

I assent.

(L.S.)

GEORGE VELLA
President

4th April, 2023

ACT No. XII of 2023

AN ACT to implement Budget Measures for the Financial Year 2023 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:-

ARRANGEMENT OF THE ACT

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Short title. **1.** The short title of this Act is the Budget Measures Implementation Act, 2023.

PART I PRELIMINARY

Coming into force of this Part. **2.** The provisions of this Part shall be deemed to have come into force on the 1st January, 2023.

Interpretation.
Cap. 601. **3.** For the purpose of this Part, "revenue" has the same meaning as is assigned to it in article 2 of the Public Finance Management Act, but does not include proceeds from loans.

Authority to raise loan. **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 one billion and six hundred million euro (€1,600,000,000).

Cap. 575. (2) For the purpose of raising the aforesaid loan the Minister responsible for Finance and Employment 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.

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

(a) meeting excess expenditure over revenue incurred in the Consolidated Fund during the year 2023; and

(b) redeeming registered stocks and debt instrument which shall be due for redemption during the year 2023; and

(c) contributing funds in the sinking funds; and

(d) 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 AMENDMENTS TO THE CUSTOMS ORDINANCE

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. Sub-article (2) of article 8C of the Ordinance shall be substituted by the following new sub-article:

Amendment to article 8C of the Ordinance.

Cap. 337. "(2) For the purposes of this article and of articles 8A, 8B and 8D the word "container" means the same as the meaning assigned to it in article 20 of the Import Duties Act, and also includes a commercial road vehicle as therein defined."

8. Immediately after article 8C of the Ordinance there shall be added the following new article:

Addition of new article 8D to the Ordinance.

"Examination of a container which is declared to be empty. 8D. Notwithstanding any provision of this Ordinance, the Commissioner or an official may, when he deems it appropriate, examine a container that was declared to be empty."

9. Paragraph (k) of article 62 of the Ordinance shall be substituted by the following:

Amendment of article 62 of the Ordinance.

"(k) aids, abets or assists the commission of the crimes mentioned in this Ordinance; or".

10. Article 63 of the Ordinance shall be amended by the following:

Amendment of article 63 of the Ordinance.

(a) in paragraph (c) of sub-article (1) thereof, the words "of article 62(m) of this Ordinance" shall be substituted by the words "of article 62(m) and of article 62A"; and

(b) in paragraph (b) of sub-article (2) thereof, the words "Without prejudice to sub-article (6)" shall be substituted by the words "Without prejudice to sub-article (5)".

11. Immediately after article 64 of the Ordinance there shall be

Addition of new article 64A to the Ordinance.

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added the following new article:

"When an object is forfeited, the duty and taxes shall not be collected. 64A. When an object is forfeited in accordance with an article of customs legislation, the duty and taxes due on the forfeited object shall not be collected."

Amendment of article 68 of the Ordinance.

12. Sub-articles (1), (2) and (3) of article 68 of the Ordinance shall be substituted by the following new sub-articles:

"(1) All ships, vehicles, other means of transport and anything that may contain any other objects, together with horses or animals and other objects that have been knowingly used in the importation, disembarkation, in discarding, retaining, concealing, or transporting any objects whose duty is not paid or other objects which are, under this Ordinance, liable to forfeiture, shall be forfeited:

Provided that no vessel shall be liable to forfeiture by the application of this article, if that vessel is not less than two hundred and fifty (250) tons burden.

(2) (a) With regard to any vessels of two hundred and fifty (250) tons burden or more, the Commissioner, in any case in which, in his opinion, any responsible officer of such vessel is, by act or negligence, involved in the act, may proceed to take proceedings in the manner prescribed by article 66, and without prejudice to any appeal as mentioned in that article, for the condemnation of the said vessel of that sum mentioned in paragraph (b). For this purpose, the Commissioner may request, in the case of any vessel mentioned in this sub-article, that this sum be placed in his hands as a precaution against the decision that the court shall give, and in case of failure to pay this deposit, the Commissioner may detain such vessel.

(b) The sum referred to in paragraph (a) shall be:

(i) half a million euro (€500,000) for vessels of between two hundred and fifty (250) and nine thousand, nine hundred and ninety-nine (9,999) tons burden;

(ii) six hundred thousand euro (€600,000) for vessels of between ten thousand (10,000) and nineteen thousand, nine hundred and ninety-nine (19,999) tons burden;

(iii) seven hundred thousand euro (€700,000) for vessels of between twenty thousand (20,000) and twenty-nine thousand, nine hundred and ninety-nine (29,999) tons burden;

(iv) eight hundred thousand euro (€800,000) for vessels of between thirty thousand (30,000) and thirty-nine thousand, nine hundred and ninety-nine (39,999) tons burden;

(v) nine hundred thousand euro (€900,000) for vessels of between forty thousand (40,000) and forty-nine thousand, nine hundred and ninety-nine (49,999) tons burden;

(vi) one million euro (€1,000,000) for vessels of between fifty thousand (50,000) and fifty-nine thousand, nine hundred and ninety-nine (59,999) tons burden;

(vii) one million, one hundred thousand euro (€1,100,000) for vessels of between sixty thousand (60,000) and sixty-nine thousand, nine hundred and ninety-nine (69,999) tons burden;

(viii) one million, two hundred thousand euro (€1,200,000) for vessels of between seventy thousand (70,000) and seventy-nine thousand, nine hundred and ninety-nine (79,999) tons burden; or

(ix) one million, three hundred thousand euro (€1,300,000) for vessels of eighty thousand (80,000) tons burden or more.

(3) There shall be no right of action against the Commissioner for damages caused by the payment of the deposit or by the retention of any vessel, vehicle, any other means of conveyance, anything that may keep in it other goods, horses, animals and any other goods which have been knowingly used in the importation, landing, discarding, keeping, concealment, or in the carriage of any goods on which the duty is not paid or other items that are, under this Ordinance, subject to forfeiture."

13. Sub-article (1) of article 69 of the Ordinance shall be substituted by the following new sub-article:

Amendment of article 69 of the Ordinance.

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"(1) All vessels, goods, vehicles, other means of conveyance and any item that can hold in it other objects, together with all horses or other animals and things liable to forfeiture, may be seized in any place, either upon land or water, by any Customs official or Police officer, and such vessels, goods, vehicles, other means of conveyance and any item that can hold in it other objects, together with all horses and other animals and things so seized shall forthwith be delivered into the control of the Commissioner or in any other way be securely placed in a place where the Commissioner exercises control."

Substitution of article 70 of the Ordinance.

14. Article 70 of the Ordinance shall be substituted by the following new article:

"Power of officers to stop any means of conveyance, etc., and search for goods.

70. (1) Every Customs official or Police officer may, upon reasonable suspicion, stop and examine at any place any means of conveyance and any item that can hold in it other objects, to ascertain whether any smuggled goods are contained therein. Where no smuggled goods are found, such official or officer shall not, on account of such stoppage and examination, be liable to any action or prosecution.

(2) Every person driving or conducting such means of conveyance or is responsible for any item that may hold in it other objects and who refuses to stop or allow such examination on being so requested, shall be liable to a fine (multa) not exceeding two hundred and thirty-two euro and ninety-four cents (€232.94)."

Substitution of article 72 of the Ordinance.

15. Article 72 of the Ordinance shall be substituted by the following new article:

"Procedure when goods are withheld.

72. (1) Whenever goods are withheld under this Ordinance, the official who does the withholding shall issue a receipt for withheld goods to the person from whom the objects were taken or else the receipt for withheld goods shall be affixed to the place from where the goods were withheld.

(2) Where within a period of ninety (90) working days from when the object was withheld the Commissioner decides that the object is not subject to seizure or if he fails to take a decision regarding that object, the Commissioner shall immediately give back the withheld object to the person from whom it was withheld.

(3) Where it is decided that the item is subject to seizure, the Commissioner or the official shall give a note of seizure with the reason for the forfeiture within ninety (90) working days from when the item is withheld, to any person who, according to the opinion of the Commissioner or the official, was at the time the seizure was made the owner or owners of the withheld object, if known.

(4) The seizure note shall be accompanied by a copy of this article and it shall be deemed to have been duly given to the interested person:

(a) when it is delivered to that person personally, if known; or

(b) when it is addressed to that person and is sent to him by registered mail or left at the last known address of residence or place of business of that person, or in the case of a body corporate in its registered or main office and in this case the date of the seizure note shall be the date when the registered post is delivered; or

(c) where that person does not have a known address in Malta or Gozo, when a notice is published in the Government Gazette declaring that the seizure note has been issued. The date of the seizure note in this case shall be the date of publication of the notice in the Government Gazette.

(5) The objects seized under this Ordinance shall be deemed to be forfeited by virtue of the law and may be disposed of according to law, unless the person from whom the objects have been seized, or the owner, or any person authorised by him, within thirty (30) days from the date of the seizure note, gives a notice in writing to the Commissioner, requesting that the seized goods are returned to him or indicating that he intends to demand that they are returned, and within thirty (30) days from that notice, initiates the necessary proceedings before the Administrative Review Tribunal by means of an application against the Commissioner, who shall have thirty (30) days from the notification to reply. In default of such, the claim on this object shall be deemed to be abandoned. The Tribunal shall hear the application expeditiously.

(6) When seized goods in accordance with this article is a ship or is of a perishable nature or is, in the opinion of the Commissioner, likely to suffer substantial loss of value by the lapse of time, or consists of a living creature, the same goods may, by direction of the Commissioner, be sold immediately, and the proceeds thereof be retained to abide the results of any claim that may be legally made in respect thereof and for the purpose of any proceedings taken under this Ordinance in respect of the seized goods, such proceeds shall represent and substitute the said seized goods.

(7) Where a seizure made in accordance with this article is contested in accordance with sub-article (5), the Commissioner may, at any time, if he sees fit and notwithstanding the pendency of the proceedings wherein the seizure is contested, deliver any object seized to any claimant upon his paying to the Commissioner such sum as the Commissioner thinks proper, and not exceeding that which in the opinion of the Commissioner represents the value of the object, including any duty and tax which shall be paid on it and which have not been paid, or upon giving to the Commissioner such security acceptable to the said Commissioner for the payment of such sum. Such sum or such security, as the case may be, shall be retained to abide the result of any claim that may be legally made in respect thereof and shall, for the purpose of any proceedings taken under this Ordinance in respect of the seized goods, represent and substitute the said seized goods."

Amendment of article 91 of the Ordinance.

16. Article 91 of the Ordinance shall be amended by the following:

(a) in paragraph (c) thereof, the words "sale by call for tenders" shall be substituted by the words "sale by call for offers"; and

(b) in the proviso to paragraph (c) thereof, the words "sale by a call for tenders" shall be substituted by the words "sale by call for offers".

Addition of new article 92 to the Ordinance.

17. Immediately after article 91 of the Ordinance there shall be

added the following new article:

"Ulterior proof.

92. The Commissioner may require a sworn declaration to serve as proof in the absence of more specific Customs documents or to serve as ulterior proof after all the required documentation has been provided."

PART III AMENDMENT TO THE INCOME TAX ACT

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

Amendment to the Income Tax Act.
Cap. 123.

(2) The article amending article 14E of the principal Act, the article amending article 14G of the principal Act and the article amending article 31F of the principal Act shall be deemed to have come into force as from the year of assessment 2024.

19. In paragraph (b) of article 14E of the principal Act, the words "one hundred euro" shall be substituted by the words "three hundred euro (€300)".

Amendment of article 14E of the principal Act.

20. In paragraph (b) of article 14G of the principal Act, the words "one hundred euro (€100)" shall be substituted by the words "three hundred euro (€300)".

Amendment of article 14G of the principal Act.

21. In article 27A of the principal Act, the words "transfer of assets between companies" shall be substituted by the words "transfer of assets between companies, a transfer between a company and a person who is related to it in such manner as may be prescribed".

Amendment of article 27A of the principal Act.

22. Sub-article (2) of article 31F of the principal Act shall be substituted by the following new sub-article:

Amendment of article 31F of the principal Act.

"(2) The tax on the royalties to which this article applies shall be chargeable, at the option of the individual who derives those royalties:

(a) when the royalties were derived before the 1st January 2023, at the rate of fifteen cents (€0.15) on every euro of the gross amount of the royalties; and

(b) when the royalties were derived on or after 1st January 2023, at the rate of seven point five percent (7.5%) of the gross amount of the royalties,

and such tax shall be final and no set-off or refund shall be granted to any person in respect of the tax so charged."

**PART IV
AMENDMENTS TO THE SOCIAL SECURITY ACT**

Amendments to
the Social
Security Act.
Cap. 318.

23. 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 16 of the
principal Act.

24. Article 16 of the principal Act shall be amended by the following:

(a) in paragraph (f) of sub-article (2) thereof, the words "until they reach pension age." shall be substituted by the words "until they reach pension age;" and immediately thereafter there shall be added the following new paragraph:

"(g) a person born on the 1st January 1962 or after, who did not engage in any gainful occupation between the age of eighteen (18) years and thirty (30) years and proves to the satisfaction of the Director that during this period he has been undergoing regular treatment by a psychiatrist who is or was consultant in Government employment, the sum total of such credited contributions that may be awarded for such period, which shall not exceed one hundred and four (104) contributions.";

(b) in sub-paragraph (ii) of paragraph (a) of sub-article (3) thereof, the words "20 contributions" shall be substituted by the words "fifteen (15) contributions"; and

(c) in paragraph (a) of sub-article (3) thereof, the words "who fail to satisfy the conditions of Part IV of the Second Schedule of this Act but fulfil the criteria stipulated by the provisions of article 106(a);" shall be substituted by the words "who fail to satisfy the conditions of Part IV of the Second Schedule but fulfil the criteria stipulated by the provisions of article 106(a):" and immediately after there shall be added the following new proviso:

"Provided that, notwithstanding the provisions of this sub-article, with effect from 1st January 2023, a person entitled to a Carers Allowance or an Increased Carers Allowance in accordance with the provisions of article 68 and who fails to satisfy the conditions mentioned in this sub-article, shall be entitled to a total of two hundred and eight (208) credited contributions;"

Amendment of
article 18 of the
principal Act.

25. In the first proviso to sub-article (1) of article 18 of the principal Act the words "Provided that in any uninterrupted period of

incapacity for work" shall be substituted by the words "Provided further that in any uninterrupted period of incapacity for work" and immediately before this proviso, as amended, immediately after the words "age of 23:" of sub-article (1) thereof, there shall be added the following new proviso:

"Provided that and notwithstanding the provisions of article 90, with effect from 1st January 2023, the provisions of this article shall also apply to a widow who is in receipt of a Pension under Part IV of this Act, who is in an insurable employment, and who has not yet reached pension age:".

26. In the first proviso to sub-article (1) of article 28 of the principal Act the words "due to the nature of his work:" shall be substituted by the words "due to the nature of his work:" and immediately thereafter, there shall be added the following new proviso:

Amendment of article 28 of the principal Act.

"Provided that and notwithstanding the provisions of article 90, with effect from 1st January 2023, the provisions of this article shall also apply to a widow who is in receipt of a Pension under Part IV of this Act, who is in an insurable employment, and who has not yet reached pension age:".

27. Article 30 of the principal Act shall be amended by the following:

Amendment of article 30 of the principal Act.

(a) in paragraph (iv) of the proviso to sub-article (1) thereof, the words "the Ministry responsible for Employment." shall be substituted by the words "the Ministry responsible for Employment:" and immediately thereafter, there shall be added the following new proviso:

"Provided further that and notwithstanding the provisions of article 90, with effect from 1st January 2023, the provisions of this article shall also apply to a widow who is in receipt of a pension under Part IV of this Act, who is in an insurable employment, and who has not yet reached pension age;;

(b) in the second proviso to sub-paragraph (vii) of paragraph (b) of sub-article (6) thereof, the words "maximum of three years." shall be substituted by the words "maximum of three (3) years:" and immediately thereafter there shall be added the following new proviso:

"Provided further that notwithstanding the provisions of this sub-paragraph, with effect from 1st January 2023 when a

person, who has been in receipt of Social Assistance for more than one (1) year in the three (3) years preceding the claim, and partakes in insurable employment, the entitlement for Social Assistance shall not cease immediately, however that person shall still be entitled to seventy-five percent (75%) of the rate applicable for the first (1) year, to fifty-five percent (55%) of the rate applicable for the second (2) year and thirty-five percent (35%) of the rate applicable for the third (3) year. The employer shall be entitled to twenty-five percent (25%) of the rate applicable for every year for a maximum of three (3) years;"; and

(c) in the proviso to sub-paragraph (viii) of paragraph (b) of sub-article (6) thereof, the words "rate applicable for the third year." shall be substituted by the words "rate applicable for the third (3) year:" and immediately after there shall be added the following new proviso:

Cap. 614.

"Provided further that notwithstanding the provisions of this sub-paragraph, with effect from 1st January 2023, a person who is has been in receipt of Social Assistance for more than one (1) year in the three (3) years preceding the claim and who contracts a marriage or a civil union or a cohabitation in accordance with the terms and provisions of the Cohabitation Act with a person engaged in an insurable employment, the entitlement for Social Assistance shall not cease immediately, however that person shall be entitled to seventy-five percent (75%) of the rate applicable for the first (1) year, to fifty-five percent (55%) of the rate applicable for the second (2) year and to thirty-five percent (35%) of the rate applicable for the third (3) year.".

Amendment of
article 68 of the
principal Act.

28. Article 68 of the principal Act shall be amended by the following:

(a) in paragraph (a) of sub-article (1) thereof, immediately after the words "a single person or a married person" there shall be added the following new words:

"or a person who proves to the satisfaction of the Director, by providing the necessary documentation, that they have been cohabiting in similar circumstances to marriage, civil union or registered cohabitation for at least ten (10) years immediately prior to the application and that such cohabitation was not registered due to pending legal proceedings";

(b) in paragraph (b) of sub-article (1) thereof, immediately after the words "a single or a married person" there shall be added the following new words:

"or a person who proves to the satisfaction of the Director, by providing the necessary documentation, that they have been cohabiting in similar circumstances to marriage, civil union or registered cohabitation for at least ten (10) years immediately prior to the application and that such cohabitation was not registered due to pending legal proceedings";

(c) immediately after paragraph (e) of sub-article (1) thereof there shall be added the following new paragraph (f):

"(f) Subject to the provisions of this Act, with effect from 1st January 2023, a parent who is not in employment or self-occupation and has not yet reached pensionable age and who proves to the satisfaction of the Director that he is a citizen of Malta or of a country of the European Union and is permanently residing in Malta, shall be entitled to a Carer's Grant equivalent to fifty percent (50%) of the net National Minimum Wage annually, where such parent proves to the satisfaction of the Director that he is taking care, all by himself, on a full-time basis and regularly of a child who is in receipt of or children who are in receipt of the Increased Severe Disability Assistance, under the provisions of this Act."; and

(d) in the proviso to paragraph (b) of sub-article (2) thereof, the words "as Social Assistance." shall be substituted by the words "as Social Assistance:", and immediately after there shall be added the following new proviso:

"Provided further and without prejudice to the provisions of article 90, with effect from 1st January 2023, where a person is in receipt of Social Assistance in accordance with the provisions of article 30, and ceases to be so entitled due to becoming entitled to a Carer's Allowance because he goes to live with any one (1) of the persons mentioned in sub-article 1(b) to care for said person, such person shall still be entitled to the payment of the difference in rate between the Social Assistance which he was receiving and the Carers Allowance which he becomes entitled to receive, if the rate of the Carers Allowance is lower.".

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Amendment of
article 76A of
the principal
Act.

29. In article 76A of the principal Act, the words "no allowance under article 76 shall be payable." shall be substituted by the words "no allowance under article 76 shall be payable:", and immediately after there shall be added the following new proviso:

Cap. 602. "Provided that subject to the provisions of this Act, and with effect from 1st January 2023, it shall be the right of every child who is certified by a competent authority as a fostered child, to have an allowance paid in his respect to the head of household who is an approved foster carer in accordance with the Minor Protection (Alternative Care) Act, even when said child is not a fostered child anymore because he is adopted by that same head of household, at the rates specified in Part VIII of the Fourteenth Schedule to this Act."

Amendment of
article 85 of the
principal Act.

30. Immediately after sub-article (8) of article 85 of the principal Act, there shall be added the following new sub-article (8A):

"(8A) Notwithstanding the provisions of sub-articles (4), (5), (6), (7) and (8), with effect from 1st January 2023, the rate due to persons who have reached pension age according to the definition "pension age" in article 2, who have retired from employment and who shall not be entitled to a Contributory Pension, and however have paid between fifty (50) and two hundred and fifty-nine (259) social security contributions shall be four hundred and fifty euro (€450) per year, whereas the rate due to persons who have reached pension age according to the definition "pension age" in article 2, who have retired from employment and who shall not be entitled to a Contributory Pension, and however have paid at least two hundred and sixty (260) social security contributions shall be five hundred and fifty euro (€550) per year."

Amendment of
article 116 of
the principal
Act.

31. The fourth proviso to sub-article (5) of article 116 of the principal Act, shall be substituted by the following new proviso:

"Provided further that, such option may also be granted to a person who has attained the age of fifty-nine (59) years and is in receipt of an Invalidity Pension in accordance with the provisions of article 26 or is in receipt of a Carers Allowance or Increased Carers Allowance in accordance with the provisions of article 68 when the claim is made:".

PART V
AMENDMENTS TO THE MOTOR VEHICLES
REGISTRATION AND LICENSING ACT

32. (1) This Part amends the Motor Vehicles Registration and Licensing Act and it 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 of this Part shall be deemed to have come into force on the 1st January, 2024.

33. Article 2 of the principal Act shall be amended by the following:

Amendment of article 2 of the principal Act.

(a) the definition "brought into Malta" shall be substituted by the following new definition:

" "brought into Malta" means the entry into Malta of a motor vehicle coming from:

- (a) a Member State,
- (b) the Channel Islands (Guernsey and Jersey),
- (c) the Isle of Man,
- (d) Monaco,
- (e) Andorra,
- (f) San Marino, or
- (g) Northern Ireland,

and which was put into free circulation in such Member State, or in the Channel Islands, or in the Isle of Man, or in Monaco, or in Andorra, or in San Marino, or in Northern Ireland as the case may be, prior to entry into Malta;"

(b) in the definition "plug-in hybrid electric vehicle" thereof the words "30km" shall be substituted by the words "fifty (50) km"; and

(c) in the definition "range extender electric vehicle" thereof the words "40km" shall be substituted by the words "fifty (50) km".

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Amendment of
article 3 of the
principal Act.

34. Immediately after sub-article (1) of article 3 of the principal Act, there shall be added the following new sub-articles:

"(1A) As from the 1st January 2024 and thereafter, the registered owner of an M1 motor vehicle originally registered in any country other than a third country prior to the 1st January 2009 and which was subsequently registered in Malta after such date and is still licensed and for which the registration tax and annual circulation licence fee imposed were in accordance to the Second Schedule, Category A and the Fourth Schedule, Category 1A, shall have the right to shift the registration tax and annual circulation tax regimes as explained below:

Provided that, upon exercising the right to pay the registration tax and annual circulation licence fee leviable in terms of the Second Schedule, Category AAA for registration tax and Fourth Schedule, Category 2 for the annual circulation licence fee instead of that leviable in terms of the paragraphs of the Second Schedule, Category A and the Fourth Schedule, Category 1A, such person shall be obliged to receive a refund from the Authority in credit for any difference which there may be between the sum total of registration tax and annual circulation licence fees payable up to such date calculated in terms of the paragraphs of the Second Schedule, Category AAA for registration tax and the Fourth Schedule, Category 2 for the annual circulation licence fee and the sum total of registration tax and annual circulation licence fees payable up to such date calculated in terms of the paragraphs of the Second Schedule, Category A and the Fourth Schedule, Category 1A.

(1B) The owner who decides to exercise his right in terms of sub-article (1A) shall be obliged to receive a credit on that particular licensed vehicle which shall be deducted from the annual circulation licence, if any, and this between the difference of the total sums of registration tax and annual circulation licence fees calculated in the manner established in the proviso to sub-article (1A) contemporaneously with the exercise of such right and the payment, for the first time, of the circulation licence fee in terms of the Fourth Schedule, Category 2.

(1C) As from the 1st January 2024 and thereafter the registered owner of a motorcycle originally registered in any country other than a third country prior to the 1st January 2009 and which was subsequently registered in Malta after such date and is still licensed and for which the registration tax and annual circulation licence fee leviable were in accordance to the Second Schedule, Category C and the Fourth Schedule, Category 3, shall

have the right to shift the registration tax and annual circulation tax regimes as explained below:

Provided that upon exercising the right to pay the registration tax and annual circulation licence fee leviable in terms of the Second Schedule, Category CC for registration tax and the Fourth Schedule, Category 4 for the annual circulation licence fee and instead of that leviable in terms of paragraphs of the Second Schedule, Category C and the Fourth Schedule, Category 3 such person shall be obliged to receive a refund from the Authority in credit for any difference which there might be between the sum total of registration tax and annual circulation licence fees payable up to such date calculated in terms of the paragraphs of the Second Schedule, Category CC for registration tax and the Fourth Schedule, Category 4 for the annual circulation licence fee and the sum total of registration tax and annual circulation licence fees payable up to such date calculated in terms of the paragraphs of the Second Schedule, Category C and the Fourth Schedule, Category 3.

(1D) The owner who decides to exercise his right in terms of sub-article (1A) shall be obliged to receive a credit on that particular licensed vehicle which shall be deducted from the annual circulation licence, if any, and this between the difference of the total sums of registration tax and annual circulation licence fees calculated in the manner established in the proviso to sub-article (1A) contemporaneously with the exercise of such right and the payment, for the first time, of the circulation licence fee in terms of the Fourth Schedule, Category 4."

35. In sub-article (7) of article 8 of the principal Act, the words "at the time of valuation." shall be substituted by the words "at the time of valuation:" and immediately thereafter there shall be added the following new proviso:

Amendment of article 8 of the principal Act.

"Provided that, in such cases where the registration value of the motor vehicle in question is higher than the registration value used for the purposes of calculating the registration tax payable when the said motor vehicle was first registered, the registration value used during first registration shall apply for the purpose of calculating the difference in the registration tax payable."

36. The Second Schedule to the principal Act shall be amended by the following:

Amendment of the Second Schedule to the principal Act.

(a) immediately after the paragraph ending with the

words "its equivalent euro standard." in item "Category AA" thereof there shall be added the following new item:

"Category AAA: M1 motor vehicles registered prior to the 1st January, 2009 in any country other than a third country and then brought into and registered in Malta on or after the 1st January, 2009:

M1 Motor Vehicles	
Engine Capacity	Rate of Tax Percentage of RV
Up to and including 1000cc	50.5%
More than 1000cc up to and including 1300cc	50.5%
More than 1300cc up to and including 1500cc	53%
More than 1500cc up to and including 1800cc	60%
More than 1800cc up to and including 2000cc	65%
More than 2000cc up to and including 2500cc	75%
More than 2500cc up to and including 3000cc	75%
More than 3000cc	75%

";

(b) item "Category B" thereof shall be amended by the following:

(i) the words from "Used category M1 vehicles" till the words "in terms of article 6(2):" thereof shall be substituted by the words "Category B: Used category M1 vehicles (including autogas and hybrid motor vehicles) imported from third countries in terms of article 6(2):"; and

(ii) the words "** The vehicle's age is the age of a vehicle from year of manufacture.*" immediately after the table thereof shall be substituted by the words "** The vehicle's age is the age of a vehicle from date of registration in the other country.*";

(c) immediately after the last table of the item "Category C" thereof there shall be added the following new items:

"Category CC: motorcycles registered prior to the 1st January, 2009 in any country other than a third country

brought into and registered in Malta on or after the 1st January, 2009:

Motorcycles	
Engine Capacity	Rate of Tax Percentage of RV
Up to and including 50cc	28.5%
More than 50cc up to and including 125cc	28.5%
More than 125cc up to and including 250cc	42%
More than 250cc up to and including 500cc	42%
More than 500cc up to and including 800cc	42%
More than 800cc	42%

Category CCC: used motorcycles registered prior to the 1st January, 2009 in any country other than a third country brought into and registered in Malta on or after the 1st January, 2009:

Motorcycles	
Engine Capacity	€
Up to and including 50cc	5,000
More than 50cc up to and including 125cc	10,000
More than 125cc up to and including 250cc	12,000
More than 250cc up to and including 500cc	14,000
More than 500cc up to and including 800cc	16,000
More than 800cc	20,000

*The vehicle's age is the age of a vehicle from the date of registration in the other country"; and

(d) in sub-item (3) of item "Category D" thereof the words "0.05g/km" shall be substituted by the words "0.35g/km".

37. The Fourth Schedule to the principal Act shall be amended by the following:

Amendment of the Fourth Schedule to the principal Act.

(a) in the third indent thereof the word "manufacture" shall be substituted by the word "registration"; and

(b) in item 2 thereof the words "registered on the 1st January, 2009" shall be substituted by the words "registered

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before the 1st January, 2009".

PART VI AMENDMENTS TO THE INCOME TAX MANAGEMENT ACT

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

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

(2) The article amending article 44 of the principal Act, the article amending article 45 of the principal Act and paragraph (a) of the article amending article 48 of the principal Act shall be deemed to have come into force as from 1 June 2022.

Amendment of
article 43 of the
principal Act.

39. Article 43 of the principal Act shall be amended by the following:

(a) the second and third provisos to paragraph (b) of sub-article (1) thereof shall be substituted by the following new provisos:

Cap. 123. "Provided further that in the case of a transfer of securities, as defined in article 5 of the Income Tax Act, involving a transfer of a controlling interest in accordance with prescribed rules, or a transfer of an interest in a partnership, as defined in article 5(1)(a)(v)(a) of the Income Tax Act, the provisional tax payment shall be equivalent to seven percent (7%) of the higher of the market value and the consideration, and in the case of a transfer to which article 5(9A) of the Income Tax Act applies, such payment shall be made within fifteen (15) days from the date the chargeable company ceases to be a member of the group:

Cap. 123. Provided further that in the case of a transfer of value in securities, as provided for in article 5(13)(b)(ii) of the Income Tax Act, or a deemed transfer of an interest in a partnership, as provided for in article 5(1)(a)(v) of the Income Tax Act, the provisional tax payment shall be equivalent to seven percent (7%) of the gains or profits referred to in the said sub-articles, as applicable"; and

(b) the proviso to sub-article (3) shall be substituted by

the following new proviso:

Cap. 123.	"Provided that in the case of a transfer of securities, as defined in article 5 of the Income Tax Act, involving a transfer of a controlling interest in accordance with prescribed rules, or of a transfer of an interest in a partnership, as defined in article
Cap. 123.	5(1)(a)(v)(a) of the Income Tax Act, the twenty percent (20%) shall be calculated on the higher of the market value and the consideration."

40. In the second proviso to paragraph (a) of sub-article (2A) of article 44 of the principal Act, the words "the amount of the said tax;" shall be substituted by the words "the amount of the said tax:" and immediately thereafter there shall be added the following new proviso:

Amendment of article 44 of the principal Act.

"Provided further that when the date by which the tax shall be payable in terms of the relevant provisions of the Income Tax Acts is the 31 August 2022 or a later date, interest shall be charged at the rate of zero point six percent (0.6%) for every month or part thereof during which the tax remains unpaid or at such other rate as the Minister may, from time to time, prescribe by rules and the total interest shall not exceed the amount of the said tax;"

41. In the proviso to article 45 of the principal Act, the words "interest on the said tax shall be computed and due in accordance with the provisions of article 44(2A) as from the relevant tax settlement date up to the date of payment" shall be substituted by the words "for the purposes of article 44(2A) the said tax shall be treated as tax that was payable by not later than the relevant tax settlement date".

Amendment of article 45 of the principal Act.

42. Article 48 of the principal Act shall be amended by the following:

Amendment of article 48 of the principal Act.

(a) in the second proviso to sub-article (2D) thereof, the words "the amount of the said repayment." shall be substituted by the words "the amount of the said repayment:" and immediately thereafter there shall be added the following new proviso:

"Provided further that for any period or part thereof commencing on or after 1 September 2022, interest shall be calculated at the rate of zero point six percent (0.6%) or at such other rate as may be prescribed, and the total amount of interest shall not exceed the amount of the said repayment."; and

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(b) in sub-article (8) thereof, the words "and shall be recoverable as such." shall be substituted by the words "and shall be recoverable as such:" and immediately thereafter there shall be added the following new proviso:

"Provided that the said period of fourteen (14) days may be extended by another period of twelve (12) months if the Commissioner requires to carry out further verifications for due diligence purposes."

PART VII AMENDMENTS TO THE EXCISE DUTY ACT

Amendments to
the Excise Duty
Act.
Cap. 382.

43. 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".

Amendment of
article 2 of the
principal Act.

44. In the definition "duty suspension arrangement" of article 2 of the principal Act, the words "holding or movement" shall be substituted by the words "holding, storage or movement".

Amendment of
article 8 of the
principal Act.

45. Article 8 of the principal Act shall be amended by the following:

(a) paragraph (b) of sub-article (1) thereof shall be substituted by the following new paragraph:

"(b) in relation to the holding or storage of excisable goods outside a duty suspension arrangement where the excise duty has not been levied pursuant to the applicable provisions of this Act, by the person holding or storing the excisable goods and any other person involved in the holding or storing of the excisable goods;" and

(b) sub-article (3) thereof shall be substituted by the following new sub-article:

"(3) The prescriptive time period for the Commissioner to notify the debtor with a final decision as provided for in this Act or to initiate judicial proceedings in any other way against him shall be of six (6) years from the date when the excise duty becomes payable as provided for in this Act."

Amendment of
article 9 of the
principal Act.

46. Article 9 of the principal Act shall be amended by the following:

(a) in sub-article (1) thereof the words "processing and

holding of products" shall be substituted by the words "processing, holding and storage of products"; and

(b) in sub-article (2) thereof the words "processing and holding of products" shall be substituted by the words "processing, holding and storage of products".

47. In paragraph (a) of sub-article (1) of article 10 of the principal Act, the words "processing and holding and a compulsory guarantee" shall be substituted by the words "processing, holding, storage and a compulsory guarantee".

Amendment of article 10 of the principal Act.

48. In paragraph (t) of sub-article (1) of article 16 of the principal Act, the words "of the Commissioner," shall be substituted by the words "of the Commissioner; or", and immediately thereafter there shall be added the following new paragraphs:

Amendment of article 16 of the principal Act.

"(u) comes into possession of excisable goods or excise stamps or bands in breach of the law; or

(v) fails to register himself with the Commissioner, or his business or the property which he manages, in breach of this Act or its subsidiary laws,".

49. Immediately after article 16B of the principal Act there shall be added the following new article:

Addition of new article 16C to the principal Act.

"When an object is forfeited, the duty and taxes shall not be collected.

16C. When an object is forfeited in accordance with an article of customs legislation, the duty and taxes due on the forfeited object shall not be collected."

50. Article 17 of the principal Act shall be amended by the following:

Amendment of article 17 of the principal Act.

(a) sub-article (3) thereof shall be substituted by the following new sub-article:

"(3)(a) With regard to any vessel of or exceeding two hundred and fifty (250) tons burden, the Commissioner may, in any case in which, in his opinion, any responsible officer of such vessel is implicated, either actually or by neglect, proceed in the manner prescribed by article 36, and without prejudice to any appeal as laid down in that article, for condemnation of the said vessel to the amount mentioned in paragraph (b). For this purpose, the Commissioner may require, as to any vessel referred to in this sub-article, the deposit in his hands of this amount as guarantee to abide by the decision of the

court, and in default of payment of such deposit, the Commissioner may detain such vessel.

(b) The amount mentioned in paragraph (a) shall be of:

(i) half a million euro (€500,000) for vessels between two hundred fifty (250) and nine thousand, nine hundred and ninety-nine (9,999) tons burden;

(ii) six hundred thousand euro (€600,000) for vessels between ten thousand (10,000) and nineteen thousand, nine hundred and ninety-nine (19,999) tons burden;

(iii) seven hundred thousand euro (€700,000) for vessels between twenty thousand (20,000) and twenty-nine thousand, nine hundred and ninety-nine (29,999) tons burden;

(iv) eight hundred thousand euro (€800,000) for vessels between thirty thousand (30,000) and thirty-nine thousand, nine hundred and ninety-nine (39,999) tons burden;

(v) nine hundred thousand euro (€900,000) for vessels between forty thousand (40,000) and forty-nine thousand, nine hundred and ninety-nine (49,999) tons burden;

(vi) one million euro (€1,000,000) for vessels between fifty thousand (50,000) and fifty-nine thousand, nine hundred and ninety-nine (59,999) tons burden;

(vii) one million, one hundred thousand euro (€1,100,000) for vessels between sixty thousand (60,000) and sixty-nine thousand, nine hundred and ninety-nine (69,999) tons burden;

(viii) one million, two hundred thousand euro (€1,200,000) for vessels between seventy thousand (70,000) and seventy-nine thousand, nine hundred and ninety-nine (79,999) tons burden; or

(ix) one million, three hundred thousand euro (€1,300,000) for vessels of eighty thousand (80,000) tons burden or more.";

(b) immediately after sub-article (7) thereof there shall be added the following new sub-article:

"(8) Any quantity of excise bands or stamps that are found in the possession of a person in violation of the provisions of this Act shall, without prejudice to any other punishment under this Act or another law, be forfeited in favour of the Government.".

51. Articles 27 and 28 of the principal Act shall be substituted by the following new articles:

Substitution of articles 27 and 28 of the principal Act.

"Procedure when goods are withheld.

27. (1) Whenever goods are withheld under this Act, the official who does the withholding shall issue a receipt for withheld goods to the person from whom the goods were taken or else the receipt for withheld goods shall be affixed to the place from where the goods were withheld.

(2) Where within a period of ninety (90) working days from when the goods were withheld the Commissioner decides that the goods are not subject to seizure or if he fails to take a decision regarding those goods, the Commissioner shall immediately give back the withheld goods to the person from whom they were withheld.

(3) Where it is decided that the object is subject to seizure, the Commissioner or the official shall give a seizure note containing the reasons for the seizure within ninety (90) working days from when the goods were withheld to every person who, in the opinion of the Commissioner or the official, was at the time of seizure, the owner or owners of the goods seized, if such were known.

(4) The seizure note shall be accompanied by a copy of this article and it shall be deemed to have been duly given to the interested person:

(a) when it is delivered to that person personally, if known; or

(b) when it is addressed to that person and is sent to him by registered mail or left at the last known address of his residence or place of business of that person, or in the case of a body corporate at its registered or main office and in this case the date of the seizure note shall be the date when the registered post is delivered; or

(c) where that person does not have a known address in Malta or Gozo, when a notice is published in the Government Gazette declaring that the seizure note has been issued. The date of the seizure note in this case shall be the date of publication of the notice in the Government Gazette.

Request for the goods to be given back.

28. (1) The goods seized under this Act shall be deemed to be forfeited by virtue of the law itself and may be disposed of according to law, unless the person from whom the goods have been seized, or the owner, or any person authorised by him, within thirty (30) days from the date of the seizure note, gives a notice in writing to the Commissioner, requesting that the seized goods are returned to him or indicating that he intends to demand that they are returned, and within thirty (30) days from that notice, initiates the necessary proceedings before the Administrative Review Tribunal by means of an application against the Commissioner, who shall have thirty (30) days from the notification to reply. In default of such, the claim on this object shall be deemed to be abandoned. The Tribunal shall hear the application expeditiously.

(2) When the object seized by virtue of this Act is a vessel or is of a perishable nature or is, in the opinion of the Commissioner, likely to suffer substantial loss of value by the lapse of time, or consists of a living creature, the same object may, by order of the Commissioner, be sold, and the proceeds thereof be retained to abide the results of any claim that may be legally made in respect thereof and for the purpose of any proceedings taken under this Act in respect of the seized goods, such proceeds shall represent and substitute the said seized goods.

(3) When a seizure made in accordance with this Act is contested in accordance with sub-article (1), the Commissioner may, at anytime, if he sees fit and notwithstanding the pendency of the proceedings

wherein the seizure is contested, deliver any goods seized to any claimant upon his paying to the Commissioner such sum as the Commissioner thinks proper and not exceeding that which in the opinion of the Commissioner represents the value of the goods, including any duty, levy or tax chargeable thereon and which have not been paid, or upon giving to the Commissioner such security acceptable to the said Commissioner for the payment of such sum. Such sum or security, as the case may be, shall be retained to abide the result of any claim that may be legally made in respect thereof and shall, for the purpose of any proceedings taken under this Act in respect of the seized goods, represent and substitute the said seized goods."

52 Article 29 of the principal Act shall be amended by the following: Amendment of article 29 of the principal Act.

(a) in paragraph (c) of sub-article (5) thereof, the words "sale by call for tenders" shall be substituted by the words "sale by call for offers"; and

(b) in the proviso to paragraph (c) of sub-article (5) thereof, the words "sale by call for tenders" shall be substituted by the words "sale by call for offers".

53. Articles 30, 31, 32 and 33 of the principal Act shall be substituted by the following new articles: Substitution of articles 30, 31, 32 and 33 of the principal Act.

"Right to be heard and the final decision.

30. (1) When the Customs official deems that there is any sort of discrepancy in the information given to Customs and, or in relation to the goods arriving in Malta which may lead to a difference between the amount of duty paid and that which is due, or is going to take any other decision in relation to an economic operator which shall affect him negatively, the official shall communicate in writing to the economic operator the grounds on which he intends to base his decision and give him thirty (30) days from this communication during which the economic operator may exercise his right to be heard by the Commissioner, in written form. This period of time may be extended to up to sixty (60) days where the Commissioner deems it appropriate, upon the request of the economic operator.

(2) When the period of time to be heard given to the economic operator is over, the Commissioner shall send a final decision in writing to the economic operator, stating where applicable, the amount of duty due.

(3) The final decision shall be sent to the economic operator by registered mail at the address given by the economic operator or at the address tied to the value added tax registration number. The decision shall state that it is a final decision, shall state the reasons for the decision and shall give the economic operator ten (10) days from the date of the final decision to pay or to state in writing that he disagrees with the Commissioner with regards to the amount due or on the decision taken.

Appeal to the
Administrative
Review Tribunal.

31. Where the economic operator disagrees with the final decision of the Commissioner, he has thirty (30) days from the end of the ten (10) day period specified in article 30(3) to commence proceedings against the Commissioner in the Administrative Review Tribunal by means of an application demanding that the decision is unfounded, and the Commissioner shall have thirty (30) days from notification in which to file a reply. In default of the written statement provided for in article 30 and the application provided for in this article, the final decision shall constitute an executive title in accordance with and for the purposes of Title VII of Part I of Book Second of the Code of Organization and Civil Procedure.

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Publication in the
Government
Gazette where the
trader is not found.

32. When the notification of the final decision by registered mail is not successful because the economic operator may not be found or because of other reasons attributable to him, the Commissioner shall publish a notice in the Government Gazette where he states that a final decision has been issued and in that notice he invites the economic operator to collect it from the Department within thirty (30) days from publication of that notice. The economic operator shall be deemed to be notified with the final decision at the end of this period. The economic operator shall have ten (10) days from the notification to pay or to state in writing that he disagrees with the Commissioner regarding the amount due or the decision taken, and if he disagrees, he shall have thirty (30) days from the end of the ten (10) day period to commence proceedings against the Commissioner before the Administrative Review Tribunal by means of an application, demanding that the Tribunal declares that

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the claim of the Commissioner is unfounded, and the Commissioner shall have the right to file a reply within thirty (30) days from notification. In default of the written statement and the application provided for in this article, the final decision shall constitute an executive title in accordance with and for the purposes of Title VII of Part I of Book Second of the Code of Organization and Civil Procedure.

Guarantee.

33. (1) The proceedings before the Tribunal relating to an amount of duty due to the Commissioner after a final decision shall be cancelled from the list on the first hearing unless a guarantee acceptable to the Commissioner equivalent to the duty due, excluding value added tax, is presented. The guarantee shall be kept by the Commissioner until final judgement and shall be withheld or returned according to the judgement of the Tribunal:

Provided that the Tribunal may order that the guarantee shall not be given by the applicant, where it is proven that the giving of a guarantee would cause the applicant serious economic or social difficulties. These difficulties shall be proven by the applicant by means of adequate and relevant documentation, which shall include, according to circumstances, the last three (3) audited financial statements, the financial report for the current year, tax returns, notarial acts, bank accounts or equivalent documentation.

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(2) The provisions of sub-article (1) relating to the giving of a guarantee shall also apply to proceedings in the competent court under article 466 of the Code of Organization and Civil Procedure which shall relate to duty and taxes due to the Commissioner under any customs law.

(3) The Tribunal shall expeditiously hear and decide all cases relating to claims against the Commissioner."

54. Immediately after article 33 of the principal Act there shall be added the following new article 33A:

Addition of new article 33A to the principal Act.

"Measures to collect duty, taxes or interest which are not paid.

33A. When an amount of duty, tax or interest remains unpaid after ten (10) days from the notification to the debtor of the amount due, the Commissioner may immediately take those administrative and procedural measures necessary, including not giving any customs service to the debtor until payment is effected, take all

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enforcement measures necessary so that payment of the established amount is effected, as well as take all measures necessary according to law to enforce the executive title when it is constituted."

Addition of new article 39A to the principal Act.

55. Immediately after article 39 of the principal Act there shall be added the following new article 39A:

"Ulterior proof.

39A. The Commissioner may require a sworn declaration to serve as proof in the absence of more specific customs documents or to serve as ulterior proof after all the required documentation has been provided."

Amendment of the Sixth Schedule to the principal Act.

56. The Sixth Schedule to the principal Act shall be amended by the following:

(a) in sub-regulation (2) of regulation 12 of Part A thereof, the words "in article 14 of the Act." shall be substituted by the words "in article 14 of the Act, or from an authorized tax warehouse to another authorized tax warehouse.";

(b) in paragraph (iii) of regulation 16 of Part A thereof, the words "stocks kept in the authorised tax warehouse other than a government authorised tax warehouse and sales, issues or other deliveries of excisable goods" shall be substituted by the words "stocks kept in the authorised tax warehouse other than a government authorised tax warehouse, as well as on sales, issues or other deliveries of excisable goods";

(c) regulation 12 of Part B thereof shall be amended by the following:

(i) in sub-regulation (1) thereof, the words "enclosing ethyl alcohol" shall be substituted by the words "enclosing ethyl alcohol, fermented beverages and intermediate products";

(ii) in sub-regulation (4) thereof, the words "ethyl alcohol" shall be substituted by the words "ethyl alcohol, fermented beverages and intermediate products";

(iii) sub-regulation (6) thereof shall be amended by the following:

(aa) in paragraph (a) thereof, the words "ethyl alcohol itself shall also take place" shall be substituted by the words "ethyl alcohol, fermented

beverages and intermediate products shall also take place"; and

(bb) in paragraph (b) thereof, the words "ethyl alcohol itself shall also take place" shall be substituted by the words "ethyl alcohol, fermented beverages and intermediate products shall also take place";

(iv) sub-regulation (7) thereof shall be amended by the following:

(aa) in paragraph (a) thereof, the words "Every authorised tax warehouse keeper who takes out of the authorised tax warehouse ethyl alcohol on which" shall be substituted by the words "Every authorised tax warehouse keeper who takes out of the authorised tax warehouse ethyl alcohol, fermented beverages and intermediate products on which" and the words "ethyl alcohol itself shall also take place" shall be substituted by the words "ethyl alcohol, fermented beverages and intermediate products shall also take place"; and

(bb) in paragraph (b) thereof, the words "to the ethyl alcohol" shall be substituted by the words "to the ethyl alcohol, fermented beverages and intermediate products" and the words "ethyl alcohol itself shall also take place" shall be substituted by the words "ethyl alcohol, fermented beverages and intermediate products shall also take place"; and

(v) in paragraph (b) of sub-regulation (8) thereof, the words "ethyl alcohol itself shall also take place" shall be substituted by the words "ethyl alcohol, fermented beverages and intermediate products shall also take place";

(d) in regulation 13 of Part B thereof, the words "ethyl alcohol products found in the possession of any person in contravention to the provisions" shall be substituted by the words "ethyl alcohol, fermented beverages and intermediate products found in the possession of any person in contravention to the provisions";

(e) in the Maltese version, in sub-regulation (3) of regulation 6 of Part C thereof, the words "mill-kustodju tal-maħżen awtorizzat" shall be substituted by the words "mill-

kustodju ta' maħżen tas-sisa awtorizzat";

(f) immediately after sub-regulation (2) of regulation 17 of Part D thereof, there shall be added the following new sub-regulation (3):

"(3)(a) With effect from the 19th January 2024 the common fiscal marker provided for by Council Directive 95/60/EC of 27 November 1995 on fiscal marking of gas oils and kerosene, for the marking of all gas oils falling within CN codes 2710 19 43, 2710 19 46, 2710 19 47, 2710 19 48, 2710 20 11, 2710 20 16 and 2710 20 19, as well as of kerosene falling within CN code 2710 19 25, shall be ACCUTRACE™ PLUS.

(b) The marking level of ACCUTRACE™ PLUS shall be at least 12.5 milligram per litre and not more than 18.75 milligram per litre of energy product, which corresponds to a marking level of at least 9.5 milligram of butoxybenzene per litre and not more than 14.25 milligram of butoxybenzene per litre of energy product."; and

(g) in sub-regulation (8) of regulation 5 of Part H thereof, the words "the Commissioner shall forward the cancellation message to the warehousekeeper or consignee" shall be substituted by the words "the Commissioner shall send the cancellation message to the warehouse keeper or the consignee".

PART VIII

AMENDMENTS TO THE VALUE ADDED TAX ACT

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

57. 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".

Amendment of article 38 of the principal Act.

58. Sub-article (2) of article 38 of the principal Act shall be substituted by the following new sub-article:

"(2) Any person who:

(a) being required to furnish a declaration in terms of sub-article (1) or sub-article (2) of article 30, does not furnish that declaration within the time laid down in the relevant provisions of this Act shall be liable to an administrative penalty of ten euro (€10) for every month or part thereof that elapses from the date by which the declaration should have

been furnished in accordance with this Act and the date when it is furnished to the Commissioner:

Provided that such administrative penalty shall in no case exceed one hundred and twenty euro (€120) for each such declaration; and

(b) being required to furnish a recapitulative statement in terms of sub-article (3) of article 30, does not furnish that statement within the time laid down in the relevant provisions of this Act shall be liable to an administrative penalty of fifty euro (€50) for every month or part thereof that elapses from the date by which the statement should have been furnished in accordance with this Act and the date when it is furnished to the Commissioner:

Provided that such administrative penalty shall in no case exceed six hundred euro (€600) for each such statement; and

(c) being required to furnish any information in terms of article 55A, does not furnish that information within the time laid down in the relevant provisions of this Act shall be liable to an administrative penalty of fifty euro (€50) for every month or part thereof that elapses from the date by which the information should have been furnished in accordance with this Act and the date when it is furnished to the Commissioner:

Provided that such administrative penalty shall in no case exceed six hundred euro (€600) for every time such information is not provided."

59. Immediately after article 55 of the principal Act there shall be added the following new article:

Addition of new article 55A to the principal Act.

"Information provided to achieve the objective of combating VAT fraud.

55A. Notwithstanding the provisions relating to the duty of professional secrecy, and anything contained in any other provision of this Act, the Minister may by regulations prescribe requirements for any person to retain and furnish the Commissioner such information as may be required in order to achieve the objective of combating VAT fraud."

**PART IX
AMENDMENTS TO THE ARBITER FOR
FINANCIAL SERVICES ACT**

Amendment to
the Arbiter for
Financial
Services Act.
Cap. 555.

60. This Part amends the Arbiter for Financial Services Act and it shall be read and construed as one with the Arbiter for Financial Services Act, hereinafter in this Part referred to as "the principal Act".

Amendment of
article 25 of the
principal Act.

61. Immediately after sub-article (7) of article 25 of the principal Act, there shall be added the following new sub-article (8):

"(8) The language of the procedure before the Arbiter shall be either Maltese or English as the Arbiter may determine in accordance with the particular circumstances of each case."

**PART X
AMENDMENTS TO SUBSIDIARY LEGISLATION**

Amendments to
Subsidiary
Legislation.

62. This Part amends various subsidiary legislation and it shall be read and construed as one with the subsidiary legislation it amends.

Amendment to
the Customs
Regulations.
S.L. 37.05.

63. The Customs Regulations shall be amended by the following:

(a) regulation 35 thereof shall be substituted by the following new regulation:

"Staff necessary.

35. (1) The Commissioner shall decide in all cases on the staff necessary for the proper protection of the payment of duty.

(2) The Commissioner may, as and when he deems fit, before granting any permission for service of attendance by Customs officials to be given, enter into an arrangement in writing for the payment of all arrears due to him for attendance of Customs officials:

Provided that where such arrears are being contested by the economic operator, the Commissioner may require the payment of a deposit equivalent to the amount being contested before granting permission for the service to be given.

(3) When a one time economic operator requests the service of attendance of Customs officials, he shall pay a deposit that is based on a calculation of the amount due for the service so requested at the time."; and

(b) regulation 45A thereof shall be substituted by the

following new regulation:

"Measures that may be taken if the payment of the service of attendance of a Customs officer remains unpaid.

45A. (1) (a) When there are any dues that relate to payment of attendance of Customs officials, the Commissioner shall send a notice for payment by means of a postal letter. Where the dues remain unpaid he shall send a letter by registered mail in the address given to him or in the postal address associated with the value added tax registration number. When the notice by registered mail reaches the debtor, he shall be deemed to be notified and the debtor shall have thirty (30) days to pay or to declare in writing that he does not agree with the Commissioner on the amount due and after this, if he disagrees, the debtor shall proceed against the Commissioner in the competent court, according to the amount, within thirty (30) days from his written declaration. In default of such, the notice for payment by registered post shall constitute an executive title for all effects and purposes of Title VII of Section I of the Book Second of the Code of Organisation and Civil Procedure.

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(b) When the notification by registered post mentioned in paragraph (a) does not take place for one reason or another, the Commissioner shall publish a notice in the Government Gazette where he declares that the notice for payment has been issued and wherein he invites the debtor to collect the notice from the offices of the Customs Department within thirty (30) days from publication, and at the end of this period he shall be deemed to be notified, even if he does not collect the documents from Customs offices. The debtor shall have thirty (30) days from notification to pay or to declare in writing that he disagrees with the amount due, and if he disagrees with the Commissioner, the debtor shall within thirty (30) days from the written declaration file proceedings by means of an application against the Commissioner in the competent court according to the amount and the Commissioner shall have the right to reply within thirty (30) days from notification. In default of such, the notice for payment shall constitute an executive title for all effects and purposes of Title VII of Section I of the Book Second of the Code of Organisation and Civil Procedure.

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(c) In the proceedings in court provided for in this sub-regulation, the case shall be heard expeditiously.

(2) Notwithstanding the provisions of sub-regulation (1), when the notice for payment is sent to the address given or to the address assigned to the value added tax registration number and the amount remains unpaid, the Commissioner may immediately take those administrative and procedural measures necessary so that payment is effected, including not giving any Customs service to the debtor until payment is effected, as well as take other measures to enforce the executive title according to law."

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

64. Paragraph (b) of sub-regulation (10) of regulation 3 of the Cash Control Regulations shall be substituted by the following new paragraph:

"(b) Any cash deposited in the Depository shall be kept there for a period which shall not exceed thirty (30) days from the day the cash was detained. After the competent authorities carry out a thorough assessment of the necessity and proportionality of a further period of detention, this period may be extended by the Commissioner to a maximum period of ninety (90) days from the day the cash was detained. If during the thirty (30) or ninety (90) day period, as the case may be, no court proceedings are instituted regarding the same cash, the cash shall be immediately released in favour of the person from whom they were detained:

Provided that if during the thirty (30) or ninety (90) day period, as the case may be, the Commissioner receives an order in writing issued under any other law on the initiative of a competent authority impeding the Commissioner from releasing of the cash to the owner, the Commissioner shall keep that cash in the Depository under that order beyond the thirty (30) or ninety (90) day period, or deal with the cash in accordance with the order."

Amendment to
the Enforcement
Measures to
Recoup
Established
Duties and
Taxes
Regulations.
S.L. 337.47.

65. The Enforcement Measures to Recoup Established Duties and Taxes Regulations shall be amended by the following:

(a) in the proviso to sub-regulation (2) of regulation 4 thereof the words "eight day notice is given." shall be substituted by the words "eight (8) day notice is given:", and immediately thereafter there shall be added the following new proviso:

"Provided further that if there is the sale of goods and there are pending proceedings under these regulations or procedures that contest the amount due, the proceeds of the sale of the goods shall be kept as a deposit and disposed of as ordered by the court.";

(b) sub-regulation (2) of regulation 5 thereof shall be substituted by the following new sub-regulation:

"(2) Any secretary, director or other officer shall not be held jointly and severally liable with the legal person if he proves that he acted in good faith and:

(a) that he had under his management or control any funds or property belonging to or due to the person of whom he is a representative and before disposing of any such funds or property he had made adequate provision for any tax due under this Act; and

(b) that he was not involved in a decision that is in breach of any obligation under customs legislation; and

(c) that he knew that there was no prospect that the legal person liable to pay duty, taxes or interest would not be able to meet its duty, taxes or interest obligations.";

(c) sub-regulation (1) of regulation 7 thereof shall be substituted by the following new sub-regulation:

"(1) Any person that feels aggrieved by the Commissioner's action taken by virtue of these regulations, except the action taken in accordance with regulation 5, shall have the right to oppose that action by presenting an application before the Administrative Review Tribunal within thirty (30) days from the date that he receives notice on the action taken by the Commissioner, and in the absence of proceedings before the aforementioned Tribunal, the claim on the objects seized shall be deemed to be abandoned.";

(d) immediately after sub-regulation (2) of regulation 7 thereof, as amended, there shall be added the following new sub-

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regulations:

"(3) The Tribunal shall only hear claims regarding the enforcement measures under these regulations and shall not decide any other claim relating to whether the amount of duty or taxes is due or relating to the quantum of the amount.

Cap. 12 (4) The provisions of articles 792, 793 and 794 of the Code of Organization and Civil Procedure shall apply *mutatis mutandis* to the proceedings under this regulation."; and

(e) immediately after regulation 7 thereof, as amended, there shall be added the following new regulation:

"No right of action against the Commissioner.

8. There shall be no right of action against the Commissioner for damages caused by any enforcement measure under these regulations, except when it is proven that the Commissioner acted in bad faith."

Passed by the House of Representatives at Sitting No. 109 of the 29th March, 2023.

ANĠLU FARRUGIA
Speaker

RAYMOND SCICLUNA
Clerk of the House of Representatives