection of data according to the relevant laws."

Amendment of
article 70B of
the Ordinance.

12. In article 70B of the Ordinance, the words "committing an offence against this Ordinance and or against its subsidiary legislation," shall be substituted by the words "committing an offence against this Ordinance and or against its subsidiary legislation, or against any law and or its subsidiary legislation where the Commissioner is empowered to act,".

Amendment to
various articles
of the
Ordinance.

13. Various articles of the Ordinance shall be amended as follows:

(a) in articles 4(2), 7(2), 12, 13(2), 17, 19(1), 22(2), 23, 28, 35, 41, 42, 43, 44(2), 45, 51, 52, 60(c) and (d), 62(c) and (d), 70A, 72 and 86 thereof, the words "officer" and "officers" shall be substituted by the words "official" or "officials" respectively, wherever they occur;

(b) in article 70B thereof, the words "officer" and "officers" shall be substituted by the words "official" or "officials" respectively, wherever they occur, with the exclusion of the words "officer of the Police force"; and

(c) in articles 70 and 71 thereof, the words "such officer" shall be substituted by the words "such official or officer", wherever they occur, with the exclusion of the words "Police officer".

PART III

14. This Part amends the Certain Powers of Officers of Customs Regulations and it shall be read and construed as one with the Certain Powers of Officers of Customs Regulations, hereinafter in this Part referred to as "the principal regulations".

Amendments to the Certain Powers of Officers of Customs Regulations. S.L. 37.09.

15. Regulation 2 of the principal regulations shall be substituted by the following:

Substitution of regulation 2 of the principal regulations.

"Assignment of Police powers.

Cap. 37.

2. (1) A Customs official, when authorized by the Commissioner, shall, in addition to the powers and duties assigned to him under the Customs Ordinance, be empowered to exercise all the powers and duties as are by law vested in an officer of the Executive Police in any place set out in the Schedule in connection with an offence committed or suspected of having been committed.

(2) Before any such official shall exercise any of the roles referred to in sub-regulation (1), he shall take the following oath:

"I do solemnly swear/affirm that I will bear true faith and allegiance to the people and the Republic of Malta and its Constitution, and that I will faithfully serve the said Republic in my service as a Customs official and with the powers given to me as an officer of the Executive Police, according to law, without fear or favour, attraction or hate. (So help me God)":

Provided that such functions, powers and duties as are by law reserved to officers holding the rank not below that of inspector of Police shall only be exercisable by officials not below the rank of Customs officer as listed in the Annual Financial Estimates in virtue of the Financial Administration and Audit Act."

Cap. 174.

PART IV

16. (1) This part amends the Income Tax Act and shall be read and construed as one with the Income Tax Act, hereinafter in this Part referred to as "the principal Act".

Amendments to the Income Tax Act. Cap. 123.

(2) Articles 18(b), 19, 20 and 22 of this Part shall come into force as from the year of assessment 2020.

A 208

Amendment of
article 5A of the
principal Act.

17. Immediately after the first proviso to paragraph (b) of sub-article (5) of article 5A of the principal Act, there shall be added the following new proviso:

"Provided also that this paragraph (b) shall not apply if the transferor so elects by means of a declaration made to the notary at the time of the publication of the deed of the transfer and recorded in the said deed:".

Amendment of
article 12 of the
principal Act.

18. Article 12 of the principal Act, shall be amended as follows:

(a) in paragraph (d) of sub-article (1) of article 12 of the principal Act, immediately after the words "any Act replacing the said Act," there shall be added the words "or derived by a company from long term contracts of insurance that are treated as qualifying personal retirement schemes or qualifying occupational retirement schemes in terms of the provisions of such rules as may be prescribed,"; and

(b) the third proviso to sub-paragraph (1) of paragraph (u) of sub-article (1) of article 12 of the principal Act shall be substituted by the following:

"Provided also that in respect of:

(a) a participating holding in a company, partnership, EEIG, other body of persons or collective investment scheme referred to in the first proviso to the definition of "participating holding" in sub-article (1) of article 2, that is resident in Malta; or

(b) a participating holding in any other body of persons that holds, directly or indirectly, shares or other interests in a company, partnership, EEIG, other body of persons or collective investment scheme referred to in the first proviso to the definition of "participating holding" in sub-article (1) of article 2, that is resident in Malta,

gains or profits arising on the transfer of any holding referred to in paragraph (a) or paragraph (b) derived by a company registered in Malta (hereinafter in this sub-article referred to as "the transferor company"), shall only qualify for the exemption if such gains or profits would have been exempt in terms of sub-paragraph (ii) of paragraph

(c) had the transfer of the holding been made by the beneficial owner of the transferor company. Where the beneficial owner is more than one (1), and if gains or profits made by one (1) or more thereof would have been exempt (hereinafter in this sub-article referred to as "the exempt beneficial owner") and others not been exempt, the exemption shall apply to that part of the gain or profit to which the exempt beneficial owner is beneficially entitled. For the purpose of this proviso any body of persons or collective investment vehicle which is resident in Malta shall be deemed not to fall within the purport of the term "beneficial owner":

Provided further that where the transferor company has claimed the exemption contemplated in terms of the immediately preceding proviso on the whole or part of the said gains or profits, and any person who would not have qualified for exemption in terms of sub-paragraph (ii) of paragraph (c) had the transfer of the holding been made thereby (hereinafter in this sub-article referred to as "the non-qualifying shareholder"), thereafter becomes beneficially entitled to all or any of such gains or profits or to a larger part thereof than was the case at the time they arose, even prior to their distribution, such untaxed gains or profits or such additional part thereof to which the non-qualifying shareholder becomes entitled, shall be taxed at the rate referred to in sub-article (6) of article 56 and such tax shall constitute tax payable by the company in the year of assessment in respect of which such person shall become entitled to such profits even prior to their distribution."

19. Paragraph (b) of sub-article (1) of article 14B of the principal Act shall be substituted by the following:

Amendment of article 14B of the principal Act.

"(b) two-thousand six-hundred euro (€2,600) in respect of each child who attended such secondary school, or one-thousand nine-hundred euro (€1,900) in respect of each child who attended such primary school, or one-thousand six-hundred euro (€1,600) in respect of each child who attended such kindergarten:".

20. In paragraph (c) of sub-article (6) of article 43 of the principal Act, the words "which has applied the provisions of article 12(1)(u) to any of its income or gains or" shall be deleted.

Amendment of article 43 of the principal Act.

A 210

Amendment of article 56 of the principal Act.

21. Paragraph (ii) of sub-article (27) of article 56 of the principal Act, shall be amended as follows:

(a) for the words "but which is not received in Malta" thereof, there shall be substituted the words "but which is not received or not fully received in Malta"; and

(b) for the words "(excluding capital gains chargeable in terms of article 5A of this Act)" thereof, there shall be substituted the words "(excluding income from transfers of immovable property that are chargeable in terms of article 5A)".

Amendment of article 57 of the principal Act.

22. In paragraph (a) of sub-article (1) of article 57 of the principal Act, the words "fifteen *per centum* (15%)" shall be substituted by the words "fifteen *per centum* (15%), or such other amount as may be prescribed by the Minister from time to time,".

PART V

Amendments to the Cash Control Regulations. S.L. 233.07.

23. This Part amends the Cash Control Regulations and it shall be read and construed as one with the Cash Control Regulations, hereinafter in this Part referred to as "the principal regulations".

Amendment of regulation 2 of the principal regulations.

24. The definition "the Comptroller" in regulation 2 of the principal regulations shall be substituted by the following new definition:

" "Commissioner" means the Commissioner for Revenue, and it has the same meaning assigned to it in Cap. 37. the Customs Ordinance.".

General Amendment to the principal regulations.

25. In the principal regulations, the word "Comptroller" shall be substituted by the word "Commissioner" wherever it occurs.

PART VI

Amendments to the Social Security Act. Cap. 318.

26. This Part amends the Social Security Act and it shall be read and construed as one with the Social Security Act, hereinafter in this Part referred to as "the principal Act".

Amendment of article 2 of the principal Act.

27. In sub-paragraph (a) of paragraph (ii) of the definition "Service Pension" in article 2 of the principal Act, the words "shall be taken into account, and" shall be substituted by the words "shall be taken into account:" and immediately thereafter there shall be added the following new proviso:

"Provided that, with effect from 5th January 2019, and solely for the purpose referred to in paragraph (a), where a Service Pension has been commuted in part only and the pensioner has

reached the age of seventy-two (72), twenty-five per cent (25%) of the commuted part only of such Service Pension shall be taken into account; and".

28. In sub-paragraph (i) of paragraph (b) of sub-article (3) of article 17 of the principal Act, the words "Special Unemployment Benefit; and" shall be substituted by the words "Special Unemployment Benefit:" and immediately thereafter there shall be added the following new proviso:

Amendment of article 17 of the principal Act.

"Provided that, with effect from the 5th January 2019, the provisions of sub-paragraph 3(b)(i) shall cease to apply; and".

29. In sub-paragraph (ii) of paragraph (b) of sub-article (1) of article 20 of the principal Act, the words "from such a condition;" shall be substituted by the words "from such a condition:" and immediately thereafter there shall be added the following new proviso:

Amendment of article 20 of the principal Act.

"Provided that, with effect from 1st January 2019, a person who is the head of household shall be entitled to Sickness Assistance under this article if he proves to the satisfaction of the Director that he or a member of his household who on the date of the claim for such assistance is medically certified as suffering from a terminal disease, bi-polar disorder or psychotic depression, provided that the person suffering from that condition proves to the satisfaction of the Director that he has been undergoing regular treatment for such a condition for at least three (3) years and that within the three (3) months immediately prior to his claim for such assistance his condition had been investigated by a psychiatrist who is or was a consultant psychiatrist in Government employment and certified by the said psychiatrist to be suffering from such a condition; and".

30. Article 23 of the principal Act shall be amended as follows:

Amendment of article 23 of the principal Act.

(a) in sub-article (1) thereof:

(i) immediately after the words "the provisions of this Act" there shall be added the words "and the provisions in the Health Act";

Cap. 528.

(ii) immediately after the words "and other prosthetic aids" there shall be added the words "or other additional Free Medical Aid as indicated by regulations made under this Act";

A 212

(iii) the words "Chief Government Medical Officer" shall be substituted by the words "Chief Medical Officer to Government";

(iv) in the first proviso to sub-paragraph (b) thereof, the words "Chief Government Medical Officer" shall be substituted by the words "Chief Medical Officer to Government"; and

(v) in the second proviso to sub-paragraph (b) thereof, immediately after the words "Total Parenteral Nutrition" there shall be added the words "or any other medical conditions as may be indicated by regulations under this Act"; and

(b) in sub-article (3) thereof, the words "Chief Government Medical Officer" shall be substituted by the words "Chief Medical Officer to Government".

Amendment of article 27 of the principal Act.

31. In the proviso following paragraph (c) of sub-article (3) of article 27 of the principal Act, the words "under article 106(f); and" shall be substituted by the words "under article 106(f); or"; and immediately thereafter there shall be added the following new proviso:

S.L. 318.21. "Provided that the person achieves a score of fourteen (14) or more in accordance with Table 10 of the Impairment Tables Regulations, after the Director will have acted in accordance with the advice given by the multi-disciplinary panel appointed under article 106(f); and".

Amendment of article 30 of the principal Act.

32. Sub-paragraphs (iii) to (vii) of paragraph (b) of sub-article (6) of article 30 of the principal Act, shall be renumbered as sub-paragraphs (iv) to (viii), and immediately after paragraph (ii) of paragraph (b) of sub-article (6) of article 30 of the principal Act, there shall be added the following new sub-paragraph:

Cap. 452. "(iii) a head of household, reaching the age of twenty-three (23) or over, who is in receipt of Social Assistance in accordance with the provisions of this article, who is enrolled in the University of Malta or MCAST course of studies, shall be entitled to receive such rate of Social Assistance and stipend so as to ensure that the total amount received does not exceed the National Minimum Wage as is applicable to a person of eighteen (18) years of age or over in accordance with a National Order issued under the Employment and Industrial Relations Act,".

33. In article 61A of the principal Act, the words "whichever pensionable income is the higher." shall be substituted by the words "whichever pensionable income is the higher:" and immediately thereafter there shall be added the following new proviso:

Amendment of article 61A of the principal Act.

"Provided that, with effect from 1st January 2019, the provisions of this article shall also apply to a person born before 1st January 1962 who becomes entitled to a pension in respect of retirement or invalidity in accordance with this Act and who had accepted to partake of an early retirement scheme after the 1st January 2003, in anticipation of the privatization or as a part of the process of restructuring of an entity in which the Government, at the time when such person accepted to take up early retirement, was the owner or the majority shareholder."

34. Article 68 of the principal Act shall be emended as follows:

Amendment of article 68 of the principal Act.

(a) in paragraph (a) of sub-article (1) thereof:

(i) the words "a single person who has not yet reached pension age" shall be substituted by the words "a single person or a married person who has not yet reached pension age"; and

(ii) the words "on a full-time basis and regularly of his parent or brother," shall be substituted by the words "on a full-time basis and regularly of his spouse or parent, brother,"; and

(b) in paragraph (a) of sub-article (2) thereof, the words "if his yearly means, calculated according to the provisions of Part IV of the Second Schedule, do not exceed the highest rate of a Carer's Allowance" shall be deleted.

35. Immediately after sub-article (5) of article 85 of the principal Act, there shall be added the following new sub-article:

Amendment of article 85 of the principal Act.

"(6) Notwithstanding the provisions of sub-articles (4) and (5), with effect from 1st January 2019, the rate due to persons who have reached pension age according to the definition "pension age" in article 2, but have not yet reached the age of seventy-five (75), who have retired from employment and are not entitled to a Contributory Pension, but have paid between fifty (50) and two hundred and fifty-nine (259) social security contributions shall be two hundred euro (€200) per year whereas the rate due to persons who have reached pension age according

A 214

to the definition "pension age" in article 2, but have not yet reached the age of seventy-five (75), who have retired from employment and are not entitled to a Contributory Pension, but have paid more than two hundred and sixty (260) social security contributions shall be three hundred euro (€300) per year."

Amendment of
article 116 of
the principal
Act.

36. Immediately after the third proviso of paragraph (ii) of sub-article (5) of article 116 of the principal Act, there shall be added the following new provisos:

"Provided further that, notwithstanding the provisions of this sub-article, with effect from 1st January 2019, a person providing a document to the satisfaction of the Director, indicating employment in Libya but never provided a document of the payment of social security contributions in Libya after the 6th May 1988, shall pay, if the person so elects, such social security contributions for a period of ten (10) years arrears at the rate of the SA category as per Part III of Schedule Ten, during the year when the claim is made:

Provided further, with effect from 1st January 2019, a person providing an official document to the satisfaction of the Director, indicating payment of social security contributions in Libya after the 6th May 1988, such contributions are converted into contributions in accordance with the provisions of this Act for the respective year."

Amendment of
the Second
Schedule to the
principal Act.

37. The Second Schedule to the principal Act shall be amended as follows:

(a) in the title thereof, the words "a Carer's Allowance," shall be deleted;

(b) in paragraph (b) of item 4 of Part II thereof, immediately after the words "Milk Grant," there shall be added the words "Carer's Allowance,"; and

(c) Part IV thereof, shall be amended as follows:

(i) in the title thereof, (and in the Table of the Arrangement of the Act) the words "Age Pension and Carer's Allowance" shall be substituted by the words "Age Pension";

(ii) in item 1 thereof, the words "of articles 66 and 68(2)(a)," shall be substituted by the words "of article 66," and the words "or a Carer's Allowance" shall be deleted; and

(iii) in item 3 thereof, the words "or a Carer's Allowance" shall be deleted.

PART VII

38. This Part amends the Import Duties Act and it shall be read and construed as one with the Import Duties Act, hereinafter in this Part referred to as "the principal Act".

Amendments to the Import Duties Act. Cap. 337.

39. Sub-article (1) of article 2 of the principal Act shall be amended as follows:

Amendment of article 2 of the principal Act.

(a) immediately after the definition "Commissioner" thereof, there shall be added the following new definition:

" "computer" means any electronic device used for information storage or retrieval and includes a mobile phone or any other electronic means of information storage or retrieval;"

(b) immediately after the definition "import duty" thereof, there shall be added the following new definition:

" "information in a non-legible form" means information that needs to be deciphered before being understood;" and

(c) in the definition "prescribed" thereof, the words "under article 35." shall be substituted by the words "under article 35;" and immediately after there shall be added the following new definition:

" "records" means any books, accounts, documents or other recorded information, including information in a computer or information in other non-legible form."

40. In sub-article (2) of article 10 of the principal Act, immediately after the words "trade book" there shall be added the words "or records".

Amendment of article 10 of the principal Act.

PART VIII

41. (1) This Part amends the Motor Vehicles Registration and Licensing Act and shall be read and construed as one with the Motor Vehicles Registration and Licensing Act, hereinafter in this Part referred to as "the principal Act".

Amendments to the Motor Vehicles Registration and Licensing Act. Cap. 368.

(2) All the provisions in this Part shall be deemed to have come into force on the 1st January, 2019.

A 216

Amendment of article 2 of the principal Act.

42. Article 2 of the principal Act shall be amended as follows:

(a) immediately after the definition of "CO2 emissions" there shall be added the following definition:

" "collectors' motor vehicle" means a vehicle imported into Malta from a third country which is classified by the Customs Department under CN Code 9705000090 (collections and collectors' pieces of zoological, botanical, mineralogical, anatomical, historical, archaeological, paleonthological, ethnographic or numismatic interest)."; and

(b) in the definition of "invoice", immediately after the words "an authorised agent of the manufacturer" there shall be added the words "or an authorised motor vehicle dealer".

Addition of new article 8A to the principal Act.

43. Immediately after article 8 of the principal Act, there shall be added the following new article:

"Collectors' motor vehicles. 8A. Vehicles which are imported into Malta from third countries and which are classified as collectors' motor vehicles shall be exempt from the payment of registration tax and circulation licence fee on condition that these are not, at any time, driven, used or parked on the roads in Malta."

Amendment of article 25 of the principal Act.

44. Immediately after sub-article (21) of article 25 of the principal Act there shall be added the following new sub-article:

"(22) A vehicle which is classified as a vintage vehicle by the vintage vehicle classification committee shall be exempt from the payment of a circulation licence fee and in lieu the administrative fee established in the Fourth Schedule shall apply."

PART IX

Amendments to the Income Tax Management Act. Cap. 372.

45. This Part amends the Income Tax Management Act and shall be read and construed as one with the Income Tax Management Act, hereinafter in this Part referred to as "the principal Act".

Amendment of article 10 of the principal Act.

46. In the proviso to sub-paragraph (iii) of paragraph (c) of sub-article (2) of article 10 of the principal Act, the words "year of assessment 2015" shall be substituted by the words "year of assessment 2010".

47. In sub-article (1) of article 41 of the principal Act, for the words "the Commissioner may, in his discretion, keep in abeyance the collection of not less than ninety per cent (90%) of that part of the tax assessed thereunder which is in dispute" there shall be substituted the words "the tax assessed thereunder which is in dispute may be kept in abeyance".

Amendment of article 41 of the principal Act.

48. Article 44 of the principal Act shall be amended as follows:

Amendment of article 44 of the principal Act.

(a) in paragraph (b) of sub-article (1), for the words "fifteen days" there shall be substituted the words "thirty days";

(b) in paragraph (c) of sub-article (2A), for the words "fifteen days" there shall be substituted the words "thirty days".

49. In sub-article (1A) of article 48 of the principal Act, immediately after the words "but for the application of this sub-article" there shall be added the following words:

Amendment of article 48 of the principal Act.

S.L. 372.14. "and, in the case of a person who is a payer as defined in the Final Settlement System (FSS) Rules, he has, moreover, submitted all the Payer's Annual Reconciliation Statements together with the Payee Statements of Earnings in accordance with the said rules in respect of the year 1998 and all subsequent years for which the submission date precedes the date on which the refund would have been payable but for the application of this sub-article."

PART X

50. This Part amends the Prevention of Money Laundering Act and it shall be read and construed as one with the Prevention of Money Laundering Act, hereinafter in this Part referred to as "the principal Act".

Amendments to the Prevention of Money Laundering Act. Cap. 373.

51. Article 26 of the principal Act shall be amended as follows:

Amendment of article 26 of the principal Act.

(a) sub-articles (3) to (5) thereof, shall be renumbered as sub-articles (4) to (6) respectively; and

(b) immediately after sub-article (2) thereof, there shall be added the following new sub-article:

"(3) For the purposes of pursuing its responsibilities under sub-article (1) on a risk-sensitive

A 218

basis the Unit shall:

(a) ensure that it has a clear understanding of the money laundering and funding of terrorism risks to which Malta is exposed;

(b) take any necessary action and have access to any information or documentation that is necessary to assess and determine the money laundering and funding of terrorism risk profile of subject persons;

(c) ensure that the risk profile of subject persons is reviewed on a regular basis and when there are significant developments in the management and operations of subject persons, and kept up-to-date;

(d) ensure that the frequency and intensity of on-site and off-site supervision is determined on the basis of:

(i) the risk profile of subject persons, as assessed and determined by the Unit; and

(ii) the risks of money laundering and funding of terrorism to which Malta is exposed; and

(e) when carrying out on-site and off-site supervision, take into account the degree of discretion afforded to subject persons, under this Act, any regulations issued thereunder and procedures and guidance issued by the Unit, to adopt a risk-based approach to the implementation of their anti-money laundering and counter-funding of terrorism obligations envisaged under this Act, the said regulations, procedures and guidance."

Amendment of article 27A of the principal Act.

52. Immediately after sub-article (6) of article 27A of the principal Act there shall be added the following new sub-article:

"(7) Where the Unit receives information, data or documents from a foreign authority, body or agency considered to have functions equivalent or analogous to those of the Unit under article 16(1)(a) and (b), the Unit shall comply with any restriction and condition on the use of such information, data or documents imposed by that foreign authority, body or agency."

PART XI

53. This Part amends the Excise Duty Act and it shall be read and construed as one with the Excise Duty Act, hereinafter in this Part referred to as "the principal Act".

Amendments to the Excise Duty Act.
Cap. 382.

54. In the principal Act, the words "excise officer", "an excise officer" and "excise officers" shall be substituted by the words "Customs official", "a Customs official" and "Customs officials" respectively, wherever they appear.

General amendment to the principal Act.

55. Article 2 of the principal Act shall be amended as follows:

Amendment of article 2 of the principal Act.

(a) immediately after the definition "a typical mode of transport" thereof, there shall be added the following new definition:

" "authorised and empowered" means an official that has an identity card issued by the Department of Customs and which shows the power to exercise the powers and duties given to him by the Commissioner by virtue of the provisions of the laws of Malta and the European Union;"

(b) immediately after the definition "the Commissioner" thereof, there shall be added the following new definitions:

" "computer" means any electronic device used for information storage or retrieval and includes a mobile phone or any other electronic means of information storage or retrieval;

"Customs official" means any official of the Department of Customs as authorised and empowered by the Commissioner, by virtue of the relevant legislation and includes any other person having an express or implied authority to act for the said Commissioner in carrying out the provisions of this Act as authorised for this purpose by the applicable legislation;"

(c) the definition "excise officer" thereof, shall be deleted;

(d) immediately after the definition "importation of excise goods" thereof, there shall be added the following new definition:

" "information in a non-legible form" means

A 220

information that needs to be deciphered before being understood;";

(e) immediately after the definition "non-alcoholic beverage" thereof, there shall be added the following new definition:

" "records" means any books, accounts, documents or other recorded information, including information in a computer or information in other non-legible form;"; and

(f) in the definition "vessel" thereof, the word "vessel" shall be substituted by the words "vessel or ship".

Amendment of article 16 of the principal Act.

56. Sub-article (1) of article 16 of the principal Act shall be amended as follows:

(a) paragraph (l) thereof, shall be substituted by the following:

"(l) recommends a retail price for cigarettes in excess of the established retail price on the basis of which excise duty has been computed in terms of the relevant Schedule to the Act; or"; and

(b) paragraph (m) thereof, shall be substituted by the following:

"(m) sells cigarettes at a price in excess of the retail price established by the local manufacturer, or importer, and on which excise duty has been computed in terms of the relevant Schedule to this Act; or".

Addition of new article 22A to the principal Act.

57. Immediately after article 22 of the principal Act there shall be added the following new article:

"Definition of the word "authorisation". 22A. In article 21 and 22, the word "authorisation" means an identity card of the Department or means of identification issued by the respective Department according to the applicable law.".

Amendment of Fourth Schedule to the principal Act.

58. In the Fourth Schedule to the principal Act, under the heading "Description of excise goods", the words "**Leaded petrol** falling within CN Codes 2710.12.31, 2710.12.51 and 2710.12.59" shall be substituted by the words "**Leaded petrol** falling within CN Codes 2710.12.31, 2710.12.50.11, 2710.12.50.19, 2710.12.50.90, 2710.12.51 and 2710.12.59".

59. The Sixth Schedule to the principal Act shall be amended as follows:

Amendment of the Sixth Schedule to the principal Act.

(a) in the proviso to regulation 18 of Part A thereof, the words "Officer I" shall be substituted by the words "customs officer";

(b) sub-regulation (1) of regulation 11 of Part B thereof, shall be substituted by the following:

"Affixing of band or stamp. 11. (1) No person may manufacture, process, prepare for sale, expose or offer for sale, sell or otherwise dispose of any ethyl alcohol as defined in the Second Schedule with an actual alcoholic strength by volume of 10% vol. or more and in containers of 50 centiliters capacity or above unless a band or stamp has been affixed as provided for in regulation 12.";

(c) sub-regulation (2) of regulation 12 of Part B thereof, shall be substituted by the following:

"(2) The said bands or stamps shall be of a round shape and continue in a rectangular shape in a way that the round part is affixed on the cap and the rectangular part is affixed going down onto the container, in such a way that when the container is opened, the destruction of the band or stamp is ensured. The bands or stamps shall be approved by the Commissioner and shall be supplied at the Custom House or at any other place to be appointed by the Minister through a notice in the Gazette.";

(d) immediately after regulation 3 of Part C thereof, there shall be added the following new regulation:

"Retail price of cigarettes. 3A. The retail price of cigarettes is that established by the importer or manufacturer.";

(e) regulation 6 of Part C thereof, shall be amended as follows:

(i) sub-regulation (1) thereof, shall be substituted by the following:

"(1) No cigarettes shall be placed on the market

A 222

unless the packet, box or container immediately enclosing the cigarettes has been sealed by a band or stamp affixed either on the side of the packet in such a manner as to ensure its destruction when such packet, box or container is opened, or else affixed at the bottom on the rear side of the packet:

Provided that with regards to cigarettes which are imported in small quantities, which are not available for sale in Malta, to be sold to persons travelling to the European Union by air or by sea, the tax band can be affixed on the container which contains not less than ten (10) packets each containing not less than twenty (20) cigarettes"; and

(ii) sub-regulations (2) and (3) thereof, shall be renumbered as sub-regulations (3) and (4) respectively, and immediately after sub-regulation (1) thereof, there shall be added the following new sub-regulation:

"(2) No tobacco used for hand rolled cigarettes shall be placed on the market unless its packet, box or container is sealed with a band or stamp in a way that in order for that packet, box or container to be opened, the destruction of the band or stamp is ensured.";

(f) regulation 9 of Part C thereof, shall be substituted by the following:

"Established retail price. 9. When payment of excise duty on cigarettes is effected, the registered warehouse keeper or registered trader is to declare in writing the retail price established by the importer or manufacturer per packet of twenty (20) cigarettes or part of such packet."; and

(g) sub-regulation (3) of regulation 10 of Part C thereof, shall be substituted by the following:

"(3) The said bands or stamps shall be of the type approved by the Commissioner and shall be supplied at the Custom House or at any other place to be appointed by the Minister through a notice in the Gazette.";

(h) immediately after regulation 11 of Part C thereof,

there shall be added the following new regulation:

"Track and Trace system. 11A. Every tobacco importer, tobacco manufacturer or tobacco trader shall be a party to the Track and Trace System established by European Union legislation and shall adhere to its rules and practices, and this as one of the conditions of the authorisation issued to him by the Commissioner;"; and

(i) in sub-regulation (1) of regulation 28 of Part D thereof, the word "browsers" shall be substituted by the words "fuel tank trucks and trailers".

60. In articles 12(1), 16(5), 29(6) and 38(1) of the principal Act, the word "vessels" wherever it occurs shall be substituted by the word "receptacles".

Amendment to various articles of the principal Act.

PART XII

61. This Part amends the Value Added Tax Act and it shall be read and construed as one with the Value Added Tax Act, hereinafter in this Part referred to as "the principal Act".

Amendments to the Value Added Tax Act. Cap. 406.

62. Sub-article (3) of article 73 of the principal Act shall be substituted by the following:

Amendment of article 73 of the principal Act.

"(3) For the purposes of sub-article (2) a notice shall be deemed to have been properly addressed if it has been addressed:

(a) to any known business or private address of a person; or

(b) to an electronic address provided by a person for such purpose as per regulations which the Minister may prescribe."

63. Sub-article (3) of article 83 of the principal Act shall be deleted.

Amendment of article 83 of the principal Act.

PART XIII

64. This Part amends the Commissioner for Revenue Act and it shall be read and construed as one with the Commissioner for Revenue Act, hereinafter in this Part referred to as "the principal Act".

Amendments to the Commissioner for Revenue Act. Cap. 517.

A 224

Substitution of the title of Part III of the principal Act.

65. The title of Part III of the principal Act shall be substituted by the following: "Remission of Revenue".

Addition of new article 5A to the principal Act.

66. Immediately after article 5 of the principal Act there shall be added the following new article:

"Remission of penalties and interest.

5A. (1) The Commissioner may remit in whole or in part any penalties and interest imposed under the revenue acts in such circumstances and subject to such conditions as the Minister may prescribe by means of rules.

(2) The Minister may delegate to the Commissioner the power to prescribe the circumstances in which and the conditions under which penalties and interest may be remitted and may at any time amend or revoke any such delegation. To the extent that they fall within the terms of any such delegation, guidelines published by the Commissioner for the purposes of this article shall have the same effect as rules prescribed in terms of sub-article (1).

(3) In this article "penalties" means additional tax, additional duty and administrative penalties that are imposed under the revenue acts."

PART XIV

Amendments to the Malta Development Bank Act. Cap. 574.

67. This Part amends the Malta Development Bank Act and it shall be read and construed as one with the Malta Development Bank Act, hereinafter in this Part referred to as "the principal Act".

Amendment of article 10 to the principal Act.

68. Article 10 of the principal Act shall be amended as follows:

(a) sub-article (2) thereof shall be substituted by the following:

"(2) Subject to the authorisation of the Minister for Finance;

(a) the Government or any institution and, or entity that is directly or indirectly wholly owned by Government shall subscribe to one hundred (100) *per centum* of the authorised and issued share capital;

(b) the Government or any institution and, or entity that is directly or indirectly wholly owned by Government may subscribe to up to thirty (30) *per*

centum of the authorised and paid-up capital in the form of moveable and, or immoveable property that is free and clear of all encumbrances, hypothecs or other attachments; and

(c) the Bank shall receive from the Government or the institution and, or entity that is directly or indirectly wholly owned by Government a general warranty of title against claims from all persons, as well as covenants of a right to sell and of peaceful possession. The value of any immoveable property transferred to the Bank shall be audited by the National Audit Office."; and

(b) in sub-article (4) thereof, immediately after the words "by the Government" there shall be added the words "and any institution and, or entity that is directly or indirectly wholly owned by Government,".

69. Article 42 of the principal Act shall be deleted.

Deletion of article 42 of the principal Act.

70. Articles 43 and 44 of the principal Act shall be renumbered as articles 42 and 43 respectively.

Renumbering of articles 43 and 44 of the principal Act.

PART XV

71. This Part amends the Budget Measures Implementation Act, 2018 and shall be read and construed as one with the Budget Measures Implementation Act, 2018, hereinafter in this Part referred to as "the principal Act".

Amendments to the Budget Measures Implementation Act, 2018. Act No. VII of 2018.

72. In paragraph (a) of article 28 of the principal Act, the words "for the word "equivalent" " shall be substituted by the words "for the words "equivalent to" ".

Amendment of article 28 of the principal Act.

Passed by the House of Representatives at Sitting No. 209 of the 20th March, 2019.

ANĠLU FARRUGIA

Speaker

RAYMOND SCICLUNA

Clerk of the House of Representatives

