Suppliment tal-Gazzetta tal-Gvern ta' Malta Nru. 20,483, 15 ta' Settembru, 2020
Taqsima B

L.N. 373 of 2020

COMPANIES ACT
(CAP. 386)

Companies Act (Suspension of Filing for Dissolution and Winding Up) Regulations, 2020

IN EXERCISE of the powers conferred by article 425 of the Companies Act, the Minister for the Economy, Investment and Small Businesses, has made the following regulations:-

Citation.

1. The title of these regulations is the Companies Act (Suspension of Filing for Dissolution and Winding Up) Regulations, 2020.

Interpretation.

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

Cap. 386.

"Act" means the Companies Act.

Suspension of article 218 of the Act in respect of creditors.

3. (1) The right granted under article 218 of the Act to any debenture holder, creditor or creditors to file for the dissolution and consequential winding up of a company in terms of article 214 of the Act is being suspended, and shall remain so suspended for a period of forty (40) days following an order of the Minister to lift such suspension.

(2) Any action or proceeding in court for the dissolution and winding up of a company in terms of article 214 of the Act filed in the Registry of Courts and Local Tribunals by any debenture holder, creditor, or creditors on or after 16th March, 2020 shall be stayed for a period of forty (40) days following an order of the Minister to lift such a stay.

(3) Notwithstanding the provisions of sub-regulations (1) and (2), the suspension or stay in terms of this regulation shall not prejudice the power of the Court to order the filing or hearing of applications in terms of article 214 and article 218 of the Act, whenever it is satisfied *prima facie* that the circumstances claimed in the application for winding up of the company arose prior to the 16th March 2020.

Deemed date of dissolution in certain special circumstances.

4. (1) Where a winding up order has been made, the deemed date of dissolution of a company in relation to which, had it not been for the suspension made by regulation 3, an application for its dissolution and winding up would have been filed by a debenture holder, creditor, or creditors of the company during the suspension

shall, instead of the date of filing of the application as specified in article 223 of the Act, be the date upon which a debenture holder, creditor, or creditors files a judicial letter in court against the company informing it of the circumstances warranting its dissolution in terms of article 214 of the Act.

(2) The provisions of this regulation shall remain valid for a period of six (6) months following the lifting of the suspension made by regulation 3.

Suspension of article 316 of the Act.

5. (1) The applicability of the provisions of article 316 of the Act is being suspended in terms and to the extent specified in sub-regulation 2, and shall remain so suspended for a period of forty (40) days following an order of the Minister to lift such suspension.

(2) The steps a director ought to take with a view to minimising the potential loss to the company's creditors during the suspension established by means of this regulation, shall exclude the filing of an application in court for the dissolution and consequential winding up of the company of which he is a director in terms of article 218 of the Act, or incurring debts in good faith on behalf of the company during its ordinary course of business, unless it is shown that such actions or omissions were deliberately intended to prejudice the *pari passu* ranking of creditors of the company which existed prior to the act or omission.

(3) The suspension established by means of this regulation, and its effects shall be deemed to have started to run from 16th March 2020.

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