

I assent.

(L.S.)

GEORGE VELLA
President

21st May, 2021

ACT No. XXII of 2021

AN ACT to amend the Small Business Act, Cap. 512.

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:-

- 1.** The short title of this Act is the Small Business (Amendment) Act, 2021, and this Act shall be read and construed as one with the Small Business Act, hereinafter referred to as "the principal Act".

Short title.
Cap. 512.
- 2.** In sub-article (1) of article 2 of the principal Act, the definition "public sector entities offering services to business" shall be substituted by the following:

Amendment of article 2 of the principal Act.

" "public sector entities offering services to business" means the Authority responsible for Planning, the Authority responsible for the Environment and Resources, Jobsplus, the Commissioner for Revenue, the Department responsible for Commerce, the Malta Enterprise, the Regulator responsible for Energy and Water Services, the Authority responsible for Medicines, the Authority for Competition and Consumer Affairs, the Authority for Communications, the Customs Department, the Authority responsible for Financial Services, the Authority responsible for Gaming, the Registry of Companies Agency, Business First, Authority responsible for Transport, and any other

A 488

entity as may be identified by the Minister from time to time;"

Substitution of
article 4 of the
principal Act.

3. Article 4 of the principal Act shall be substituted by the following:

"4. (1) In its function of carrying out an impact assessment in terms of article 3(2)(a):

(a) in case of primary and subsidiary legislation, a government department, government entity or government agency shall fill in the Impact Assessment Framework as set out in Schedule I, or as may be further established under any other legislation;

(b) any instrument which is determined to have an effect on SMEs shall be accompanied by a report on the outcome of a SME Test which shall be carried out by the government department, government entity or government agency concerned following the procedure set out under Schedule II.

(2) The application of the SME Test under sub-article (1)(b) shall be carried out in coordination with the central entity identified under article 5, which entity shall solely be responsible for overseeing the implementation of Section 6 of the Impact Assessment Framework.

(3) The Impact Assessment Framework referred to in sub-article (1)(a) and set out in Schedule I shall be published in the English version only."

Amendment of
article 10 of the
principal Act.

4. Sub-article (2) of article 10 of the principal Act shall be amended as follows:

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

"(b) sixteen (16) other members representing the entities or Ministries responsible for enterprise or whose remit is relevant to the sector, namely:

(i) the Department responsible for Commerce;

(ii) Malta Enterprise;

(iii) the Authority responsible for Competition and Consumer Affairs;

(iv) the Directorate responsible for Policy within the Ministry responsible for the Economy;

(v) the Economic Policy Division within the Ministry responsible for Finance;

(vi) the Department responsible for Local Government;

(vii) the Ministry responsible for Gozo;

(viii) the Authority responsible for Tourism;

(ix) the Authority responsible for Planning;

(x) the Ministry responsible for Rural Affairs;

(xi) the National Statistics Office;

(xii) the Commissioner for Revenue;

(xiii) the Ministry responsible for Education;

(xiv) the Authority responsible for the Environment and Resources;

(xv) the Registry of Companies Agency;

(xvi) Business First;"; and

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

"(c) ten (10) members nominated by representative from constituted bodies, namely the Malta Chamber of Commerce, Enterprise and Industry, the Malta Chamber of SMEs, the Malta Hotels and Restaurants Association, the Gozo Business Chamber, the Gozo Tourism Association, the Malta Employers' Association, the National Council of Women, the Maltese Association of Women in Business, the Foundation for Women Entrepreneurs, and the Institute of Financial Services Practitioners; and".

5. Paragraph (b) of sub-article (2) of article 13 of the principal Act shall be substituted by the following:

Amendment of article 13 of the principal Act.

"(b) nineteen (19) members nominated by Government, representing the government representatives on the constituted

A 490

bodies, namely the Authority responsible for Financial Services, the Authority responsible for Competition and Consumer Affairs, the Customs Department, the Authority responsible for Gaming, the Regulator responsible for Energy and Water Services, the Authority responsible for Tourism, the Authority responsible for Communications, the Authority responsible for Occupational Health and Safety, the Authority responsible for Planning, the Authority responsible for the Environment and Resources, the Department responsible for Environmental Health, the Directorate responsible for Plant Health, the Directorate responsible for Veterinary Regulation, the Directorate responsible for Fisheries Control, the Authority responsible for Medicines, the Department responsible for Commerce, the Registry of Companies Agency, the Authority responsible for Transport, and the Commission for the Rights of Persons with Disability."

Amendment of
article 15 of the
principal Act.

6. Paragraph (b) of article 15 of the principal Act shall be substituted by the following:

"(b) report to the Minister once a year on the work carried out; and".

Amendment of
article 16 of the
principal Act.

7. Sub-article (1) of article 16 of the principal Act shall be substituted by the following:

"(1) The administrative affairs of the College shall be managed by the College Secretariat, and shall fall within the competence of the Directorate responsible for Policy within the Ministry responsible for the Economy."

Substitution of
article 17 of the
principal Act.

8. Article 17 of the principal Act shall be substituted by the following:

"17. The Minister has the power to make regulations generally:

(a) to amend, cancel or substitute any of the Schedules to this Act; and

(b) for giving effect to the provisions of this Act, and for the better carrying out of the provisions and objects of this Act."

Substitution of
Schedule I to
the principal
Act.

9. Schedule I to the principal Act shall be substituted by the following:

"Schedule I (Article 4)

Impact Assessment Framework Form

Impact Assessment Framework Form for primary legislation

1. Summary				
Title	<i>Full title of BILL</i>			
Rationale:	<i>Identify a clear need which is in the national interest for government to address.</i>			
Objectives of proposed legislation:	<i>Clearly state what the proposal intends to achieve.</i> <ul style="list-style-type: none"> <i>Objectives should be in line with the SMART¹ principle.</i> <i>Objectives should demonstrate that they encapsulate the principles of Transparency, Accountability, Proportionality, Consistency and be targeted at cases where action is needed</i> 			
Options considered:	<i>A wide set of options should be considered including the 'do nothing' option and the 'alternative to regulation' options.</i>			
Preferred option:	<i>Indicate the preferred option and the reason for this being the preferred option on the basis of the Impact Assessment including at least the following considerations:</i> <ul style="list-style-type: none"> <i>Short listing from all options considered</i> <i>Outcome of consultation</i> <i>Outcome of other assessments</i> 			
Compelling reason for publication:	<i>State the current situation and the valid reasons for publication of the proposed Bill.</i>			
Deadline for publication:			Deadline due to:	
.....		20.....	EU commitment ☐	National Agenda ☐
Does the legislation emanate from an EU Directive?		No ☐ Yes ☐	<i>Insert Name of Directive</i>	
Does the Bill go beyond the Directive's minimum requirements?		No ☐ Yes ☐	<i>Give reasons why it was necessary to go beyond minimum provisions of Directive</i>	

¹ SMART - Specific, Measurable, Achievable, Relevant, and, Time-bound.
Further reading: European Commission, 2009. Impact Assessment Guidelines. HM Government, 2011. IA Toolkit.



A 492

2. Consultation Process²**(In line with Directive 6 issued under the PAA)****See also Part 9**

A matrix indicating proposals received and how these were integrated into the proposal. In the case of rejection of proposals, the reason behind such rejection is to be provided.

Internal Consultation	Yes ☐ No ☐		
External Consultation	Yes ☐ No ☐		
Feedback received	Attached	Yes ☐ No ☐	
No feedback	Yes ☐		

² Proponents are to ensure that the Consultation Exercise is in conformity to Directive 6 issued under the **Public Administration Act** and its official Guideline entitled 'Parameters for Consultation Exercises with Stakeholders' available at <http://intra.gov.mt/file-attachments-2011-2/others/directive-6-consultation-exercises-with-stakeholders>



3. Processing of Personal Data*(In line with article 36(4) of the General Data Protection Regulation 2016/679)*

Does the Bill being proposed relate to the processing of personal data?

Yes ☐

No ☐

If yes, has a Data Protection Impact Assessment (DPIA) been drawn up?

Yes ☐ Attached: Yes ☐

No ☐

No ☐ (The DPIA is an obligation on the part of the Data Controller and has to be carried out in accordance with article 35 of the GDPR)

If yes, has a Prior Consultation exercise been held with the Information and Data Protection Commissioner?

Yes ☐

No ☐ (Prior Consultation with the supervisory authority is an obligation on the part of the Data Controller in accordance with article 36 of the GDPR)

Please provide or explain the feedback obtained from the Information and Data Protection Commissioner in this section below or within the contents of the Cabinet Memo.



A 494

4. Social Impact ³	
<p>Are there any envisaged social impacts on citizens (positive or negative) in any of the following areas?</p> <p>Yes ☐ No ☐</p> <p>Where possible quantify the monetary value of each impact (costs and benefits)⁴</p>	
Social benefits:	
Health:	
Education:	
Spending power:	<i>Apart from a qualitative description, the equivalent cost should be calculated using 'Supply Chain Management'</i>
Administrative burden ⁵ :	<i>Apart from a qualitative description, the financial burden should be calculated using 'Supply Chain Management'</i>
<p align="center">Impact on Government⁶</p> <p align="center"><i>Outline any implications to government's policy on social issues</i></p>	

³ **Examples:** demographic & economic changes, social impacts on lifestyle, quality of life and general well-being.

⁴ Monetary values should be quantified with respect to the 'do nothing' scenario.

⁵ Proponents should seek the guidance of the Management Efficiency Unit.

⁶ Such as: prevention approaches, sustainability, improvement of efficiency, capacity building & partnerships with NGOs.

Page 4 of 10



5. Environmental Impact⁷

Are there any envisaged environmental impacts (positive or negative) in any of the following areas?

Yes ☐ No ☐

Where possible quantify the monetary value of each impact (costs and benefits)⁸

[illegible]

⁷ Applicable only to legislation related, but not limited, to agriculture, fisheries, energy, industry, transport, waste management, water management, telecommunications, tourism, town and country planning or land use.

8 Monetary values should be quantified with respect to the 'do nothing' scenario



A 496

6. Impact on Small and Medium Sized Enterprises⁹

In conformity with the **Small Business Act, Cap. 512**

Does this **Bill** affect the business environment?

Yes ☐ No ☐

If yes, please attach **SME Test** report as endorsed by the Policy Implementation (Central Unit) within the Ministry responsible for the Economy, *together with* the Explanatory Notes and Us Guidelines

If No, please attach endorsement by the Policy Implementation (Central Unit), within the Ministry for the Economy

7. Gozo's Regional Impact¹⁰

Social impact:	<i>Outline qualitatively and where possible quantitatively the social impacts on the region, such as reducing insularity, logistical costs, business continuity and functions.</i>
Economic impact:	<i>Outline qualitatively and where possible quantitatively the economic impacts on the region, such as value-added industry.</i>
Environmental impact:	<i>Outline qualitatively and where possible quantitatively the environmental impacts on the region, such as agro-tourism, employment and social assistance.</i>

⁹ Includes, but is not limited to, legislation related to agriculture, fisheries, energy, industry, transport, waste management, water management, telecommunications, tourism, town and country planning or land use.

¹⁰ Applicable only to legislation related, but not limited, to agriculture, fisheries, general energy & alternative energy, industry, transport, waste management, water management & separation management, telecommunications, tourism, town & country planning, noise pollution, chemical hazards or land use.



8. Enforcement and Implementation ¹¹	
How will this Bill be communicated?	
Who will enforce this Bill?	
Are skills required available?	
Risks:	

¹¹ This section should take into consideration the adoption of risk-based approaches, data sharing, the use of administrative data, e-government, interaction and collaboration between departments and government entities, and the use of administrative fines.



A 498

9. Conclusion

NOTE - Political Summary

This document presumes that the Minister and the Permanent Secretary have discussed the contents hereof. There is a presumption that the Minister will set out an Executive Summary of the Consultation Report in the Memo to be presented in Cabinet.

The Executive Summary for the purposes of the Impact Assessment is to include, as a minimum:

- A shortlist of options presented during consultation, with an explanation of the selection process conducted to create the shortlist.
- Internal and external stakeholders consulted.
- Timing of consultation.

*The scope of the statement in the **Memo** is to ensure that there is political ownership of the proposals. This is of vital importance in particular where no meaningful feedback or where, due to cogent reasons that need to be spelt out, the stakeholder feedback cannot be taken on board.*

Compliance to/Strategies of Government as may be applicable:

10. Sunset Clause

Sunset clauses are part of Government's commitment; is it envisaged that the proposed Bill contains a sunset clause or sunset clauses?

Yes ☐ No ☐

Kindly indicate hereunder which article etc., of the proposed Bill is subject to a sunset clause:

Ministry/Entity responsible to carry out an evaluation:



11. Signatories		
Contact Details:	Contact details of PERSON RESPONSIBLE in case of queries	
Name of official responsible:	Name of TECHNICAL PERSON RESPONSIBLE for the drafting of the Bill	
Ministry/entity responsible:		
Telephone number:		
Email:		
Signature of OFFICIAL responsible for drawing up this document	Signature of DIRECTOR responsible for policy	Signature of PERMANENT SECRETARY
Date:		
FOR CABINET OFFICE USE		
Date received:		
Date checked:		
Checked by:		
Assessment:		
Action:	For Cabinet use ONLY	

Page 9 of 10



A 500

Impact Assessment Framework Form for subsidiary legislation

1. Summary				
			Full title of proposed legislation including document referencing (e.g. EU Directives, etc).	
Parent Act:			 Act (Cap.)	
Subsidiary Legislation:			S.L.	
Rationale:			Identify a clear need which is in the national interest for government to address.	
Objectives of proposed legislation:			<p>Clearly state what the proposal intends to achieve.</p> <ul style="list-style-type: none"> Objectives should be in line with the SMART¹ principle. Objectives should demonstrate that they encapsulate the principles of Transparency, Accountability, Proportionality, Consistency and be targeted at cases where action is needed 	
Options considered:			A wide set of options should be considered including the 'do nothing' option and the 'alternative to regulation' options.	
Preferred option:			<p>Indicate the preferred option and the reason for this being the preferred option on the basis of the Impact Assessment including at least the following considerations:</p> <ul style="list-style-type: none"> Short listing from all options considered Outcome of consultation Outcome of other assessments 	
Compelling reason for publication:			State the current situation and the valid reasons for publication of proposed legislation.	
Deadline for publication:			Deadline due to:	
.....		20	EU commitment ☐	National Agenda ☐
Does the legislation emanate from an EU Directive?			No ☐ Yes ☐	Insert Name of Directive

¹ SMART - Specific, Measurable, Achievable, Relevant, and, Time-bound.
 Further reading: European Commission, 2009. Impact Assessment Guidelines. HM Government, 2011. IA Toolkit.



Does the legislation go beyond the Directive's minimum requirements?	No ☐ Yes ☐	Give reasons why it was necessary to go beyond <i>minimum provisions of Directive</i>
Does the legislation require notification under the procedure laid down in Directive (EU) 2015/1535 ² (procedure for the provision of information in the field of technical regulations and of rules on Information Society services)?	No ☐ Yes ☐	
Compliance with Malta's obligations for the provision of information in the field of technical standards and regulations.		

² <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32015L1535&from=en>



A 502

2. Consultation Process³**(In line with Directive 6 issued under the PAA)****See also Part 9**

A matrix indicating proposals received and how these were integrated into the proposal. In the case of rejection of proposals, the reason behind such rejection is to be provided.

Internal Consultation	Yes ☐		
	No ☐		
External Consultation	Yes ☐		
	No ☐		
Feedback received	Attached	Yes ☐	
		No ☐	
No feedback	Yes ☐		

³ Proponents are to ensure that the Consultation Exercise is in conformity to Directive 6 issued under the **Public Administration Act** and its official Guideline entitled 'Parameters for Consultation Exercises with Stakeholders' available at <http://intra.gov.mt/file-attachments-2011-2/others/directive-6-consultation-exercises-with-stakeholders>



3. Processing of personal data*(In line with the General Data Protection Regulation 2016/679)**Further information may be obtained from the respective Data Protection Officer*

Does the legislative or regulatory measure being proposed relate to the processing of personal data?

Yes ☐

No ☐

If yes, has a Data Protection Impact Assessment (DPIA) been drawn up?

Yes ☐ Attached: Yes ☐

No ☐

No ☐ (The DPIA is an obligation on the part of the Data Controller and has to be carried out in accordance with Article 35 of the GDPR)

If yes, has a Prior Consultation exercise been held with the Information and Data Protection Commissioner?

Yes ☐

No ☐ (Prior Consultation with the supervisory authority is an obligation on the part of the Data Controller in accordance with Article 36(4) of the GDPR)

Please provide or explain the feedback obtained from the Information and Data Protection Commissioner in this section below or within the contents of the Cabinet Memo.



Are there any envisaged social impacts on citizens (positive or negative) in any of the following areas?

Where possible quantify the monetary value of each impact (costs and benefits)⁵

4 **Examples:** demographic & economic changes, social impacts on lifestyle, quality of life and general well-being.
5 Monetary values should be quantified with respect to the 'do nothing' scenario.
6 Proponents should seek the guidance of the **Management Efficiency Unit**.
7 Such as: **prevention approaches, sustainability, improvement of efficiency, capacity building & partnerships with NGOs.**

5. Environmental Impact⁸

Are there any envisaged environmental impacts (positive or negative) in any of the following areas?

Yes ☐ No ☐

Where possible quantify the monetary value of each impact (costs and benefits)⁹

Climate change:	
Land use:	
Other Resources & Infrastructure (waste, utilities transport, air quality etc.):	

Impact on Government

Outline any implications on government's environmental policies and strategies

This image shows a blank sheet of white paper with horizontal ruling lines. The lines are evenly spaced and extend across the width of the page. There are no margins or other markings on the paper.

Applicable only to legislation related, but not limited, to agriculture, fisheries, energy, industry, transport, waste management, water management, telecommunications, tourism, town and country planning or land use.
Monetary values should be quantified with respect to the 'do nothing' scenario



A 506

6. Impact on Small and Medium Sized Enterprises¹⁰

In conformity with the Small Business Act, Cap. 512

Does this legislation affect the business environment?

Yes ☐ No ☐

If Yes, please attach SME Test report as endorsed by the Small Business Act Implementation Unit, within the Ministry responsible for the Economy, together with the Explanatory Notes and User Guidelines.

If No, please attach endorsement by the Small Business Act Implementation Unit, within the Ministry for the Economy.

7. Gozo's Regional Impact¹¹

Social impact:	<i>Outline qualitatively and where possible quantitatively the social impacts on the region, such as reducing insularity, logistical costs, business continuity and functions.</i>
Economic impact:	<i>Outline qualitatively and where possible quantitatively the economic impacts on the region, such as value-added industry.</i>
Environmental impact:	<i>Outline qualitatively and where possible quantitatively the environmental impacts on the region, such as agro-tourism, employment and social assistance.</i>

¹⁰ Includes, but is not limited to, legislation related to agriculture, fisheries, energy, industry, transport, waste management, water management, telecommunications, tourism, town and country planning or land use.

¹¹ Applicable only to legislation related, but not limited, to agriculture, fisheries, general energy & alternative energy, industry, transport, waste management, water management & separation management, telecommunications, tourism, town & country planning, noise pollution, chemical hazards or land use.



8. Enforcement and Implementation¹²

How will this legislation be communicated?	
Who will enforce this legislation?	
Are skills required available?	
Risks:	

¹² This section should take into consideration the adoption of risk-based approaches, data sharing, the use of administrative data, e-government, interaction and collaboration between departments and government entities, and the use of administrative fines.



A 508

9. Conclusion

NOTE - Political Summary

This document presumes that the Minister and the Permanent Secretary have discussed the contents hereof. There is a presumption that the Minister will set out an Executive Summary of the Consultation Report in the Memo to be presented in Cabinet.

The Executive Summary for the purposes of the Impact Assessment is to include, as a minimum:

- A shortlist of options presented during consultation, with an explanation of the selection process conducted to create the shortlist.
- Internal and external stakeholders consulted.
- Timing of consultation.

The scope of the statement in the Memo is to ensure that there is political ownership of the proposals. This is of vital importance in particular where no meaningful feedback or where, due to cogent reasons that need to be spelt out, the stakeholder feedback cannot be taken on board.

Compliance to/Strategies of Government as may be applicable:

10. Sunset Clause

Sunset clauses are part of Government's commitment; is it envisaged that the proposed legislation contains a sunset clause or clauses?

Yes ☐ No ☐

Kindly indicate hereunder which article/clause/regulation/rule etc., of the proposed legislation is subject to a sunset clause:

Ministry/Entity responsible to carry out an evaluation:



11. Signatories		
Contact Details:	contact details of PERSON RESPONSIBLE in case of queries	
Name of official responsible:	Name of TECHNICAL PERSON RESPONSIBLE for the drafting of the legislation	
Ministry/entity responsible:		
Telephone number:		
Email:		
Signature of OFFICIAL responsible for drawing up this document	Signature of DIRECTOR responsible for policy	Signature of PERMANENT SECRETARY
Date:		
FOR CABINET OFFICE USE		
Date received:		
Date checked:		
Checked by:		
Assessment:		
Action:	For Cabinet use ONLY	
<div>Page 10 of 11</div> <div>  </div>		

".

A 510

Amendment of
Schedule III to
the principal
Act.

10. Item (ii) of Schedule III to the principal Act shall be substituted by the following:

"(ii) The government department, government entity or government agency sponsoring the instrument is responsible for drafting the explanatory notes to accompany it. The draft must be agreed with by the Office of the State Advocate, which will check that it is consistent with the instrument."

Passed by the House of Representatives at Sitting No. 462 of the 18th May, 2021.

ANĠLU FARRUGIA
Speaker

RAYMOND SCICLUNA
Clerk of the House of Representatives

